

TOWN OF WARWICK PLANNING BOARD

November 2, 2011

Members present: Chairman, Benjamin Astorino
Dennis McConnell
Roger Showalter, 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, November 2, 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 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. Continued Public Hearing from the 9/21/11 Planning Board Meeting.

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

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 Close attention to potential archeological concerns; 05/31/11 It is believed that there are wetlands/streams that should be mapped and protected; 09/20/11 No comments.
4. Architectural Review Board comments: 05/31/11 no comments at this time.
5. Orange County Planning Department: 11/12/10, two advisory comments relating to pond maintenance and pedestrian access (sidewalks).
6. Applicant to obtain notarized letter from Warwick Grove Company LLC for driveway access to Lots 1 and 4.
7. General agreement for the location of the water transmission line easement from Well #3 to microfiltration treatment facility with an understanding that the final location will be agreed upon by the involved parties (Village of Warwick & future owners of Lots 3 & 4).
8. 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.
9. Provide an easement for the existing 24" pipe from Well #3 to Homestead Village, if not already in place, which shall be described as a 20-ft easement centered on the alignment as marked out by the Village of Warwick on (insert date) and surveyed by John McGloin on (insert date).

10. 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. The easement has been agreed to be 20-ft by 134-ft, but the easement needs to be shown and described as being from the property line and not from the edge of pavement.
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.
12. The lot line change between this McFarland property and the Methodist Episcopal Church of Warwick has received final approval and the plans were signed 11/01/11.
13. The drawing should prominently state the following note: Lots 3 and 4 are not for building purposes at this time. Planning Board approval will be required, including (but not limited) access to the lot, soil test witnessing, wetland and stream investigations, and biodiversity compliance with the Town Code even if only one home is constructed on each lot. Access onto McFarland Drive for Lot 4 must be reviewed and approved by the owner of the road & the Village of Warwick. Sheet 1, Notes 19 and 20 were added, but it seems like Lots 3 and 4 were switched in the notes.
14. 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.
15. 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.
16. A maintenance agreement for the pond on Lots 1 and 2 must be prepared and submitted.
17. 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.
18. Two tie-in lines should be added between the existing iron pins at the corners of the easterly property boundary and the Village of Warwick parcel, as shown in **Attachment 1**.
19. The declaration information for the Agricultural and Aquifer Notes will need to be shown on the drawing.
20. Surveyor to certify that iron rods have been set at all property corners.
21. Payment of Recreation Fee.
22. Payment of all fees.

The following comment submitted by the Conservation Board, dated 11/2/11:

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

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 Planning Board has been acting as Lead Agency. It is an Unlisted Action. The applicant had prepared a number of different studies in support of SEQR. The site is located within the Town's Biodiversity Conservation Overlay District. They made some modifications to the plans based upon some of the drainage characteristics to the stream that flows through the property. There are also NYS Protected Freshwater wetlands on the property. None of those wetlands is within the vicinity where the construction would take place. This application was held up from the last time that this was before the Board because there had been an archaeological study that was undertaken on the property. We had forward that to SHPO for a review. What we had found out was that they had a letter

that was somewhat conflicting. In the letter they stated that if there were any new permits involved that further review may be necessary. We never received a full answer prior to the last meeting. The next day after the last meeting, I received a call back from a State employee that was in charge of this. He informed me that the State is no longer issuing advisory reviews on archaeological studies when there are no State permits that are required. The driveway permit is considered a discretionary permit by the DOT, not subject to the same State review that they normally do for other things. What they did tell me was a notation about further review had to do with the historic farm buildings that are on the site. The archaeological studies had addressed those already. There were no historic or prehistoric artifacts found in the areas subject to construction activity. There will be no impact regarding the archeological resources. I have prepared a Draft Negative Declaration for the Board's consideration.

Mr. Astorino: Ok. Thank you.

Comment #2: Applicant to discuss project.

Karen Emmerich: We have a large parcel that we are dividing into 2 building lots. There are 2 remaining large parcels which would remain as agricultural purposes.

Comment #3: Conservation Board comments: 11/01/10 Close attention to potential archeological concerns; 05/31/11 It is believed that there are wetlands/streams that should be mapped and protected; 09/20/11 No comments.

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

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

Mr. Astorino: Laura, what is the pond maintenance for?

Laura Barca: We are taking care of that. Their concern was that we have a pond that is currently being shared by two lots. They want to make sure that in the future where there are two different landowners that one landowner doesn't fill in the pond or do something to it.

Mr. Astorino: Ok. Would there be a note to that effect?

Laura Barca: The applicant has to prepare drainage easements through the whole corridor to make sure the flow of water is protected.

Mr. Astorino: Ok.

Comment #6: Applicant to obtain notarized letter from Warwick Grove Company LLC for driveway access to Lots 1 and 4.

Mr. Bollenbach: Doug, why don't we obtain an easement or a ROW?

Doug Stage: I spoke to the Village Engineer, Mr. Murphy. He indicated that he had agreed to it.

Mr. Astorino: We received a letter today, 11/2/11 from the Village of Warwick from Mayor Michael Newhard. The letter is stated as follows:

Dear Chairman Astorino:

It has come to the Village's attention that an agreement is pending between Leyland Alliance and the McFarland family for a driveway cut along McFarland Drive.

Although McFarland Drive is currently owned by Leyland Alliance, it is anticipated that it will be offered to the Village for dedication at some point in the future.

We believe that any such agreement should include the Village as a party since it will be our future responsibility.

We would appreciate that any actions taken by the Town Planning Board for this project take this request into account.

Very truly yours,

*Michael J. Newhard
Mayor*

Mr. Bollenbach: Why don't we add that the applicant is to obtain an agreement from Warwick Grove to the Planning Board Attorney's specifications.

Doug Stage: Yes.

Comment #7: General agreement for the location of the water transmission line easement from Well #3 to microfiltration treatment facility with an understanding that the final location will be agreed upon by the involved parties (Village of Warwick & future owners of Lots 3 & 4).

Karen Emmerich: We are trying.

Mr. Astorino: Right now, that would be between the Village of Warwick and the McFarlands. They are currently the owners.

Mr. Bollenbach: If there is an agreement, we could include it in a notation.

Doug Stage: Ok. We could work that out.

Comment #8: 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.

Karen Emmerich: Yes. We will add that.

Comment #9: Provide an easement for the existing 24" pipe from Well #3 to Homestead Village, if not already in place, which shall be described as a 20-ft easement centered on the alignment as marked out by the Village of Warwick on (insert date) and surveyed by John McGloin on (insert date).

Karen Emmerich: Ok. We would have to find out the date that the Village had done that.

Mr. Showalter: Didn't they mark that out recently?

Mr. Astorino: I thought they were out there looking for it.

Comment #10: 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. The easement has been agreed to be 20-ft by 134-ft, but the easement needs to be shown and described as being from the property line and not from the edge of pavement.

Karen Emmerich: Will do.

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.

Mr. Bollenbach: That has been addressed.

Laura Barca: Right.

Mr. Bollenbach: We could strike comment #11.

Comment #12: The lot line change between this McFarland property and the Methodist Episcopal Church of Warwick has received final approval and the plans were signed 11/01/11.

Mr. Astorino: That has been done. We could strike comment #12.

Comment #13: The drawing should prominently state the following note: Lots 3 and 4 are not for building purposes at this time. Planning Board approval will be required, including (but not limited) access to the lot, soil test witnessing, wetland and stream investigations, and biodiversity compliance with the Town Code even if only one home is constructed on each lot. Access onto McFarland Drive for Lot 4 must be reviewed and approved by the owner of the road & the Village of Warwick. Sheet 1, Notes 19 and 20 were added, but it seems like Lots 3 and 4 were switched in the notes.

Karen Emmerich: That is true. The only question that I have is that Lot 4 should say for Agricultural purposes. Lot 3 we could say that as well. There is a dwelling and a barn on that lot.

Mr. Astorino: Laura, are you ok with that?

Laura Barca: I think it is ok the way it is. It says if a home is constructed. They are not proposing construction. The house is already there. I think what is there is there.

Mr. Astorino: We will add to that comment to the Planning Board Engineer's specifications. You could work that out.

Laura Barca: Ok.

Karen Emmerich: Ok.

Comment #14: 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.

Mr. Bollenbach: What lots would that be for?

Karen Emmerich: I think lots 1 and 2.

Laura Barca: Right. It would be for lots 1 and 2.

Karen Emmerich: Laura, I think it might just be for Lot 1.

Laura Barca: You are right.

Mr. Bollenbach: Ok. That would be just for Lot 1.

Comment #15: 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.

Mr. Bollenbach: That has been submitted, but leave that comment there as a condition of the approval.

Comment #16: A maintenance agreement for the pond on Lots 1 and 2 must be prepared and submitted.

Mr. Bollenbach: That is in a draft format.

Comment #17: 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: That is in progress.

Comment #18: Two tie-in lines should be added between the existing iron pins at the corners of the easterly property boundary and the Village of Warwick parcel, as shown in **Attachment 1**.

Karen Emmerich: I had seen that today for the first time. Regarding the Village, are there no pins there?

Laura Barca: That is what the Village had said. They want the two tie-in lines in there.

Mr. Astorino: Karen, would you take care of that?

Karen Emmerich: I will talk to John McGloin.

Comment #19: The declaration information for the Agricultural and Aquifer Notes will need to be shown on the drawing.

Karen Emmerich: Yes.

Comment #20: Surveyor to certify that iron rods have been set at all property corners.

Karen Emmerich: Yes.

Comment #21: Payment of Recreation Fee.

Karen Emmerich: Yes.

Comment #22: Payment of all fees.

Karen Emmerich: Yes.

Mr. Astorino: Do any Board members or Professionals have any comments? Let the record show no public comment.

Mr. Showalter makes a motion for the Negative Declaration.

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

617.12(b)

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

Name of Action: McFarland Subdivision

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

Whereas, there are other involved agencies pursuant to SEQR, including the New York State Department of Transportation, the Village of Warwick Board of Trustees and the Village of Warwick Planning Board, which have all acquiesced to the Town Planning Board acting as Lead Agency, and

Whereas, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 10/04/2010, 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

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 to close the public hearing.

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

Mr. Showalter makes a motion on the Warren C. McFarland and Donald R. McFarland application, granting 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. A SEQR Negative Declaration was adopted on November 2, 2011.

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

Mr. Bollenbach: Does the applicant request a waiver of the Final Public Hearing?

Karen Emmerich: Yes.

Mr. McConnell makes a motion to waive the Final Public Hearing.

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

Mr. Showalter makes a motion on the Warren C. McFarland and Donald R. McFarland application granting, Final 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. A SEQR Negative Declaration was adopted on November 2, 2011. Approval is granted subject to the following conditions:

1. Applicant to obtain agreement from Warwick Grove Company LLC for driveway access to Lots 1 and 4 to the Planning Board Attorney's specifications.
2. 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.
3. Provide an easement for the existing 24" pipe from Well #3 to Homestead Village, if not already in place, which shall be described as a 20-ft easement centered on the alignment as marked out by the Village of Warwick on (insert date) and surveyed by John McGloin on (insert date).
4. 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. The easement has been agreed to be 20-ft by 134-ft, but the easement needs to be shown and described as being from the property line and not from the edge of pavement.
5. The drawing should prominently state the following note: Lots 3 and 4 are not for building purposes at this time. Planning Board approval will be required, including (but not limited) access to the lot, soil test witnessing, wetland and stream investigations, and biodiversity compliance with the Town Code even if only one home is constructed on

each lot. Access onto McFarland Drive for Lot 4 must be reviewed and approved by the owner of the road & the Village of Warwick. Sheet 1, Notes 19 and 20 were added, but it seems like Lots 3 and 4 were switched in the notes.

6. A note should be added to the plan stating that prior to a Certificate of Occupancy being issued that barb-wire fence line shall be removed from the lot #1.
7. 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.
8. A maintenance agreement for the pond on Lots 1 and 2 must be prepared and submitted.
9. 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.
10. Two tie-in lines should be added between the existing iron pins at the corners of the easterly property boundary and the Village of Warwick parcel, as shown in **Attachment 1**.
11. The declaration information for the Agricultural and Aquifer Notes will need to be shown on the drawing.
12. Surveyor to certify that iron rods have been set at all property corners.
13. Payment of Recreation Fee.
14. Payment of all fees.

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

Karen Emmerich: Thank you.

Doug Stage: Thank you.

PUBLIC HEARING OF 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, Lehman & Getz Engineering. Bill Mendrzycki, Applicant.

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the Mendrzycki 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: 09/20/11 no comments
4. Architectural Review Board comments: pending
5. Orange County Planning Department: pending
6. In lieu of a complete landscaping plan for one residential home, the Planning Board would like to ensure stabilization of all disturbed ground with perennial seeding and a restoration bond.
7. There are currently stock piled "white rocks" stored around the site; the Applicant should clarify the final destination of these rocks.
8. There appears to be fill material coming in to level an area to the southwest of the home; it should be confirmed that this material is not being placed over the septic system and the source of this material should be identified.
9. It is our understanding that the area over the geothermal system will be leveled and re-graded with the topsoil that was removed from this area and stockpiled on the site. Sheet 3 contains a note that states that this area will not be re-graded, this note should be revised to state when this area will be re-graded.
10. Payment of all fees.
11. After Planning Board approval, a Building Department excavation permit (\$150) must be obtained for the installation of the geothermal system and land clearing. Building Permits are required prior to construction of accessory structures as shown within the limits of disturbance (e.g., swimming pool, etc.).

The following comments submitted by the Conservation Board, dated 11/2/11:

William and Keri Mendrzycki – The CB has no comments.

The following comments submitted by the ARB:

William and Keri Mendrzycki – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has declared Lead Agency on this application. This is a Type 2 Action. No further SEQR review is necessary.

Comment #2: Applicant to discuss project.

Bill Mendrzycki: It is a single-family residence. We are putting in a geothermal field heating and cooling system. That is what we are asking a special permit for.

Comment #3: Conservation Board comments: 09/20/11 no comments.

Comment #4: Architectural Review Board comments: pending.

Laura Barca: The ARB had a comment. There comment was no comment.

Mr. Showalter: The ARB had comments.

Mr. Astorino: They basically stated that they felt that our Board and the Town Board should review the section of the Code. They didn't feel that this was a necessary proceeding due to the fact that this was a geothermal field.

Laura Barca: Right.

Comment #5: Orange County Planning Department: pending.

Dave Getz: Did they respond?

Mr. Astorino: No. Laura and I went out to the site. You have a lovely house.

Bill Mendrzycki: Thank you.

Mr. Astorino: We took a look at the geothermal field. I think that it is a leveled area. We understand that topsoil has to be brought in. It would have to be reseeded. Laura, do you have any other comments? There are no trees being cut along the driveway. It seems pretty straight forward. I think that it is a wonderful system. Does anybody have anything further?

Dave Getz: I have one question. Bill, do you have an estimate for the payback period for the geothermal field?

Bill Mendrzycki: It would be 7 to 8 years.

Comment #6: In lieu of a complete landscaping plan for one residential home, the Planning Board would like to ensure stabilization of all disturbed ground with perennial seeding and a restoration bond.

Mr. Astorino: As our Engineer was alluding to, it is in the comment letter.

Dave Getz: Laura, would the Town work up an amount for that bond?

Laura Barca: Yes.

Mr. Bollenbach: The applicant could provide that. Our Engineer could review that.

Laura Barca: It is usually figured from how much of the area right now is not stabled.

Dave Getz: Ok.

Comment #7: There are currently stock piled “white rocks” stored around the site; the Applicant should clarify the final destination of these rocks.

Bill Mendrzycki: We are leaving them on the site.

Mr. Bollenbach: Those rocks could be used for landscaping.

Mr. Showalter: I don’t think Mr. Mendrzycki wants to have a quarry operation.

Bill Mendrzycki: Those rocks would be buried.

Comment #8: There appears to be fill material coming in to level an area to the southwest of the home; it should be confirmed that this material is not being placed over the septic system and the source of this material should be identified.

Bill Mendrzycki: Yes. I believe when you were out to the site, you spoke to Anthony the excavator. He put in the septic system. He is fully aware of the septic location. He will be doing all of the additional grading out there.

Mr. Astorino: All of the material out at the site was from the site?

Bill Mendrzycki: Right. That is correct.

Comment #9: It is our understanding that the area over the geothermal system will be leveled and re-graded with the topsoil that was removed from this area and stockpiled on the site. Sheet 3 contains a note that states that this area will not be re-graded, this note should be revised to state when this area will be re-graded.

Mr. Astorino: You will need to clarify that.

Dave Getz: Yes. No problem.

Comment #10: Payment of all fees.

Bill Mendrzycki: Yes.

Comment #11: After Planning Board approval, a Building Department excavation permit (§150) must be obtained for the installation of the geothermal system and land clearing. Building Permits are required prior to construction of accessory structures as shown within the limits of disturbance (e.g., swimming pool, etc.).

Bill Mendrzycki: Yes.

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

Laura Barca: Regarding the rocks that are out there that would be buried, would it be creating additional land disturbance?

Bill Mendrzycki: No. Where those rocks are located now, they would be buried and filled over.

Laura Barca: Ok.

Mr. McConnell: How do you do that without disturbing?

Dave Getz: It is within the envelope of disturbance.

Mr. McConnell: Ok.

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 Mendrzycki Site Plan application, please rise and state your name for the record. Let the record show no public comment.

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

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

Mr. Showalter makes a motion on the William and Keri Mendrzycki application, granting 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. Site Plan Approval is subject to the following conditions:

1. In lieu of a complete landscaping plan for one residential home, the Planning Board would like to ensure stabilization of all disturbed ground with perennial seeding and a restoration bond.
2. There are currently stock piled "white rocks" stored around the site; the Applicant should clarify the final destination of these rocks.
3. There appears to be fill material coming in to level an area to the southwest of the home; it should be confirmed that this material is not being placed over the septic system and the source of this material should be identified.
4. It is our understanding that the area over the geothermal system will be leveled and re-graded with the topsoil that was removed from this area and stockpiled on the site. Sheet 3 contains a note that states that this area will not be re-graded, this note should be revised to state when this area will be re-graded.
5. Payment of all fees.
6. After Planning Board approval, a Building Department excavation permit (\$150) must be obtained for the installation of the geothermal system and land clearing. Building Permits are required prior to construction of accessory structures as shown within the limits of disturbance (e.g., swimming pool, etc.).

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

Dave Getz: Thank you.

Bill Mendrzycki: Thank you.

Review of Submitted Maps:***Richard Brady Subdivision***

Application for Sketch Plat Review of a proposed 2-Lot (**MINOR**) Subdivision, situated on tax parcel S 64 B 1 L 54; parcel located on the southern side of Brady Road approximately 730 feet southwest of Bowen Road Intersection, in the MT zone, of the Town of Warwick. Previously discussed at the 11/17/10 Planning Board Meeting.

Representing the applicant; Karen Emmerich, Lehman & Getz Engineering.

Planning Board member, Mr. Kennedy arrives at the Planning Board meeting.

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. Orange County Planning Department: 11/29/10; one binding comment related to the Purchase of Development Right (PDR) easement (see **Attachment 1**).
6. TW ZBA: 280(a) driveway access to a private road; 2.9 acre area for Lot 2 (required area is 5 acres). ZBA conditional approval 09/26/11.
7. The ZBA approval language must be shown on the plans in its entirety.
8. Is the existing Tower Lane located within the property allotted for it or does it traverse slightly onto 64-1-54 and 69-1-3.1?
9. The steeper portion of Tower Lane is approximately 15% grade. The Applicant should clarify the condition of this private road and what improvements would be necessary, if any, if a residential driveway was proposed off of Tower Lane.
10. Town of Warwick Town Code §79.3.C. requires that driveways that are steeper than 10% are required to be paved in their entirety; due to Purchase of Development Rights agreements, the Planning Board may consider waiving this requirement for this subdivision.
11. Add a note to the plan stating that the limit of disturbance line is the boundary line for construction efforts because this project is located on steep slopes and is in the Ridgeline Overlay district. Special attention should be paid to large trees that may be at risk if the trees adjacent to it are removed.
12. If, during construction, it becomes necessary to disturb additional area the planning board engineer and/or planning board must grant approval for the additional area of disturbance. A note should be added to the plans.
13. Subdivision can not conform to the Square Rule (§137-21.K(1) Shape of Lots. The required square size is 350-ft in the Mountain Residential Zone and the Applicant is not able to comply with this requirement. ZBA conditional approval 09/26/11.
14. There is an existing drainage swale that runs through the existing 3.5-ft tall boulder retaining wall. How this will happen should be clarified on the plans. It is understood that the swale cuts through the wall via an opening at the bottom of the wall; it should be clarified on the plans if the stormwater is unable to pass through this opening if property damage could result.
15. There is an existing 30" CMP pipe that is labeled as only CMP drainage pipe; the diameter, inlet, outlet, and slope of this pipe shall be shown on the drawing.
16. There is currently a locked gate at the driveway entrance because it also services as an access road to two wireless telecommunications facility (WTF) properties. The Applicant must coordinate with the two WTFs and relocate the locked gate past the proposed driveway entrance to the proposed residential property along Tower Lane.
17. The use of barbed wire is discouraged in the Town of Warwick [§164-41.C(4)(f)]. There is some barbed wire located along Tower Lane between Brady Road and the proposed residential driveway; this barbed wire should be removed in compliance with the Town Code.
18. Tree and/or shrub removal is required to improve the site distance in both directions. Plan shall be modified to show details and notes referencing the tree removal.
19. Applicant to clarify if the shared driveway agreement between lots 64-1-44 and 64-1-55 should be modified to include this proposed lot in some manner.
20. The 9-1-1 addresses have been received by the Applicant and must be placed on the drawing.

21. A note should be added to the plan referencing the conservation easement declaration information.
22. The declaration information for the Agricultural and Ridgeline Notes will need to be shown on the drawing.
23. Surveyor to certify that iron rods have been set at all property corners.
24. Payment of all fees.

The following comment submitted by the Conservation Board, dated 11/2/11:

Richard Brady Subdivision – The CB has no comments.

The following comment submitted by the ARB:

Richard Brady subdivision – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: This is an Unlisted Action. The Planning Board has been acting as Lead Agency. There are some comments tonight in the review comments that relate to SEQR.

Comment #2 Applicant to discuss project.

Karen Emmerich: Mr. Brady owns a home on Brady Road. He would like to subdivide his 5-acre parcel into 2 lots. The upper lot, he is proposing to live in. I believe his daughter will be living in the house down below. We were before the ZBA. They gave us variances for lot area and side yard setback. It was contingent on the Planning Board being comfortable with the access coming off Tower Lane, which goes to the cell tower on Brady Road. We redesigned the driveway. It comes off Tower Lane, which dips into the proposed lots. The access would be from Tower Lane to Brady Road.

Comment #3: Conservation Board comments: pending

Comment #4: Architectural Review Board comments: pending

Laura Barca: The CB and ARB had no comments.

Comment #5: Orange County Planning Department: 11/29/10; one binding comment related to the Purchase of Development Right (PDR) easement (see **Attachment 1**).

Mr. Astorino: The comment from OCPL is stated as follows: *“Conservation Easement – The property is surrounded by a conservation easement held by the Town of Warwick and the Scenic Hudson Land Trust, Inc., to which easement orange County has third party rights of enforcement. In order to develop the proposed Lot #2 with a single-family residence, improvements may need to be made to Tower Lane, the farm road that runs along the southwestern property boundary. Tower Lane is part of SBL 64-1-56.2 and therefore appears to be included within the conservation easement as part of the Farm Area. Although normal maintenance and repair is permitted as per Article 6.2 of the Conservation Easement, road improvements for the purpose of accessing a new single-family home is not permitted by the terms of Article 6.2. We recommend that the applicant obtain the express permission of the grantees, the Town of Warwick, and*

Scenic Hudson Land Trust, Inc., if the road is to be widened or paved.” The applicant is not proposing to widen or pave it.

Mr. Bollenbach: Orange County Planning is not talking to the Orange County Department of Law, which had reviewed this independently. They came up with their letter of consent. The easement is being revised to incorporate Scenic Hudson and Orange County’s concerns. It also addressed the NRCS federal concerns. That could be a condition of the approval. We have agreement. We just have to get the final document executed.

Mr. McConnell: Is the Town a party to that agreement also?

Mr. Bollenbach: Yes.

Comment #6: TW ZBA: 280(a) driveway access to a private road; 2.9 acre area for Lot 2 (required area is 5 acres). ZBA conditional approval 09/26/11.

Comment #7: The ZBA approval language must be shown on the plans in its entirety.

Karen Emmerich: Yes. Once we receive that, we will put it on the plans.

Comment #8: Is the existing Tower Lane located within the property allotted for it or does it traverse slightly onto 64-1-54 and 69-1-3.1?

Karen Emmerich: It appears to traverse on that lot as well. I tried to get a hold of Bob Schmick to verify that. I know that he had talked about it on how that road sort of runs sporadically through that area. He picked up the edge of that gravel drive.

Laura Barca: It is not necessarily a problem. If additional easements are required to formalize that, now would be the time to do it.

Mr. Astorino: We will leave that comment to the Planning Board Attorney’s specifications. You could work out that issue.

Mr. McConnell: I was just as to where the lot 64-1-54 was. It doesn’t show on the plan.

Karen Emmerich: The lot is way in the back.

Mr. McConnell: Ok. Thank you.

Comment #9: The steeper portion of Tower Lane is approximately 15% grade. The Applicant should clarify the condition of this private road and what improvements would be necessary, if any, if a residential driveway was proposed off of Tower Lane.

Mr. Astorino: How far are we going down Tower Lane?

Laura Barca: Normally if it is greater than 10%, the Town Code requires it to be paved. Considering the easement restrictions that are already on the property, the Planning Board might consider a waiver for that pavement.

Mr. Astorino: How far up Tower Lane, are we going with this?

Mr. Bollenbach: It would be up to the proposed new driveway.

Mr. Astorino: How far is that?

Karen Emmerich: It is about 500 feet.

Mr. Astorino: Ok. That is fine.

Comment #10: Town of Warwick Town Code §79.3.C. requires that driveways that are steeper than 10% are required to be paved in their entirety; due to Purchase of Development Rights agreements, the Planning Board may consider waiving this requirement for this subdivision.

Mr. Astorino: Do any Board members have any concerns with that. Do we all understand why? Ok. The Board has no issues with this comment. We would be waiving the pavement requirement. We would leave it as a gravel driveway.

Comment #11: Add a note to the plan stating that the limit of disturbance line is the boundary line for construction efforts because this project is located on steep slopes and is in the Ridgeline Overlay district. Special attention should be paid to large trees that may be at risk if the trees adjacent to it are removed.

Karen Emmerich: Ok. We will add the note.

Comment #12: If, during construction, it becomes necessary to disturb addition area the planning board engineer and/or planning board must grant approval for the additional area of disturbance. A note should be added to the plans.

Karen Emmerich: Ok.

Mr. McConnell: Is it the Engineer or the Planning Board?

Laura Barca: It would all depend on how much would be disturbed.

Mr. Astorino: We will leave it to the Planning Board. Then they would have to go to the engineer and the engineer would make the determination.

Laura Barca: Ok. So you want that comment to be modified to the Planning Board.

Mr. Astorino: Yes.

Mr. Bollenbach: Even if it just says to the Planning Board Engineer's specification and it is deemed significant, then it would bounce back to the Planning Board.

Mr. Astorino: Yes.

Comment #13: Subdivision can not conform to the Square Rule (§137-21.K(1) Shape of Lots. The required square size is 350-ft in the Mountain Residential Zone and the Applicant is not able to comply with this requirement. ZBA conditional approval 09/26/11.

Comment #14: There is an existing drainage swale that runs through the existing 3.5-ft tall boulder retaining wall. How this will happen should be clarified on the plans. It is understood that the swale cuts through the wall via an opening at the bottom of the wall; it should be clarified on the plans if the stormwater is unable to pass through this opening if property damage could result.

Karen Emmerich: I don't know how to respond to that.

Laura Barca: If the stormwater cannot pass through there, is it going to go down and flood the garage. The existing garage is downgraded from it.

Karen Emmerich: I would have to take a look at that. I don't know the answer.

Laura Barca: Ok.

Comment #15: There is an existing 30" CMP pipe that is labeled as only CMP drainage pipe; the diameter, inlet, outlet, and slope of this pipe shall be shown on the drawing.

Karen Emmerich: Ok.

Comment #16: There is currently a locked gate at the driveway entrance because it also services as an access road to two wireless telecommunications facility (WTF) properties. The Applicant must coordinate with the two WTFs and relocate the locked gate past the proposed driveway entrance to the proposed residential property along Tower Lane.

Karen Emmerich: Ok.

Comment #17: The use of barbed wire is discouraged in the Town of Warwick [§164-41.C(4)(f)]. There is some barbed wire located along Tower Lane between Brady Road and the proposed residential driveway; this barbed wire should be removed in compliance with the Town Code.

Karen Emmerich: Ok.

Comment #18: Tree and/or shrub removal is required to improve the site distance in both directions. Plan shall be modified to show details and notes referencing the tree removal.

Karen Emmerich: Ok.

Mr. Astorino: You might have to cut a piece of that hill down there on the left coming out of Tower Lane.

Laura Barca: Does that require anything from DPW or could it be handled with the Planning Board?

Mr. Astorino: It could be handled through the Planning Board.

Laura Barca: Ok.

Comment #19: Applicant to clarify if the shared driveway agreement between lots 64-1-44 and 64-1-55 should be modified to include this proposed lot in some manner.

Laura Barca: Those are the two cell tower lots up at the top. It is my understanding that those two cell tower properties have a shared driveway agreement. Now that this residential home will be added, does that house have to share any portion of the driveway agreement?

Mr. Bollenbach: I will have to take a look at that. It is supposed to be exclusive. It would be the homeowners responsibility to maintain that portion of the driveway.

Mr. Astorino: John, would that be in the deed notes?

Mr. Bollenbach: Yes. I will take a look to see what the obligations are between the existing driveway agreements.

Comment #20: The 9-1-1 addresses have been received by the Applicant and must be placed on the drawing.

Karen Emmerich: Yes.

Comment #21: A note should be added to the plan referencing the conservation easement declaration information.

Karen Emmerich: Ok.

Comment #22: The declaration information for the Agricultural and Ridgeline Notes will need to be shown on the drawing.

Karen Emmerich: Ok.

Mr. Bollenbach: We should also add to that sight-triangle clearing.

Mr. Astorino: Ok. That is a good idea.

Comment #23: Surveyor to certify that iron rods have been set at all property corners.

Karen Emmerich: Ok.

Comment #24: Payment of all fees.

Karen Emmerich: Ok.

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

Laura Barca: We will need to add a comment #25, payment of Recreational Fees.

Mr. Astorino: That will be added the next time.

Karen Emmerich: We request to be set for a public hearing.

Mr. McConnell makes a motion to set the Richard Brady Subdivision application for a Final Public Hearing at the next available agenda.

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

Mr. Bollenbach: Karen, what is the status of them opting into the AP-O District?

Karen Emmerich: I would have to follow that up with the Attorney.

Mr. Bollenbach: Take a look at that. There is an application that the Town Clerk has for a request for participation into the AP-O District.

Mr. Astorino: Should we have that before the public hearing?

Mr. Bollenbach: We could make that a condition of the approval. It is just a formality. The Resolution number could be placed on the map.

Karen Emmerich: Ok. I will check into that. Thank you.

Global Tower – Brady Road/Tower Lane

Application for Site Plan Approval and Special Use Permit for the “***Renewal***” of the Special Use Permit for the continued use of an existing wireless telecommunications facility, situated on tax parcel S 64 B 1 L 55; project located on the eastern side of Brady Road 1500± feet southeast of Bowen Road atop Tower Lane, (207 Tower Lane), in the CO zone, of the Town of Warwick.

Representing the applicant: Neal Alexander, Cuddy & Feder, LLP.

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. Wireless Telecommunication Facility Board comments: pending
6. Orange County Planning Department: pending
7. Application for Site Plan/Special Use renewal #14 states that a ZBA variance was granted for Special Use and Site Plan Approval for RCI Corporation; Applicant to clarify if this was the previous Planning Board approval.

8. The building department has the property owner listed as TCP Communications LLC (TCP). Sheet 1 of the site plan shows the owner as TCP and the Applicant as Global Tower Partners. The deed shows the transfer of property from Global Crossing North American Networks to TCP. The Application for Site Plan/Special Use states that Global Tower is the property owner and the Applicant. Applicant also submitted what appears to be the transfer of property from TCP to Global Towers.
9. Applicant to clarify owner of property and make sure that Sheets 1 and 2 of the plan set show the correct property owner.
10. The deed transferring the property from Global Crossing North American Networks to TCP states that Global Crossing was the successor to RCI; the Applicant states in the Application for Site Plan/Special Use #14 that RCI received the previous Site Plan/Special Use approval. The Applicant to clarify the right to re-new RCI's approval.
11. The violation from the building department states that there were antennas added without planning board approval and that a list of additional users after the original site plan was note submitted. Applicant to clarify this information.
12. §164-79.A.(1) and (4) The color of the monopole tower and two cabinets are required to be non-reflective; the Applicant should confirm the colors of these items.
13. §164-79.A.(1)(a) The Planning Board must determine if additional landscaping should be installed.
14. §164-79.A.(2) All lighting, including existing, must be in compliance with §164-43.4, where are lighting features are shielded/facing downward; Applicant to confirm.
15. §164-79.A.(3)(a) All signage, including existing, must be in compliance with §164-43.1; Applicant to confirm.
16. §164-79.A.(3)(b) Applicant to confirm that "No Trespassing" signs, a 24-hr emergency number, and Danger-High Voltage signs are required/posted.
17. §164-80.C.(2) If any equipment associated with the wireless telecommunication facility is not being utilized it should be noted for removal; Applicant to confirm.
18. Show a circle with the same radius as the height of the tower on Sheets SB-1 and C-1.
19. §164-80.B.(1). This special use application requires proof that the Applicant is a licensed carrier.
20. RF emissions calculated to be generated from the 220-ft guyed tower fall substantially below 1% of the FCC's general population exposure limit at any distance from the base of the structures. There is compliance with the standards of FCC.
21. If any changes are proposed in the future, a new RF analysis must be conducted by the Applicant.
22. The Noise Report (Exhibit F) appears to be adequate and did not exceed 50 dba (a requirement of the Town Code).
23. If any changes are proposed in the future, a new noise analysis must be conducted by the Applicant.
24. The applicant provided a structural analysis report for the 220-ft guyed tower. The 220-ft guyed tower and foundation have reportedly been evaluated and/or inspected as per the latest structural analysis report and are found to be in good condition. The latest TIA-222-G standards were used in the analysis report. The Applicant's engineer concluded that the existing Tower and Foundation (Appendix G, page 4) have ample structural capacity to accommodate the existing equipment. HDR DID NOT REVIEW THE STRUCTURAL ANALYSIS IN DETAIL.
25. A NYS PE (Global Tower Services, LLC, Michael T. DeBoer, PE, in a report dated 01/12/11) provided certification that the 220-ft guyed tower is structurally capable of supporting existing loads. If any changes are proposed in the future, a new structural analysis must be conducted by the Applicant. The Applicant must comply with all the

recommendations suggested by structural engineers in their analysis report as a condition of approval by the Town.

26. The locations of the guy wire anchors should be shown on the plan (Sheets SB-1, C-2, and C-3).
27. All drainage features, including culverts at the site and along the driveway shall be located and shown on the site plan.
28. Applicant to clarify if the existing gravel driveway extends between the two cabinet structures and revise the site plan accordingly.
29. Exhibit H of the October 04, 2011 submittal (Post Modification Inspection Report). Site work was conducted by Applicant rep in May 2011, for purposes to insure that proposed modifications (i.e., a ladder installation, as defined as a "Priority A – Safety" need during a 2010 tower survey) have been implemented on the tower. The May 16, 2011 Post Modification Inspection Report notes that the Applicant rep (Structural Components) verified that the modifications have been successfully completed. The post-modification inspection did not include a verification of weld integrities or structural steel properties. Overall tower integrity is discussed in the structural analysis report (see above Comment #23). The 2010 tower survey noted "lower priority" tower needs, which HDR assumes are not pressing for safe or operation compliant with the Town Code at this time. The Applicant should confirm this statement. It is recommended that the Applicant keep the Town Building Department apprised of future modification surveys and activities.
30. Sheet C-2 shows that Verizon operates the equipment shelter to the north; it should be clarified who operates the larger equipment shelter to the south (closer to the tower).
31. All equipment located on the tower should be identified and shown on the drawings (Sheet C-3).
32. The owners of all equipment should be identified on the drawings (Sheet C-3).
33. The maintenance of the driveway is likely a shared driveway agreement with the WTF at tax parcel 64-1-44. The current condition of the driveway is not in a condition that would allow emergency service vehicles access to these WTFs.
34. Private Road Notes should be shown on the plans.
35. The declaration information for the Private Road Notes must be added to the plan.
36. The declaration information for the Ridgeline Overlay after the notes are filed in the Orange County Clerk's Office.
37. Payment of all fees.
38. In accordance with §164-86.C, the Special Use Permit is valid for 5 years. At that time, the Special Use Permit must either be renewed before the Planning Board or the tower removed.
39. The tower owner, holder of the Special Use Permit, shall submit evidence of compliance with the FCC standards, including Radio Frequency Radiation (RFR), on a yearly basis to the Planning Board (§164-78.D).
40. The tower owner, holder of the Special Use Permit, shall be structurally inspect the tower annually; this report shall be certified by a Professional Engineer (§164-83.B).
41. After Planning Board Approval of a Special Use Permit, (which is valid for 5 years) notification must be given to the Building Department that the Special Use had been renewed.

The following comment submitted by the Conservation Board, dated 11/2/11:

Global Tower – Brady Road/Tower Lane – The CB has no comments.

The following comment submitted by the ARB:

Global Tower – Brady Road/Tower Lane – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The applicant has provided the Planning Board with a short EAF. Because this is a renewal of an existing permit and there is no material change, it is considered a Type 2 Action.

Mr. McConnell makes a motion for a Type 2 Action.

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

617.6

State Environmental Quality Review (SEQR)

Resolution

Type 2 Action

Name of Action: Global Tower Partners 207 Brady Road Permit Renewal

Whereas, the Town of Warwick Planning Board is in receipt of a Site Plan/Special Use Permit application by Global Tower Partners for a ± 7.8 acre parcel of land located at 207 Brady Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 10/4/11 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)(26) 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.

Neal Alexander: We are seeking re-approval of the special use permit.

Comment #3: Conservation Board comments: pending

Comment #4: Architectural Review Board comments: pending

Comment #5: Wireless Telecommunication Facility Board comments: pending

Comment #6: Orange County Planning Department: pending

Mr. Astorino: Laura, are there any comments outstanding here tonight?

Laura Barca: There are some comments included for the record. The applicant has been working on them. Many are complete already.

Mr. Astorino: It seems like many of these comments are engineering comments and technical in nature. Are there any comments outstanding that you would like to go over?

Neal Alexander: Laura, I think there were two comments. I think you spoke to Tectonic about it. I believe you and Tectonic are working on them.

Mr. Astorino: Do you have any problems with any of these comments?

Neal Alexander: We don't have any problems with the comments. We are working on them.

Mr. Astorino: Ok. We will list comments #7 through #41 for the record. I would like to point out something. I know we have a comment on here regarding the condition of the road. The condition of the road should be re-graded. Laura, I don't know what comment number you have that as.

Laura Barca: It would be comment #33.

Mr. Astorino: Essentially, the material is there. It just has to be re-graded. The hurricane did a number on the road.

Neal Alexander: I think the answer is yes. We would have to work out the easement matter.

Mr. Bollenbach: It has to be maintained.

Neal Alexander: I don't even know if I have the right to do that. I had never seen the easement. I just don't know if there is a right. I am saying yes, but we would have to look into that.

Mr. Bollenbach: We will clarify that. For certain areas, we might need some material in addition to the material that is there. You might need something like shale that would be more resistant to the runoff. You might need to do some minor re-grading. Tower Lane is specifically addressed in the conservation easement. There are provisions to maintain it for safe adequate access.

Neal Alexander: Ok.

Mr. Astorino: John will look into that for you. He will have something for you by the next meeting.

Neal Alexander: That would be great.

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

Mr. McConnell: John, in the previous application that was before us the Brady Subdivision, we made it a condition that the applicant has to coordinate with the Wireless Tower Facility to move the gate and lock. I don't see a corresponding obligation on the Global Tower application to cooperate and coordinate with the Brady Subdivision. I think it ought to be bilateral. They each have an obligation to try to coordinate.

Mr. Bollenbach: Laura, maybe we could include that in the comments.

Mr. McConnell: It was listed as comment #16, on the Brady Subdivision application.

Neal Alexander: I think they are going to want it on the Brady property before the split. My client has a facility up there. I think there is another lot with American Towers on it.

Mr. McConnell: I find it odd to require Brady down below to coordinate and not require that.

Mr. Bollenbach: I will talk to Bobby to see what they want to have.

Mr. McConnell: Ok. I don't care where it is.

Neal Alexander: We will require that there would be an amendment made to the easement agreement that we have for access. That would be fine. We will get our concerns into that.

Laura Barca: Regarding the maintenance of the road, comment #27 states that all drainage features including culverts at the site and along the driveway shall be located and shown on the site plan. That would help with the maintenance.

Mr. Astorino: Are there culverts out there?

Laura Barca: I know there is one culvert out there. It is shown on the Brady Subdivision.

Mr. Astorino: I didn't see too many going up that road.

Laura Barca: I don't think there are many culverts on that road.

Neal Alexander: Our drawing doesn't pick up that. Given the size of these lots, we pick up a tax map as our reference point. If you go to SB-1, then we would pick up our property. Our C-1 on the plan just shows the lot.

Laura Barca: That was why I asked the question.

Neal Alexander: What I am saying is that this is not our property. I am not fighting with you. You would need to get that from the other applicant.

Laura Barca: The reason why I brought this up is that this depends on what that easement agreement maintenance sets. Who is responsible for what?

Mr. Astorino: Just get that checked out.

Laura Barca: Regarding comment #26 it states that the locations of the guy wire anchors should be shown on the plan. They are not shown on the plan. They are not shown in the compound anywhere.

Neal Alexander: Ok. That is a fair point.

Mr. Astorino: Ok. Do you request to be set for a public hearing?

Neal Alexander: Yes.

Comment #7: Application for Site Plan/Special Use renewal #14 states that a ZBA variance was granted for Special Use and Site Plan Approval for RCI Corporation; Applicant to clarify if this was the previous Planning Board approval.

Comment #8: The building department has the property owner listed as TCP Communications LLC (TCP). Sheet 1 of the site plan shows the owner as TCP and the Applicant as Global Tower Partners. The deed shows the transfer of property from Global Crossing North American Networks to TCP. The Application for Site Plan/Special Use states that Global Tower is the property owner and the Applicant. Applicant also submitted what appears to be the transfer of property from TCP to Global Towers.

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Comment #10: The deed transferring the property from Global Crossing North American Networks to TCP states that Global Crossing was the successor to RCI; the Applicant states in the Application for Site Plan/Special Use #14 that RCI received the previous Site Plan/Special Use approval. The Applicant to clarify the right to re-new RCI's approval.

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Comment #14: §164-79.A.(2) All lighting, including existing, must be in compliance with §164-43.4, where are lighting features are shielded/facing downward; Applicant to confirm.

Comment #15: §164-79.A.(3)(a) All signage, including existing, must be in compliance with §164-43.1; Applicant to confirm.

Comment #16: §164-79.A.(3)(b) Applicant to confirm that "No Trespassing" signs, a 24-hr emergency number, and Danger-High Voltage signs are required/posted.

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Comment #19: §164-80.B.(1). This special use application requires proof that the Applicant is a licensed carrier.

Comment #20: RF emissions calculated to be generated from the 220-ft guyed tower fall substantially below 1% of the FCC's general population exposure limit at any distance from the base of the structures. There is compliance with the standards of FCC.

Comment #21: If any changes are proposed in the future, a new RF analysis must be conducted by the Applicant.

Comment #22: The Noise Report (Exhibit F) appears to be adequate and did not exceed 50 dba (a requirement of the Town Code).

Comment #23: If any changes are proposed in the future, a new noise analysis must be conducted by the Applicant.

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Comment #25: A NYS PE (Global Tower Services, LLC, Michael T. DeBoer, PE, in a report dated 01/12/11) provided certification that the 220-ft guyed tower is structurally capable of supporting existing loads. If any changes are proposed in the future, a new structural analysis must be conducted by the Applicant. The Applicant must comply with all the recommendations suggested by structural engineers in their analysis report as a condition of approval by the Town.

Comment #26: The locations of the guy wire anchors should be shown on the plan (Sheets SB-1, C-2, and C-3).

Comment #27: All drainage features, including culverts at the site and along the driveway shall be located and shown on the site plan.

Comment #28: Applicant to clarify if the existing gravel driveway extends between the two cabinet structures and revise the site plan accordingly.

Comment #29: Exhibit H of the October 04, 2011 submittal (Post Modification Inspection Report). Site work was conducted by Applicant rep in May 2011, for purposes to insure that proposed modifications (i.e., a ladder installation, as defined as a "Priority A – Safety" need during a 2010 tower survey) have been implemented on the tower. The May 16, 2011 Post Modification Inspection Report notes that the Applicant rep (Structural Components) verified that the modifications have been successfully completed. The post-modification inspection did not include a verification of weld integrities or structural steel properties. Overall tower integrity is discussed in the structural analysis report (see above Comment #23). The 2010 tower survey noted "lower priority" tower needs, which HDR assumes are not pressing for safe or operation compliant with the Town Code at this time. The Applicant should confirm this statement. It is recommended that the Applicant keep the Town Building Department apprised of future modification surveys and activities.

Comment #30: Sheet C-2 shows that Verizon operates the equipment shelter to the north; it should be clarified who operates the larger equipment shelter to the south (closer to the tower).

Comment #31: All equipment located on the tower should be identified and shown on the drawings (Sheet C-3).

Comment #32: The owners of all equipment should be identified on the drawings (Sheet C-3).

Comment #33: The maintenance of the driveway is likely a shared driveway agreement with the WTF at tax parcel 64-1-44. The current condition of the driveway is not in a condition that would allow emergency service vehicles access to these WTFs.

Comment #34: Private Road Notes should be shown on the plans.

Comment #35: The declaration information for the Private Road Notes must be added to the plan.

Comment #36: The declaration information for the Ridgeline Overlay after the notes are filed in the Orange County Clerk's Office.

Comment #37: Payment of all fees.

Comment #38: In accordance with §164-86.C, the Special Use Permit is valid for 5 years. At that time, the Special Use Permit must either be renewed before the Planning Board or the tower removed.

Comment #39: The tower owner, holder of the Special Use Permit, shall submit evidence of compliance with the FCC standards, including Radio Frequency Radiation (RFR), on a yearly basis to the Planning Board (§164-78.D).

Comment #40: The tower owner, holder of the Special Use Permit, shall be structurally inspect the tower annually; this report shall be certified by a Professional Engineer (§164-83.B).

Comment #41: After Planning Board Approval of a Special Use Permit, (which is valid for 5 years) notification must be given to the Building Department that the Special Use had been renewed.

Mr. McConnell makes a motion to set the Global Tower – Brady Road/Tower Lane application for a Public Hearing at the next available agenda.

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

Neal Alexander: Thank you.

Other Considerations:

1. **Wheeler Road Estates** – Letter from Ryan McGuire, Pietrzak & Pfau Engineering, dated 10/11/11 addressed to the Planning Board in regards to the Wheeler Road Estates Subdivision – requesting a 12th 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, of the Town of Warwick. Preliminary Approval was granted on, 11/2/05. *The applicant has stated that due to the current economic and housing climate, as well as the banking industry's present lending policies, the applicant will require an additional extension until they can obtain private financing for this project.* The 12th 6-Month Extension becomes effective on, 11/2/11.

Mr. McConnell makes a motion on the Wheeler Road Estates, granting a 12th 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 12th 6-Month Extension becomes effective on, 11/2/11.

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

2. **Warwick Isle Corp.** – Letter from Kirk Rother, P.E., dated 10/3/11 Received on 10/13/11 addressed to the Planning Board in regards to the Warwick Isles Subdivision – requesting a 6-Month Extension on Final Approval for filing Section 1 to consist of a proposed 7-Lot Cluster Subdivision, including a Special Use Permit for the one affordable home, lot #5, situated on tax parcel SBL # 3-1-6.21; parcel located on the northern side of Merritts Island Road at the intersection with C.R. 1, in the SL zone.

Conditional Final Approval was granted on, 4/6/11. *The applicant has stated that they are still in the process of addressing the conditions of the approval including preparation of the necessary legal documents, securing of funding for bonding and engineering related conditions.* The 6-Month Extension becomes effective on, 10/6/11.

Mr. McConnell: I understand that they all seem to have money as an underline factor. But this one includes a couple of other things. I am just wondering why these things haven't been done yet. The applicant states that they are still in the process of addressing the conditions of the approval including preparation of the necessary legal documents, and securing of funding. Ok. There is the one that hurts. I am just wondering.

Mr. Astorino: If you have to prepare the legal documents and you don't have any coins to pay the attorney, then that wouldn't get done either.

Mr. McConnell: Paying the attorney will be a lot less expensive than funding for bonding. What I am saying is that I would like to see people being diligent about satisfying conditions that are within their control without having to go to the bank to get money.

Mr. Bollenbach: Laura, is there a form that the applicant fills out for the extension request that states where they are?

Laura Barca: Yes.

Mr. Bollenbach: Did they fill out that form?

Laura Barca: Yes.

Connie Sardo: Mike Gutterman has been in contact with me. He has been trying to complete this with Kirk Rother.

Mr. Bollenbach: They came back to us to do this subdivision in sections.

Mr. Astorino: Yes. They came back before us to do this subdivision in sections. They are still without money.

Mr. McConnell: Ok.

Mr. McConnell makes a motion on the Warwick Isle Corp., application, granting a 6-Month Extension (Vote 4-0-0) on Final Approval for filing Section 1 to consist of a proposed 7-Lot Cluster Subdivision, including a Special Use Permit for the one affordable home, lot #5, situated on tax parcel SBL # 3-1-6.21; parcel located on the northern side of Merritts Island Road at the intersection with C.R. 1, in the SL zone. Conditional Final Approval was granted on, 4/6/11.

The 6-Month Extension becomes effective on, 10/6/11.

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

3. **Luft Subdivision** –Letter from Kirk Rother, P.E. dated 10/14/11 received on 10/25/11 addressed to the Planning Board in regards to the Lands of Luft Subdivision – requesting a 6-month extension on 3rd Re-Approval of Conditional Final Approval of a proposed 22-Lot cluster subdivision + 2-Affordable Homes & Special Use Permit for the Affordable Homes, situated on tax parcel SBL #26-1-6.5; parcel located on the northern side of Newport Bridge Road and at the intersection with Blooms Corners Road, in the RU zone, of the Town of Warwick. *The Applicant has stated that because of the current economic conditions, he has had difficulty obtaining the necessary financing to satisfy the conditions of final approval.* The 6-month extension becomes effective on 10/16/11.

Mr. McConnell makes a motion on the Luft Subdivision application, granting a 6-Month Extension on the 3rd Re-Approval of Final Approval of a proposed 22-Lot cluster subdivision + 2-Affordable Homes subdivision and Special Use Permit for the Affordable Homes, SBL # 26-1-6.5. Conditional Final Approval was granted on, 4/16/08. 3rd Re-Approval of Final Approval was granted on, 5/4/11 became effective on 4/16/11.

The 6-Month Extension becomes effective on 10/16/11.

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

4. **Planning Board Minutes of 9/21/11** – Planning Board Minutes of 9/21/11 for Planning Board's Approval.

Mr. Showalter makes a motion to Approve the Planning Board Minutes of 9/21/11.

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

5. **Discussion to cancel** the Planning Board workshop of November 7, 2011 and the Planning Board meeting of November 16, 2011. The next scheduled meeting of the Planning Board would be the workshop of November 28 and the meeting of December 7, 2011.

Mr. McConnell: Is that because we don't have any submittals?

Mr. Bollenbach: We do have one submittal for Orchard Valley / Pennings Market. The market portion, they are planning to participate in the PDR. They are looking to do a subdivision, which would have been similar to Pennings Orchard. That could be still ongoing. Laura and Ted, work on that with Kirk so that when it comes in for the next meeting, it would be nice and squeaky clean so we could set it for a public hearing. They have work that they would need to do.

Laura Barca: Ok.

Mr. Astorino: Ok.

Mr. McConnell makes a motion to cancel the 11/7/11 Work Session and the 11/16/11 Planning Board meeting.

Seconded by Mr. Kennedy. Motion carried; 4-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. McConnell makes a motion to adjourn the November 2, 2011 Planning Board meeting.

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