

TOWN OF WARWICK PLANNING BOARD

October 17, 2012

Members present: Chairman, Benjamin Astorino  
Dennis McConnell, Beau Kennedy,  
Paul Ruskiewicz, Christine Little, Alternate  
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, October 17, 2012 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.

Mr. Astorino: Before we start, I would like to congratulate our Board Member, Paul Ruskiewicz for becoming Orange County's next rising star. Congratulations to you. That is a great honor.

Mr. Ruskiewicz: Thank you.

**PUBLIC HEARING OF Bruce Zivari**

Application for Site Plan Approval for an Excavation Permit for the removal of debris from previous landowner Town Code Chapter 150 – excavation permit for the removal of logs and stumps, entitled Ryanco, LLC., situated on tax parcel S 61 B 1 L 56.2; project located on the western side of Penaluna Road 600 feet north of Old Tuxedo Road (107 Penaluna Road), in the MT zone, of the Town of Warwick, County of Orange, State of New York. Continued Public Hearing from the 9/19/12 Planning Board Meeting.

Representing the applicant: Dave Griggs, ERS Consultants.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – 08/03/10 concerns that mulching on-site could lead to excess nutrients in stream that could lead to Lake; 07/30/12 ensure that HDR comments are addressed; 10/16 no further comments.
4. Architectural Review Board – 08/01/12; 10/16/12 no comments at this time.
5. OC Planning Department – 08/13/10; no advisory comments.
6. Provide a Road Repair Bond to Planning Board Engineer and Attorney's specifications in the event that the truck traffic causes damage to the Town roads.
7. The Applicant shall take appropriate stabilization measures, per Design Engineer, if a major storm event is expected in the area and areas are not stabilized. A note should be added to the plan.
8. Establish an inspection schedule and escrow account for Planning Board Engineer to conduct site inspections.
9. Surveyor to certify that iron rods have been set at all property corners.

## 10. Payment of all fees.

The following comment submitted by the Conservation Board, dated 10/17/12:

Bruce Zivari – No further comments.

The following comment submitted by the ARB, dated 10/17/12:

Bruce Zivari – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has been acting as Lead Agency on this application. I have prepared a Draft Negative Declaration for the Board's consideration. Since our last meeting nothing has changed in the Negative Declaration.

Comment #2: Applicant to discuss project.

Dave Griggs: This project is for stumps and trees that had been previously dumped on the site by the previous landowner. The current landowner is trying to clean up the site on the areas that had been identified. We have met with the Board, Town Engineer, and the DEC. They is a consent order to clean it up.

Mr. Astorino: Ok.

Comment #3: Conservation Board – 08/03/10 concerns that mulching on-site could lead to excess nutrients in stream that could lead to Lake; 07/30/12 ensure that HDR comments are addressed; 10/16 no further comments.

Mr. Astorino: There will be no mulching done on the site.

Comment #4: Architectural Review Board – 08/01/12; 10/16/12 no comments at this time.

Comment #5: OC Planning Department – 08/13/10; no advisory comments.

Comment #6: Provide a Road Repair Bond to Planning Board Engineer and Attorney's specifications in the event that the truck traffic causes damage to the Town roads.

Mr. Astorino: Just for everyone's knowledge, that would be for so many trips out of there per day. You are going to go on a specified route. The Engineer drove over the roads. Maybe, we should do that again before it actually starts to make sure there is no damage. A bond will be put into place. If there is damage done, we would have the applicant repair the damage.

Comment #7: The Applicant shall take appropriate stabilization measures, per Design Engineer, if a major storm event is expected in the area and areas are not stabilized. A note should be added to the plan.

Mr. Astorino: Laura, that would be inspections and what have you. That is the same thing on what we have done in the past.

Laura Barca: Yes.

Mr. McConnell: Are we using the phrase major storm event in the same way that we had done for the lumber cutting?

Mr. Astorino: I believe so. We have done that with Schreibeis. It is the same type of dialogue.

Mr. McConnell: Thank you.

Comment #8: Establish an inspection schedule and escrow account for Planning Board Engineer to conduct site inspections.

Mr. Astorino: Someone will be going out there when you are doing different things especially after a storm event.

Laura Barca: Right.

Comment #9: Surveyor to certify that iron rods have been set at all property corners.

Dave Griggs: Yes.

Comment #10: Payment of all fees.

Dave Griggs: Yes.

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

Mr. McConnell: At the last public hearing, there was some report by a neighbor about dirt moved off the property. We were going to follow up with that to see or confirm about that.

Mr. Astorino: The Engineer and I went out there the next day. We had seen a sign up that said free firewood. We took a walk around. We didn't see any loaded up truck traffic coming onto the road. There was no mud on the road. I don't know if that was the case where they were coming in and loading up trucks with firewood. At that time, I didn't see anything that would lead to that.

Mr. Bollenbach: There was also other equipment on the site that had sense been removed.

Dave Griggs: That is correct.

Mr. Astorino: This is a public hearing. If there is anyone in the audience wishing to address the Bruce Zivari/Ryanco application, please rise and state your name for the record. Let the record show no public comment.

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

Seconded by Mr. Ruszkiewicz. Motion carried; 5-Ayes.

Mr. Kennedy makes a motion for the Negative Declaration.

Seconded by Mr. McConnell. The following Resolution was carried 5-Ayes.

617.12(b)

**State Environmental Quality Review (SEQR)**  
Resolution Authorizing Filing of Negative Declaration

**Name of Action:** Ryanco Reclamation Plan

**Whereas**, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed reclamation of a site, under Chapters 150 and 164 of the Town Code, that contains logs, stumps, and related debris, Town of Warwick, Orange County, New York, and

**Whereas**, there are other involved agencies pursuant to SEQR, including the New York State Department of Environmental Conservation which has made its own SEQR determination and

**Whereas**, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 6/30/10, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

**Now Therefore Be It Resolved**, that the Planning Board adopts the findings and conclusions relating to probable environmental effects contained within the attached EAF and Negative Declaration and authorizes the Chair to execute the EAF and file the Negative Declaration in accordance with the applicable provisions of law, and

**Be It Further Resolved**, that the Planning Board authorizes the Chair to take such further steps as might be necessary to discharge the Lead Agency's responsibilities on this action.

Mr. McConnell makes a motion on the Bruce Zivari application, granting Site Plan Approval for an Excavation Permit for the removal of debris from previous landowner Town Code Chapter 150 – excavation permit for the removal of logs and stumps, entitled Ryanco, LLC., situated on tax parcel S 61 B 1 L 56.2; project located on the western side of Penaluna Road 600 feet north of Old Tuxedo Road (107 Penaluna Road), in the MT zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on October 17, 2012. Approval is granted subject to the following conditions:

1. Provide a Road Repair Bond to Planning Board Engineer and Attorney's specifications in the event that the truck traffic causes damage to the Town roads.
2. The Applicant shall take appropriate stabilization measures, per Design Engineer, if a major storm event is expected in the area and areas are not stabilized. A note should be added to the plan.
3. Establish an Inspection Schedule and escrow account for Planning Board Engineer to conduct site inspections.
4. Surveyor to Certify that Iron Rods have been set at all property corners.
5. Payment Of All Fees.

Seconded by Ms. Little. Motion carried; 5-Ayes.

Dave Griggs: Thank you.

**PUBLIC HEARING OF MJJ Builders Corp.**

Application for Final Approval of a proposed 3-Lot subdivision, situated on tax parcel S 41 B 1 L 145; parcel located on the eastern side of Covered Bridge Road north of Wilhelm Drive, in the RU zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Anthony Trochiano, Pietrzak & Pfau Engineering.

Ms. Little: Mr. Chairman, I will need to recuse myself from the MJJ Builders Corp., application.

Mr. Astorino: Ok. Ms. Little recuses herself from the MJJ Builders Corp. application.

Connie Sardo: Mr. Chairman, we have received the certified mailings for the MJJ Builders 3-Lot Covered Bridge Road subdivision.

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: 10/17/12 No comments.
4. Architectural Review Board comments: 09/12/12 requesting elevations of the proposed homes; 10/17/12 would like to see elevations for all four sides of homes.
5. OC Planning Department: 08/01/12; no advisory comments.
6. The area of disturbance is estimated to be 1.5± acres by the Applicant; the current Town Code requires that a complete SWPPP be prepared. (Pending Town Board action on revisions to the Town's stormwater code.)
7. Sheet 1 should call out any existing monuments/pins.
8. Sheet 1, General Note 2 has the incorrect lot area. Provide documentation for lot area calculation.
9. Provide a map note stating that, "No construction or use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." (Note has been added to the Plan, Sheet 1, Note 8.)
10. Surveyor to certify that iron rods have been set at all property corners.
11. The declaration for the roadway dedications and agricultural notes must be added to the plans.
12. Payment of parkland fees.
13. Payment of all fees.

The following comment submitted by the Conservation Board, dated 10/17/12:

MJJ Builders Corp. – No comments.

The following comment submitted by the ARB, dated 10/17/12:

MJJ Builders Corp. – The ARB wants to see elevations for all four sides of the proposed homes before final approval is granted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has declared itself Lead Agency. We have been reviewing the application with the short EAF. The only issue that we had to nail down was the issue of the apple orchard. The Conservation Board had a concern that there may have been an apple orchard located on the property in the past. We have made a field visit to the site and I went out there again. Upon examination of a historic aerial photograph dated 1993 and a historic USGS Topographic map that went back to 1942, there was evidence that an orchard existed on the parcel to the northwest across DeKay Road, but no evidence of one on the subject parcel. Therefore, it appears as if there have been no orchards in existence on the site for at least the past 70 years.

Mr. Astorino: Ok. That was what we had thought.

Comment #2: Applicant to discuss project.

Anthony Trochiano: This project is a proposed 3-Lot subdivision. The property fronts off two Town Roads, Covered Bridge Road and DeKay Road. It is located in the RU zone. Each lot is to be a minimum of approximately 4 acres. Each proposed house would be served by its own individual well and septic systems. Since the last Planning Board meeting there have not been many revisions done to the map. Most of the revisions were either notes added to the plan or revised notes that were on the plan. We have revised the driveway entrances to make them 15 feet wide. These 2 lots would have one entrance off Covered Bridge Road.

Comment #3: Conservation Board comments: 10/17/12 No comments.

Comment #4: Architectural Review Board comments: 09/12/12 requesting elevations of the proposed homes; 10/17/12 would like to see elevations for all four sides of homes.

Mr. Astorino: They could obtain those from the Building Department when they come in for a permit.

Anthony Trochiano: Ok.

Comment #5: OC Planning Department: 08/01/12; no advisory comments.

Comment #6: The area of disturbance is estimated to be 1.5± acres by the Applicant; the current Town Code requires that a complete SWPPP be prepared. (Pending Town Board action on revisions to the Town's stormwater code.)

Mr. Astorino: Laura, I believe they are in the process of doing that very shortly.

Laura Barca: I believe they are doing that next week.

Mr. Fink: The Town Board has a public hearing scheduled for 10/25/12.

Mr. Astorino: Ok. So without any change to that agenda for the Town Board, you would be following the new Stormwater Regulations.

Anthony Trochiano: Right.

Comment #7: Sheet 1 should call out any existing monuments/pins.

Anthony Trochiano: That will be addressed.

Comment #8: Sheet 1, General Note 2 has the incorrect lot area. Provide documentation for lot area calculation.

Anthony Trochiano: That will be addressed.

Comment #9: Provide a map note stating that, "No construction or use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." (Note has been added to the Plan, Sheet 1, Note 8.)

Mr. Astorino: That is on there already.

Laura Barca: Yes.

Comment #10: Surveyor to certify that iron rods have been set at all property corners.

Anthony Trochiano: Yes. We are scheduling that.

Mr. Bollenbach: I just have a comment. Looking at the map, bottom left lot, there is an angle point in that one pocket line needs to a pin set. Pins need to be set at all property corners.

Anthony Trochiano: Ok. No problem.

Comment #11: The declaration for the roadway dedications and agricultural notes must be added to the plans.

Anthony Trochiano: No problem.

Comment #12: Payment of parkland fees.

Anthony Trochiano: No problem.

Comment #13: Payment of all fees.

Anthony Trochiano: 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 MJJ Builders 3-Lot Subdivision, please rise and state your name for the record.

Raymond Knapp: My property borders this subdivision. I really have no objections with what is going on. I would just like to make a point clear to me. When they surveyed, a couple of flags were placed along side of my pond.

Mr. Astorino: Was that done on your property?

Raymond Knapp: Yes. That was done on my property. I was told that it was for the demarking of the wetlands. I thought that it was for my property, which I am disputing. I just wanted to be here to clear that up.

Mr. Astorino: Anthony, could you get the surveyor out there to check on that and to make sure it is not on this gentleman's property with survey pins and flags?

Raymond Knapp: The flags are there.

Mr. Astorino: It was for wetland demarcation.

Raymond Knapp: Yes. I wasn't aware of that.

Mr. Astorino: They should have knocked on your door and informed you about that.

Raymond Knapp: They did. But, they did not explain to me on what those markers were for. I just wanted to clarify that.

Mr. Astorino: Ok. We asked them to do that.

Raymond Knapp: Thank you.

Mr. Astorino: Is there anyone else wishing to address the MJJ Builders 3-Lot Subdivision application?

Robert Field: I border this property. This is the first time I am ever hearing about this. Is the access coming off Covered Bridge Road?

Mr. Bollenbach: Anthony, show Mr. Field the map and explain to him where the access is coming off.

Anthony Trochiano shows Mr. Field the map and explains to him that 2 of the lots would be coming off Covered Bridge Road with a shared driveway. The other lot would be coming off DeKay Road.

Robert Field: When I built my property, several of my neighbors and I were denied access to that location specifically. I am curious on why this road is allowed to go in while I was not allowed to do directly across from that. The line of sight is not that great.

Mr. Astorino: Laura, please check to make sure we have the proper sight distances.

Laura Barca: Ok.

Robert Field: My next concern is that there are a lot of trees in there. I have a conservation easement at the back of my property for 30 feet. I am just wondering how much of this would be removed.

Mr. Bollenbach: Anthony, please show Mr. Field the limits of disturbance on the map.

Anthony Trochiano shows Mr. Field the map and explains to him where the limits of disturbance would be.

Mr. Bollenbach: Laura, maybe you could make sure the entirety of the limits of disturbance is delineated.

Robert Field: I am just trying to protect the buffer zone from where I live.

Laura Barca: The limits of disturbance are shown on the plan.

Mr. Bollenbach: They are shown. Ok.

Mr. Astorino: Ok. Is there anyone else wishing to address the MJJ Builders 3-Lot subdivision application? Let the record show no further public comment. Do any Board members or Professionals have any other comments or concerns?

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

Seconded by Mr. Ruszkiewicz. Motion carried; 4-Ayes.

Mr. Ruszkiewicz makes a motion for the Negative Declaration.

Seconded by Mr. McConnell. The following Resolution was carried 4-Ayes.

617.12(b)

**State Environmental Quality Review (SEQR)**  
Resolution Authorizing Filing of Negative Declaration

**Name of Action:** MJJ Builders 3-Lot Covered Bridge Road Subdivision

**Whereas**, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed three lot subdivision, Town of Warwick, Orange County, New York, and

**Whereas**, there are no other involved agencies pursuant to SEQR,  
and

**Whereas**, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 06/25/2012, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

**Now Therefore Be It Resolved**, that the Planning Board adopts the findings and conclusions relating to probable environmental effects contained within the attached EAF and Negative Declaration and authorizes the Chair to execute the EAF and file the Negative Declaration in accordance with the applicable provisions of law, and

**Be It Further Resolved**, that the Planning Board authorizes the Chair to take such further steps as might be necessary to discharge the Lead Agency's responsibilities on this action.

Mr. Kennedy makes a motion on the MJJ Builders Corp., application, granting Final Approval for a proposed 3-Lot subdivision, situated on tax parcel S 41 B 1 L 145; parcel located on the eastern side of Covered Bridge Road north of Wilhelm Drive, in the RU zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on October 17, 2012. Approval is granted subject to the following conditions:

1. The area of disturbance is estimated to be 1.5± acres by the Applicant; the current Town Code requires that a complete SWPPP be prepared. (Pending Town Board action on revisions to the Town's stormwater code.)
2. Sheet 1 should call out any existing monuments/pins.
3. Sheet 1, General Note 2 has the incorrect lot area. Provide documentation for lot area calculation.
4. Provide a map note stating that, "No construction or use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." (Note has been added to the Plan, Sheet 1, Note 8.)
5. Surveyor to certify that iron rods have been set at all property corners.
6. The declaration for the roadway dedications and agricultural notes must be added to the plans.
7. Payment of Parkland Fees.
8. Payment of all fees.

Seconded by Mr. McConnell. Motion carried; 4-Ayes.

Anthony Trochiano: Thank you.

**PUBLIC HEARING OF Lehigh & Hudson Professional Bldg., LLC.**

Application for Preliminary Approval for a proposed 5-Lot (Major) subdivision, formally known as the Tarelli Subdivision and now known as the *Pochuck Views Subdivision*, situated on tax parcels S 24 B 1 L 20.1 & L 35; parcels located on the western side of Glenwood Road 3500 feet south of Newport Bridge Road, in the RU 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 from Lehman & Getz Engineering & Applicant. George Rhein, Applicant.

Mr. Astorino: Planning Board Member, Ms. Little returns to the Board.

Connie Sardo: Mr. Chairman, I just received the certified mailings for the Pochuck Views 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: 10/17/12 No further comments.
4. Architectural Review Board comments: 09/12/12 no comments; 10/17/12 would like to see elevations for all four sides of homes.
5. OC Planning Department: 05/18/12 add Agricultural Notes; concerns about stormwater management
6. OCDPW (driveway permit and drainage): 09/13/12 comments received
7. Sheet 1 Driveway Notes 2 and 3 should be revised to the pertinent lots numbers for this subdivision.
8. Sheet 2 must show any existing monuments/pins.
9. Sheet 2 must show metes and bounds.
10. Future versions of the SWPPP should have the following:
  - a. Copy of signed Notice of Intent (NOI)
  - b. Copy of MS4 SWPPP Acceptance Form
  - c. Signature and Stamp of Licensed Professional (SWPPP and Plan Sheets)
11. The drainage design points should be clearly identified on the pre and post development drainage plans. It appears that there should be a fourth design point where flow enters into the existing 21" RCP along Glenwood Road. The existing conditions map should ensure that the entire drainage area to this culvert is shown.
12. The pre and post-development drainage maps (Figures 3 and 4) should indicate the area of each drainage area, and indicate the time of concentration length and time (in minutes) or provide a table summary in the report.
13. Sheet 1 of 8 – Note #15 indicates that approximately 10.5 acres will be disturbed during the proposed construction. While the Applicant notes that “no more than 5 acres may be disturbed at one time”, the Applicant should show how this project will

- be phased/sequenced to meet this requirement, indicating how many acres are to be disturbed in each phase.
14. The Applicant should provide a detail for the proposed flared end sections.
  15. Applicant should consider a hay bale “gate” along silt fence protection to soil stockpile.
  16. Sheet 7 of 8 – For the Bioretention System detail, the Applicant should specify what planting soil mix is to be used. The soils used shall meet the design criteria outlined in Appendix H of the NYS Stormwater Design Manual. Also, the Applicant should provide additional specification on the stone to be used under the filter fabric.
  17. Sheet 7 of 8 – As per Section 6.4.5 of the NYS Stormwater Design Manual, landscaping plans should be provided for the bioretention areas. Additional details are needed for the current vegetation indicated on the detail.
  18. Sheet 7 of 8 – The Bioretention System detail should provide information (sizing, location, etc.) of how the pretreatment measures are to be constructed.
  19. Sheet 7 of 8 – The Bioretention System detail should be revised to show a six-inch deep surface ponding area as per Section 6.4.4 of the NYS Stormwater Design Manual.
  20. Sheet 7 of 8 – The Bioretention System detail should show a stone drop (pea gravel diaphragm) of at least six inches at the inlet of the bioretention area.
  21. The entity responsible for the operation and maintenance of the proposed stormwater structures shall be called out on the plan.
  22. Sheet 2 should identify the easement purpose, who has the rights to use the easement, who has responsibility of maintenance including a reference to any filed maintenance agreement.
  23. Map legends should be added to the plans.
  24. The Applicant is requesting a waiver from §168-17 Street Specifications Grades and Vertical Curves (proposed 14%, whereas maximum slope allowed is 10%).
  25. The declaration information for the Ridgeline Overlay District will need to be shown.
  26. A private roadway easement and agreement must be prepared and submitted to the Town.
  27. Surveyor to certify that iron rods have been set at all property corners.
  28. A bond and inspection fees for the private road shall be determined to the Planning Board Engineer’s specification.
  29. Payment of parkland fees.
  30. Payment of all fees.

The following comment submitted by the Conservation Board, dated 10/17/12:

Pochuck Views Subdivision – No further comments.

The following comment submitted by the ARB, dated 10/17/12:

Pochuck Views Subdivision – The ARB would like to see elevations for all four sides of the proposed homes before final approval is granted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has declared itself Lead Agency. It is an Unlisted Action. We have been reviewing the application with the short EAF. Just of note, the Planning Board issued a Negative Declaration on the previous Tarelli Subdivision that was almost exactly the same as this one. Since that time, the only change that happened was the Town adopted a Bio-Diversity Overlay District. A portion of this property is within that district. We did go out to the site and propose recommendations that they would be making as far as the time of the year when the tree cutting would be done because of the forest type that is on the property. It is attractive for migrating birds. In the wintertime, just like the Indiana Bats, that is the best time to cut trees on the property. Dave Griggs is going to make that recommendation. While he was out there, he also found a small piece of wetland land on the property. I believe it was about 50'x50' in size. I expect that we will be receiving a revised subdivision plan that shows the location of the wetland so that we could verify any potential impacts to that.

Mr. Astorino: Thank you.

Comment #2: Applicant to discuss project.

Dave Getz: Since our last appearance, we have addressed some of the technical comments, additional details, and drainage issues. There are no other changes to the layout.

Comment #3: Conservation Board comments: 10/17/12 No further comments.

Comment #4: Architectural Review Board comments: 09/12/12 no comments; 10/17/12 would like to see elevations for all four sides of homes.

Mr. Astorino: That would be submitted at the time of the Building Department.

Comment #5: OC Planning Department: 05/18/12 add Agricultural Notes; concerns about stormwater management

Mr. Astorino: We are taking care of that.

Laura Barca: Yes.

Comment #6: OCDPW (driveway permit and drainage): 09/13/12 comments received

Mr. Astorino: Do you have them?

Dave Getz: Yes.

Laura Barca: Have you responded back to them.

Dave Getz: Yes. We don't have the review done yet.

Laura Barca: Ok.

Mr. Astorino: Laura, there seems to be numerous stormwater comments, bio-retention, and engineering comments. Do any comments stand out to you?

Laura Barca: No. Not unless Dave has some questions.

Dave Getz: I am fine with the comments up to comment #23.

Mr. Astorino: Ok. I will list Comments 7 through 23 for the record. Those are stormwater comments. They would have to make sure the stormwater infrastructure is in place.

Mr. Bollenbach: All of them would have to be addressed before the Board could close SEQR or grant an approval.

Mr. Astorino: Right.

Comment #7: Sheet 1 Driveway Notes 2 and 3 should be revised to the pertinent lots numbers for this subdivision.

Comment #8: Sheet 2 must show any existing monuments/pins.

Comment #9: Sheet 2 must show metes and bounds.

Comment #10: Future versions of the SWPPP should have the following:

- a. Copy of signed Notice of Intent (NOI)
- b. Copy of MS4 SWPPP Acceptance Form
- c. Signature and Stamp of Licensed Professional (SWPPP and Plan Sheets)

Comment #11: The drainage design points should be clearly identified on the pre and post development drainage plans. It appears that there should be a fourth design point where flow enters into the existing 21" RCP along Glenwood Road. The existing conditions map should ensure that the entire drainage area to this culvert is shown.

Comment #12: The pre and post-development drainage maps (Figures 3 and 4) should indicate the area of each drainage area, and indicate the time of concentration length and time (in minutes) or provide a table summary in the report.

Comment #13: Sheet 1 of 8 – Note #15 indicates that approximately 10.5 acres will be disturbed during the proposed construction. While the Applicant notes that "no more than 5 acres may be disturbed at one time", the Applicant should show how this project will be phased/sequenced to meet this requirement, indicating how many acres are to be disturbed in each phase.

Comment #14: The Applicant should provide a detail for the proposed flared end sections.

Comment #15: Applicant should consider a hay bale "gate" along silt fence protection to soil stockpile.

Comment #16: Sheet 7 of 8 – For the Bioretention System detail, the Applicant should specify what planting soil mix is to be used. The soils used shall meet the design criteria outlined in Appendix H of the NYS Stormwater Design Manual. Also, the Applicant should provide additional specification on the stone to be used under the filter fabric.

Comment #17: Sheet 7 of 8 – As per Section 6.4.5 of the NYS Stormwater Design Manual, landscaping plans should be provided for the bioretention areas. Additional details are needed for the current vegetation indicated on the detail.

Comment #18: Sheet 7 of 8 – The Bioretention System detail should provide information (sizing, location, etc.) of how the pretreatment measures are to be constructed.

Comment #19: Sheet 7 of 8 – The Bioretention System detail should be revised to show a six-inch deep surface ponding area as per Section 6.4.4 of the NYS Stormwater Design Manual.

Comment #20: Sheet 7 of 8 – The Bioretention System detail should show a stone drop (pea gravel diaphragm) of at least six inches at the inlet of the bioretention area.

Comment #21: The entity responsible for the operation and maintenance of the proposed stormwater structures shall be called out on the plan.

Comment #22: Sheet 2 should identify the easement purpose, who has the rights to use the easement, who has responsibility of maintenance including a reference to any filed maintenance agreement.

Comment #23: Map legends should be added to the plans.

Comment #24: The Applicant is requesting a waiver from §168-17 Street Specifications Grades and Vertical Curves (proposed 14%, whereas maximum slope allowed is 10%).

Mr. Astorino: I believe you had supplied us with a profile of that.

Dave Getz: Yes.

Mr. Astorino: We walked up there. We discussed this at the Work Session. Does everyone have this? What you are saying is that you would be doing more of a disturbance doing the 10%. That is pretty obvious by these sheets.

Mr. Bollenbach: Ted, do you concur on that?

Mr. Fink: Yes.

Mr. Astorino: Do any Board Members or Professionals have any comments or concerns on that waiver? Seeing none, we could grant that waiver.

Mr. Bollenbach: We could grant that waiver prior to final approval.

Comment #25: The declaration information for the Ridgeline Overlay District will need to be shown.

Mr. Astorino: That was another thing that we had discussed at the Work Session. It is a very small piece that is in the Ridgeline Overlay District. It is at the very top of the property.

Laura Barca: It is outside the building area.

Mr. Bollenbach: Let us strike the first part of that sentence in Comment #25. Comment #25 should read as follows; *Ridgeline Overlay District will need to be shown*. I don't think we need declaration. There is no construction proposed in that area. It is beyond the building envelope.

Mr. Astorino: Ok.

Mr. McConnell: Dave, what is the difference in elevation between the building area and where the Ridgeline Overlay becomes?

Dave Getz: It is about 12 feet.

Mr. McConnell: The only thing you could think of is the Ridgeline limits the height of the building, but with a 12-foot difference, I don't think we would run into any issues there.

Mr. Astorino: I agree.

Mr. Bollenbach: It is also due to the topography and the vegetation on the property that it would not have an impact.

Mr. McConnell: I would just want to have it on the record that we had considered it.

Mr. Astorino: It is such a small piece.

Mr. McConnell: I agree.

Comment #26: A private roadway easement and agreement must be prepared and submitted to the Town.

Dave Getz: Our Attorney is working on that.

Comment #27: Surveyor to certify that iron rods have been set at all property corners.

Dave Getz: Ok.

Comment #28: A bond and inspection fees for the private road shall be determined to the Planning Board Engineer's specification.

Dave Getz: Ok.

Comment #29: Payment of parkland fees.

Dave Getz: Ok.

Comment #30: Payment of all fees.

Dave Getz: Ok.

Mr. Astorino: Do Any Board Members or Professionals have any comments or concerns?

Mr. Bollenbach: Dave, you might want to take a look. I thought the prior approval had a lot of these conditions. Most of them were satisfied. Take a look at your Deed and Title. Some of that already might have been recorded.

Dave Getz: Do you mean for the stormwater maintenance?

Mr. Bollenbach: For the stormwater maintenance and the Private Road. Is it in the same location as before?

Dave Getz: It exits onto Glenwood Road at the same location.

Mr. Bollenbach: There was a prior declaration or agreement recorded. Perhaps it would have to be abandoned. Let me take a look at it.

Dave Getz: Yes.

Mr. Astorino: This is a public hearing. If there is anyone in the audience wishing to address the Pochuck Views application, please rise and state your name for the record.

Louis Schweitzer: I have no negative comments. I have lived here for a long time. I am very familiar with this property. Looking at the map, this part here that is marked Ellwell also has property up on top of the mountain. I believe this road right here is a R.O.W.. It goes to that property. On the map, that property starts right here. There is another R.O.W. there.

Mr. Astorino: Is it a deeded R.O.W.?

Dave Getz: Someone is maintaining it.

Mr. Astorino: Dave, could you check on that?

Dave Getz: It is surrounded on 3 sides. Are you saying it also has the right to cut through?

Louis Schweitzer: This is what I know about this property. When I first moved in here, these lots were farmed. That was done by Mark Ballard who still lives on the corner. He has a dairy farm. He had corn growing in different places. He accessed on this road. Ellwell owns an X amount of acres on top of the mountain that I believe is the R.O.W.. My only question is that cul-de-sac runs right smack in the middle of what I thought was a R.O.W.. Why I actually came here tonight was to see how this R.O.W was going to be blended in with their road.

Mr. Astorino: Dave, we have seen this project before. This is not the first time. This was actually the Tarelli property. Is that a deeded R.O.W. or is it just a farm road that was used?

Louis Schweitzer: Because this property goes so far back, there were old farms on this road that date back to the early 19<sup>th</sup> Century. They had farms behind their homes. They also had wood lots that were deeded to them that were land locked. There are 10-acre land locked pieces on this mountain as well. I was also wondering if there was access to those. That is not going to be found in this meeting. Because there were funky things going on back in the early part of the century, who knows if this was deeded or not.

Mr. Astorino: If it is not deeded, we would have to check the deed. If it is a deeded R.O.W., it should show up on the deed.

Louis Schweitzer: If it is not deeded, it doesn't bother me one way or the other.

Mr. Astorino: You brought this to our attention. We will check into it. If it is not deeded and whoever is using that road, apparently they are trespassing on private property.

Mr. Bollenbach: That is not necessarily the case. There may be prescriptive easements that are not necessarily in their deed. The Surveyor should be taking a look at all of the surrounding deeds. Perhaps the deed to that little 10-acre parcel is together with the right of access.

Mr. Astorino: I suggest in finding that out. If we gave an approval to a subdivision 5 years ago, somebody would have a problem if they want to put a swimming pool in their backyard and then someone comes driving through there.

Mr. Bollenbach: We have had this scenario on prior subdivisions. If it is brought up at a public hearing, then there is a due diligence obligation for the applicant to look into it further.

Mr. McConnell: I would agree with it if it was brought up at a public hearing by someone who is claiming to have it. This gentleman is just here as an informative matter.

Mr. Bollenbach: I believe it is in the Board's and Town's interest to take a look at it to see that it is not causing problems.

Mr. Astorino: The Applicant has agreed to take a look into it.

Mr. Bollenbach: We had this on the Sodrick subdivision, where we made provisions that there would be an additional access off the end of the cul-de-sac to access property in the rear.

Mr. McConnell: Ok.

Mr. Astorino: Is there someone else wishing to address the Pochuck Views application?

Andrew Romanko: Looking at the map, where did this come into?

Mr. Astorino: It is a R.O.W. for a proposed Private Road.

Dave Getz shows the map to Mr. Romanko and explains the road and its setbacks to Mr. Romanko's property and also explains the drainage situation. Dave states in terms of drainage, they are proposing a curb along the low side of the road so that water won't drain onto Mr. Romanko's property.

Andrew Romanko: I am concerned that it would happen that I would have to come back and see you gentlemen. Do you know what I mean?

Mr. Astorino: Yes. You would go and see the Engineer. Our Engineer has to review the plans. We talked about the stormwater. This is all part of it. We are going to make sure it is done properly.

Andrew Romanko: Yes. When you come down to it, there is such a slope behind my house. My concern is drainage coming down to my property.

Mr. Astorino: Our Engineer will take care of it.

Andrew Romanko: I have no objections. I just have concerns about drainage.

Mr. Astorino: Your concerns are very valid. We will make sure it is taken care of. Is there anyone else wishing to address the Pochuck Views application?

William Merritt: I have no objections. I also have drainage concerns. Looking at the map, my house is located right there.

Laura Barca: The stormwater is also being reviewed by OCDPW.

Mr. Astorino: Yes.

William Merritt: As far as Ellwell is concerned, I think I could clear some of that up. I have this old map here. Ellwell used to be what was called Carleton. Looking at the old map, I don't know exactly, but Ellwell has a R.O.W. and my house is located right here. There was an easement through here. This is Glenwood Road.

Mr. Astorino: That is an easement.

William Merritt: That was an old easement through here. I am paying taxes on this property.

Mr. Astorino: Are they calling that a future road? Is that what that says?

Laura Barca: It says future road.

Dave Getz: That is on the other side of the road.

William Merritt: As far as what Jay was talking about in terms of Ellwell, I think Jay was talking about it further over.

Mr. Astorino: Yes. Looking at the map, that is the road over here. We will check it out. Is there anyone else wishing to address the Pochuck Views application? Let the record show no further public comment. Do any Board Members or Professionals have any comments or concerns? We will adjourn this public hearing to the November 21, 2012 Planning Board meeting. There will no further notices sent out to the residents. This is your notice. The applicant has to get to us the Bio-Diversity information. Laura, make sure the stormwater is done correctly for this gentleman.

Laura Barca: Yes.

**Mr. McConnell makes a motion to adjourn the Pochuck Views Public Hearing to the November 21, 2012 Planning Board meeting.**

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.

Dave Getz: Thank you.

**Review of Submitted Maps:*****HOMARC, LLC.***

Application for Site Plan Approval and Special Use Permit for the construction and use of a commercial site plan of a 21,900 square foot office/retail building, situated on tax parcel S 51 B 1 L 5.231; project located on the northern side of NYS Route 94 425± feet east of Warwick Turnpike, in the CB zone, of the Town of Warwick. Planning Board issued a Positive Declaration on 4/16/08. Planning Board adopted Final Scoping Document on, 3/4/09.

Representing the applicant: Dave Getz, Lehman & Getz Engineering. Dave Griggs, ERS Consultants.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – 10/16/12 : no comments at this time
4. Architectural Review Board – 10/16/12: (1) request similar conceptual view of all four sides, (2) provide materials of construction, (3) determine front(s) of building, and (4) perspective rendering of nearby buildings
5. OC Planning Department – pending submittal
6. NYSDOT – status of roadway cut to Route 94
7. Draft Scoping Document (DSD), Page 1: The Lead Agency name and address should be revised.
8. DSD, Page 1: This property is within the CB zone, not the DS zone.
9. DSD, Page 5 (III.E.1.b): The schedule of construction should provide the estimated (not maximum) durations.
10. DSD, Page 7 (IV.B): The delineation (who, when, etc.) should be discussed. The location(s), wetland type, and any buffer areas shall be shown. The mitigation measures should include any Agency comments, if permits are required.
11. DSD, Page 7-8 (IV.C): This section should be clear if it will discuss stormwater, water supply, fire protection, and sanitary sewer. Any necessary improvements to the existing systems shall also be discussed.
12. DSD, Page 9 (IV.F): The construction and operational traffic estimates should be included.
13. DSD, Page 9 (IV.F): The turning radii of the largest truck expected should be shown. Applicant should discuss if the Traffic Mitigation Fees are applicable.
14. DSD, Page 9 (IV.G.3): The location(s) of dumpsters, outdoor trash receptacles, garbage truck access, and any proposed screening should be discussed.
15. DSD, Page 9-10: A discussion should be included about electric and other utilities required, including the proposed location of any transformer pad.
16. DSD, Page 10 (IV.G.4): The construction and operational noise estimates should be included.
17. DSD, Page 10 (IV.G.5): Applicant should clarify if a Phase I has been completed and attach the results.
18. DSD, Page 10 (VII.C): Applicant to clarify if a LEED building is being considered.
19. The location of the mechanicals associated with the building should be clarified with the DSD.

20. Any required loading dock areas or caged areas (for deliveries made before or after normal working hours) for any proposed purposes shall be shown on the plan, including truck turning movements.
21. The proposed retail usage must comply with §164-46.J (139); a note must be added to the plan.
22. The fire suppression needs for this building must be shown on the plans. The Applicant must also show the existing system has the capacity to services these needs.
23. A three-ring binder with all color, texture, roofing samples, etc. shall be submitted and retained with the building department after final approval has been granted.
24. Provide a map note stating that “No construction or use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.”
25. Off-site improvements will be necessary to connect to the existing municipal sanitary sewer, potable water, and fire protection water mains; these should be shown on the plan.
26. The Applicant shall show the 911 address on Sheet 1 of the drawing set.
27. The profile of the Marginal Access Road shall be shown to ensure proper vertical alignment of the Marginal Access Road with both adjacent properties.
28. Payment of all bonds (Landscaping, Performance, Marginal Access Road, Construction Trailer Removal, Construction Inspection fees for Landscaping and Performance, and Traffic Mitigation Fees).
29. Surveyor to certify that iron rods have been set at all property corners.
30. Payment of all fees.

The following comment submitted by the Conservation Board, dated 10/17/12:

HOMARC, LLC. – No comments at this time.

The following comment submitted by the ARB, dated 10/17/12:

- 1) HOMARC, LLC. - We need to see a similar conceptual for all four facades
- 2) Please provide a discussion of materials, finishes. While the conceptual provides a initial starting point, the materials used in execution could easily result in a 1990's strip mall look.
- 3) The center entryway is not in keeping with the rest of the design. We would also remind the applicant that, like Fairground's #2 building and Chase, this building effective has at least two “front facades” and two facades which need to coordinate in terms of design, materials, use, entry from parking, etc.
- 4) Please provide a perspective drawing/rendering so that the ARB can see the way the building blends into the neighborhood – and not a phony drawing without parking lots or neighboring buildings.

Laura Barca: Mr. Chairman, I would just like to mention that this project is not in the DS zone. It is in the CB zone.

Mr. Astorino: That is right. The zone changed there.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: That is correct. That was one of the things that we identified at the Work Session. Because this was Scoping, and any time you get involved in Scoping or Re-Scoping a project, SEQR regulations do require that there should be some public input. The project was originally scoped. The Planning Board adopted a Final Scoping Document. The applicant is now making changes to the project. He is asked to Re-Scope it. They need to finely tune the issues that will be addressed in the Draft EIS. That was the first thing that I had seen that there has been a change since the year 2010. The Town Board adopted a new Community Business (CB) zoning district. They had done away with the old Design Shopping (DS) zone for that area. The Draft Scoping Document that the applicant had submitted still refers to the DS zone. That does need to be changed before the Planning Board could adopt it. Under the SEQR Regulations, anytime Scoping is provided, it does need to involve the public. It doesn't mean that we have to do a Scoping Session necessarily. I was trying to think back on when we had done this. It has been a few years. I don't know if we had anybody attend the Scoping Session.

Mr. Astorino: I don't believe so.

Mr. Fink: All we would need to do is send the Revised Scoping Document to all of the Involved and Interested Agencies. We would put it up on the Town's Website. They could put a little announcement that it is being Re-Scoped. It can involve anyone that wanted to come in and provide written comments. We could provide a period for that. The first thing we would need is a corrected revised Scoping Document.

Mr. Astorino: That is what the applicant would have to get to us. That is what most of these comments are this evening. Is that correct?

Laura Barca: Yes.

Comment #2: Applicant to discuss project.

Mr. Astorino: Do you have anything further then what Ted had pointed out?

Dave Griggs: No. We are good.

Comment #3: Conservation Board – 10/16/12 : no comments at this time

Comment #4: Architectural Review Board – 10/16/12: (1) request similar conceptual view of all four sides, (2) provide materials of construction, (3) determine front(s) of building, and (4) perspective rendering of nearby buildings

Laura Barca: I was paraphrasing their comments from their own comment letter.

Mr. Astorino: Once you get your renderings in, maybe we could set up a joint meeting with the ARB if the Board wants. We had done that with Fairgrounds.

Mr. Bollenbach: That would be at a later date.

Comment #5: OC Planning Department – pending submittal

Comment #6: NYSDOT – status of roadway cut to Route 94

Mr. Astorino: We know that. We will List Comments 7 through 30 for the record. They are mainly about the Draft Scoping Document and the marginal access. Do you have any questions on any of the comments?

Dave Getz: Some of these things would come later after the Scoping. Is that correct?

Laura Barca: Yes.

Dave Griggs: Most of that stuff would be in the DEIS. They wouldn't be that detailed in the Scoping Document. Is that correct?

Laura Barca: Yes. They are place savers for the DEIS.

Mr. Kennedy: Was there a reduction in the square footage? It is still reading 29,120 square feet.

Dave Getz: Yes. It was changed to 21,900 square feet.

Mr. Astorino: Ok. We will revise that. You will be back.

Dave Getz: Thank you.

Dave Griggs: Thank you.

Comment #7: Draft Scoping Document (DSD), Page 1: The Lead Agency name and address should be revised.

Comment #8: DSD, Page 1: This property is within the CB zone, not the DS zone.

Comment #9: DSD, Page 5 (III.E.1.b): The schedule of construction should provide the estimated (not maximum) durations.

Comment #10: DSD, Page 7 (IV.B): The delineation (who, when, etc.) should be discussed. The location(s), wetland type, and any buffer areas shall be shown. The mitigation measures should include any Agency comments, if permits are required.

Comment #11: DSD, Page 7-8 (IV.C): This section should be clear if it will discuss stormwater, water supply, fire protection, and sanitary sewer. Any necessary improvements to the existing systems shall also be discussed.

Comment #12: DSD, Page 9 (IV.F): The construction and operational traffic estimates should be included.

Comment #13: DSD, Page 9 (IV.F): The turning radii of the largest truck expected should be shown. Applicant should discuss if the Traffic Mitigation Fees are applicable.

Comment #14: DSD, Page 9 (IV.G.3): The location(s) of dumpsters, outdoor trash receptacles, garbage truck access, and any proposed screening should be discussed.

Comment #15: DSD, Page 9-10: A discussion should be included about electric and other utilities required, including the proposed location of any transformer pad.

Comment #16: DSD, Page 10 (IV.G.4): The construction and operational noise estimates should be included.

Comment #17: DSD, Page 10 (IV.G.5): Applicant should clarify if a Phase I has been completed and attach the results.

Comment #18: DSD, Page 10 (VII.C): Applicant to clarify if a LEED building is being considered.

Comment #19: The location of the mechanicals associated with the building should be clarified with the DSD.

Comment #20: Any required loading dock areas or caged areas (for deliveries made before or after normal working hours) for any proposed purposes shall be shown on the plan, including truck turning movements.

Comment #21: The proposed retail usage must comply with §164-46.J (139); a note must be added to the plan.

Comment #22: The fire suppression needs for this building must be shown on the plans. The Applicant must also show the existing system has the capacity to services these needs.

Comment #23: A three-ring binder with all color, texture, roofing samples, etc. shall be submitted and retained with the building department after final approval has been granted.

Comment #24: Provide a map note stating that "No construction or use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained."

Comment #25: Off-site improvements will be necessary to connect to the existing municipal sanitary sewer, potable water, and fire protection water mains; these should be shown on the plan.

Comment #26: The Applicant shall show the 911 address on Sheet 1 of the drawing set.

Comment #27: The profile of the Marginal Access Road shall be shown to ensure proper vertical alignment of the Marginal Access Road with both adjacent properties.

Comment #28: Payment of all bonds (Landscaping, Performance, Marginal Access Road, Construction Trailer Removal, Construction Inspection fees for Landscaping and Performance, and Traffic Mitigation Fees).

Comment #29: Surveyor to certify that iron rods have been set at all property corners.

Comment #30: Payment of all fees.

***Van Tuyl Subdivision***

Application for Sketch Plat Review of a proposed 2-Lot Subdivision, situated on tax parcel S 64 B 3 L 29.1 (**Major**); parcel located on the eastern side of Cascade Lake Road 210± feet south of Cascade Road, in the MT zone.

Representing the applicant: Betsy Mitchell, Applicant. Karen Emmerich, Lehman & Getz Engineering.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board: 10/16/12 subdivision within biodiversity; well and septic separation distance is not adequate.
4. Architectural Review Board: 10/16/12 no comments at this time.
5. OCPD: pending submittal
6. There should be a note added to the plan stating that the wells and septic systems were existing at the time of this subdivision application and the Planning Board is not approving the location and function of these systems.
7. A witnessed dye test shall be conducted at each existing septic system.
8. A bacteria sample shall be taken from each existing well. The chain of custody and results shall be submitted to the Planning Board.
9. A location of a septic system with 50% expansion that meets all separation distances shall be shown.
10. All neighboring wells and septic systems within 300-ft shall be shown, including a note on the plan stating that all wells and septic systems have been shown.
11. It appears that a small portion of the driveway for Lot 2 is being located on Lot 1; the Applicant may want to consider a small movement in a lot line to avoid this.
12. Applicant to provide information relating to the square rule.
13. Applicant to provide information relating to the buildable area requirement.
14. ZBA variances would be required for the following on both lots: lot area, lot width, and side setback; proposed Lot 2 also requires a variance for both side setbacks. It is recommended that the ZBA be provided with a plan showing existing structures, boundary geometry, and building envelope.
15. The Applicant should clarify if there will be a shared portion of the driveway after this subdivision. The two driveways could be separated if pavement is removed and landscaping added; or the shared portion of the driveway should be shown on the drawing.
16. Shared driveway agreement and easement shall be submitted to Planning Board attorney for review.
17. Surveyor to certify that iron rods have been set at all property corners.
18. Payment of Recreational Fees.
19. Payment of all fees.

The following comment submitted by the Conservation Board, dated 10/17/12:

Van Tuyl Subdivision - CB notes this subdivision is within the biodiversity overlay zone. It also appears that the well and septic system are rather close, especially on Lot # 2 and do not appear to have adequate separation.

The following comment submitted by the ARB:

Van Tuyl Subdivision – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: This project is subject to SEQR. Even though it is an existing development, it falls in that grey area where it is not a Type 2 Action under SEQR. It is an Unlisted Action. Because the applicant needs variances, the Planning Board could then do SEQR once the applicant comes back from the ZBA.

Comment #2: Applicant to discuss project.

Karen Emmerich: We have a 5-acre parcel located on Cascade Lake Road. There are 2 existing houses located on the property. There is the Mitchell's house that was constructed in the 1940's. Then there is her Mother's house which was constructed in the 1960's. At this point, she is trustee for her mother's estate. They want to subdivide it into 2 separate lots. They would like to have a shared driveway. When we determined the lot line, it was based on some of the site features on the property. There is a double stone wall that defines the driveway. There is a little building that is an outhouse on the property. He wanted to keep that building on the Mother's side. That is what we are doing. We want to put the 2 houses on their own lots.

Mr. Bollenbach: How many new septics?

Mr. Astorino: There are no new septics.

Mr. Bollenbach: So each new lot would have it own existing septics and existing well.

Karen Emmerich: Yes. We are not changing anything on the property.

Mr. Astorino: Ok.

Comment #3: Conservation Board: 10/16/12 subdivision within biodiversity; well and septic separation distance is not adequate.

Mr. Astorino: We are aware of that.

Comment #4: Architectural Review Board: 10/16/12 no comments at this time.

Comment #5: OCPD: pending submittal

Comment #6: There should be a note added to the plan stating that the wells and septic systems were existing at the time of this subdivision application and the Planning Board is not approving the location and function of these systems.

Karen Emmerich: Will do.

Comment #7: A witnessed dye test shall be conducted at each existing septic system.

Karen Emmerich: Ok.

Comment #8: A bacteria sample shall be taken from each existing well. The chain of custody and results shall be submitted to the Planning Board.

Karen Emmerich: Ok.

Comment #9: A location of a septic system with 50% expansion that meets all separation distances shall be shown.

Karen Emmerich: Ok.

Comment #10: All neighboring wells and septic systems within 300-ft shall be shown, including a note on the plan stating that all wells and septic systems have been shown.

Karen Emmerich: Ok.

Comment #11: It appears that a small portion of the driveway for Lot 2 is being located on Lot 1; the Applicant may want to consider a small movement in a lot line to avoid this.

Mr. Astorino: Is that the double stone wall that you were talking about? I don't know. Take a look at it.

Karen Emmerich: Yes. They are going to share the driveway.

Comment #12: Applicant to provide information relating to the square rule.

Karen Emmerich: We can't meet it. We would need a waiver on that.

Mr. Astorino: Ok.

Comment #13: Applicant to provide information relating to the buildable area requirement.

Mr. Astorino: That would probably be a waiver also.

Karen Emmerich: Yes. I have done a little sketch to show you what is involved.

Mr. Astorino: Karen, submit that to us regarding the buildable area and the square rule.

Karen Emmerich: There is nothing to submit on the square rule.

Mr. Astorino: Ok.

Comment #14: ZBA variances would be required for the following on both lots: lot area, lot width, and side setback; proposed Lot 2 also requires a variance for both side setbacks. It is recommended that the ZBA be provided with a plan showing existing structures, boundary geometry, and building envelope.

Karen Emmerich: Yes.

Mr. Astorino: That is what you would be going to the ZBA for.

Karen Emmerich: Yes.

Mr. Astorino: It would probably be a good idea if you do the testing of the wells and the septic to prove that everything is functioning properly.

Laura Barca: Right. You could apply to the ZBA. But we have that recommendation...

Karen Emmerich: Right.

Mr. Astorino: Does the Board care to give a positive, negative or neutral recommendation?

Mr. Bollenbach: They are existing dwellings.

Mr. Astorino: Yes. I don't see a problem. The houses are there. They have to show the septic. I don't have a problem with giving them a positive recommendation. How does the rest of the Board feel?

Mr. McConnell: Do you want to give a positive recommendation before we get the results of the dye tests and the bacteria tests?

Mr. Astorino: When does the ZBA meet? We could do that subject to the tests.

Connie Sardo: The ZBA meeting is on November 26, 2012.

Mr. Astorino: We will be back before that.

Mr. Bollenbach: So, we will hold off on the recommendation letter until we get the well and septic results.

Mr. Astorino: Yes. We will hold off on the recommendation letter until we have the results.

Mr. McConnell: Which does not mean a negative recommendation.

Mr. Bollenbach: No. It is only required for the ZBA to make a request to the Planning Board for a recommendation.

Comment #15: The Applicant should clarify if there will be a shared portion of the driveway after this subdivision. The two driveways could be separated if pavement is removed and landscaping added; or the shared portion of the driveway should be shown on the drawing.

Karen Emmerich: Right. They are going to share the driveway.

Comment #16: Shared driveway agreement and easement shall be submitted to Planning Board attorney for review.

Karen Emmerich: Yes.

Comment #17: Surveyor to certify that iron rods have been set at all property corners.

Karen Emmerich: Yes.

Comment #18: Payment of Recreational Fees.

Karen Emmerich: Yes.

Comment #19: Payment of all fees.

Karen Emmerich: Ok.

Mr. Astorino: Get us the results.

Karen Emmerich: If the results come in good, I would also like to ask at that time if the Board would consider in setting us for a public hearing. So, when we come back, we wouldn't have an extra meeting.

Mr. Astorino: That makes sense. We could do that. We could put that on the next meeting. I don't see any issues with that. We will set it for a public hearing when we discuss the recommendation to the ZBA. Let us see what the results are.

Karen Emmerich: Are you going to have a meeting in the beginning of November?

Mr. Astorino: No. Our next meeting is on November 21, 2012.

Connie Sardo: The submittal for that is 10/31/12.

Mr. Bollenbach: If you get the results after that date, just submit it.

Mr. Astorino: Yes. Whenever you get the result, get them into us.

Karen Emmerich: Yes.

Mr. Astorino: Do any Board Members or Professionals have any questions?

Mr. McConnell: Regarding the recreational fees, we have no new construction here. We are just separating 2 houses that already have existed. Is it appropriate for us to consider waiving that?

Mr. Bollenbach: That would be for the Town Board. They could make an application to the Town Board. But the way that it is set up, it is for each new dwelling or lot.

Mr. McConnell: For a dwelling lot. Even though the dwellings exists?

Mr. Bollenbach: There is an additional lot being created.

Mr. McConnell: I guess if it was me, I would still petition the Board for a waiver of the recreational fees.

Mr. Astorino: You might want to do that.

Connie Sardo: Karen, you will submit by 11/5/12 for the 11/126/12 ZBA Meeting?

Karen Emmerich: Yes.

Mr. Astorino: Ok. We will discuss this at the 11/12/12 Work Session and put it on the 11/21/12 Planning Board to discuss recommendation to the ZBA.

Karen Emmerich: Thank you.

**Other Considerations:**

1. **The Gables @ Warwick** – Letter from Karen Emmerich, Lehman & Getz Engineering, dated 9/20/12 addressed to the Planning Board in regards to the Gables Subdivision – requesting the following Extensions & Re-Approvals of Final Approval: 6-Month Extension on 3<sup>rd</sup> Re-Approval of Final Approval becomes effective on, 6/5/11. 4<sup>th</sup> Re-Approval of Final Approval becomes effective on, 12/5/11. 6-Month Extension on 4<sup>th</sup> Re-Approval of Final Approval becomes effective on, 6/5/12. 5<sup>th</sup> Re-Approval of Final Approval becomes effective on, 12/5/12. *The applicant has stated that the Gables project is dependent on a water supply system that is proposed for both the Gables and the neighboring project, BCM. The two owners require legal agreements for the shared services, and these have not yet been finalized. As a result, this subdivision, like many others currently before the Board is not able to proceed until the financial climate improves.* The Gables project is situated on tax parcel SBL # 44-1-132; parcel located along the southern side of NYS Route 17A at the intersection of the east end of Ketchum Road in the RU zone. Final Approval was granted on 12/5/07.

Ms. Little makes a motion on the Gables Subdivision, granting the following Extensions and Re-Approvals of Final Approval of a proposed 15-Lot Cluster subdivision, situated on tax parcel S 44 B 1 L 132; parcel located along the southern side of NYS Highway 17A at the intersection of the east end of Ketchum Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York.

The 6-Month Extension on 3<sup>rd</sup> Re-Approval of Final Approval becomes effective on 6/5/11. 4<sup>th</sup> Re-Approval of Final Approval becomes effective on, 12/5/11. 6<sup>th</sup> Month Extension on 4<sup>th</sup> Re-Approval of Final Approval becomes effective on, 6/5/12. The 5<sup>th</sup> Re-Approval of Final Approval becomes effective on, 12/5/12, subject to the conditions of Final Approval granted on, 12/5/07.

Seconded by Mr. Ruszkiewicz. Motion carried; 5-Ayes.

2. **Gary Randall #4 Subdivision** – Letter from Karen Emmerich, Lehman & Getz Engineering dated 9/26/12 addressed to the Planning Board in regards to the Gary Randall #4 Subdivision – requesting a 6-Month Extension on Re-Approval of Final Approval for a proposed 3-Lot subdivision, situated on tax parcel SBL # 19-1-47.2; parcel located on the western side of State Route 94 whereas driveway is 500 feet north of Minturn Road, in the MT zone. Conditional Final Approval was granted on, 2/7/11. Re-Approval of Final Approval was granted on 2/15/12 became effective on, 2/7/12. *The applicant's professional has stated that the applicant is still working to address the conditions of the approval.* The 6-Month Extension becomes effective on, 8/7/12.

Ms. Little makes a motion on the Gary Randall #4 Subdivision, granting a 6-Month Extension on Re-Approval of Final Approval for a proposed 3-Lot subdivision. SBL # 19-1-47.2. Conditional Final Approval was granted on, 2/7/11.

The 6-Month Extension on Re-Approval of Final Approval becomes effective on, 8/7/12.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.

3. **Wheeler Road Estates** – Letter from Ryan McGuire, P&P Engineering, dated 10/9/12 addressed to the Planning Board in regards to the Wheeler Road Estates Subdivision – requesting a 14<sup>th</sup> 6-Month Extension on Preliminary Approval of a proposed 32-Lot Cluster subdivision, situated on tax parcel SBL # 8-2-44.223; parcel located on the northerly side of Wheeler Road (C.R. 41) at the intersection of Dussenbury Drive, in the RU zone. Preliminary Approval was granted on, 11/2/05. *The Applicant has stated that they anticipate submitting plans for consideration of final approval in the near future.* The 14<sup>th</sup> 6-Month Extension becomes effective on, 11/2/12.

Ms. Little makes a motion on the Wheeler Road Estates, granting a 14<sup>th</sup> 6-Month Extension on Preliminary Approval of a proposed 32-Lot cluster subdivision, SBL # 8-2-44.223. Preliminary Approval was granted on, 11/2/05.

The 14<sup>th</sup> 6-Month Extension becomes effective on, 11/2/12.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.

4. **Round Hill Subdivision** – Letter from Steven Spiegel, dated 10/4/12 addressed to the Planning Board in regards to the Round Hill Subdivision – requesting “**6<sup>th</sup> Re-Approval**” of Final Approval of a proposed 19-Lot + 1-Ag Lot Cluster subdivision, situated 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. Conditional Final Approval was granted on, 10/18/06. *The Applicant has stated that the 6<sup>th</sup> Re-Approval is needed because the condition for final approval requiring construction of roads and significant infrastructure, which real estate market and financial conditions do not permit at this time.* The 6<sup>th</sup> Re-Approval of Final Approval becomes effective on, 10/18/12.

Mr. McConnell makes a motion on the Round Hill Subdivision, granting **6<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 6<sup>th</sup> Re-Approval of Final Approval becomes effective on, 10/18/12, subject to the conditions of Final Approval granted on, 10/18/06.

Seconded by Ms. Little. Motion carried; 5-Ayes.

5. **McFarland Subdivision #3** – Letter from Karen Emmerich, Lehman & Getz Engineering, dated 10/11/12 addressed to the Planning Board in regards to the McFarland Subdivision #3 – requesting “**Re-Approval**” of Final Approval of a proposed 4-Lot subdivision, situated on tax parcel SBL # 54-1-25.13; parcel located on the northern side of State Highway 17A 300± feet east of Forester Avenue, in the SM zone. Conditional Final Approval was granted on 11/2/11. *The Applicant has stated that they plan to finalize the plans but want to have an opportunity to review the Town’s proposed storm water requirements and determine whether they would impact the project. The Town Board has scheduled a public hearing for 10/25/12 on the new law.* The Re-Approval of Final Approval becomes effective on, 11/2/12.

Mr. McConnell makes a motion on the McFarland Subdivision #3, granting “**Re-Approval**” of Final Approval of a proposed 4-Lot 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. Conditional Final Approval was granted on, 11/2/11.

The Re-Approval of Final Approval becomes effective on, 11/2/12, subject to the conditions of final approval granted on, 11/2/11.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.

6. Planning Board Minutes of 9/19/12 for Planning Board's Approval.

Mr. McConnell makes a motion to Approve the Planning Board Minutes of 9/19/12.

Seconded by Ms. Little. Motion carried; 5-Ayes.

**Correspondences:**

1. Lead Agency Coordination Request, dated 9/27/12 - Planning Board to discuss Town Board Intent to be Lead Agency on the transfer of the Mid-Orange Correctional Facility property.

Mr. Fink: Mike Sweeton gave the Board a little overview on this matter at the Work Session.

Mr. Astorino: Yes.

Mr. Fink: He gave an overview on the Mid-Orange Correctional Facility property. The state agencies that are responsible for it include the office of General Services, Empire State Development, and the Department of Corrections and Community Service. They have proposed a method of transferring the property to the Town of Warwick thru the Warwick Valley Development Corporation. In order to effectuate that transfer, as I understand it, there would have to be a subdivision involved as part of the transfer process. Mike Sweeton indicated that the three state agencies that are involved have all consented to the Town Board acting as Lead Agency so that the Town Board could conduct the SEQR review process on the transfer of prison property to the Town through the local development corporation. The Town Board is going to do the SEQR and subdivision process. There is no development proposed as part of this transfer process. That SEQR review process would have to acknowledge that there would be future development and re-development of the property and that each of those development or re-development projects if and when they are proposed would have to be subject to their own SEQR review. The subdivision is bundled in with the actual transfer process. That would be just for the subdivision. Any development or re-development of the property would still need Planning Board SEQR and Site Plan Special Use review. The Town Board is going to acknowledge the subdivision in the transfer process SEQR. That is why they are asking the Planning Board to sign off.

Mr. Astorino: Do they just need a sign off from us?

Mr. Bollenbach: It is a consent.

Mr. Astorino: Do we need a consensus or a motion?

Mr. Bollenbach: We need a motion.

Ms. Little makes a motion for the Town Board to be Lead Agency on the transfer of the Mid-Orange Correctional Facility property.

Seconded by Mr. Ruszkiewicz.

Mr. McConnell: The Town of Warwick Planner is the same as the Town of Warwick's Planning Board's Planner. Is that correct?

Mr. Astorino: Yes.

Mr. McConnell: We are not the Lead Agency? Are we an Involved Agency?

Mr. Fink: Yes. The Planning Board is an Involved Agency.

Mr. McConnell: How do we reconcile your position as a Town Planner and an advisory to this work if we find that there is some disagreement? We see things a little differently. Who do we draw upon for any issues?

Mr. Bollenbach: It would be discussed and forward to the Town Board to consider if there are any issues.

Mr. McConnell: Ok. I just wanted to understand the process.

Mr. Fink: It is the same way when the Town Board proposes a Zoning change. That has to come to the Planning Board for review. It doesn't mean the Planning Board wouldn't have concerns about it.

Mr. McConnell: Ok. I just wanted to understand that.

Motion carried; 5-Ayes.

Mr. Astorino: Let the record state that it was a unanimous decision by the Planning Board.

Connie Sardo: Mr. Chairman, we need a motion to cancel the 10/29/12 Work Session and the 11/7/12 Planning Board Meeting.

Mr. McConnell makes a motion to cancel the 10/29/12 Work Session and the 11/7/12 Planning Board Meeting.

Seconded by Ms. Little. Motion carried; 5-Ayes.

**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.

Laura Barca: On Van Tuyl, has the Planning Board referred them without recommendation to the ZBA?

Mr. Astorino: No. We will make a recommendation one way or another.

Laura Barca: Could they apply to the ZBA without having a referral?

Mr. Astorino: We will make a referral. We just told them tonight they have to go to the ZBA.

Laura Barca: That is my question. Does there have to be a motion from the Planning Board?

Mr. Astorino: No. We just told them that they have to go to the ZBA.

Mr. Bollenbach: Just for clarification, if it is a Use variance, it is required to get a denial from the Building Department or from the Planning Board. If it is for an Area variance, which these are, the applicant could go on its own initiative.

Laura Barca: Ok. Thank you.

Mr. Astorino: Ok. Before we adjourn this evening, I would like to point out that we have our mini Secretary, Brooke Behrens who had done a wonderful job this evening. I appreciate everything that you have done. Thank you.

**Ms. Little makes a motion to adjourn the October 17, 2012 Planning Board Meeting.**

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.