

TOWN OF WARWICK PLANNING BOARD

September 21, 2011

Members present: Chairman, Benjamin Astorino  
Russell Kowal, Beau Kennedy  
Laura Barca, HDR Engineering  
J. Theodore Fink, Greenplan  
John Bollenbach, Planning Board Attorney  
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, September 21, 2011 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

**PUBLIC HEARING OF Sunland State Corp.**

Application for Site Plan Approval for a *Timber Harvest Permit*, situated on tax parcel S 58 B 1 L 101; project located on the eastern side of Bellvale Lakes Road 1,100 feet north of Kane Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Christopher Prentis, Certified NYS Forester. Rob Schreibeis, Applicant.

Connie Sardo: Mr. Chairman, we have received the certified mailings for the Sunland Timber Harvest public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments – 08/11/11
  - a. concerns about erosion control and surface water runoff
  - b. recommends water bars be placed along the steep section of roadway from the lower crossing of the pipeline to the area being used as a turnip field
  - c. recommends that an adequate stone base material be installed to prevent soil disturbance and possible erosion
4. Architectural Review Board comments – 08/15/11 no comments received to date.
5. OC Planning Department – 08/16/11; no advisory comments.
6. The weekly report should be revised to separate the number of firewood trees and culls.
7. The Applicant has agreed to install a headwall on both ends of the existing 18-in culvert pipe at the entrance to the site.
8. The Applicant has agreed to take appropriate stabilization measures, per Planning Board Engineer, if a major storm event is expected in the project area.

9. The proposed landing areas and haul roads will be disturbing more than 0.25 acre; Applicant must obtain a building department permit in accordance with §150-4.
10. Establish an inspection schedule and escrow account for Planning Board Engineer to conduct inspections at the site.
11. A reclamation bond in the amount of \$3,000 shall be provided until all areas have been stabilized in accordance with the following NYSDEC definition of Final Stabilization: “all soil disturbance activities have ceased and a uniform, perennial vegetative cover with a density of 80% over the entire previous surface has been established; or other equivalent stabilization measures, such as permanent landscape mulches, rock rip-rap or washed/crushed stone have been applied on all disturbed areas that are not covered by permanent structures, concrete or pavement.” (GP-0-10-001, Appendix A).
12. Payment of all fees.

The following comment submitted by the Conservation Board, dated 9/21/11:

Sunland State Corp. - The recent torrential rains serve as a timely reminder that timber harvesting must be done very carefully to avoid enhancing erosion in an already erosion prone area. The CB urges that the greatest erosion controls be required in this steeply sloped area.

The following comment submitted by the ARB:

Sunland State Corp. – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: This project is subject to SEQRA. The Planning Board has declared itself Lead Agency. We have been reviewing it with the short EAF. The primary issue was the potential for erosion. We have worked with the applicant to make sure that they would be following the New York State Forestry Best Management Practices and the NYSDEC Timber Harvest Guidelines. We have incorporated those Practices and Guidelines into a Draft Negative Declaration for the Planning Board to consider tonight.

Comment #2: Applicant to discuss project.

Rob Schreibeis: Looking at the site plan, we are looking to selectively harvest 48 acres within the outlined area. In the middle section of the property, we are trying to avoid the perimeters according to the regulations.

Mr. Astorino: Just to let the public know, we had done a site visit to the property. The Conservation Board was also at the site visit. We had walked the site twice. The first time was with the Board. The second time was with the Town Engineer and myself after the hurricane. We took great consideration looking into erosion control and sediment control coming down the mountain. Do any Board members have any comments or concerns?

Mr. Kennedy: No.

Mr. Kowal: No.

Comment #3: Conservation Board comments – 08/11/11

- a. concerns about erosion control and surface water runoff
- b. recommends water bars be placed along the steep section of roadway from the lower crossing of the pipeline to the area being used as a turnip field
- c. recommends that an adequate stone base material be installed to prevent soil disturbance and possible erosion

Mr. Astorino: Laura, I believe these items have all been addressed.

Laura Barca: They are on the map or in the comments.

Mr. Astorino: Regarding the Millennium Pipeline, when we were at the site visit, we noticed that the water bars had been breached. The Town has been working for years on this matter. Millennium has been notified of the problem.

Mr. Bollenbach: They have been notified. They are to remedy the problem as soon as they can.

Mr. Astorino: Yes. I am sure they will be on top of that.

Comment #4: Architectural Review Board comments – 08/15/11 no comments received to date.

Comment #5: OC Planning Department – 08/16/11; no advisory comments.

Comment #6: The weekly report should be revised to separate the number of firewood trees and culls.

Comment #7: The Applicant has agreed to install a headwall on both ends of the existing 18-in culvert pipe at the entrance to the site.

Rob Schreibeis: Yes.

Comment #8: The Applicant has agreed to take appropriate stabilization measures, per Planning Board Engineer, if a major storm event is expected in the project area.

Mr. Astorino: Laura, maybe you would want to elaborate on that comment.

Laura Barca: That comment came after the hurricane. What it is, if by chance they are doing logging procedures up there, when a significant storm event happens such as Hurricane Irene, the applicant and his Forester should take any appropriate measures to prevent any additional erosion on that hillside.

Mr. Astorino: There would also be inspections done by our Engineer.

Laura Barca: Yes.

Comment #9: The proposed landing areas and haul roads will be disturbing more than 0.25 acre; Applicant must obtain a building department permit in accordance with §150-4.

Rob Schreibeis: I agree.

Comment #10: Establish an inspection schedule and escrow account for Planning Board Engineer to conduct inspections at the site.

Mr. Astorino: That was something that we worked out with our Planning Board Engineer and the applicant's Logger. It would be to your discretion.

Laura Barca: Yes. Does Rob agree?

Rob Schreibeis: I agree.

Comment #11: A reclamation bond in the amount of \$3,000 shall be provided until all areas have been stabilized in accordance with the following NYSDEC definition of Final Stabilization: "all soil disturbance activities have ceased and a uniform, perennial vegetative cover with a density of 80% over the entire previous surface has been established; or other equivalent stabilization measures, such as permanent landscape mulches, rock rip-rap or washed/crushed stone have been applied on all disturbed areas that are not covered by permanent structures, concrete or pavement." (GP-0-10-001, Appendix A).

Mr. Astorino: The DEC Regulations would be superseded by what this Board deems appropriate; we need to go over and beyond that.

Laura Barca: That is the minimum standard.

Mr. Astorino: Yes.

Comment #12: Payment of all fees.

Rob Schreibeis: I agree.

Mr. Astorino: Do any Board members or Professionals have any comments or concerns? This is a public hearing. If there is anyone in the audience wishing to address the Sunland Timber Harvest application, please rise and state your name for the record.

Jerry Rubbenstahl: I am an adjacent landowner. I have lived here 48 years. I know the property. My concern is erosion. I'm very curious a DPW representative isn't here. We have had tremendous amounts of damage on that road from Hurricane Irene & Tropical Storm Lee. It is my opinion that this is going to add to it. It is a beautiful piece of property. I was there when the Todd residence was there as a summer resident. I have deep concerns about this. I have encountered the applicant already. He came down across my property with all terrain vehicles. There were a lot of people there with all terrain vehicles. The place was crisscrossed with trails. This is going to add to the problems.

Mr. Astorino: Is there anyone else wishing to address the Sunland Timber Harvest application?

Rob Pitney: I have lived here for 20 years. I ended up with a foot of water in my basement after Hurricane Irene and Tropical Storm Lee. I ended up with a foot of water in my basement after the winter runoff. This is a highly erodible area. It slopes down. My backyard is right in the epicenter of where that water breaks loose. I am very

concerned about runoff and any erosion. On top of that, I am also very concerned about noise pollution. It is a very quiet area. We are there for a particular purpose. Additionally, I am not aware of any Environmental Impact Studies that had been done. I have tried to call your office.

Connie Sardo: I spoke to you.

Rob Pitney: I know. But, I never received a call back.

Mr. Astorino: I put a call into you. Ted, you could address the Environmental Impact as far as the noise. There is a noise ordinance in the Town that the applicant would have to adhere to.

Rob Pitney: As Mr. Rubbenstahl has stated, there are ATV and snowmobile trails all through the property. There are trails that had been ripped up by people that ride their ATV's. That has destroyed what had existed naturally to keep that water coming down the natural culvert. This is going to make it worse.

Mr. Astorino: As far as the ATV's and snowmobile's, that would be a police matter. This application before us is for a Timber Harvest Permit. This Board cannot act on the ATV and snowmobile problem. As far as the noise pollution, it is written in the Code the hours of operation and decibel levels from a property line. That is in stone. The applicant cannot go over those protocols. Ted, could you explain about the Environmental part of it?

Mr. Fink: Yes. As far as the erosion control, the NYSDEC publishes what is called NYS Forestry Best Management Practices for water quality. It is a whole set of guidelines that is developed by the State as well as by the Watershed Agricultural Counsel Forestry Program. They have picked out a whole set of different standards for all of the different measures that Loggers use. Those have all been incorporated into the environmental documents that the Planning Board has been considering over the last few weeks since this application had been submitted. I think what is also relevant here, NYS in the year 2003, that became effective in 2004, passed what is called Right To Practice Forestry Law. Towns such as Warwick are required by law to facilitate the Practice of Forestry. We have to look at these applications with that in mind. We have to make sure that they are carried out properly under State Law. That is the responsibility of the Planning Board. The applicant has submitted environmental documents. The Planning Board has to make a decision tonight as to whether or not to adopt those documents.

Rob Pitney: Do you have any consideration for the people that live below?

Mr. Astorino: Yes.

Rob Pitney: I have already suffered just from natural problems.

Mr. Astorino: That is why our Planning Board had made a site visit. We walked the entire property. We saw the natural corridors. We were at the site again with our Engineer right after Hurricane Irene. We took pictures and documentation. If this application is approved, it would be our Engineer out to the site on inspections to make sure those corridors are the same and they have not changed. Water bars would have to

be installed and maintained. Everything would have to be done. It would have to be done correctly.

Rob Pitney: What I am trying to express is that it has already occurred.

Mr. Astorino: I understand that. But, it is not by the fault of the applicant.

Rob Pitney: No. But, if in fact the applicant takes anymore soil or cover out of there, it would just keep getting worse.

Mr. Astorino: That would be something that our Engineer would have to make sure that it doesn't happen.

Rob Pitney: It is already happening in its natural state. What I am trying to do is to prevent something coming in an unnatural matter.

Mr. Astorino: That is why our Engineer will be out there with the erosion control measures that would have to work. We were up at the site. We know about the slopes. This wouldn't be happening after it is done. This would be happening during the operation.

Rob Pitney: I am talking about before the operation commenced.

Mr. Astorino: Yes. This is before they could commence.

Rob Pitney: Let me make myself clear on what you have said. You are going to put into place fabric to prevent water coming down into my basement again.

Mr. Astorino: We are not going to guarantee that you would not get water. You had water before this application.

Rob Pitney: That is right.

Mr. Astorino: We are not going to say that you would not get water rolling off that mountain. Water will come down the mountain. What we will say is that when our inspections are done because of this Timber Harvest application, if it gets approved, it would not cause you anymore water. We can't say that no water would come down that mountain. Nobody could say that. That is why we had said when we were out to the site that our Engineer would have to do diligence and be up to the site numerous times by her discretion. If it rains, the Engineer would have to be up there. If it is sunny, the Engineer would have to be up there to make sure all of the water bars are in place, etc... It would have to be done.

Laura Barca: There is something else that I want to clarify that hasn't been stated yet. The applicant is proposing 8 trees per acre that they would be taking out. Is that correct?

Christopher Prentis: Correct.

Laura Barca: Chris, maybe you could take a minute and explain the process that you would be cutting the trees. You would be leaving the stumps. There would be no excavation of the soil. It would be just the actual removal of the tree itself. If you could describe to the public, that you would be hand cutting the trees. Describe the mechanism of how those trees would be removed from the site.

Rob Pitney: I want to end this by saying that I strongly object to anything being done to this site. You can't only make it better. You could only make it worse.

Mr. Astorino: Thank you. Chris, could you explain the process?

Christopher Prentis: Yes. What is proposed on this 48-acre site, the Logging Contractor is setup a little different from most Loggers. His equipment is better equipment to handle soil erosion. He would use skidders. He would load the logs onto a little dump. That would look like a little dump truck body. He would carry them all the way down to the road where they would get loaded onto a truck. His equipment is setup for fewer trails, which would be less compaction, which means less erosion. In terms of the trees, they are cut to about stump level. They would be cut to as low as possible. It's usually cut down to about a foot depending on if there is a rock or a big swale in the stump. Then, it might have to be cut a little higher. This particular contractor utilizes as much as he can of the top wood for firewood. What would be left in the woods is generally 4" to 5" in diameter crushed down under about 3-foot high. It would also help with soil erosion and the trees that are remaining.

Mr. Astorino: Thank you. Is there anyone else wishing to address the Sunland Timber Harvest application?

Jerry Rubbenstahl: The design criteria your are saying basically all of your regulations conform to that. What I am saying is that Hurricane Irene has outdated all of that design criteria. During that storm, that was the first time I have ever seen rain come down in sheet form. I have a 500-foot long driveway. The storm took the whole driveway out. It is amazing what comes down that mountain. If you were out there after that storm, that road was impassible.

Mr. Astorino: Without a doubt. Totally understandable. Is there anyone else wishing to address the Sunland Timber Harvest application?

Rob Pitney: To chime in with Jerry, we had huge boulders come down into the middle of Bellvale Lakes Road. Where my property and Jerry's property resides, we were the worst hit. It is not a good thing. There is not any good that could come out of this for the residence. I think that is where the primary consideration should be.

Mr. Astorino: Thank you. Is there anyone else wishing to address the Sunland Timber Harvest application?

John Payne: I live at the base of the mountain. I have been there 14 years. The first thing I want to say for the record is that the Town has been great to me. I had a lot of problems over the years. The Town was nice enough to put in an additional culvert for me to try to help manage it. All water comes off the mountain down to my property. There were times through the years where you could kayak through my property. There

are natural springs on that mountain. Anything that changes up there will affect me in a negative way. I would love that mountain to stay the way it is. I don't own it. If there is a permit issued, it is important that it is followed by the letter of the law. You are the engineers. You talk to the DEC. I don't. If something happens and I get more water, who would be responsible for it? I have already lost my basement. I had to redo it. I have flooded 4 times. I was very fortunate during these two past storms. I don't know why. I was luckier than most of my neighbors. Who is responsible if the situation gets worse?

Mr. Bollenbach: It would be the landowner/applicant. We are just taking reasonable precautions to try to ensure that we don't increase the runoff. We want quantity and quality. We have additional escrow in place to try to ensure that it is properly reseeded and mitigated so that it doesn't have an adverse impact.

Mr. Astorino: The Town also has the right to put in a Stop-Work-Order if our Engineer goes out there and she doesn't like what she sees. I believe the applicant fully understands that. Is that correct?

Rob Schreibeis: Yes.

Mr. Astorino: I would hope so. That is the way it is going to go if this gets approved. I believe the Board members could agree with this from walking up that mountain. I know from firsthand what is out there. Between erosion and water, enough comes down that mountain on its own. It doesn't need to be redirected. It doesn't need to be changed. There are natural channels on where it flows. Hurricane Irene was one of those storms where everyone was hit pretty hard.

John Payne: As far as that goes, is someone held responsible?

Mr. Astorino: The applicant is assuming responsibility. Is there anyone else wishing to address the Sunland Timber Harvest Application?

April Pitney: We have been there for a long time of 25 years. In the 25 years, we only had water on 2 occasions. It is happening now because I think the environment has become more wet over the past few years. We use to be drier. I think the additional problems of the environment are exacerbating the problems on that mountain. It is going to make it worst for you. We being the homeowners will be complaining. We only had water in our basement only a couple of times. We see what happens. But this time, it was during and after that storm. The whole road washed out. It was unbelievable. That never happened before. I believe the environment will continue to change. We will continue to see more rain. It will be more wet. We will have problems. The project should take this matter more into consideration. We will be looking at you for accommodation. In additions, I suffer from RA. I don't want to hear what is ok for noise pollution levels. It will not be ok for me. I definitely need the quietness.

Mr. Astorino: Regarding the noise level, it is in the Code. The applicant would have to adhere to it. That is non-negotiable. They cannot exceed it. They cannot exceed the hours of operation or the days of operation. Also, going to our Engineer who would be doing the inspections, if it looks rainy or snowy, it would be a call from our Engineer that they shouldn't be up there and to stop the work.

Laura Barca: Yes.

Mr. Astorino: Is there anyone else wishing to address the Sunland Timber Harvest application?

Rob Pitney: It sounds like from your comments that this is a fair and complete process.

Mr. Astorino: I am looking at what was discussed. Nothing is complete until the Board votes on it.

Rob Pitney: I think what you have heard from the few residents that are here, it is a definite problem in our eyes. It is an impact to us.

Mr. Astorino: If there is an impact, that is where this Board would have to make a decision with the information that was provided to us with our Professionals and what we have seen on site. That would be a decision that we would have to make.

Rob Pitney: In your professional opinion as engineers?

Mr. Astorino: We are not all engineers. Our Engineer sits down on that end.

Rob Pitney: In your professional estimation, have you determined that this would not be a problem for the residents?

Laura Barca: If the work is completed in accordance with Chapter 150 and NYSDEC Best Management Practices, the applicant, forester, and logger have signed letters stating that they will comply with these regulations.

Laura Barca: You have a hill with residents below it.

Rob Pitney: We have recently experienced significant flooding as a result of water coming off that hill. Is that the comparison you have made?

Mr. Astorino: There would be no site that would be the same. There would be no two sites that would be identical. What this Board is in charge of is a Code in the Town that tells us what we could do and it meet the requirements. Now the deal is that we have to look at that knowing what is on that mountain and what came down during Hurricane Irene. We look at that knowing what could be done in the future to prevent that. Don't forget that we all know what happened up there. That applicant wasn't harvesting up there. You were flooded because you are downhill from that mountain. Whether or not it was the Millennium Pipeline or the breached water bars that caused that. I do not know. We had seen that. We notified Millennium to take care of that. Millennium did not come before the Planning Board. We did not have inspectors up there when Millennium blew through that mountain with their gas line. I wished that they had come before us. If they had, things would have been different. But, the Federal Government had a little more say over this municipality than anyone else. I don't think that was right. But, I had no control over that.

Rob Pitney: Is their intent to expand the harvest farther down the road?

Mr. Astorino: They would have to make another application before the Planning Board. Is there anyone else wishing to address the Sunland Timber Harvest application?

Al Riddlla: I live on Bellvale Lakes Road. My concern is that we had this major runoff. Don't you think you would need another site survey to see what the damage was?

Mr. Astorino: We had done that. Our Engineer was up there right after Hurricane Irene.

Al Riddlla: I was wiped out.

Laura Barca: We were also up there after Tropical Storm Lee.

Al Riddlla: The water I have in my yard right now is water that I never had.

Mr. Astorino: Unfortunately, if you took a look around the Town, everyone had problems. I will put this to our Engineer. But, this is a project that the applicant will have to pay for. Our Engineer will be inspecting the property to see what is right or wrong. She will make the call. If something is not right, we will stop it.

Laura Barca: The person you would call is me if you see any problems. Then, I would call the applicant.

Al Riddlla: Do you have an office here?

Laura Barca: Yes.

Connie Sardo: Our Engineer is at the Planning office on Tuesdays and Thursdays.

Laura Barca: You could call Connie any other day that I am not there. She will get a hold of me.

Jerry Rubbenstahl: If I understand what this meeting is about, it is to grant them a permit for the logging.

Mr. Astorino: If it meets the requirements.

Jerry Rubbenstahl: Why has the applicant already made a cut in the road? Why does he have equipment on the property? Why has he already started a staging site on there? Has nobody seen that?

Mr. Astorino: We did see that.

Mr. Bollenbach: That was for a driveway permit.

Mr. Astorino: Is there anyone else wishing to address the Sunland Timber Harvest application?

Al Buckbee: When Millennium came through here, did we do a SEQR on that?

Mr. Astorino: No. We had no input whatsoever on the Millennium. That is not the Town Board or the Planning Board. That is the Federal Government saying they are going to come in and do whatever they want. They also said that they would take care of it for us.

Al Buckbee: Is there anyway moving forward that we could actually look at what was done engineering wise there?

Mr. Astorino: They clear cut a mountain 100 feet wide. I don't think you need an engineer up there. They cut a swath up there like a ski resort.

Al Buckbee: What about the water bars?

Mr. Astorino: The water bars were breached up there during the storm. I think they should be up there fixing them. I understand that they don't want trees on their line. Maybe they should put some trees or shrubs up there. That use to be a wooded hill site. They removed everything.

Al Buckbee: Is there anything that we could learn from what was on there that we could improve on this application?

Mr. Astorino: Yes. We discussed that at our Work Session to make sure those water bars are taken care of.

Mr. Bollenbach: And, use Best Management Practices.

Mr. Astorino: Exactly. Is there anyone else wishing to address the Sunland Timber Harvest Application?

Scott Zintel: Could we get an explanation on where this is all occurring?

Rob Schreibeis shows the map to Mr. Zintel and all of the neighbors showing them where the whole timber harvest project is happening.

Mr. Astorino: Is there anyone else wishing to address the Sunland Timber Harvest Application?

Mark Malocsay: I am here on my brother's behalf. I am a logger. I understand the property should be logged. It should have been logged years ago. I am promoting the logging end of it thinking that is fine. What everybody here in Bellvale realizes there is a serious water problem there. It is to the point, if I would be doing that job, I would be hesitant to do that job. The reason being is that no matter what I had done to take precautions, there are going to be issues. You said ultimately, who would be responsible. In the past, I have received several logging permits from you. Some of them were on 480a and some on private residences. There are some conditions. The first condition is the bond that I had was substantially more. For example, if there were thousands of dollars worth of damage. It would be very hard pressed to say would it be there because of the logging job or without. The reality is any kind of disturbance in there and having any kind of runoff would be because of the logging job. Nobody could say anything different. Not that there wouldn't be any, but that it would increase. A bond to insure

that some of these damages could be paid should be posted. If nothing happens, then the person would get their money back. I have paid substantially more bonds before and I haven't had any issues. I think that would be something realistic. The second condition is regarding the Millennium Pipeline. Were they notified of the logging job?

Mr. Astorino: Yes.

Mark Malocsay: They usually require some type of a permit to cross the gas line itself.

Laura Barca: That has been done.

Mr. Astorino: John, did you review that document?

Mr. Bollenbach: Yes. They have the right to cross as long as they don't decrease the amount of pipe cover in agricultural and forestry operations.

Mark Malocsay: Are they limited to any kind of weight restrictions?

Mr. Bollenbach: No. They are not.

Mark Malocsay: Ok. Regarding the Ridgeline Overlay, this is not an uncommon request. 200 feet from any property line probably should not be logged. The Appalachian Trail usually has some standards that they would like to meet. The Appalachian Trail is a little bit more on a naturalist end. They usually require certain things when the trees come down. I don't know if the Appalachian Trail has done that on this application. I don't even know if they were even notified. Those are the couple of conditions which are to requiring having a heavy bond posted and also not to cut trees within 200 feet from any property line. There is another condition you might want to have called ground frozen. Two of my jobs had a restriction with the ground frozen. Would I do the work? With having the ground frozen, the chance of having a rainstorm would be pretty slim because it would snow and the snow would melt. At that point, it would be a lot easier to deal with. With the ground frozen, you usually wouldn't have the runoff issues even with a lot of rain. It would help you put the water bars there. It would be something very realistic. Chances are in the application; here we are at the end of September to the beginning of October. By the time everything is set in place, how soon would the job start? You would be looking at December. The ground would start to freeze up. I don't know how long an operation like this would take. I would consider that to be a reasonable request. I just received this information from my brother today. He just called me on it today. He just received the notice today. I didn't have time to look at what was on the application. I understand it is 8 trees per acre on average. It is a little high for that land up there for something that is reasonable for the acreage that you have. For this application, if you would be limited to the 47 acres, have those trees been marked?

Laura Barca: Yes.

Mark Malocsay: Has someone witnessed that?

Laura Barca: Yes.

Mark Malocsay: I am a logger. Going up and counting trees and looking at 47 acres is really hard to do in the woods.

Mr. Astorino: Are you saying that loggers don't take down what they say they are taking down?

Mark Malocsay: It happens a lot.

Laura Barca: We have the Forester's Report that recommends what is to be taken down. I believe the average is a little higher because if it has Ash trees, they would be coming down regardless of the age, size, height, & health. It is going to die anyway. That may be why the average is a little higher. But, every week on a Tuesday, Mr. Schreibeis will be in Town Hall to meet with me to discuss what happened the week before even if I was out at the site that week or not. He would have to give me a report stating how many trees were taken down, etc... We have what they say they are going to do. Now, we will keep track of what they are actually doing.

Mark Malocsay: Back to the part where I had just found out about this project. I know there are only 3 Board members tonight. Is the Planning Board planning on making a decision tonight?

Mr. Astorino: That would be up to the Board. Regarding the letters that were sent out, they were sent out the same way your Board sends them out. That is in the Code. That is adhered to.

Mark Malocsay: Yes. I know that. My brother had received this notice earlier. I just received it from my brother. The Buckbee's just received their notice in the mail. I haven't had a chance to look at this project or the Foresters Report I am asking that the Board hold off on making a decision tonight and put this on another agenda. I would like to have a chance to look at this report. Everyone else here might want to look at it. There might be some other issues that might come up.

Mr. Astorino: We have the report. It will be available to the public.

Mark Malocsay: I would just like to say that the water issue is a real concern.

Mr. Astorino: We will be having Laura go out there checking on things at the site.

Mr. Bollenbach: I want to comment on the bond that Mr. Malocsay referred to. This is a reclamation bond that is to insure when the applicant leaves the site that the skid areas are properly re-graded and re-vegetated to the Engineer's specifications. That is what the reclamation bond is for. Don't confuse that with any other liability for neighbors. I just want to make that distinction.

Mark Malocsay: I am glad you did. I don't think they realize that when you said there was a bond. They are thinking if there is going to be damage because of runoff.

Mr. Bollenbach: That would be a civil matter between the applicant and the neighbors.

Mark Malocsay: That was why I requested that there would be a bond for potential things that could happen.

Mr. Bollenbach: We will take reasonable precautions to try to minimize and mitigate the potential for the adverse impact.

Mr. Astorino: Mark, do you have anything else?

Mark Malocsay: Are the Indiana Bats an issue any more? I know it is an issue at a job that I had done in New Jersey. Before, the Guidelines were that they didn't want you to do anything until after the end of October.

Mr. Fink: Right.

Mark Malocsay: Has the Indiana Bat come up in conversation?

Mr. Fink: Yes. It would be a concern if it were to be a harvest through the summer months. But it is going to be primarily a fall, winter, and spring project. The Indiana Bats is generally not a concern at that time.

Mark Malocsay: That was why I wanted that restriction there because then it would not be an issue any more. If you are issuing a permit, a permit is good for a year. So, we did not limit it to not harvesting in the summer time. It was something that was a condition on my project. I totally disagree with it. Has the DEC come back with the rattlesnake dens?

Mr. Fink: We don't have a letter from the DEC.

Mark Malocsay: If you are not going to make a decision tonight, that would give them plenty of time to come back with it. It was something that I always had to deal with. Regarding the conditions I discussed, I was hoping the Board would discuss and leave it open to the public. You might not want to do them. A few of them were very realistic. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Sunland Timber Harvest application?

Jerry Rubbenstahl: Where would the trees be going?

Mr. Astorino: I believe some would be for firewood and some would be sawmilled. Is that correct?

Jerry Rubbenstahl: Where is the saw mill?

Mr. Astorino: I don't know.

Jerry Rubbenstahl: Isn't there a quarantine in Orange County?

Mr. Astorino: There is for Ash Trees. Is there anyone else?

Rob Pitney: Where would the logs be loaded? Is it going to be on the road?

Christopher Prentis: No. It would be on the land in the area where the driveway was put in.

Rob Pitney: That would be a lot of visibility if looking from the north side. I have health concerns for my wife and for the people that will be walking on that road. There will be large trucks driving through. I am against this project.

Mr. Astorino: Thank you. Is there anyone else wishing to address the Sunland Timber Harvest application? Let the record show no further comments from the public. Do any Board Members or Professionals have any comments?

Mr. Kennedy: I have no concerns.

Mr. Kowal: We went up to the site. It is not going to be a clear cutting operation. The trees that are marked are pretty sparse. They are going to leave the stumps in. When they put the branches on the ground and compress them a little bit, there would actually be more of erosion control than there was when the branches were up on the tree.

Mr. Astorino: Mark had brought up a point about frozen ground. I would like to hear the applicant's response to frozen ground from the months of November to May.

Rob Schreibeis: Wouldn't the application be lifted if we were working with frozen ground?

Mr. Astorino: Of course not.

Rob Schreibeis: That could be a reason to be able to work now.

Mr. Astorino: Ok. Do the Professionals have anything further? We need a motion for the Negative Declaration.

Mr. Kennedy makes a motion for the Negative Declaration.

Seconded by Mr. Kowal. The following Negative Declaration was carried 3-Ayes.

**617.7**

**State Environmental Quality Review (SEQR)**

**Negative Declaration**

Notice of Determination of Non-Significance

**Date of Adoption:** \_\_\_\_\_

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Warwick Planning Board, as Lead Agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

**Name of Action:** Sunland Timber Harvest

**SEQR Status:** Type I   
Unlisted

**Conditioned Negative**  YES  
 NO

**Description of Action:** The applicant has requested approval to conduct a selective timber harvest, pursuant to § 150-9 of the Town of Warwick Code, on a ± 48 acre area of a ± 271 acre parcel of land. The selective timber harvest includes use of a forwarder and traditional skidders operating on an existing farm road to bring the wood from the forest to a landing area. The proposal is for both saw timber and firewood. No stumps are proposed for removal. There are no perennial streams or wetlands that will be directly affected by the operation to remove the wood.

**Location:** Bellvale Lakes Road, Town of Warwick, Orange County, NY

**Reasons Supporting This Determination:**

1. The Town of Warwick Planning Board has given due consideration to the subject action as defined in 6 NYCRR 617.2(b) and 617.3(g).
2. After reviewing the Environmental Assessment Form (EAF) for the project dated 7/27/11, the Planning Board has concluded that environmental effects of the proposed project will not exceed any of the Criteria for Determining Significance found in 6 NYCRR 617.7(c).
3. The proposed action will comply with Section 164-47.10 of the Warwick Zoning Law and with the *New York State Forestry Best Management Practices for Water Quality*.<sup>1</sup> Such Best Management

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<sup>1</sup> A joint publication of the New York State Department of Environmental Conservation, Empire State Forest Products Association and Watershed Agricultural Council Forestry Program. The BMPs are consistent with the Environmental Protection Agency's approved State Non-point Source Management Plan.

Practices (BMPs) are consistent with the State's Timber Harvesting Guidelines.

4. The applicant will install a stabilized entranceway onto Bellvale Lakes Road so that mud and debris will not be tracked onto the Road by trucks leaving the site.
5. No trees will be stored by municipal roads.
6. Stream crossings for non-protected waterways and drainageways will be located in areas which will result in the least amount of disturbance to streambed. If existing culverts are not in place, a corduroy (log) crossing may be deemed appropriate in areas where rutting could occur. Streams will be crossed at right angles.
7. No skidding will occur in stream channels.
8. No tops or branches are to be left in stream channels. Tops and branches left on the site will be lopped to a height no greater than four feet off the ground.
9. Haul roads/skid trails will not exceed a slope of 25% for a distance of more than 200 feet. Water bars will be installed when necessary to divert or slow water movement on exposed road surfaces.
10. Haul roads/skid trails will be cleared of debris, smoothed and water bars installed after all trees have been removed. These roads will be seeded to perennial grasses. Loading areas will also be smoothed and seeded at the end of harvest. A reclamation bond will ensure that all areas are stabilized in accordance with State Guidelines.
11. Harvesting activities will be temporarily stopped during weather conditions in which excess rutting of roads or soil erosion could result.
12. The crew leader of the harvesting team will receive a copy of the Town of Warwick Timber Harvest regulations in addition to a copy of the contract between R. Land LLC and the harvesting firm. Lower Hudson Forestry Services and the Town of Warwick Building Department will assure compliance with the standards set forth in these documents through regular inspections of the site during the logging operation.
13. Due to the potential presence of Indiana bats on the site, harvesting of Hickory trees will be limited to the months of November to April.
14. Rattlesnakes are known to occur in the area. The New York State Department of Environmental Conservation (DEC) advises that *"The Department recognizes that most forest management activities do not result in permanent conversion of habitat and thus are not anticipated to result in adverse impacts to protected species or their habitat."* However, if any timber harvest activities occur during the summer season when snakes are active, from May through October, the applicant will notify the DEC and determine whether any dens are located on the site. Since the rattlesnake is a State protected species, if any dens do occur on the site, the applicant will comply

**For Further Information:**

Contact            Connie Sardo, Secretary  
Person:            Town of Warwick Planning Board  
Address:           132 Kings Highway  
                      Warwick, NY 10990  
                      845.986.1127  
  
Telephone:

**A Copy of this Notice Filed With:**

Town of Warwick Planning Board (Lead Agency)  
132 Kings Highway  
Warwick, NY 10990

Mr. Kowal makes a motion to close the Public Hearing.

Seconded by Mr. Kennedy. Motion carried; 3-Ayes.

Mr. Kennedy makes a motion on the Sunland State Corp., application, granting Site Plan Approval for a Timber Harvest Permit, situated on tax parcel S 58 B 1 L 101; project located on the eastern side of Bellvale Lakes Road 1,100 feet north of Kane Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on September 21, 2011. Approval is granted subject to the following conditions:

1. Conservation Board comments – 08/11/11
  - a. concerns about erosion control and surface water runoff
  - b. recommends water bars be placed along the steep section of roadway from the lower crossing of the pipeline to the area being used as a turnip field
  - c. recommends that an adequate stone base material be installed to prevent soil disturbance and possible erosion
2. The weekly report should be revised to separate the number of firewood trees and culls.
3. The Applicant has agreed to install a headwall on both ends of the existing 18-in culvert pipe at the entrance to the site.
4. The Applicant has agreed to take appropriate stabilization measures, per Planning Board Engineer, if a major storm event is expected in the project area.
5. The proposed landing areas and haul roads will be disturbing more than 0.25 acre; Applicant must obtain a building department permit in accordance with §150-4.
6. Establish an inspection schedule and escrow account for Planning Board Engineer to conduct inspections at the site.
7. A reclamation bond in the amount of \$3,000 shall be provided until all areas have been stabilized in accordance with the following NYSDEC definition of Final Stabilization: “all soil disturbance activities have ceased and a uniform, perennial vegetative cover with a density of 80% over the entire previous surface has been established; or other equivalent stabilization measures, such as permanent landscape mulches, rock rip-rap or washed/crushed stone have been applied on all disturbed areas that are not covered by permanent structures, concrete or pavement.” (GP-0-10-001, Appendix A).

8. Payment of all fees.

Seconded by Mr. Kowal. Motion carried; 3-Ayes.

Rob Schreibeis: Thank you.

Christopher Prentis: Thank you.

### **PUBLIC HEARING OF Global Tower Partners**

Application for Site Plan Approval for the construction and use of an Unmanned Wireless communications facility to install and operate its equipment by co-locating (12) additional antennas at centerline height of 195'± on an existing 223'± telecommunications tower and proposes to install a pre-fabricated 12'x20' accessory shelter at the base of the tower and within the existing secure fenced compound, as well as appurtenant cabling and utilities known as *Verizon Wireless / 15 Pysners Peak*, situated on tax parcel S 58 B 1 L 18.22; parcel located on the eastern side of Pysners Peak 690± feet north of State Highway 17A (15 Pysners Peak), in the MT zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Scott Olson, Cooper, Erving & Savage.

Connie Sardo: Mr. Chairman, we have received the certified mailings for the Global Tower/Verizon Wireless/15 Pysners Peak.

Mr. Astorino: Thank you.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments: 08/11/11 letter - No comments at this time.
4. Architectural Review Board comments: 10/27/10 email - No comments at this time.
5. Wireless Telecommunication Facility Board comments: pending
6. OCPD: 11/12/10; no advisory comments.
7. Global Tower has received conditional final approval for the special use renewal at Pysners Peak; the conditions have not been satisfied to date.
8. Notes have been added to Sheet T-1 about the color and textures; applicant to submit color & texture samples; proposed building is 12' x 20'.
9. Original tower manufacturer is not known; this is good to know but not absolutely necessary because tower is a lattice (and not a disguised tree). Details of 2009 tower mapping have been submitted and generally reviewed by HDR; all information is complete. There was no foundation information available on the original foundation, so the Applicant has not completed a foundation analysis; the current tower rating is 98%

(including Verizon). The Applicant's engineer has certified that the tower and foundation are acceptable to current standards. The Applicant's engineer assumes full responsibility for the adequacy and accuracy of the structural and foundation analysis and design for existing and proposed loadings. To resolve it is recommended that the Applicant submit a one-page letter clarifying the Structural Report dated 01/12/11 stating that it is assumed that the foundation was constructed in accordance with industry standards and can support the tower at 98% tower rating; the relevant standards should be identified.

10. The declaration information for Private Roadway Notes, the Ridgeline Overlay Notes, and Global Tower's agreement with the Department of the Interior must be added to the drawings.
11. Payment of all fees.
12. A building department permit will be required after planning board approval and prior to construction.

The following comment submitted by the Conservation Board, dated 9/21/11:

Global Tower/Verizon 15 Pysners Peak – The CB has no comments on this application.

The following comment submitted by the ARB:

Global Tower/Verizon 15 Pysners Peak – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: This application was classified by the Planning Board as a Type 2 Action. There is no further action necessary.

Comment #2: Applicant to discuss project.

Scott Olson: We put an application into the Planning Board back in September 2010. Verizon Wireless RF Engineers identified the need for antennas in this area. Verizon would like to place antennas on an existing tower instead of building a new tower. We found 2 towers. One of the towers is located at 15 Pysners Peak. The towers are owned by Global Tower Partners. It is a 223-foot tower. It is a lattice style tower. We are proposing to install 12 antennas at centerline height of 195-foot level. The existing tower height will not be extended. The tower is lit up currently. We will not be adding any more lights to the tower. We will be proposing a 12' x 20' accessory shelter at the base of the tower. It will be a fenced in secured compound. Our shelter which is located on the north side of the compound would also be secured and locked. Our application includes the budget reports that confirm the emissions combined with the emission of the existing antennas would be well within the FCC threshold requirements. We have given the Planning Board a RF Interference Report that demonstrates that we would not be interfering with the existing antennas on the tower or any other electronic devices on the tower. It will not interfere with anything nearby like microwaves, televisions, and mobile phones. The last thing is regarding the Town's noise ordinance. We have given the Planning Board a report that demonstrates that we comply with that noise ordinance.

Comment #3: Conservation Board comments: 08/11/11 letter - No comments at this time.

Comment #4: Architectural Review Board comments: 10/27/10 email - No comments at this time.

Comment #5: Wireless Telecommunication Facility Board comments: pending

Comment #6: OCPD: 11/12/10; no advisory comments.

Comment #7: Global Tower has received conditional final approval for the special use renewal at Pysners Peak; the conditions have not been satisfied to date.

Mr. Astorino: Laura, what is left on that?

Laura Barca: All of the technical conditions have been satisfied. All we need now is for the applicant to sign the plans, send them back to us for the Chairman to sign them.

Mr. Astorino: Ok.

Comment #8: Notes have been added to Sheet T-1 about the color and textures; applicant to submit color & texture samples; proposed building is 12' x 20'.

Mr. Astorino: Is it not a 12'x30' accessory structure?

Scott Olson: No. It is a 12'x20' structure.

Mr. Astorino: Ok. Laura, do you have the color samples?

Laura Barca: Yes. I believe the applicant is proposing the color Sunset.

Scott Olson: Correct.

Mr. Bollenbach: Does the Board agree on that Sunset color?

Mr. Astorino: We discussed that at the Work Session. It is an earth tone color.

Mr. Bollenbach: I want to go back to comment #7. Regarding Global Towers maps not being signed is a condition precedent to this application.

Laura Barca: Yes.

Mr. Astorino: Without a doubt. It sounds like all they have left is they need to sign the maps.

Mr. Bollenbach: I just wanted to clarify that.

Laura Barca: Before we go on, are we good with the color Sunset?

Mr. Astorino: Yes.

Comment #9: Original tower manufacturer is not known; this is good to know but not absolutely necessary because tower is a lattice (and not a disguised tree). Details of 2009 tower mapping have been submitted and generally reviewed by HDR; all information is complete. There was no foundation information available on the original foundation, so the Applicant has not completed a foundation analysis; the current tower rating is 98% (including Verizon). The Applicant's engineer has certified that the tower and

foundation are acceptable to current standards. The Applicant's engineer assumes full responsibility for the adequacy and accuracy of the structural and foundation analysis and design for existing and proposed loadings. To resolve it is recommended that the Applicant submit a one-page letter clarifying the Structural Report dated 01/12/11 stating that it is assumed that the foundation was constructed in accordance with industry standards and can support the tower at 98% tower rating; the relevant standards should be identified.

Laura Barca: It is not a monopole. It is a lattice.

Mr. Bollenbach: In comment #9, we will change monopole to lattice.

Scott Olson: We are working on it. We didn't have it done in time for this meeting. We spoke to Global Tower Partners. I understand they have a draft letter out.

Mr. Bollenbach: We will add to comment #9. We will add to Planning Board Engineer's specifications.

Comment #10: The declaration information for Private Roadway Notes, the Ridgeline Overlay Notes, and Global Tower's agreement with the Department of the Interior must be added to the drawings.

Scott Olson: Yes.

Comment #11: Payment of all fees.

Scott Olson: Yes.

Comment #12: A building department permit will be required after planning board approval and prior to construction.

Scott Olson: Yes.

Mr. Astorino: Do any Board members or Professionals have any comments? This is a public hearing. If there is anyone in the audience wishing to address the Global Tower Verizon 15 Pysners Peak application, please rise and state your name for the record.

Iris Pakola: I live on Pysners Peak. My bedroom window looks straight at the tower. I don't have the effect of the antennas that are there right now. I think 12 more antennas are a little high. Between the 2 families that live there now, we have 4 children. The tower is 100 yards away from my home. We have 4 children from 0 to 9 years old. They are always riding their bikes and ATV's around the area. I know you have stated the safety of radiation levels for this tower. I would like to know if we could get some of those tests that are being done. We would like to get more information as to the safety insurance measures. When this permit was issued 13 years ago for the homes to be built on Pysners Peak, I am curious to know whether the Planning Board took into consideration the tower as it was then. I am aware that technology is a fact and that we are growing. We know that we don't have any control over this. My main concern is the safety levels. When do we put a cap on how many more antennas?

Mr. Astorino: I think they are there right now. I believe they are at 98%. Is that correct?

Scott Olson: Correct.

Mr. Astorino: They are at 98% now.

Laura Barca: They are at 98% with Verizon.

Mr. Astorino: That is with Verizon. They are pretty much maxed right now. If this application goes through, they would be done.

Iris Pakola: So, they would be insuring that there would not be any more antennas.

Mr. Astorino: If they are at 98%, they don't have much to go. They would just have 2% left. When did you build your house?

Iris Pakola: Bill Pysners was the first one.

Bill Pysners: It was 13 years ago.

Mr. Astorino: Ok.

Iris Pakola: We bought the house it was already built. We have been living there 5 years.

Mr. Astorino: Do you have the levels from when you moved in?

Iris Pakola: Not with me right now.

Mr. Bollenbach: Let us take a look. We do have the reports. They are available for public inspection. They were prepared for this application.

Scott Olson: Those reports were also prepared by a Licensed NYS Professional Engineer. They also certified those reports.

Iris Pakola: We just received this letter. I did send a letter to the FCC asking them to help me out with this matter. I don't know what the decision is. I would really like to do a little more investigation of my own. This is our home. We really can't afford to move because of mortgage problems and housing problems. I need to make sure 110% sure of this.

Mr. Astorino: Did you do that when you moved in 5 years ago?

Iris Pakola: Yes. But, I didn't know that they would keep installing more antennas.

Mr. Astorino: Go and check the records at the Planning office. Go back to the FCC. As Mr. Olson had pointed out, it was certified to the regulations. Just do that for your own benefit.

Iris Pakola: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Global Tower/Verizon Wireless/15 Pysners Peak application?

Bill Pysners: According to my neighbor, they are doubling the amount that it has on the big tower. Being that Verizon is at 98%, could AT&T and Nextel come in?

Mr. Astorino: No. They have 2% left. It doesn't matter what carrier.

Bill Pysners: Ok.

Mr. Bollenbach: They are at 98% of the load.

Bill Pysners: We didn't do a level test on it. When they do their testing, is it on their property inside that gated area? Or, is it at the properties surrounding the tower property?

Mr. Bollenbach: I believe it is at the property line.

Mr. Astorino: It would be. It does not necessarily have to be the gated area. It would be their property line.

Scott Olson: I like to give a little clarification on how this technology work. I am not an Engineer. I have been doing these 16 years. It is a very weak radio signal. They are low powered.

Bill Pysners: Do you have copies of the levels on what is permitted?

Scott Olson: What we have is what the FCC allows us.

Bill Pysners: Who would have those records?

Mr. Astorino: We have them in our Planning office.

Connie Sardo: You could come to the Planning office anytime to review the files.

Mr. Bollenbach: Regarding the owner and the radio frequency radiation, this would be under §164-78D. It states in the Code as follows; *"The owner of the facility shall submit evidence of compliance with the FCC standards on a yearly basis to the Planning Board. If new, more restrictive standards are adopted by any appropriate federal or state agency, the facility shall be made to comply or continued operations may be restricted by the Planning Board. The cost of verification of compliance shall be borne by the owner and/or operator of the facility."* They are provided annually.

Bill Pysners: Ok. Regarding the 12'x20' shed, are you enlarging the fenced in area?

Scott Olson: No.

Mr. Astorino: Is there anyone else wishing to address the Global Tower/Verizon Wireless/15 Pysners Peak Application?

Peter Pakola: Is that 98% of the one tower or is that 98% of the site?

Mr. Astorino: I believe it is just that tower? Is that correct?

Laura Barca: Yes.

Peter Pakola: Is there any room on that 2<sup>nd</sup> tower? There are two towers there.

Mr. Astorino: They would have to come back with another application if there is.

Peter Pakola: But, is there room on the 2<sup>nd</sup> tower?

Mr. Bollenbach: We don't know that.

Laura Barca: We don't have any files because of Global Tower that came in for their renewal of their special use permit. Right now, I don't know the answer to that. We do have files in the Planning office that do say what current loading is on that 2<sup>nd</sup> tower.

Bill Pysners: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Global Tower/Verizon Wireless/15 Pysners Peak application? Let the record show no further public comment.

Mr. Kowal makes a motion to close the public hearing.

Seconded by Mr. Kennedy. Motion carried; 3-Ayes.

Mr. Kennedy makes a motion on the Global Tower Partners application, granting Site Plan Approval for the construction and use of an Unmanned Wireless communications facility to install and operate its equipment by co-locating (12) additional antennas at centerline height of 195± feet on an existing 223± foot telecommunications tower and proposes to install a pre-fabricated 12'x30' accessory shelter at the base of the tower and within the existing secure fenced compound, as well as appurtenant cabling and utilities known as **Verizon Wireless/15 Pysners Peak**, situated on tax parcel S 58 B 1 L 18.22; parcel located on the eastern side of Pysners Peak 690± feet north of State Highway 17A (15 Pysners Peak), in the MT zone, of the Town of Warwick, County of Orange, State of New York. Approval is granted subject to the following conditions:

1. Global Tower has received conditional final approval for the special use renewal at Pysners Peak; the conditions have not been satisfied to date.
2. Notes have been added to Sheet T-1 about the color and textures; applicant to submit color & texture samples; proposed building is 12' x 20'.
3. Original tower manufacturer is not known; this is good to know but not absolutely necessary because tower is a lattice (and not a disguised tree). Details of 2009 tower mapping have been submitted and generally reviewed by HDR; all information is complete. There was no foundation information available on the original foundation, so the Applicant has not completed a foundation analysis; the current tower rating is 98% (including Verizon). The Applicant's engineer has certified that the tower and foundation are acceptable to current standards. The Applicant's engineer assumes full responsibility for the adequacy and accuracy of the structural and foundation analysis and design for existing and proposed loadings. To resolve it is recommended that the Applicant submit a one-page letter clarifying the Structural Report dated 01/12/11 stating

that it is assumed that the foundation was constructed in accordance with industry standards and can support the tower at 98% tower rating; the relevant standards should be identified.

4. The declaration information for Private Roadway Notes, the Ridgeline Overlay Notes, and Global Tower's agreement with the Department of the Interior must be added to the drawings.
5. Payment of all fees.
6. A building department permit will be required after planning board approval and prior to construction.

Seconded by Mr. Kowal. Motion carried; 3-Ayes.

Scott Olson: Thank you.

### **PUBLIC HEARING OF Warren C. McFarland and Donald R. McFarland**

Application for Preliminary Approval of a proposed 4-Lot (Major) subdivision, situated on tax parcel S 54 B 1 L 25.13; parcel located on the northern side of State Highway 17A 300± feet east of Forester Avenue, in the SM zone, of the Town of Warwick, County of Orange, State of New York. The proposed subdivision was classified by the Town of Warwick Planning Board, acting as Lead Agency under the State Environmental Quality Review Act (SEQR), as an Unlisted Action.

Representing the applicant: Dave Getz and Karen Emmerich from Lehman & Getz Engineering. Doug Stage, Attorney.

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the McFarland Preliminary public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments: 11/01/10 letter - close attention to potential archeological concerns; 05/31/11 It is believed that there are wetlands/streams that should be mapped and protected.
4. Architectural Review Board comments: 05/31/11 email - no comments at this time.
5. OCPD: 11/12/10, two advisory comments relating to pond maintenance and pedestrian access (sidewalks).
6. Applicant to submit NYSDOT letter dated 07/18/11 to NYS Office of Parks, Recreation & Historic Preservation (SHPO) so they can determine if they require additional information or have any comments.
7. Leyland Alliance (current owner of McFarland Drive):
  - a. Driveway Access for Lot 1.
8. Village of Warwick:
  - a. Location of water main easement from Well #3 to microfiltration treatment facility if not desired by Village, please provide documentation.
  - b. Driveway Access for Lot 1 on Future Village Road.

- c. Easement for 24" pipe from Well #3 to Homestead Village, if not already in place.
- e. Applicant to confirm that the culvert for the stream on Lot 1 is completely within the right-of-way and there is enough room to conduct maintenance of the culvert.
9. A note should be added to the plans stating that any future access from Lot 4 along McFarland Drive must be coordinated with the Village of Warwick.
10. The proposed maintenance easement should be clarified with dimensions and take into consideration the location of the guiderail (e.g., 20-ft by 120-ft).
11. The Applicant must comply with all comments in the Village of Warwick Planning Board letter to the Town of Warwick Planning Board, dated 11/19/10. **(Most are complete, some items still pending Applicant).**
12. The lot line change between this McFarland property and the Methodist Episcopal Church of Warwick has received conditional final approval (December 01, 2010) but the conditions have not been satisfied.
13. Sheet 1, Notes 19 and 20 were added, but it seems like Lots 3 and 4 were switched in the notes.
14. The Applicants are Warren and Donald McFarland; both applicants must sign the Application for Preliminary Approval and the Application for Final Approval.
15. A Drainage Report (SWPPP) completed by a New York State licensed Professional Engineer has been submitted. The disturbance does not meet the NYSDEC threshold for requiring a full SWPPP nor is the project site located within any NYSDEC 303(d) watershed for impaired water bodies. Therefore, HDR has not conducted a review of the SWPPP.
16. A note should be added to the plan stating that prior to a Certificate of Occupancy being issued that fence line shall be removed from the lot.
17. There is an existing culvert (8" PVC pipe) extending from the pond on Lot 3 onto Lot 2; an easement agreement must be prepared and submitted for future maintenance.
18. A maintenance agreement for the pond on Lots 1 and 2 must be prepared and submitted.
19. There is a drainage corridor that travels from Route 17A to McFarland Drive. These drainage features must remain in a free-flowing manner. An overall maintenance easement and/or agreement should be in place for Lots 1, 2, and 3.
20. File all easements (e.g., 6" and 24" water mains) with metes and bounds & maintenance agreements (e.g., drainage and pond) in the Orange County Clerk's Office.
21. The declaration information for the Agricultural and Aquifer Notes will need to be shown on the drawing.
22. Surveyor to certify that iron rods have been set at all property corners.
23. Payment of Recreation Fee.
24. Payment of all fees.

The following comment submitted by the Conservation Board, dated 9/21/11:

Warren C. McFarland and Donald R. McFarland – The CB has no comments on this application.

The following comment submitted by the ARB:

Warren C. McFarland and Donald R. McFarland – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The applicant had submitted a short EAF. Eventhough it is an Unlisted Action because of the Village's interest of this property that borders this project, the Planning Board decided to conduct a coordinated review with the Village of Warwick. The Board declared Intent To Be Lead Agency. We circulated a letter to the Village of Warwick Planning Board. Because this required access onto State Highway 17A, the NYSDOT we didn't receive any indication from them that the Planning Board should not act as Lead Agency. The Planning Board is acting as Lead Agency. There are a number of issues that were identified. We asked the applicant to do further studies. One study was the archeological. It is within an area that is determined to be sensitive to archeological resources by SHPO. Al Camissa of Tracker Archeology conducted an archeological investigation of the property. He did not find any artifacts or any prehistoric or historic resources within the area of the two proposed houses on the site. The property is also within the Town's Bio-Diversity Conservation Overlay District. The vast majority of that is within the bulk of the property that is currently or proposed of continuation of farming. That area of the two lots that are proposed are just outside of the Bio-Diversity Conservation area. We did take a look at the property to see whether or not there was any potential for any biological resources that would be of any significance. On the two properties that are proposed for development there was a farm pond constructed for the farm animals. There were no issues relative to Bio-Diversity that applied to those 2 proposed building lots. There are State and Federal freshwater wetlands located on the property. Those wetlands are quite a distance from any construction that is supposed to take place. There is a Class B State protected stream that flows between the two properties. Eventhough the proposed construction of the two dwellings and the septic systems are proposed more than 100 feet away from this stream, there will be driveways constructed within 100 feet of that stream. The applicant has proposed to use dry detention basins to capture any of the runoff that would be coming from the driveways. We did get a letter back from the State that identified the Bog Turtles as being located within a mile. We had expected that because we had known that they were associated with the Warwick Grove site. Regarding the archeology, we did get back a letter from the State. The letter that was returned by the State was different from any letter that we had seen before. I talked about this with the Archeologist at the site. He was somewhat puzzled by this as well. What the State had said, if there are any State or Federal Agency permits that are necessary that there may be the need for additional review. I put two calls into the person that wrote that letter to see if I could get an answer to that. I have not received a call back yet.

Mr. Astorino: You mean that the State hasn't called you back yet. That is amazing.

Mr. Fink: I did talk about it with Al Camissa. He was of the opinion that they may have recognized the farm complex or the farm buildings to have some historic significance. Since all of the activities are taking place far removed from that vicinity that there would be no direct impact on it. We are still waiting for some answers from the State. But, I think significantly the two lots that are proposed the archeological and the field work on the site do not find any evidence of historic or prehistoric artifacts.

Mr. Astorino: Ok. Thank you.

Comment #2: Applicant to discuss project.

Doug Stage: The McFarland's have been around here for several hundred years. They have been able to keep this intact all of these times. Warren and Donald McFarland

started thinking about the future. They put a plan together so that Warren could own half the property and Donald would own the other half of the property. We have two scheduled building lots in here. At this point, there are no immediate plans for them to be developed. The lot that faces McFarland Drive is not for building purposes. The lot in front, Donald lives in one home and has an orchard nearby with Village water and sewer there. There is no immediate plan for this to be developed.

Comment #3: Conservation Board comments: 11/01/10 letter - close attention to potential archeological concerns; 05/31/11 It is believed that there are wetlands/streams that should be mapped and protected.

Comment #4: Architectural Review Board comments: 05/31/11 email - no comments at this time.

Comment #5: OCPD: 11/12/10, two advisory comments relating to pond maintenance and pedestrian access (sidewalks).

Comment #6: Applicant to submit NYSDOT letter dated 07/18/11 to NYS Office of Parks, Recreation & Historic Preservation (SHPO) so they can determine if they require additional information or have any comments.

Comment #7: Leyland Alliance (current owner of McFarland Drive):

- a. Driveway Access for Lot 1.

Karen Emmerich: I have spoken to Lou Marquette. Unfortunately, we do not have a letter from him tonight. He has no problem with the driveway access on McFarland, which is a private road right now. Hopefully, it will be dedicated to the Village sometime in the near future. His only requirement will be that the driveway adhere to the Village driveway entrance requirement. We will be happy to put a note on the plan.

Mr. Astorino: Have him send in a letter to us.

Karen Emmerich: Ok.

Comment #8: Village of Warwick:

- a) Location of water main easement from Well #3 to microfiltration treatment facility if not desired by Village, please provide documentation.

Karen Emmerich: Right. The Village hasn't decided yet with what they want. The McFarland's have agreed to an easement. They have shown a possible route. The Village hasn't decided what they want yet.

Mr. Astorino: You would think they would want an easement.

- b) Driveway Access for Lot 1 on Future Village Road.
- c) Easement for 24" pipe from Well #3 to Homestead Village, if not already in place.

Doug State: We will provide.

- d) Applicant to confirm that the culvert for the stream on Lot 1 is completely within the right-of-way and there is enough room to conduct maintenance of the culvert.

Karen Emmerich: We show a perspective easement there because it is kind of tight. It appears to be within the R.O.W.

Laura Barca: The corner itself is within the R.O.W. There is also a guardrail there.

Mr. Astorino: Are these easements to the Village of Warwick?

Laura Barca: Yes.

Mr. Astorino: For all of them. Is that correct?

Laura Barca: Yes. The easement has to be 10 feet out either side of that the guardrail so they could get in and around so that they could maintain that culvert if necessary.

Mr. Astorino: We wouldn't need the documentation from the Village if they accept the easements as they are.

Comment #9: A note should be added to the plans stating that any future access from Lot 4 along McFarland Drive must be coordinated with the Village of Warwick.

Dave Getz: Ok.

Comment #10: The proposed maintenance easement should be clarified with dimensions and take into consideration the location of the guiderail (e.g., 20-ft by 120-ft).

Laura Barca: We just discussed that.

Comment #11: The Applicant must comply with all comments in the Village of Warwick Planning Board letter to the Town of Warwick Planning Board, dated 11/19/10. **(Most are complete, some items still pending Applicant).**

Laura Barca: Most items that are pending are the easements. They are already included elsewhere. I left that comment in so when the Village is done that item would be done.

Comment #12: The lot line change between this McFarland property and the Methodist Episcopal Church of Warwick has received conditional final approval (December 01, 2010) but the conditions have not been satisfied.

Mr. Bollenbach: Mr. Stage, could you elaborate on that?

Doug Stage: I have been trying to contact Mr. Krahulik. I know the deed was filed. According to what I understand, the fees have been paid. What is just left is that the maps need to be signed.

Connie Sardo: We have not received the maps for signature. I have mentioned that to you on the phone the other day.

Doug Stage: Ok.

Comment #13: Sheet 1, Notes 19 and 20 were added, but it seems like Lots 3 and 4 were switched in the notes.

Karen Emmerich: We will switch that.

Comment #14: The Applicants are Warren and Donald McFarland; both applicants must sign the Application for Preliminary Approval and the Application for Final Approval.

Connie Sardo: That has been done.

Comment #15: A Drainage Report (SWPPP) completed by a New York State licensed Professional Engineer has been submitted. The disturbance does not meet the NYSDEC threshold for requiring a full SWPPP nor is the project site located within any NYSDEC 303(d) watershed for impaired water bodies. Therefore, HDR has not conducted a review of the SWPPP.

Laura Barca: There is no action required. That could be stricken.

Comment #16: A note should be added to the plan stating that prior to a Certificate of Occupancy being issued that fence line shall be removed from the lot.

Karen Emmerich: Ok.

Comment #17: There is an existing culvert (8" PVC pipe) extending from the pond on Lot 3 onto Lot 2; an easement agreement must be prepared and submitted for future maintenance.

Karen Emmerich: Ok.

Comment #18: A maintenance agreement for the pond on Lots 1 and 2 must be prepared and submitted.

Karen Emmerich: Ok.

Comment #19: There is a drainage corridor that travels from Route 17A to McFarland Drive. These drainage features must remain in a free-flowing manner. An overall maintenance easement and/or agreement should be in place for Lots 1, 2, and 3.

Mr. Bollenbach: Mr. Stage has provided some draft documents. They have been reviewed. We are looking for the descriptions and details of where the Village would like the easements to be located. This could be a condition of final approval. Those details could be subsequently worked out. They have been in progress.

Comment #20: File all easements (e.g., 6" and 24" water mains) with metes and bounds & maintenance agreements (e.g., drainage and pond) in the Orange County Clerk's Office.

Karen Emmerich: Yes.

Comment #21: The declaration information for the Agricultural and Aquifer Notes will need to be shown on the drawing.

Karen Emmerich: Yes.

Comment #22: Surveyor to certify that iron rods have been set at all property corners.

Karen Emmerich: Yes.

Comment #23: Payment of Recreation Fee.

Karen Emmerich: Yes.

Comment #24: Payment of all fees.

Karen Emmerich: Yes.

Mr. Astorino: Do any Board members or Professionals have any comments?

Laura Barca: I just want to clarify something. There are two lots Lot #2 and Lot #3 that are partially in the Village and partially in the Town. There have been notes added to the plan stating that eventhough there is a portion in the Village and a portion that is in the Town, they are only one lot and one building. Only one residential building could be built on that lot. The second note that I wanted to point out that is already on the plans is that Lot #3 and Lot #4 are not for building purposes at this time. One of them is the existing farm. The other one is currently used for Ag or parts of it is. There are currently no residences on it nor are any residences proposed at this time.

Dave Getz: There is a farmhouse on Lot #3. There is nothing on Lot #4.

Laura Barca: Right. There is a note on the plan that says Planning Board approval will be required including (but not limited to) access to Lot #3 and Lot #4, soil test witnessing, wetland and stream investigations and Bio-Diversity compliance with the Town Cod even if only one home is constructed. Access onto McFarland Drive for Lot #4, must be reviewed and approved by the owner of the road whether it is for the Village. That note is already on the plans. The applicants had agreed to put that note on the plan.

Mr. Astorino: Ok. Do any Board members or Professionals have anything further? This is a public hearing. If there is anyone in the audience wishing to address the McFarland Subdivision application, please rise and state your name for the record.

Joe Inserra: I live on in Homestead Village. I just need a couple of clarification. On comment #8 C, it states easement for 24" pipe from Well #3 to Homestead Village. Is that pipe in there already?

Mr. Astorino: Yes. That is your water.

Joe Inserra: Ok. The reason why I am saying that is because of this direct flow of water coming in.

Mr. Astorino: That is the water main. That is your drinking water.

Joe Inserra: My concern is that the McFarland property is at the back of my property. The wetland is slowly coming closer to my property.

Mr. Astorino: They won't be doing anything over there.

Joe Inserra: That would not affect anything or any of the streams?

Mr. Astorino: No.

Laura Barca: No.

Joe Inserra: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the McFarland Subdivision application?

Mike Altman: I live in Homestead Village. I picked up the notice today at the Warwick Post Office. I received the certification notice yesterday and picked it up today. My neighbors also received the notices late. The time of the arrival of the notice was just about the time of the public hearing. Many people don't know about this.

Connie Sardo: The notices were mailed out on September 14, 2011, which is more than plenty of time from what is stated in our Code for the mailings to be mailed out certified mail. I have the stamped certification right here.

Mr. Astorino: You are here now.

Mr. Bollenbach: What are your concerns?

Mike Altman: How far in feet from the western perimeter of the boundary of Homestead Village, which is an adjacent property where the proposed subdivision eastern boundary or perimeter be located?

Mr. Astorino: Dave, please show Mr. Altman the map.

Mr. Bollenbach: If anyone else wishes to look at the map, please come up to the front.

Dave Getz shows Mr. Altman and all the adjoining property owners the map of the McFarland Subdivision and the location of Homestead Village to the McFarland Subdivision. Mr. Altman asked if the proposed subdivision where it is wooded to the border of Homestead Village, if it would remain wooded. Dave Getz explains pointing out on the map that it would remain wooded because on the eastern side of the stream there is nothing proposed. The two lots are proposed at the back of the church. Dave Getz also shows the location of access regarding ingress and egress of the McFarland Subdivision.

Mike Altman: If and when construction starts, I assume that approval would have to go through the Town's ARB. Is that correct?

Mr. Astorino: No.

Mike Altman: Why not?

Mr. Astorino: They would have a copy of this. There is no approval from the ARB. The ARB would send comments to the Planning Board. We would pass along those comments to the applicant.

Mike Altman: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the McFarland Subdivision application? Let the record show no further public comment. I believe we have to adjourn this public hearing. We still need some more information.

Mr. Bollenbach: What I suggest is that the Board consider adjourning the public hearing to the November 2, 2011 Planning Board meeting. Hopefully by that that time, the applicant would have everything addressed. This public hearing will be continued to the November 2, 2011 Planning Board meeting. This is your notice.

Mr. Astorino: To everyone in the audience. The McFarland Subdivision Public Hearing will be adjourned to the November 2, 2011 Planning Board meeting. There would be no other notices sent out to you. This is your notice.

Mr. Bollenbach: Mr. Stage, perhaps you could get all of the details worked out with the Village so that our Board could have a comfort level to maybe consider waiving a final public hearing.

Doug Stage: Ok. That will be fine.

**Mr. Kowal makes a motion to Adjourn the McFarland Subdivision Preliminary Public Hearing to the November 2, 2011 Planning Board meeting.**

Seconded by Mr. Kennedy. Motion carried; 3-Ayes.

Dave Getz: Thank you.

Doug Stage: Thank you.

**Review of Submitted Maps:*****William and Keri Mendrzycki***

Application for Site Plan Approval for the construction and use of a single-family dwelling including driveway, pool, patios, and geothermal field, Chapter 150 Excavation Permit, situated on tax parcel S 27 B 1 L 72.16; parcel located on the western side of Rita Marie Lane 2,000 feet west of Amity Road (8 Rita Marie Lane) located in the Old World Estates Subdivision, in the RU zone of the Town of Warwick.

Representing the applicant: Dave Getz from Lehman & Getz Engineering. William Mendrzycki, Applicant.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board comments: pending
4. Architectural Review Board comments: pending
5. OCPD: pending submittal
6. The building department must confirm that the home already under construction contains 4 or less bedrooms; the septic system was designed for a maximum of 4 bedrooms; the Geothermal Report states that there are five bedrooms.
7. The currently proposed driveway appears to be located in an area where three trees of concerns were identified during the review of the Old World Estates Subdivision. The mitigation, as stated on Sheet 10 of 10 of the Old World Estates Subdivision last revised 04/03/07, was to plant a tree of suitable species at a nearby site location.
8. The currently proposed driveway appears to be located along an area that was previously designated as a Habitat Zone. The mitigation for removing trees from this area was to plant a tree of suitable species at a nearby location on the site.
9. The septic system is being installed in a different location than what was approved; soil test information should be submitted.
10. The percent impervious allowed and proposed should be added to the bulk table on Sheet 1.

11. The landscaping plan should be a schedule added to the plan sheet (species name (common and botanical), size and number to be planted).
12. The silt fence location does not appear to be shown on the plans.
13. The Applicant should clarify if any outdoor lighting is proposed.
14. The Applicant should clarify if the land was cleared or disturbed in the area of the geothermal field after the previous subdivision approval. The Geothermal Plan appears to state that the Geothermal system will be 16 lines at 100-ft each; the Applicant should clarify how these lines will be installed.
15. The Applicant should clarify what features are existing and what features are proposed since the construction is already underway.
16. At a minimum, the inverts elevations at the four corners or approximate depths of the geothermal system should be noted on the plan to prevent accidental excavation of the lines in the future.
17. A Drainage Report (SWPPP) completed by a New York State licensed Professional Engineer has been submitted. The disturbance does not meet the NYSDEC threshold for requiring a full SWPPP nor is the project site located within any NYSDEC 303(d) watershed for impaired water bodies. Therefore, HDR has not conducted a review of the SWPPP.
18. A Building Department permit must be obtained for the installation of a geothermal system.
19. Surveyor to certify that iron rods have been set at all property corners.
20. Payment of all fees.

The following comment submitted by the Conservation Board, dated 9/21/11:

William and Keri Mendrzycki – The CB has no comments on this application.

The following comment submitted by the ARB:

William and Keri Mendrzycki – None Submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The applicant has submitted a short EAF to the Planning Board. I checked it against the list of Type 2 Action. This project should be classified as a Type 2 Action under SEQRA because the threshold is the construction of a single-family home on an approved building lot. I have prepared a Type 2 Action Resolution for the Board's consideration.

Mr. Kowal makes a motion for Type 2 Action.

Seconded by Mr. Kennedy. The following Resolution was carried 3-Ayes.

617.6  
State Environmental Quality Review (SEQR)  
**Resolution**  
Type 2 Action

**Name of Action:** Mendrzycki Site Plan

**Whereas**, the Town of Warwick Planning Board is in receipt of a Site Plan application by William & Keri Mendrzycki for a ± 11.066 acre parcel of land located at 8 Rita Marie Lane, Town of Warwick, Orange County, New York, and

**Whereas**, an Environmental Assessment Form (EAF) dated 8/30/11 was submitted at the time of application, and

**Whereas**, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is a Type 2 Action that meets the thresholds found in 6 NYCRR 617.5(c)(9) and, therefore, SEQR does not apply, and

**Whereas**, the Planning Board has determined that the proposed project is not within an agricultural district and, therefore, the requirements of 617.6(a)(6) do not apply, and

**Whereas**, after examining the EAF, the Planning Board has determined that there are no other involved and/or federal agencies on this matter.

**Now Therefore Be It Resolved**, that the Planning Board hereby declares that no further review under SEQR is required.

Comment #2: Applicant to discuss project.

Dave Getz: Mr. and Mrs. Mendrzycki own a parcel of 11 acres. It is located in the back of Rita Marie Lane. It is a Private Road off Amity Road. They received a Building Permit back in the year 2009. They started to build their home on that lot. This year a couple of months ago, the Building Department cited them for disturbing a larger area than what was allowed. That was done partly to the size of the house and the surrounding area. It was also done partly to the geothermal field heating system that is under construction.

Comment #3: Conservation Board comments: pending

Connie Sardo: We did receive comments from the CB. They don't have any comments on this application.

Mr. Astorino: Ok.

Comment #4: Architectural Review Board comments: pending

Comment #5: OCPD: pending submittal

Comment #6: The building department must confirm that the home already under construction contains 4 or less bedrooms; the septic system was designed for a maximum of 4 bedrooms; the Geothermal Report states that there are five bedrooms.

Dave Getz: The original Old World Estates Subdivision plans did have this lot with a 4-bedroom system. A couple of months back during the construction of the system before it was finalized, we were contacted by the owner. We went out and had done some

additional testing. We redesigned the system to a 5-bedroom system. That has been installed. I have provided a certification letter to the Building Department.

Laura Barca: Comment #6 is complete.

Comment #7: The currently proposed driveway appears to be located in an area where three trees of concerns were identified during the review of the Old World Estates Subdivision. The mitigation, as stated on Sheet 10 of 10 of the Old World Estates Subdivision last revised 04/03/07, was to plant a tree of suitable species at a nearby site location.

Mr. Bollenbach: Is that Shag Bark Hickory?

Dave Getz: That is one of the type of trees. The applicant hasn't taken down any of those specific trees.

Mr. Bollenbach: That was a concern under the prior application. That might be something the applicant might want to consider.

Mr. Astorino: He didn't take any trees down.

Mr. Bollenbach: I believe there may have been some trees removed in a particular area. We will have to take a look at that.

Comment #8: The currently proposed driveway appears to be located along an area that was previously designated as a Habitat Zone. The mitigation for removing trees from this area was to plant a tree of suitable species at a nearby location on the site.

Mr. Astorino: Again, there were no trees taken down.

Laura Barca: Ok.

Comment #9: The septic system is being installed in a different location that was approved; soil test information should be submitted.

Laura Barca: Comment #9 has been satisfied.

Comment #10: The percent impervious allowed and proposed should be added to the bulk table on Sheet 1.

Dave Getz: We will add that.

Comment #11: The landscaping plan should be a schedule added to the plan sheet (species name (common and botanical), size and number to be planted).

Dave Getz: Ok.

Comment #12: The silt fence location does not appear to be shown on the plans.

Dave Getz: We will clarify that.

Comment #13: The Applicant should clarify if any outdoor lighting is proposed.

Dave Getz: There are none proposed. The only lights I might have are spotlights on the house.

Laura Barca: Maybe we should add a note stating any outdoor lighting will be in compliance with the Code.

Comment #14: The Applicant should clarify if the land was cleared or disturbed in the area of the geothermal field after the previous subdivision approval. The Geothermal Plan appears to state that the Geothermal system will be 16 lines at 100-ft each; the Applicant should clarify how these lines will be installed.

Dave Getz: The ground elevations weren't changed. It was an open field before.

Mr. Astorino: Right. I actually witnessed that. They are installed.

Laura Barca: Ok. Comment #14 is complete.

Comment #15: The Applicant should clarify what features are existing and what features are proposed since the construction is already underway.

Dave Getz: We will clarify that.

Comment #16: At a minimum, the invert elevations at the four corners or approximate depths of the geothermal system should be noted on the plan to prevent accidental excavation of the lines in the future.

Dave Getz: Ok.

Comment #17: A Drainage Report (SWPPP) completed by a New York State licensed Professional Engineer has been submitted. The disturbance does not meet the NYSDEC threshold for requiring a full SWPPP nor is the project site located within any NYSDEC 303(d) watershed for impaired water bodies. Therefore, HDR has not conducted a review of the SWPPP.

Mr. Astorino: So, they don't need a SWPPP.

Laura Barca: No. They needed a SWPPP. They have satisfied the condition. Comment 17 is complete.

Comment #18: A Building Department permit must be obtained for the installation of a geothermal system.

William Mendrzycki: I asked the Building Department. They said to get this approval first. Then, I could put in the application.

Laura Barca: Right. I have to clarify something with the Building Department tomorrow. I think the Building Department thought that if the geothermal system had wells, it would require a permit. But, it does not have the wells. I am not sure.

Mr. Bollenbach: It is an excavation permit that is required. If you take a look at the agenda blurb, it is for the construction and use of dwelling including driveway, pool, patios, and geothermal field. It wasn't just the geothermal field that had already been installed. There are additional improvements that are proposed.

William Mendrzycki: When I was talking to Mr. Butler, he advised me to put everything I ever wanted on the site whether it is for now or 20 years from now. I don't have any intentions on putting a pool in right now. When I decide to put in a pool, I will submit an application for a permit for the pool.

Laura Barca: Ok.

Dave Getz: We do show all of that on the plan.

Mr. Bollenbach: I just wanted to clarify that everything is included at one shot. Your sequence of obtaining a permit would be at your discretion. Permits will be required more than just the geothermal.

William Mendrzycki: I understand.

Comment #19: Surveyor to certify that iron rods have been set at all property corners.

Dave Getz: That was provided when Old World Estates was approved.

Laura Barca: Would the Planning Board consider waiving that.

Mr. Astorino: I don't have a problem. Is the Board ok with that?

Mr. Kowal: Yes.

Mr. Kennedy: Yes.

Comment #20: Payment of all fees.

William Mendrzycki: Yes.

Mr. Astorino: John, do we need to set this for a public hearing?

Mr. Bollenbach: Yes.

**Mr. Kowal makes a motion to set the William Mendrzycki Site Plan Application for a Public Hearing at the November 2, 2011 Planning Board meeting.**

Seconded by Mr. Kennedy. Motion carried; 3-Ayes.

Dave Getz: Thank you.

William Mendrzycki: Thank you.

### **Other Considerations:**

1. **Mante Subdivision** – Letter from Kirk Rother, P.E. addressed to the Planning Board dated 8/15/11 received on 8/16/11 in regards to the Mante Subdivision – requesting “**2<sup>nd</sup> Re-Approval**” of Final Approval of a proposed 2-Lot subdivision, situated on tax parcel SBL # 47-1-78.234; parcel located on the eastern side of Bellvale Lakes Road 2,725 feet south of Rabbitt Hill Road, in the MT zone, of the Town of Warwick. Conditional Final Approval was granted on, 9/2/09. *The applicant has stated that due to the current real estate market conditions, the proposed subdivision is not economically viable. This is primarily due to the cost of improvements associated with widening the common driveway.* The 2<sup>nd</sup> Re-Approval of Final Approval becomes effective on, 9/2/11, subject to the conditions of Final Approval granted on 9/2/09.

Mr. Kennedy makes a motion on the Mante Subdivision application, granting granted “**2<sup>nd</sup> Re-Approval**” of Final Approval of a proposed 2-Lot subdivision, situated on tax parcel S 47 B 1 L 78.234; parcel located on the eastern side of Bellvale Lakes Road and 2,725 feet south of Rabbitt Hill Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on, 9/2/09.

The 2<sup>nd</sup> Re-Approval of Final Approval becomes effective on, 9/2/11, subject to the conditions of Final Approval granted on, 9/2/09.

Seconded by Mr. Kowal. Motion carried; 3-Ayes.

2. **Douglas & Dawn Itjen Lot Line Change** – Letter from John McGloin, PLS, dated 8/22/11 addressed to the Planning Board in regards to Itjen Lot Line Change – requesting a 6-Month Extension on Final Approval of a proposed lot line change, situated on tax parcels SBL # 64-3-4 & 5; parcels located on the corner of Cascade Road and Cherry Tree Hill Road, in the CO zone, of the Town of Warwick. Conditional Final Approval was granted on, 3/16/10. *The applicant has stated that his attorney Paul Shooch has sent letters to all neighbors and is waiting for responses and also needs the 6-month extension to facilitate filing of all related documents and placement of filing information on the map.* The 6-Month Extension becomes effective on, 9/16/11.

Mr. Kowal makes a motion on the Douglas & Dawn Itjen application, granting a 6-Month Extension on Conditional Final Approval of a proposed Lot Line Change. SBL # 64-3-4 & 5. Conditional Final Approval was granted on, 3/16/11. The 6-Month Extension becomes effective on, 9/16/11.

Seconded by Mr. Kennedy. Motion carried; 3-Ayes.

3. **Round Hill Subdivision** – Letter from Steven Spiegel, Esq., dated 9/15/11 addressed to the Planning Board in regards to the Round Hill Subdivision – requesting **5<sup>th</sup> Re-Approval** of Final Approval of a proposed 19-Lot + 1-Ag Lot cluster subdivision, entitled Round Hill Subdivision, formerly Wheeler Estates, located on tax parcel SBL # 7-2-51.1; parcel located along the northerly side of Wheeler Road between Meadow Road and Hunt Drive, in the RU zone, of the Town of Warwick. Conditional Final Approval was granted on 10/18/06. *The applicant has stated that the extension is need due to the required construction of the roads and significant infrastructure, which the real estate market and financial conditions do not permit at this time.* The 5<sup>th</sup> Re-Approval of Final Approval becomes effective on, 10/18/11, subject to the conditions of final approval granted on, 10/18/06.

Mr. Kennedy makes a motion on the Round Hill Subdivision application, granting **5<sup>th</sup> Re-Approval** of Final Approval of a proposed 19-Lot + 1-Ag Lot cluster subdivision, entitled, **“Round Hill Subdivision”**, formerly Wheeler Estates, located on tax parcel S 7 B 2 L 51.1; parcel located along the northerly side of Wheeler Road between Meadow Road and Hunt Drive, in the RU zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on, 10/18/06.

The 5<sup>th</sup> Re-Approval of Final Approval becomes effective on, 10/18/11, subject to the conditions of Final Approval granted on, 10/18/06.

Seconded by Mr. Kowal. Motion carried; 3-Ayes.

4. **Planning Board Minutes of 8/17/11** – Planning Board to Approve the Planning Board Minutes of 8/17/11.

Mr. Kennedy makes a motion to Approve the Planning Board Minutes of 8/17/11.

Seconded by Mr. Kowal. Motion carried; 3-Ayes.

5. Planning Board to discuss cancelling the 9/26/11 Work Session & 10/5/11 Planning Board Meeting due to No Submittals.
6. Planning Board to discuss cancelling the 10/10/11 Work Session & 10/19/11 Planning Board Meeting due to Columbus Day Holiday falls on 10/10/11 Work Session & Planning Board Secretary will be on vacation.

Mr. Kennedy makes a motion to cancel the 9/26/11 Work Session & 10/5/11 Planning Board meeting and the 10/10/11 Work Session & 10/19/11 Planning Board meeting.

Seconded by Mr. Kowal. Motion carried; 3-Ayes.

**Correspondences:**

Mr. Astorino: Connie, do we have any correspondences this evening?

Connie Sardo: No.

**Privilege Of The Floor For Agenda Items!!**

Mr. Astorino: If there is anyone in the audience wishing to address any of the agenda items, please rise and state your name for the record. Let the record show no public comment.

**Mr. Kowal makes a motion to adjourn the September 21, 2011 Planning Board meeting.**

Seconded by Mr. Kennedy. Motion carried; 3-Ayes.

