

TOWN BOARD
OCTOBER 22, 2003

A public hearing of the Town Board of the Town of Bethlehem was held on the above date at the Town Hall, 445 Delaware Avenue, Delmar, NY. The meeting was called to order by the Supervisor at 7:30 p.m.

PRESENT: Sheila Fuller, Supervisor
George Lenhardt, Councilman
Doris M. Davis, Councilman
Daniel G. Plummer, Councilman
Thomas Marcelle, Councilman
Kathleen A. Newkirk, Town Clerk
Robert J. Alessi, Esq., Town Attorney

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SUPERVISOR FULLER: Good evening and welcome to a meeting of the Bethlehem Town Board. I'd invite all of you to join us in the pledge of allegiance.

The first item on tonight's agenda is a public hearing on the Assessment Rolls for the Bethlehem Sewer District. I'll ask the Clerk to read the call of the hearing.

TOWN CLERK NEWKIRK:
NOTICE OF PUBLIC HEARING

WHEREAS, 2004 Assessment Rolls have been prepared for the Bethlehem Sewer District and it is necessary to hold a public hearing with reference thereto,

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hold a public hearing with reference thereto, at 7:30 p.m. on Wednesday, the 22nd day of October 2003, at the Bethlehem Town Hall, and,

BE IT FURTHER RESOLVED, that the Town Clerk be, and she hereby is authorized and directed to publish a notice of such hearing in THE SPOTLIGHT, a newspaper published in Albany County and having a circulation within the Town of Bethlehem, on the 8th day of October 2003.

All interested persons and citizens will have an opportunity to be heard at the said hearing.

The Town of Bethlehem provides reasonable accommodations for the disabled. Disabled individuals who need assistance in order to participate should contact Nan Lanahan at 439-4131. Advanced notice is requested.

The foregoing resolution was presented for adoption by Mr. Plummer, seconded by Mr. Marcelle and was duly adopted by the following votes:

AYES: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

NOES: None.

Dated: September 24, 2003

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State of New York)
County of Albany)

BRENDA WIERBICKI of the Town of Bethlehem, being duly sworn, says that she is the RECEPTIONIST for THE SPOTLIGHT, a weekly newspaper published in the Town of Bethlehem, County of Albany, and that the notice of which the annexed is a true copy, has been regularly published in said THE SPOTLIGHT ONCE A WEEK FOR 1 WEEK consecutively, commencing on the 8th day of October 2003.

/s/ Brenda Wierzbicki

Sworn to before me this 14th day of October 2003.

/s/ Sharon A. Doldo

Notary Public, Albany County

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STATE OF NEW YORK)
COUNTY OF ALBANY) ss.:

KATHLEEN A. NEWKIRK, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and that I posted on October 8, 2003, a Notice of Public Hearing, a copy of which is hereto attached, on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

/s/ Kathleen A. Newkirk
Town Clerk

Sworn to before me this
8th day of October 2003.

/s/ Julie S. McNeil

Notary Public

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The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes of the meeting. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

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SUPERVISOR FULLER: The 2004 assessment rolls have been prepared for the Bethlehem Sewer District and we have to hold a public hearing. Is there anyone wishing to speak in favor? Anyone wishing to speak in opposition?

May I have a motion to close the public hearing.

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.

The motion was made by Mr. Lenhardt and seconded by Mr. Marcelle to close the public hearing at 7:34 p.m. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

Town Clerk

Supervisor Fuller asked for a motion to approve the 2004 Sewer Assessment Rolls. The following resolution was presented:

WHEREAS, assessment rolls for the year 2004 have been prepared by the Town Board for and in connection with the Bethlehem Sewer District, the Special Sewer District No. 1 and the South Albany Sewer District, which said rolls were completed and filed with the Town Clerk of said Town, and

WHEREAS, due notice of the completion of the assessment rolls and of the time and place when and where this Board would meet to hear and consider any objections that might be made to said rolls and for the purpose of reviewing, correcting and amending the same, was duly given by the Town Clerk by publication of due notice in THE SPOTLIGHT, a newspaper published in the County of Albany and the Town Board met at the time and place specified, and the hearing was duly had upon said assessment rolls,

NOW, THEREFORE, BE IT RESOLVED, that said assessment rolls be and they hereby are approved, affirmed and adopted by the Town Board as filed.

The foregoing resolution was presented for adoption by Mr. Lenhardt, seconded by Mrs. Davis and duly adopted by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

Supervisor Fuller noted that the meeting is going to be a little confusing because of the 7:45 p.m. start time for the second public hearing. She said she will continue with the agenda below the listed public hearings.

The first item was a request from Administrator, Nan Lanahan, Parks and Recreation Department, for approval of appointment of seasonal personnel.

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to approve the following positions and salaries:

Recreation Supervisor I at a rate of \$6.25 per hour

Teresa Berghela
5A Barry Court
Selkirk, NY 12158

Recreation Supervisor I at a rate of \$7.30 per hour

Sandy Appleby	Josephina Jazquez
20 Stovepipe Road	296 Route 9W
Voorheesville, NY 12186	Glenmont, NY 12077

The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

The following item was a request from Nan Lanahan, Administrator, Parks and Recreation Department, for acceptance of donation of a large barbeque pit adjacent to the large pavilion and electric service to the exterior of the building at the Henry Hudson Park, Cedar Hill from the Selkirk Fire District. Supervisor Fuller explained that this was from the Selkirk Fire District's celebration of 75 years and built this pit and donated to the Town. She said the amount represents about \$2,500. She asked for a motion to approve the acceptance.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve the acceptance of a donation of a large barbeque pit adjacent to the large pavilion and electric service to the exterior of the building at the Henry Hudson Park, Cedar Hill from the Selkirk Fire District, estimated value of \$2,500. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

The next item was a request from Comptroller Judi Kehoe for approval of increase in health in lieu benefits. Supervisor Fuller asked Mrs. Kehoe to give some

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background on this item. Mrs. Kehoe said for a number of years the Town has offered a benefit to any employee who declines to take health insurance coverage through the Town's plan and instead opts to get their coverage through a spouse's plan. She said this was a payment in lieu benefit set at \$500 initially and has not been raised since then. She said, obviously, since then health insurance premiums have gone up and the Town would like to keep this as an attractive benefit so that employees will at least consider this option. She said she recommends that the amount be increased up to \$1,000. She noted for employees opting into that benefit for the year 2004, that \$1,000 payment would be paid in January of 2005, indicating it is after 1 year of declined coverage.

The motion was made by Mrs. Davis and seconded by Mr. Lenhardt to approve an increase in payment in lieu benefit from \$500 to \$1,000 for those employees who decline to take the Town of Bethlehem health insurance coverage as recommended by Comptroller, Judith Kehoe. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

The following item was to acknowledge receipt of Final Plat Approval for the Amsler Subdivision from the Planning Board for information purposes.

The next item was to acknowledge receipt of Final Plat Approval for the Meadows Subdivision, Section 2C from the Planning Board for information purposes.

The next item was to approve the Town Board minutes of September 24, 2003 and October 8, 2003.

The motion was made by Mr. Plummer and seconded by Mrs. Davis to approve the Town Board minutes of September 24, 2003 and October 8, 2003. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None

Supervisor Fuller said the meeting was not finished for those who just arrived at the meeting. She said the second public hearing cannot start until 7:45 p.m. She said all the other business has been done. She asked if anyone had any questions or if anyone wished to address the Board.

A student asked about the donation of the barbeque pit and where the money was

coming from. Supervisor Fuller explained that the Selkirk Fire Department celebrated their 75th anniversary and the value of the pit is \$2,500.

She said it is a gift to all Town residents from the Selkirk Fire Department so that everyone will be able to use it.

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HEARING BEGAN: 7:45 p.m.

SUPERVISOR FULLER: Ask the Clerk to read the call of the hearing.

TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING

UPON PRELIMINARY BUDGET

NOTICE IS HEREBY GIVEN that the Preliminary Budget for the fiscal year beginning January 1, 2004 has been completed and filed in the Office of the Town Clerk at the Town Hall, 445 Delaware Avenue, Delmar, NY where it is available for inspection by any interested person during office hours.

NOTICE IS FURTHER GIVEN that the Town Board of the Town of Bethlehem will meet and review said Preliminary Budget and hold a public hearing thereon, at the Town Hall, Delmar, NY at 7:45 p.m. on the 22nd day of October 2003 and that at such hearing any person may be heard in favor of or against any item or items therein contained.

Disabled individuals who are in need of assistance in order to participate should contact Nan Lanahan at 439-4131. Advanced notice is requested, and

BE IT FURTHER RESOLVED, that pursuant to Section 108 of the Town Law, the proposed salaries of the following officers are hereby specified as follows:

Supervisor	\$90,440	
Councilmen (each)	11,933	
Town Clerk	58,600	
Superintendent of Highways	80,627	
Receiver of Taxes & Assessments		52,513

and

BE IT FURTHER RESOLVED, that such Notice shall be published once in the following newspapers: THE SPOT LIGHT, the official newspaper of the Town on October 15, 2003 and the TIMES UNION, an Albany newspaper, on October 14, 2003.

BY ORDER OF THE TOWN BOARD
TOWN OF BETHLEHEM
KATHLEEN A. NEWKIRK, CMC,RMC
TOWN CLERK

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State of New York)
County of Albany)

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.

BRENDA WIERBICKI of the Town of Bethlehem, being duly sworn, says that she is the RECEPTIONIST for THE SPOTLIGHT, a weekly newspaper published in the Town of Bethlehem, County of Albany, and that the notice of which the annexed is a true copy, has been regularly published in said THE SPOTLIGHT ONCE A WEEK FOR 1 WEEK consecutively, commencing on the 8th day of October 2003.

/s/ Brenda Wierzbicki

Sworn to before me this 14th day of October 2003.

/s/ Sharon A. Doldo

Notary Public, Albany County

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We also have a certification that it was published in the Times Union as well.

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STATE OF NEW YORK)

COUNTY OF ALBANY) ss.:

KATHLEEN A. NEWKIRK, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and that I posted on October 8, 2003, a Notice of Public Hearing, a copy of which is hereto attached, on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

/s/ Kathleen A. Newkirk

Town Clerk

Sworn to before me this

8th day of October 2003.

/s/ Julie S. McNeil

Notary Public

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The motion was made by Mr. Plummer and seconded by Mr. Marcelle to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes of the meeting. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None

SUPERVISOR FULLER: The Town budget was presented to the public back on September 30th. There was 1 budget work session which the Town Board had held on October 9th and the total budget pretty much has remained the same as presented. Slight change, the appropriation was \$31,512,000 back in September and as of October 9th it's \$31,733,000, such a bargain. The Town Board held a work session, met and the only change to the budget as presented is the addition of a new police officer. Are there

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questions from the community... from the students... you have plenty of time. This is the Town budget that the public hearing is being held for now.

MRS. CAPONE: Like you told me, Mrs. Kehoe, I went to the Library and I read it all. I was astonished by the large amount of money the people working at the Town Hall make, by all the benefits they have. I brought you here this summer and I showed you the senior citizens in this room. Mr. Catalano's cousin had brought some food from her garden, it was on the stage, it went psst... and you saw for about 3 weeks there was food on the stage for the seniors. It disappear as fast as they put it there. Your budget does not take care of the seniors. These people cannot afford what you're doing. Okay. Last night I talked to a builder at the Planning Board about what I'm going to talk about tonight, he said nobody in the Town Hall deserve a raise, except for Bruce Secor. Okay. But, at the same time, you've got to do something for the seniors. The people that Kathy Newkirk know I brought her here to show her a woman that was saving her money to buy new pair of shoes. You've got to do something to protect the seniors. I told them I was going to say this tonight because nobody talks for the seniors. Okay.

SUPERVISOR FULLER: The Town employees received a 3 percent raise in next year's budget. The topic of the senior citizens... the Town Board are the ones that make the final decision, it's not Judi Kehoe. Judi is our Comptroller. Judi makes the recommendations, the Town Board discusses the programs and what the value of these programs are. And, for those of you that are familiar with the Town of Bethlehem, probably the jewel of our Town is the Senior Citizen Department, the programs for the youth, our Police Department. I'm sure you read about it in the Spotlight, in the Times Union, so these are all good programs, great services and at really insignificant cost. The Town government for the taxes is a bargain. On the other side of the coin, I will certainly mention the school taxes are quite a bit higher than what the Town taxes are.

Now, for those wishing to speak in favor or in opposition of our budget. This is only the public hearing. The budget itself is not adopted until our first meeting in November, which I believe is November 12th.

Anyone in the audience who has questions? Okay, may I have a motion to close the public hearing?

The motion was made by Mr. Plummer and seconded by Mrs. Davis to close the public hearing at 7:50 p.m. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None

Town Clerk

Supervisor Fuller noted the next public hearing does not start until 8 p.m. and noted there would be a short break until that time.

HEARING BEGAN: 8:00 p.m.

SUPERVISOR FULLER:

TOWN CLERK NEWKIRK:

NOTICE OF PUBLIC HEARING

TOWN OF BETHLEHEM, ALBANY COUNTY

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Bethlehem, Albany County, New York will hold a public hearing on October 22, 2003 at 8:00 p.m. at the Town Hall, 445 Delaware Avenue, Delmar, NY to consider proposed Local Law No. amending Local Law No. 12 of 1995 with regard to permitted density, Planned District No. 4 – Price Chopper Plaza, Slingerlands.

All parties in interest and citizens will have an opportunity to be heard at the said hearing.

The Town of Bethlehem provides reasonable accommodations for the disabled. Disabled individuals who need assistance in order to participate should contact Nan Lanahan at 439-4131. Advanced notice is requested.

BY ORDER OF THE TOWN BOARD

TOWN OF BETHLEHEM

Kathleen A. Newkirk, CMC, RMC

TOWN CLERK

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State of New York)

County of Albany)

C. Fleming/A. Cooper of the City of Albany, being duly sworn, says that he/she is the Principal Clerk of THE TIMES UNION, a daily newspaper printed in the County of Albany, Town of Colonie and the City of Albany, aforesaid and that notice of which a printed copy is annexed has been regularly published in the said ALBANY TIMES UNION on the following dates:

10-12-2003

/s/ A. D. Cooper

Sworn to before me this 13th day of October 2003.

/s/ Jean M. Hill

Notary Public, Albany County

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STATE OF NEW YORK)

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.

COUNTY OF ALBANY) ss.:

KATHLEEN A. NEWKIRK, being duly sworn, deposes and says that she is the Town Clerk of the Town of Bethlehem, Albany County, New York and that I posted on October 16, 2003, a Notice of Public Hearing, a copy of which is hereto attached, on the sign board of the Town maintained pursuant to subdivision six of Section thirty of the Town Law.

/s/ Kathleen A. Newkirk
Town Clerk

Sworn to before me this
16th day of October 2003.
/s/ Julie S. McNeil
Notary Public

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The motion was made by Mr. Plummer and seconded by Mr. Lenhardt to indent the Notice of Public Hearing, Affidavit of Publication and Affidavit of Posting on the minutes of the meeting. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.
Noes: None.
Absent: None

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SUPERVISOR FULLER: Can you hear me in the back of the room now? Okay, the representatives from Windsor Development are here this evening. If you will come to the front of the room. The Town Board has in front of them the recommendation from the Planning Board but if you want to just give a quick overview for the public as to what you're looking to do.... Either Mr. Miller or...

MR. MILLER: Basically what we are trying to do is our tenant has asked us to come in and seek an amendment to the PCD legislation to allow us to expand from a 63,000 square foot store roughly to a 74,000 square foot store. This has been a wonderful store for the tenant and in order to meet the needs of the public... to better meet the needs of the public and to alleviate problems in the store, this... this amendment and this addition to the building is needed. They have problems with frequent out of stocks, cramped store conditions and the easterly portion of the building where the produce is and everything is not up to their modern... their other stores. So, that's basically why we are here.

SUPERVISOR FULLER: It's 99,000 going to 109,000 square feet.

MR. MILLER: Correct.

SUPERVISOR FULLER: The store.

MR. MILLER: Correct. Oh, no, no, no, the Price Chopper store itself is 63,000. The

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entire project with the two other buildings gets you to the 99,000.

TOWN ATTORNEY ALESSI: But the local law regards, as the Supervisor said, that's the limitation... is the higher number in the local law.

MR. MILLER: That is correct, yes.

SUPERVISOR FULLER: Okay. All right. Those wishing to speak, questions, comments.

MRS. CAPONE: I approve the Price Chopper extension.

MR. BLENDELL: Thank God, I have some opposition but we've had a lot of that.

MRS. CAPONE: You haven't changed much...

MR. BLENDELL: Neither have you. Being a disgruntled Cub fan, I'm gonna give a filibuster probably for about 2 hours, so I'd like security to lock the doors, keep you guys here.

SUPERVISOR FULLER: We can adjourn the meeting.

MR. BLENDELL: But, for the record, I'm Jim Blendell. I live in Slingerlands, 4 South Helderberg Parkway. To give you some background, I was on the LUMAC committee when the LUMAC committee unanimously recommended the use of the site over here for Price Chopper, for a supermarket. I was on the Planning Board, as well, when we made a recommendation to the Town Board to rezone the property and then we finally came up and approved or recommended approval of the site plan.

I mention my involvement on the Planning Board and LUMAC just to let you know that I have some background in what I am going to say about this project and to set the tone I really see no reason why the Town Board should approve an expansion. And, let me give you some background on that.

The reason and maybe, Jeff is welcome to jump in on this with me because he was leading the LUMAC committee when we reviewed this, it was... at the time there was one supermarket in Town, it was the Grand Union. It was down on Delaware Avenue and it had a total monopoly of what happened. People wanted another supermarket. They didn't want a mall. They didn't want anything larger than a supermarket. We had at that time, the Supervalu had gone out of business in Voorheesville, so we had a monopoly here. The desires of the... and the recommendations of the LUMAC committee was for a community size supermarket and, a community size meaning not a very large size. One that served the community or basically the community that it was in. It was the intention, I think, of the LUMAC committee to see that other supermarkets were developed within the Town and outside of the Town to serve the needs of the people in those local areas. Major shopping centers create monopolies. They also create a lot of

infrastructure use. A lot of traffic, a lot of inter/intra community transportation.

There was a lot of opposition to the siting of the supermarket on New Scotland Road and that was not only by people in the Slingerlands area. It was by the people in the general Delmar area. If you look back into the LUMAC reports, probably only about 30 percent of the people felt that that supermarket should be sited in the area in which it is now located.

As I said, one of the other portions was that in keeping it a community sized supermarket was to allow for the survival of other businesses within the Town of Bethlehem and outside. We didn't want to put in a market that would put us right back where we were with Grand Union and that is a one supermarket type operation for the entire Town. At the Planning Board level... when it got to the Planning Board level, again, the Planning Board wanted to keep the site small. Now, the original approval was for a shopping center on the site, not for any other businesses. As it went through the approval process, we added in some other stores, a bank and an office building. The purpose for that was because the developer felt that because of the cost of the property, the cost of the development a supermarket alone would not support the expenditures to put a supermarket there and they had to have other income to support the site. So, the Planning Board recommended some expansion beyond a supermarket which everybody wanted to a small type mall area.

During the entire process, the developer was in total agreement to the size of this development, the size of the property and the use of the property. Mr. Golub, himself, came to meetings and said he was happy and pleased with what would be provided. We went through the SEQR process and during the SEQR process all the mitigating facts brought by the developer to keep this site small had to deal with a supermarket, a small type operation. I think when the whole process was done, we came out with a very nice site. It was well established on the road, it was set back, it had green space, it had good lighting, it was a pleasant area to be by.

The... it leads me into giving a little history of it and now let me tell you some of the reasons I don't think you should approve it. As I said, I don't see one reason why it should be approved. It doesn't do anything to the community other than it will add some additional traffic over there and it will come and provide competition to other supermarkets in the area that might not survive if the space is enlarged. Somebody mentioned the size of this location. There's no reason if they want to increase the size of the supermarket that they not take in all property that is already there. I mean, stores that are already there, gain that space and put it into the supermarket. There is no real need to have to go beyond that.

If you are adding 10,000 square feet of... of store space, you're also going to be adding a lot more parking to the site because parking is going to be one of the key issues if you increase the size of the store. Parking now is fairly tight on the site. It's a good use of parking in that area. We don't have a lot of asphalt that is unused but if you have to expand the store, you're going to expand the parking, you are going to change the nature

of that site.

It's, as I said, it serves no real need to this community and it can jeopardize some of the businesses in this community. For instance, if it gets too large, it will jeopardize the Hannaford operation. The Supervalu out in Voorheesville is a marginal operation. It could put that out of business. I think as a Board, you should be not only concerned about the needs of your own community but those of others. And, I don't see at this point that it would be advisory or... it would be positive to increase the size of that location when it could jeopardize some of those businesses. We have a new deli in Slingerlands, that could be jeopardized by a larger store. We have delis over in Delmar that could be jeopardized. So, that's one of my reasons for recommending it not be changed.

It will change the character of the neighborhood in the Slingerlands area. It will increase the size, I think it sets a poor precedent for other businesses in the Town that may want to increase their size. I think we have a bedroom community that we have. We have a very well established and very well designed. I think just by providing additional space to a developer because he wants to make more money really doesn't serve the benefit of the community.

As I said it will be larger buildings, more parking, more lighting and your infrastructure is going to be even stressed more. You have the new Slingerlands bypass coming in. I am not sure how they are going to get traffic in and out of the present Price Chopper site with that new road. If you increase the size of that site, it's going to be more difficult. Right now we have a lot of accidents at the intersection in front of Price Chopper. You can always drive by there and see a bumper or headlight parts or everything because we just have a tremendous amount of traffic coming in there.

Finally, I think, one of the things here has been an issue is that the developer has not really lived up to the requirements of the SEQR nor of his site plan. He has come into the site and he has added additional lighting... major additional lighting without coming to the Town. He has done a lot more outdoor selling. That's not approved in the PCD and it was not approved as part of the site plan. We have now have him setting up all kinds of plants to sell, fertilizers to sell – he's now beginning to come in competition with some of our local businesses. We have Verstandig's who very nice store, local group of people, trying to do business. We have some small nurseries in Town that are trying to do businesses. We have some small nurseries out on New Scotland Road trying to do business in their own area. We don't need competition in those areas. We should be thinking about the needs of the community and we should be thinking about the business people in our community, not just one developer.

I guess that is about all I have to say except a lot of the planning being done in Town has been done in a piecemeal way. We look at one site and we develop that site in terms of that site. The area between the present shopping center down to the Blue Cross/Blue Shield building I think should be looked at as one piece. We should set some goals over there. We should look at how things are being developed and we should lead the development process and not sort of sit back as we tend to do and I'm part... I've been part of that process too, so I don't say this in criticism but we should be leading the

process and not being pushed into the process. And, I don't think we should be taking action on one little area when we should take action on the whole area and I thank you for the time that you allowed me to do.

And, I was only kidding guys, you can go watch the game. Thank you.

SUPERVISOR FULLER: Thank you, Jim. Is there anyone else wishing to... Let's get the audience first, George.

MRS. CAPONE: Jim, things have changed a lot since you're gone. There's about 8,000 people more since Price Chopper opened. Verstandig sells to Price Chopper. Verstandig is for sale, Price Chopper has been very good to the community and very generous to all the associations that ask for... as much for the fire department as the senior citizen as the legion. So, we cannot kick Price Chopper.

MR. BLENDELL: I guess you didn't listen to what I said.

SUPERVISOR FULLER: If I can interrupt, is there anyone else wanting to.

MRS. CAPONE: You didn't listen to what I said, you've been gone a long time.

SUPERVISOR FULLER: Is there anyone else who would like to address the Board on the Price Chopper addition. Any questions, speaking in favor or in opposition. Now I will let the Board speak... wait a minute, wait a minute, George. Go ahead. Audience first, then the Board.

MR. BERKE: My name is Stuart Berke. I live at 48 Daniel Street in Slingerlands. I commend Mr. Blendell for what he said. I think it took a lot of courage to stand up in front of this Board and talk about the planning issues that are facing this Town which I think are monumental.

I sat through a prior hearing when the original Price Chopper was built and I was opposed to that original Price Chopper and I... every day I live with the consequences of the Price Chopper. As convenient as it is, and I will admit... in fact, I was in it today... and I probably go and visit it at least 2 or 3 times a week as does my wife and son. It is extremely convenient and it served its original purpose which was to bring in competition to the one supermarket that we had in this Town. That is no longer the case. There is the Price Chopper... there are 2 Price Choppers here in Town now. There is a Hannaford, the Super Walmart will have a grocery operation attached to it, the Supervalu which is in Voorheesville which we shop at is an independently owned, locally owned small business, that is very important to that community, as well as, to the Slingerlands area. I know that a lot of people from Slingerlands go and... and... and shop at that store. This morning it took me... I had a dentist appointment at 9:15 on New Scotland Avenue in Albany. It took me 8 minutes to get from the New Scotland Avenue/Cherry Avenue intersection to the Route 85 intersection by the old Blue Cross building. Eight (8) minutes to get through that intersection. The increase in traffic caused by the Price

Chopper Plaza is... has just been tremendous and it... it... it... it... until the Route 85 bypass is extended, I think any future expansion of either the existing Price Chopper Plaza or any additional commercial or office development in that area is not in the best interests of this Town and its residents. As important as it is to build the commercial tax base and I, personally, as well as my family, we're opposed... in fact, it was interesting because the developers in their short statement, the reason why their... their... their reasons for expanding the Price Chopper is that they need more storage space, they need more space to display their goods. Their... I did not hear any community based interests for expanding the store. I heard business based interests for expanding the store. So, I agree with Mr. Blendell and if... if... I would suggest to you that you not support the change in the local law. Thank you.

SUPERVISOR FULLER: Thank you.

MR. CAPONE: This gentleman took 8 minutes from Price Chopper to downtown, when I come to the IDA in the morning, it took me one morning 11 minutes to cross Delaware.

SUPERVISOR FULLER: Is there anyone else wishing to address...

MS. SHIMKIN: I just have a question. In Mr. Blendell's speech...

SUPERVISOR FULLER: Yes.

TOWN CLERK NEWKIRK: We need her name.

MS. SHIMKIN: he said that the Grand Union originally had a monopoly, correct?

SUPERVISOR FULLER: Yes.

MS. SHIMKIN: My mother always shopped at Grand Union. We shop at Hannaford now because we're kind of centrally located between the 2 Price Choppers but my question is, has anyone taken into consideration that about a year or two after the new Price Choppers opened, Grand Union closed and so did the one in Glenmont across from the other Price Chopper. So, it would seem to me like... it would seem that even though we're trying to fight the monopoly idea, the Price Choppers sort of have a monopoly now.

SUPERVISOR FULLER: I think the Grand Union closing is due to their financial issues, the Grand Union itself. It's not because Price Chopper moved into the community.

MS. SHIMKIN: I don't mean to say it was because of that, it just strikes me that it seem like now they are the only big one in Town and originally we had the same problem.

MR. BLENDELL: Could I respond to that?

TOWN CLERK NEWKIRK: We need your name for the record, please.

MS. SHIMKIN: Oh, sorry. Genya Shimkin. I'm just curious, that's just a question.

SUPERVISOR FULLER: That's okay. Yes, you can respond but let's not have a debate with the members of the audience back and forth., you and Marie and the student.

MR. BLENDELL: This just comes from fading institutional memory. When I said monopoly, we already had a monopoly. There were 2 supermarkets, once across the street from Grand Union in Delmar, was the Albany Public Market. I don't know if you remember that.

MS. SHIMKIN: Okay.

MR. BLENDELL: Grand Union bought them out and part of that deal was they could not use that space for another supermarket. Down in Glenmont when they opened the store in the new shopping center that they eventually went out of, they had been over across the street. They kept a lease on that property so nobody else could put a grocery store in there. So, their intent was just to monopolize the entire area. This is not uncommon with grocery stores. They just tend to want to gobble one another up all the time and you can see it with the continuing weeklies of all the .. going out of business. They are getting chewed up by another grocery store. So, that's common for the business, I think,

SUPERVISOR FULLER: There also was an A & P market. There were 3 grocery stores in the Town. A & P, Albany Public and Grand Union.

MR. BLENDELL: Yes.

SUPERVISOR FULLER: Thank you.

MRS. CAPONE: Doesn't that remind you, there was a guy that made a lot of money on the ...

SUPERVISOR FULLER: Okay. I'm going to move along to George.

COUNCILMAN LENHARDT: Thank you.

SUPERVISOR FULLER: George is anxious to speak here.

COUNCILMAN LENHARDT: First of all, Mr. Blendell, you are aware that of the Board that was here at the time of the original zoning, I was the only nay vote opposed to rezoning the site and I have to contradict your one comment about the LUMAC document recommending this site. As I quoted at that time, the LUMAC document recommended that site be considered for rezoning after appropriate road improvements were in place, meaning the Slingerlands bypass. And, since that had not occurred, that

was the reason why I was opposed to rezoning at the time. I have.

MR. SUSSMAN: That's correct.

COUNCILMAN LENHARDT: I do have a question for the developers. I'm wondering when you anticipate your tenant's next request for a revision to their store size or any kind of a revision.

MR. SUSSMAN: I don't understand the question.

COUNCILMAN LENHARDT: It's a rhetorical question. Typically... my... I guess...

MR. SUSSMAN: That's why....

COUNCILMAN LENHARDT: I guess I have been on this Board too long but typically my experience has been -- you get your foot in the door and then just start to pick and pick and pick. I know you are just responding to your tenant's request. I'm not blaming you. But...

MR. SUSSMAN: We're not here to debate the exact specifics but there are... I live in Slingerlands as well so... And, I drive the roads every morning and

TOWN CLERK NEWKIRK: We need him at the microphone.

SUPERVISOR FULLER: Can you move to the mike please, for the public hearing and would you give us your name for the record.

MR. SUSSMAN: It's David Sussman. 88 Daniel Street in Slingerlands and I do drive the roads every morning as well and most of the traffic is coming Cherry into New Scotland and that is where I'm always waiting. I'm not waiting for... I don't see any impact of the supermarket, you know, on traffic quite frankly but as far as to answer your question, we don't envision any further... you know, requests or do we think we have the capability with the land to expand the store any further. And, it is interesting that the public brings up monopolies and things of that nature because one of the reasons why we want Price Chopper to succeed in this community is so that they will be here in the future and, you know, everyone thinks that they think Price Chopper is this big powerful business but that business is going through some changes and profit margins are down. And, with Walmart and some of the other competition in the area, that would be a factor but the main reason why we're here to expand the store is at the tenant's request. There is very little profit to be made as a developer in doing this. It's a very costly project. We're here because Price Chopper feels that they are going to be able to better serve the community with the goods and services that they are going to provide from that store without any significant, or if any impact... you know, negative impact. So, that's my answer.

COUNCILMAN DAVIS: Don't go away because you will probably have other

questions. I have one.

MR. SUSSMAN: Okay.

SUPERVISOR FULLER: Go ahead, Doris.

COUNCILMAN DAVIS: One of the... several of the criticisms that have been... that recurred is that it will increase traffic. Do you.. how do you... do you foresee that? I mean, how would more traffic as a result of that addition occur?

MR. SUSSMAN: I can answer that by saying that Price Chopper feels that they are not going to have increased traffic to the store, they are just going to be... they are not putting any new departments in the store and they don't envision their volume going up but that they'll have better departments to service the community better. So they feel that there is not going to be additional traffic or visits to the site.

COUNCILMAN DAVIS: Okay. I was under the impression through the material that I received from the Planning Board discussion that it was not going to require additional parking space.

MR. SUSSMAN: That's correct.

COUNCILMAN DAVIS: It's not going to increase significantly, if at all, traffic flow.

MR. SUSSMAN: That was their finding, correct.

COUNCILMAN DAVIS: And, Jim, have you seen the plan?

MR. BLENDALL: No I haven't, Doris, I thought it would be up tonight.

COUNCILMAN DAVIS: Okay, yea... I think it would be helpful for you to see the plan because I was somewhat concerned before I actually saw the physical plan and what it does to that structure. But, it's really just one slice at the east end of the building. Yea, I think it would be helpful for everyone to see that.

COUNCILMAN MARCELLE: There is a board right over here.

SUPERVISOR FULLER: Jeff, when did they start before the Planning Board because this has been on the agendas for quite a while.

COUNCILMAN DAVIS: Right.

MR. LIPNICKY: The exact date I don't know. It's a couple months.

COUNCILMAN DAVIS: I'm not sure the average person, once this is done, if it's done would actually notice the difference...

SUPERVISOR FULLER: Would even notice it.

COUNCILMAN DAVIS: ...in the physical structure of that project.

MR. LIPNICKY: Is that a question or...

COUNCILMAN DAVIS: Rhetorical.

COUNCILMAN LENHARDT: Can I make another statement while they are putting that up? Just a comment was made about access to this site when the bypass ever is built. Well, the current DOT plans that we have seen shows no access to this site from that new bypass meaning that something is going to have to be done at either the existing entrance on New Scotland Road or God knows where on the site. But, at this point, DOT does not show access to that site from their proposed extension.

MR. SUSSMAN: One other comment though George, they... DOT has improved the road system down at Blessing and it is a pretty significant improvement at that turn lane there since the Price Chopper was built.

SUPERVISOR FULLER: This is before our IDA and this is over the possibility of a development of a potential tech park which has been the subject of 3 meetings here in Town Hall. A tech park along the... and DOT is involved in all of that with the Slingerlands bypass but every developer has also been involved and I know that Windsor Development has met with DOT and met with the IDA and there is break in access point.

COUNCILMAN LENHARDT: Then that did change from the last proposal.

MR. BLENDALL: May I ask question to follow-up on Doris?

SUPERVISOR FULLER: Sure.

MR. BLENDALL: Doris, I just don't think... I just can't believe that the Price Chopper is going to get another 10,000 square feet of space and not do anything with it other than to widen out their aisles. I mean, it just, it's inconceivable to me. If you go into that store now, they have... all the supermarkets, they pile stuff all over the place. The more space they have, the more space they fill to put products and it's just the nature of the business.

COUNCILMAN DAVIS: I hope that doesn't happen but I will... just one personal comment... this is one personal observation from the day that that store opened, I've complained about it to my husband. I've heard other people complain about it and number 1, a lot of senior citizens complaining that specifically the produce area is very, very tight.

SUPERVISOR FULLER: They can't get through.

COUNCILMAN DAVIS: In fact, when a person parks their shopping cart, it blocks everything so that people have to walk around, move around and it takes 4 or 5 times as longer to get through that produce department than it would in the average store. I've compared it in that store with the Glenmont store and I'm very happy to hear that that's one of the department's they plan to change.

MR. BLENDALL: Then ask the developer for an internal layout and base your approval on that internal layout.

COUNCILMAN DAVIS: Well, I guess I'd have to... they have been...

MR. BLENDALL: The second thing here is 10,000 square feet is almost 20 percent the size of the store.

COUNCILMAN DAVIS: Well, again...

MR. BLENDALL: It's 50... what'd you say? It's 50... I had 50... 56,000.

MR. SUSSMAN: It's almost 64,000 feet today.

MR. BLENDALL: Including the little junk in the back here but the floor space is at least 20 percent.

COUNCILMAN DAVIS: I think...

MR. BLENDALL: This area over here is also available within...

COUNCILMAN DAVIS: Not really because of wetlands. You remember that, Jim.

MR. BLENDALL: The wetlands can be sold off, you can trade those off. You can make all kinds of...

COUNCILMAN DAVIS: Well, you know that there is a major issue with that...

MR. BLENDALL: ...deals with the Federal Government, we've done it and can do it.

COUNCILMAN DAVIS: That's a major issue.

MR. BLENDALL: Well, I only say that because your parking lot is going to be insufficient. It's insufficient here. You can't put 10,000 square feet of space in a building and not expect a developer or a user to put more product in there. At any rate... I want...

COUNCILMAN DAVIS: Well, I think that... I think that Windsor Development has done a wonderful job with that particular site. They have... it always looks good. I think

we can count on it looking good. I think Price Chopper has done a very good job for the community in that location and I think if it is going to help the consumer and I... I'd like to be able to say that they will, I think it can only... we can only benefit from it. And, one additional comment, as far as, competition goes with other businesses, Price Chopper has in fact ended their video department in that store which helps the business in that particular shopping center. So you know, there's a trade-off I guess.

MR. BLENDALL: I don't see it, Doris, I'm sorry.

COUNCILMAN DAVIS: I know.

COUNCILMAN PLUMMER: Can I make a statement? You are going to look for a vote tonight, right?

SUPERVISOR FULLER: Yes. Did you have a question, Dan?

COUNCILMAN PLUMMER: No, just have a statement. I will wait until the public hearing is over.

SUPERVISOR FULLER: Okay. I will have a motion to close the public hearing.

The motion was made by Mrs. Davis...

COUNCILMAN LENHARDT: Wait a minute you got...

SUPERVISOR FULLER: Hang on a minute. Yes.

MR. SCROE: I was wondering... who was the general contractor or manager was when the original Price Chopper was built.

MR. SUSSMAN: I'm not sure I can remember exactly who was the general contractor.

MR. SCROE: Or the project manager.

MR. SUSSMAN: We were the development group and the general contractor for the stores.

MR. SCROE: Windsor.

MR. SUSSMAN: I'm not sure, I can give you a call...

MR. SCROE: J.C. – local companies used? Local...

MR. SUSSMAN: Sure, local subs were used.

MR. SCROE: Local subs... okay... thank you.

SUPERVISOR FULLER: May I have your name please?

MR. SCROE: Oh, yes, Garry Scroe.

SUPERVISOR FULLER: Thank you.

MR. SUSSMAN: Let me just... the way that store was built initially was that Price Chopper built their own store and hired their own general contractor. The developer did not have anything to do with that. And, then when they were done with their store, we had a transaction where we bought the store from them.

MR. SCROE: You don't recall the gc back then?

MR. SUSSMAN: I don't recall who it was.

MR. SCROE: Nobody on the Board does at all?

SUPERVISOR FULLER: No, but I am sure it is in the records.

MR. SCROE: It is, okay. Check with the Building Department.

SUPERVISOR FULLER: Yes, Building Department would have it. You can give them a call and they can tell you. May I have a motion to close the public hearing?

The motion was made by Mrs. Davis and seconded by Mr. Plummer to close the public hearing at 8:35 p.m. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None

Town Clerk

Supervisor Fuller reconvened the regular Town Board meeting following the close of the public hearing.

Supervisor Fuller noted action needed to be taken on the SEQR resolution. She said this was a recommendation from the Planning Board, draft SEQR.

Councilman Plummer noted he wanted to make a statement before going forward on the vote. He said in all respect to the opponents he is supportive of the expansion. He

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noted he was not here when this first came before the Board. He said this Town has changed significantly since it first came to... since Price Chopper first came here we have had considerable residential growth in this community. He thinks the fact that Price Chopper is here is great for the community and they are a terrific tax payer. He said they have 2 facilities here and have competition in this community. He said we need to expand our commercial tax base in this community and he thinks the Town has to work with businesses in order to make that happen. He said he is supportive of this expansion.

Councilman Lenhardt said as he noted, he originally voted opposed to the rezoning, however, this is an existing business and he does not see that a 10,000 square foot addition as being that significant and therefore he is in favor of this amendment.

Councilman Marcelle said he is in support of it for a couple reasons. He said he lives in Slingerlands and they send their kids to Maria College on New Scotland Avenue and take the same route Mr. Berke takes. He said he views that traffic as largely of all the residential development going up down New Scotland Avenue, He said as someone who shops there frequently, he concurs with Councilman Davis that there are some frustrating moments in the produce section. He said he is sure that 10,000 square feet will be a significant benefit for the Slingerlands community who shops there. He said he understands there is concern and in some senses perhaps there was a covenant made when this first went up and that as Mr. Lenhardt eluded to, some creeping incrementalism that will never stop until the store doubles or triples in space. He said he understands that concern but he is not sure he is at that line yet. He said maybe some day he will be and he respects the people who spoke against the Price Chopper but he is going to be supportive tonight.

Councilman Davis said she will say that she has felt that Price Chopper has been a very, very good neighbor. She said they have been a very good contributor to our community, to the young people of our community and a lot of their events. She trusts that, as they say, the addition is going to be there for serving the community and the customer base better. She said she thinks if it were to change the true aesthetics of the project so that the average person could see it, she would be concerned. She said she does not think anyone will even notice it once it is there because of where it is and what actually will be facing the customer approaching the store. She said, frankly, if there is another Price Chopper in Town she would be very happy about that. She said she is going to support it and she supported it when it was before the Board previously.

Supervisor Fuller said she was also supporting the addition. She said she was on the Town Board when the meeting was standing room only in the auditorium and she shops in the store and when she sees many of the same people who were in opposition have learned to love the store and are glad that it is here, she said they are now complaining that it is too small. She said she has resorted to shopping in the Glenmont store.

The Supervisor said the real issue she wanted to address about Price Chopper as a community supporter is the senior citizens receive all of their paper supplies that they

have. She said they can pick up their Danish and their cookies and coffee, which is all donated by Price Chopper on a weekly basis, every Thursday. She said or any other time they are willing to go to the Price Chopper and pick it up. She said they do a lot of community service for the sports events, their opening nights of their stores is always a fund raiser. She said she thought last year it was for the Tomboys and before that Youth Court. She said she thinks they do deserve the Town's support and the 10,000 square foot addition she will fully support and know that the community is anxious to see the improvements made there. She noted you talk about the produce aisle, she would speak about the deli counter.

Town Attorney Alessi said he wanted to make a comment about the process. He noted that on July 9, 2003 the Board referred this matter over to the Planning Board. He said the purpose of the referral was for the agency, the Planning Board, in the Town with arguably the most expertise on all the issues that were raised at this meeting and other issues, fully vented the issues at many meetings – noting there were several requirements of the applicant to come in, traffic and several other issues that Mr. Blendell and others raised were fully vented. He said he has taken a look at the Planning Board record to satisfy him that the process in this instance worked and that these were analyzed at many meetings by the Planning Board and Town Planner, Jeff Lipnicky and his staff. He said is not happening in a vacuum at this meeting and it is part of the process that occurs. He said he wanted to confirm with Mr. Lipnicky that the issues of traffic, etc. and others were analyzed and data submitted and that there was a recommendation from the Planning Board that had the benefit of that type of information.

The following resolution was presented for adoption:

RESOLUTION
TOWN BOARD
TOWN OF BETHLEHEM
SEQR DETERMINATION OF SIGNIFICANCE
APPLICATION TO AMEND DENSITY PROVISION OF
LOCAL LAW NO. 12 OF 1995
PLANNED COMMERCIAL DISTRICT NO. 4
PRICE CHOPPER PLAZA
WINDSOR PROPERTIES COMPANY, L.L.C.

WHEREAS, the Town Board of the Town of Bethlehem has received an application and Environmental Assessment Form (EAF) from Windsor Properties Company, L.L.C. (Windsor Properties) to amend certain provisions contained in Local Law No. 12 of 1995 (Local Law No. 12), adopted by the Bethlehem Town Board on December 13, 1995; and, WHEREAS, Local Law No. 12 rezoned a 21.6 acre parcel of land located at the northeast corner of the intersection of NYS Route 85 and LaGrange Road from Residence A and Residence AA Districts to Planned Commercial District (PCD) No. 4 in order to allow construction of a shopping center at the site; and, WHEREAS, Section 4 of Local Law No. 12 contains a provision that limits the maximum permitted density of the shopping center within PCD No. 4 to 99,000 square

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feet of gross floor area; and,

WHEREAS, a shopping center known as Price Chopper Plaza has been constructed on the site and the plans for said shopping center indicate that the shopping center currently contains 98,903+ square feet of floor area; and,

WHEREAS, Windsor Properties now wishes to construct a 10,150+ square foot addition to the existing Price Chopper Supermarket that is located in the shopping center, and said addition would increase the total square footage of the shopping center to 109,003+ square feet, an amount that exceeds the maximum permitted density within PCD No. 4; and,

WHEREAS, Windsor Properties has made application to the Town Board to amend Section 4 of Local Law No. 12 in order to allow the supermarket addition, and has requested that the zoning amendment increase maximum permitted density in PCD No. 4 to 109,500 square feet of gross floor area; and,

WHEREAS, Windsor Properties has submitted a conceptual plan for further development of the PCD in the event that the zoning amendment is granted, and said plan shows construction of a 48+ foot by 209+ foot addition to the supermarket, relocation of a water line and internal driveway, placement of additional fill on the site and reconfiguration of an existing detention basin; and,

WHEREAS, Chapter 128, Article 5 of the Code of the Town of Bethlehem contains procedures for the establishment of a Planned Commercial District, and said procedures authorize the Town Board to establish such a District upon referral to, and recommendation of, the Town Planning Board; and,

WHEREAS, the application from Windsor Properties is subject to the above referenced referral procedures in that it involves an amendment to the Local Law that established PCD No. 4; and,

WHEREAS, the State Environmental Quality Review Act (SEQR) regulations found at 6 NYCRR Part 617.3(a) require that no agency may undertake, fund or approve an action until it has complied with the requirements of SEQR; and,

WHEREAS, the "Memorandum of Understanding between the Town of Bethlehem Town Board and Planning Board for Planned Development Districts" (MOU), adopted by the Town Board on February 27, 1991, sets forth procedures for incorporating the requirements of SEQR with the requirements of Chapter 128, Article 5 of the Code of the Town of Bethlehem for the establishment of Planned Commercial Districts; and,

WHEREAS, in accordance with the SEQR regulations at 6 NYCRR Part 617.6(a), the Town Board at its meeting of July 9, 2003: (1) determined that the proposed zoning amendment constituted an "action" subject to SEQR; (2) identified other involved agencies for the purpose of coordinated review; (3) made a preliminary classification of the project as an "unlisted" action; (4) required a full Environmental Assessment Form to assist the lead agency in its determination of significance; and (5) determined that the proposed action is not located in, or within 500 feet of, a certified agricultural district and therefore, is not subject to the provisions of the Agriculture and Markets Law; and,

WHEREAS, in accordance with the SEQR regulations at 6 NYCRR Part 617.6(b) the Town Board at its meeting of July 9, 2003 also initiated a coordinated review of the action, declared its desire and intent to be lead agency for SEQR review, and subsequently circulated the zoning application, full EAF, project concept plan and supporting materials to all involved agencies; and,

WHEREAS, in accordance with the procedures outlined in the MOU, the Town Board at its meeting of July 9, 2003 also referred the zoning application to the Planning Board for a recommendation on a SEQR Determination of significance; and,
WHEREAS, the Planning Board has reviewed and considered the zoning application, the full EAF Part I, concept plan and supporting materials submitted by the applicant, and has recommended in a Resolution adopted on October 7, 2003 that the Town Board issue a Negative Declaration with respect to the application; and,
WHEREAS, the Town Board has conducted its own independent analysis of the application and its potential environmental effects, and has concluded that the applicant has adequately addressed the identified areas of environmental concern,
NOW, THEREFORE, BE IT RESOLVED,

that the Town Board of the Town of Bethlehem hereby confirms that it is lead agency with respect to SEQR review of the Windsor Properties Company, L.L.C. application to amend the density provisions of Local Law No. 12 of 1995; and,
BE IT FURTHER RESOLVED,

that based upon its review of the zoning application, the full EAF and other supporting materials submitted by the applicant, comments on the application submitted by the Town Planning Department, Town Engineering Division and involved agencies, its own independent analysis of the application, and comparison with the Criteria for Determining Significance found at 6 NYCRR Part 617.7, the Town Board hereby finds that approval of the Windsor Properties zoning application to amend the maximum permitted density provision in Local Law No. 12, for the purpose of constructing a 10,150 square foot addition to an existing shopping center, constitutes an action that would not have a significant impact on the environment and, therefore, does not require preparation of a draft Environmental Impact Statement; and,
BE IT FURTHER RESOLVED,

that this Determination of Significance shall be considered a Negative Declaration made pursuant to Article 8 of the Environmental Conservation Law; and,
BE IT FURTHER RESOLVED,

that the Town Planning Department is hereby authorized and directed to file any and all appropriate notices of this determination so that the intent of this Resolution can be carried out; and,
BE IT FURTHER RESOLVED,

That this determination is based upon the following facts and conclusions:

1. The zoning application involves a proposed amendment to the maximum permitted density requirements of PCD No. 4 that would increase maximum permitted density from the current standard of 99,000 square feet of gross floor area to 109,500 square feet, an increase of 10.6%.
2. The amendment is requested in order to allow a 10,150+ sq. ft. addition to an existing Price Chopper Supermarket.
3. Concept plans for the supermarket addition show that the addition would be placed on the eastern side of the existing building, in an area currently occupied by a service driveway.
4. The project would entail relocation of the service driveway and an existing water line, placement of additional fill material for construction of the new driveway, and reshaping of an existing storm water detention basin. In total, the effected area of

construction encompasses approximately one acre.

5. The existing shopping center was the subject of a thorough environmental evaluation conducted by the Town at the time of the original rezoning to PCD No.12. A SEQR Negative Declaration was issued for that rezoning by the SEQR Lead Agency, the Bethlehem Town Board on December 13, 1995.

6. Review of the current application identified the following areas of potential environmental concern: a) traffic generation, b) impact to federal wetland area, c) compliance with Phase II storm water regulations, d) erosion control and e) architectural compatibility with the current shopping center.

7. Trip generation estimates provided by the applicant and derived from the ITE manual Trip Generation indicate that the building addition would generate approximately 38 vehicle trips during the weekday p.m. peak hour. Notwithstanding the ITE manual estimate, the applicant has indicated its belief that the ITE manual overestimates potential trip generation. The applicant has indicated that the primary purpose of the addition is to provide more storage and product space for the existing customer base, and is not intended to attract additional customers. In either event, the additional trips that may be expected represent an insignificant increase over existing trip generation from the shopping center, and an insignificant increase in current traffic on the adjacent highway system.

8. The concept plan and supporting information provided by the applicant indicates that project development would impact approximately 0.135 acres of federal regulatory wetland. The applicant is currently working with the U.S. Army Corps of Engineers to finalize a wetland mitigation plan for this impact. The mitigation plan will be finalized during the Building Project phase of the review process and prior to the Town granting final approvals for construction of the addition.

9. The concept plan and supporting information provided by the applicant indicates that project development would disturb approximately one acre of the site. The actual area of disturbance will be recalculated at the time of submission of final plans during the Building Project phase of Town review. To the extent that the actual area of disturbance exceeds one acre, the applicant has agreed to design the project to comply with the Phase II storm water regulations. The current concept plan shows storm water being discharged to an existing detention basin that was constructed for the original shopping center development. This detention basin will be reconfigured as part of the proposed project.

10. The applicant has agreed to design and provide a full erosion control plan that will be submitted for review and approval by the Town during the Building Project phase of Town review. The plan will be designed in conformance with the New York State Guidelines for Urban Erosion and Sediment Control.

11. The applicant will provide to the Town an architectural design plan of the building addition for review and approval by the Town during the Building Project phase of the review process. The applicant has agreed to design the addition to match the architectural style and materials of the existing structure.

12. Review of the site in the field and with available environmental inventory data on file in the Town Planning Department office, including the prior environmental assessment that was completed for the original shopping center development, revealed no other significant environmental characteristic of the site that require further study.

On a motion by Mr. Plummer , seconded by Mrs. Davis and a vote of 5 for, 0 against, 0 abstentions and 0 absent, this RESOLUTION was adopted on October 22, 2003

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Supervisor Fuller then asked for a motion to approve the proposed Local Law.

The motion was made by Mrs. Davis and seconded by Mr. Plummer to approve proposed Local Law No. 6 of 2003 granting the amendment to Local Law No. 12 of 1995 regarding permitted density for Planned Commercial District No. 4, Price Chopper Plaza, Slingerlands. The motion was passed by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

Supervisor Fuller asked if anyone wished to address the Board. Mr. John Collier, long time resident and said he was here to commend the Board on their decision at the September 24, 2003 meeting not to approve the resolution pertaining to the terrorism legislation – he thought the short title was the US Patriot Act. He said he would not be at the meeting but he understands it is an ongoing subject and urged the Board to maintain the position that it is not appropriate for the Town of Bethlehem to do that. He said that would be his personal comment and again thanked the Board for their action. Supervisor Fuller thanked Mr. Collier.

The motion was made by Mr. Plummer and seconded by Mrs. Davis to adjourn the regular Town Board meeting at 8:43 p.m. The motion was carried by the following vote:

Ayes: Mrs. Fuller, Mr. Lenhardt, Mrs. Davis, Mr. Plummer, Mr. Marcelle.

Noes: None.

Absent: None.

Town Clerk