

TOWN OF WARWICK PLANNING BOARD

December 15, 2010

Members present: Chairman, Benjamin Astorino
Russell Kowal, Dennis McConnell
Roger Showalter, Carl Singer, 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, December 15, 2010 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: Everyone, I would just like to point out that this is our meeting before the holidays. I would like to get on the record to thank Connie's mother Mrs. Sardo for making us the Cannolis this evening.

PUBLIC HEARING OF Fairwick, LLC.

Application for Site Plan Approval and Special Use Permit for the construction and use of commercial/retail facilities totaling 19,786 square feet in three buildings, entitled "*Fairgrounds #2*", situated on tax parcel S 51 B 1 L 40.1; project located on the northern side of NYS Route 94 approximately 1,000 feet east of Orange County Route 21, in the DS/OI zones, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Dave Getz from Lehman & Getz Engineering. Adrian Goddard, Applicant. Charles Schafer, Architect.

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the Fairgrounds #2 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 (pending)
4. Architectural Review Board comments (pending revised submittal from applicant)
5. OC Planning Department (12/06/10)
 - a. Night Sky Lighting advisory comment (shielded lighting with direct light pointed downward; no direct light visible from any point off the property).
6. Checklist (J): Has current project been coordinated with emergency services?
 - a. Applicant mailed letters on 11/17/10; no comments received to date.

7. Checklist (L) 9: Are all easements, deed restrictions, and covenants shown on the plans?
 - a. Pending Planning Board attorney review.
8. Checklist (L) 23: Architectural plans have not been submitted recently (since March 2010). Architectural plans were displayed at the 12/07/10 joint PB and ARB meeting; verbal comments were given; no formal submittal of plans has taken place.
9. Checklist (L) 24: Assumptions were made to determine parking space calculations; similar calculations should be completed for number of employees, max seating, etc. Information from 11/04/10 flow letter should be shown on the plans.
10. Verify that adequate lighting levels are provided at all building entrances as per §164-43.4(G). There are a few entrances with no lighting provided, others with less than the levels required.
11. There is a note that building mounted lights shall be shielded. There are no building mounted lights shown. If buildings mounted lights are intended, please show and update lighting levels.
12. Will lights be controlled by a photocell?
13. Separate plant lists should be shown for different sheets. Check quantities. List calls for 2 Qbi, only 1 found on the plans, quantities for IgS, JcS, and MdE could not be verified. Plan called out IcG, not found in list. In the front right corner of building 3, tag says 1 PaH, should be 11. Add a note that says 'if quantities differ between the plan and list, plan shall dictate.'
14. Add landscaping notes, such as plant material, warrantee, fall planting hazards, etc.
15. Provide details for all planting types.
16. There appears to be an existing tree on the sidewalk leading from Fairground #1. Please adjust the sidewalk.
17. Code requires trees to be planted at 3" caliper.
18. Checklist (L) 41: Is the PB requiring estimates of noise generation at this project site?
 - a. Planning Board discussed waiving this requirement at the workshop.
19. Sheet 1, Note 8 should be updated to state that the project is within the Biodiversity Overlay District. The FEIS can be referenced for the specific studies that were conducted. Sheet 1 Note 8 updated; note to be added to Sheet 2.
20. The language on Sheet 1 (on the site plan itself) states that the Marginal Access is to be dedicated... the language should be changed to the satisfaction of the planning board attorney.
 - a. Pending Planning Board attorney review.
21. The dumpster shown on Sheet 4 is not consistent with the dumpster detail shown on Sheet 9. Are doors wide enough for a truck to back into each dumpster?
22. In front of Building 3, the architecture of the building is not clear (where is the front door?) so it is not known if there is enough room for the handicapped ramp at this location.
 - a. Pending submittal of architectural plans.
23. There are 2 different types of ramps detailed. Plan should indicate which type of ramp is proposed. In most instances, a flared end ramp is shown on the plans where the flared ends are not necessary. Please check all ramp locations, and label the appropriate type of ramp. Landscape plan shows plantings on many of the unnecessary flared ends (flared ends should be removed, landscaping should remain).
24. Is there a proposed underdrain under the rain garden to collect excess water?
25. The point where the rain garden is connected to the overall drainage system should be called out/labeled.
26. A detail for the banking drive-thru should be included in the plan set, showing aisle widths, curbing, islands, etc.

27. A complete signage and striping plan (with appropriate details, i.e., Do Not Enter, One Way, etc.) should be submitted for the project site. Details have been added; overall plan needs to be shown.
28. The estimated water supply and wastewater flows for Fairgrounds #2 have been submitted, but this needs to be compared with the overall design capacity of both systems, including information for usage (if known) and design flow rates for Fairgrounds #1. The design flow rates calculated for the previous car dealership should also be provided for completeness.
29. Fire Hydrants appear to be located on the edge of the sidewalks, please adjust so they are not on the sidewalks.
30. The declaration information for the aquifer overlay is already shown on the plan; the declaration information for the agricultural overlay needs to be added to the plan set.
31. The Applicant's wetland specialist should prepare a letter to the Planning Board stating that a wetland delineation was completed, including the date of delineation, who did the delineation, and appropriate data sheets.
32. As a conditional of final site plan approval for Fairgrounds #2, a three-ring binder with all color, texture, roofing samples, etc. shall be submitted and retained with the Building Department after final approval is granted.
33. Surveyor to certify that iron rods have been set at all property corners.
34. Payment of all fees.

The following comment submitted by the Conservation Board:

Fairwick, LLC. – None submitted.

The following comment submitted by the ARB:

Fairwick, LLC. – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board had previously addressed SEQR for both the DEIS and FEIS and then a Findings Statement. Subsequent to the adoption of the Findings Statement, there were changes made in the project. The Planning Board had adopted an Amended Findings Statement. Given the further changes that had been proposed by this site plan, I recommend that there be an amendment to the Findings Statement because the document itself is about 25 to 30 pages. It references the prior proposal which was the auto dealership. There have been quite a few changes made now. The Town Board has now adopted new Code provisions that govern this district. That would be the next step in this process which would be to prepare the Amended Findings Statement once all of the comments have been properly addressed.

Comment#2: Applicant to discuss project.

Dave Getz: Since our last appearance, we have submitted some additional details, site plan, an updated drainage report, and some related technical information. We also had a joint meeting with the ARB which you were aware of.

Comment #3: Conservation Board comments (pending).

Comment #4: Architectural Review Board comments (pending revised submittal from applicant).

Mr. Astorino: Laura, are these comments similar to the ones from the last meeting?

Laura Barca: Yes.

Mr. Astorino: Are there any comments that you would like to highlight here?

Laura Barca: At this point, most of the comments are very minor in nature. Some of the comments are just map notes. Some of the comments have been taken care of. They just haven't been submitted yet.

Mr. Astorino: The only other item that we need which we discussed at the Joint ARB/Planning Board meeting was that we need the architectural drawing for the Bank building. We are waiting for the applicant to submit that.

Adrian Goddard: Right. We are expecting the architectural drawing for the Bank within the next couple of days.

Mr. Astorino: With that being said, I am sure we could do another Joint Meeting with the ARB. We will go from there.

Adrian Goddard: That will be great.

Dave Getz: Ok. The first Planning Board meeting in January has been cancelled.

Mr. Astorino: Yes.

Connie Sardo: The next Planning Board meeting will be January 19, 2011.

Adrian Goddard: Will there be a Work Session before that?

Connie Sardo: There is a Work Session on January 10, 2011. If you could get those drawings in before January 10th, that would be great. The reason being is that I will need time to advertize the Joint Meeting and everything.

Adrian Goddard: I think we would be able to do that.

Mr. Bollenbach: Try to get everything in as early as possible.

Adrian Goddard: Ok.

Mr. Astorino: Carl brought up a point earlier about the site coming from Route 94 South to North about adding some screening.

Dave Getz: Laura had pointed out that area which is beyond the pavement.

Mr. Astorino: Yes.

Dave Getz: You want us to add a few trees for screening.

Mr. Astorino: Yes. You could get in touch with Ted on that. I don't think that would be an issue. Is that correct?

Adrian Goddard: I have no problem with adding some more trees for screening.

Mr. Astorino: Ok. That took care of that. 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 Fairgrounds #2 application, please rise and state your name for the record. Let the record show no public comment. We will list comments 3 through 34 for the record.

Comment #5: OC Planning Department (12/06/10).

- a. Night Sky Lighting advisory comment (shielded lighting with direct light pointed downward; no direct light visible from any point off the property).

Comment #6: Checklist (J): Has current project been coordinated with emergency services?

- b. Applicant mailed letters on 11/17/10; no comments received to date.

Comment #7: Checklist (L) 9: Are all easements, deed restrictions, and covenants shown on the plans?

- c. Pending Planning Board attorney review.

Comment #8: Checklist (L) 23: Architectural plans have not been submitted recently (since March 2010). Architectural plans were displayed at the 12/07/10 joint PB and ARB meeting; verbal comments were given; no formal submittal of plans has taken place.

Comment #9: Checklist (L) 24: Assumptions were made to determine parking space calculations; similar calculations should be completed for number of employees, max seating, etc. Information from 11/04/10 flow letter should be shown on the plans.

Comment #10: Verify that adequate lighting levels are provided at all building entrances as per §164-43.4(G). There are a few entrances with no lighting provided, others with less than the levels required.

Comment #11: There is a note that building mounted lights shall be shielded. There are no building mounted lights shown. If buildings mounted lights are intended, please show and update lighting levels.

Comment #12: Will lights be controlled by a photocell?

Comment #13: Separate plant lists should be shown for different sheets. Check quantities. List calls for 2 Qbi, only 1 found on the plans, quantities for IgS, JcS, and MdE could not be verified. Plan called out IcG, not found in list. In the front right corner of building 3, tag says 1 PaH, should be 11. Add a note that says 'if quantities differ between the plan and list, plan shall dictate.'

Comment #14: Add landscaping notes, such as plant material, warrantee, fall planting hazards, etc.

Comment #15: Provide details for all planting types.

Comment #16: There appears to be an existing tree on the sidewalk leading from Fairground #1. Please adjust the sidewalk.

Comment #17: Code requires trees to be planted at 3" caliper.

Comment #18: Checklist (L) 41: Is the PB requiring estimates of noise generation at this project site?

- d. Planning Board discussed waiving this requirement at the workshop.

Comment #19: Sheet 1, Note 8 should be updated to state that the project is within the Biodiversity Overlay District. The FEIS can be referenced for the specific studies that were conducted. Sheet 1 Note 8 updated; note to be added to Sheet 2.

Comment #20: The language on Sheet 1 (on the site plan itself) states that the Marginal Access is to be dedicated... the language should be changed to the satisfaction of the planning board attorney.

e. Pending Planning Board attorney review.

Comment #21: The dumpster shown on Sheet 4 is not consistent with the dumpster detail shown on Sheet 9. Are doors wide enough for a truck to back into each dumpster?

Comment #22: In front of Building 3, the architecture of the building is not clear (where is the front door?) so it is not known if there is enough room for the handicapped ramp at this location.

f. Pending submittal of architectural plans.

Comment #23: There are 2 different types of ramps detailed. Plan should indicate which type of ramp is proposed. In most instances, a flared end ramp is shown on the plans where the flared ends are not necessary. Please check all ramp locations, and label the appropriate type of ramp. Landscape plan shows plantings on many of the unnecessary flared ends (flared ends should be removed, landscaping should remain).

Comment #24: Is there a proposed underdrain under the rain garden to collect excess water?

Comment #25: The point where the rain garden is connected to the overall drainage system should be called out/labeled.

Comment #26: A detail for the banking drive-thru should be included in the plan set, showing aisle widths, curbing, islands, etc.

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Comment #29: Fire Hydrants appear to be located on the edge of the sidewalks, please adjust so they are not on the sidewalks.

Comment #30: The declaration information for the aquifer overlay is already shown on the plan; the declaration information for the agricultural overlay needs to be added to the plan set.

Comment #31: The Applicant's wetland specialist should prepare a letter to the Planning Board stating that a wetland delineation was completed, including the date of delineation, who did the delineation, and appropriate data sheets.

Comment #32: As a conditional of final site plan approval for Fairgrounds #2, a three-ring binder with all color, texture, roofing samples, etc. shall be submitted and retained with the Building Department after final approval is granted.

Comment #33: Surveyor to certify that iron rods have been set at all property corners.

Comment #34: Payment of all fees.

Dave Getz: Regarding comment #18 which discusses noise generation estimates. In the EAF we had stated that we don't expect anything significant above the normal level.

Mr. Astorino: We will leave that comment on as a place keeper for the next meeting. We will waive that comment at the next meeting.

Dave Getz: Ok.

Mr. Bollenbach: Perhaps, we could put a list together at the end for the required waivers for our housekeeping. Ted, I think there were also a few of the Design Guidelines that were also waived. Whatever waivers we need let us make sure they are in place.

Dave Getz: Does the CB zone change or affects our application?

Mr. Bollenbach: I believe that the application complies with it. That was the way it was designed. It complies with the Design Guidelines which now become the Design Standards. I believe that it complies.

Mr. Astorino: That was the way we went through with this application as I recall.

Dave Getz: Ok.

Mr. McConnell: Mr. Chairman, I have a point for Mr. Bollenbach. Regarding the waivers, are they waivers that we had already granted or just requested?

Mr. Bollenbach: These are waivers that are requested. Those waivers may be granted prior to the granting of the Final Approval.

Mr. McConnell: Those waivers would be considered. We can't predict if they would be granted.

Mr. Astorino: Exactly.

Mr. Singer: Mr. Bollenbach, in the new Code, does it say something about the minimum size of stores that could be there so that it doesn't compete with the Village?

Mr. Bollenbach: I believe the minimum size is 1,000 s.f. or 2,000 s.f..

Mr. Fink: The minimum size is 1,000 s.f.

Mr. Bollenbach: It depends on what type of a store it would be.

Mr. Singer: Does it say no less than 1,000 feet?

Mr. Bollenbach: Correct.

Mr. Singer: Does the applicant know that a store could be no less than 1,000 s.f.?

Mr. Astorino: Laura, I believe you had taken a look at that. Is that correct?

Laura Barca: Yes.

Mr. Singer: I see that the Architect is here this evening. Maybe, he has some building materials to show us.

Mr. Charles Schafer comes up to the Board with a presentation of Architectural drawings for the Fairgrounds #2 project with drawings for Building #2 and Building #3. He explains the details of Building #2 which is the middle building of the three buildings which is parallel of the boulevard. On Building #2, they took more of the façade of the front of the building and had done the same to the rear of the building. Building #3, which is in the rear of the property, which is the furthest back, what they had done to that building was give it a little more bulk. Building #3 was bulked up a little higher, which makes it have more of a predominant appearance to it. There is better signage located up on that building along with a canopy that goes across the entire building. Mr. Schafer also states the colors of the building would not be the same color.

Mr. Astorino: Could you bring the sample of colors to the next Joint Meeting?

Charles Schafer: Yes. But, what I would like to do is to wait and see what Chase Bank comes up with first regarding their colors.

Mr. Astorino: Ok.

Mr. Singer: What is the progress with the Bank?

Adrian Goddard: It is good. They are working on their elevations. They have been talking with Charles. They are coordinating with him.

Mr. Bollenbach: Charles, have you been in touch with them to show them what you have with Buildings #2 and #3?

Charles Schafer: Yes. I have been in touch with the Bank.

Mr. Bollenbach: Ok. We could adjourn this Public Hearing to the January 19, 2011 Planning Board.

Mr. Astorino: Could we close the Public Hearing?

Mr. Bollenbach: No. We cannot. We haven't closed SEQR yet.

Mr. Astorino: Right.

Mr. McConnell makes a motion to adjourn the Fairwick/Fairgrounds #2 Public Hearing to the January 19, 2011 Planning Board meeting.

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

Mr. Astorino: Ted, will you prepare the Amended Findings Statement?

Mr. Fink: Yes. I will have for the next Work Session.

Dave Getz: Do we need to re-notice the public hearing.

Mr. Bollenbach: No. This is your notice. It will be posted on the Town's website.

Mr. Astorino: To everyone out in the audience who came for the Fairgrounds #2 Public Hearing. This public hearing has been adjourned to the January 19, 2011 Planning Board meeting. There will be no further notification of this public hearing. This is your notice.

Adrian Goddard: Thank you.

Dave Getz: Thank you.

Other Considerations:

- 1.) **Millers Ridge Subdivision** – Letter from Kirk Rother, dated 11/27/10, received on 12/1/10 addressed to the Planning Board in regards to the Millers Ridge Subdivision – requesting a 6th 6-Month Extension on Preliminary Approval of a proposed 16-Lot cluster subdivision + 1-Affordable Home + 1-Commercial Lot subdivision and an application for Special Use Permit for the 1-Affordable Home, situated on tax parcels SBL # 51-1-7.41 & 41; parcels located on the eastern side of Warwick Turnpike and 1500 feet south of State Highway 94, in the RU zone, of the Town of Warwick. Preliminary Approval was granted on, 12/5/07. The 5th 6-Month Extension was granted on 6/16/10 became effective on, 6/5/10. The 6th 6-Month Extension becomes effective on, 12/5/10.

Mr. Bollenbach: Regarding all of these applications for extensions, are their escrow accounts current?

Connie Sardo: Millers Ridge escrow account is current.

Mr. Bollenbach: There are other applications and their escrow accounts are not current. As we go through the other applications for extensions, let us make sure that their escrow accounts are current.

Mr. McConnell makes a motion on the Millers Ridge application, granting a 6th 6-Month Extension on Preliminary Approval of a proposed 16-Lot Cluster subdivision + 1-Affordable Residential Lot + 1-Commercial Lot subdivision and an application for Special Use Permit for the 1-Affordable Home, SBL # 51-1-7.41 and 41. Preliminary Approval was granted on, 12/5/07. The 6th 6-Month Extension becomes effective on, 12/5/10.

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

- 2.) **Stephen & Kelly Helmrich Subdivision** – Letter from John McGloin, PLS., dated 12/2/10 addressed to the Planning Board in regards to the Helmrich Subdivision – requesting a 6-Month Extension on Final Approval of a proposed 2-Lot Subdivision, situated on tax parcel SBL # 12-4-50; parcel located on the northerly side of Little Brooklyn Road 1200 feet westerly of Little York Road, in the SM zone, of the Town of Warwick. Final Approval was granted on, 6/16/10. *The applicant has stated that he is in the process of retaining an attorney to complete and file the Declaration as well as preparing the documents required to facilitate dedication of a 25-foot strip of land to the Town for highway purposes.* The 6-Month Extension becomes effective on, 12/16/10.

Mr. Astorino: I spoke to Steve Helmrich about this. I don't think there is a lot left on this.

Mr. Bollenbach: Steve's attorney Doug Jones spoke to me about a year ago on this. I haven't heard back from him since that time.

Mr. Astorino: I think he changed attorneys on this. I spoke to Steve about this a week ago.

Mr. Bollenbach: Maybe he could get in touch with me on this.

Mr. Astorino: I directed Steve to talk to you.

Mr. Bollenbach: I have given him samples of documents that he needs.

Mr. Astorino: John, when you are in the office, I will have Steve come up to see you on this matter.

Mr. McConnell makes a motion on the Stephen and Kelly Helmrich application, granting a 6-Month Extension on Final Approval of a proposed 2-Lot subdivision. SBL # 12-4-50. Final Approval was granted on, 6/16/10. The 6-Month Extension becomes effective on, 12/16/10.

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

- 3.) **Michael Buono Subdivision** – Letter from Karen Emmerich, Lehman & Getz Engineering, dated 11/17/10 received on 12/7/10 addressed to the Planning Board in regards to the Buono Subdivision – requesting **2nd Re-Approval** of Final Approval of a proposed 2-Lot subdivision, situated on tax parcel SBL # 10-1-64.3; parcel located on the western side of Glenwood Road 500 feet south of Newport Bridge Road, in the RU zone, of the Town of Warwick. Final Approval was granted on, 11/19/08. 1st Re-Approval of Final Approval was granted on 12/16/09 became effective on, 11/19/09. The 6-Month Extension on the Re-Approval of Final Approval was granted on 7/21/10 became effective on, 5/19/10. *The applicant has stated that he is concerned about the economy, and is not yet able to build a home on the new lot. He would like the 2nd Re-Approval of Final Approval to give himself more time to decide what he plans to do with the property.* The 2nd Re-Approval of Final Approval becomes effective on, 11/19/10, subject to the conditions of Final Approval granted on, 11/19/08.

Connie Sardo: Mr. Buono's escrow account is ok. He is so close to the end. We are just waiting for the revised maps for signature.

Mr. Bollenbach: I believe he has completed everything.

Mr. McConnell makes a motion on the Michael Buono Subdivision, granting **2nd "Re-Approval"** of Final Approval of a proposed 2-Lot subdivision, situated on tax parcel S 10 B 1 L 64.3; parcel located on the western side of Glenwood Road 500 feet south of Newport Bridge Road, 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, 11/19/08. The 2nd "Re-Approval" of Final Approval becomes effective on, 11/19/10.

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

- 4.) **The Gables @ Warwick Subdivision** – Letter from Karen Emmerich, Lehman & Getz Engineering, dated 12/6/10 addressed to the Planning Board in regards to the Gables Subdivision – requesting **3rd Re-Approval** of Final Approval of a proposed 15-Lot subdivision, situated on tax parcel SBL # 44-1-132; parcel located on the southern side of State Highway 17A at the intersection of the east end of Ketchum Road, in the RU zone, of the Town of Warwick. Final Approval was granted on 12/5/07. 2nd Re-Approval of Final Approval granted on, 11/18/09 became effective on, 12/5/09. The 6-Month Extension was granted on 6/2/10 became effective on, 6/5/10. *The applicant has stated that the Gables project is dependent on a water supply system that is proposed for both the Gables and the BCM project. 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 3rd Re-Approval of Final Approval becomes effective on, 12/5/10 subject to the conditions of Final Approval granted on, 12/5/07.

Connie Sardo: Their escrow account is ok.

Mr. McConnell: The reason that is stated doesn't seem to flow as an if, and, this. The applicant has stated the reason as follows: *"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."* It seems like if the financial climate improves, he would still need the legal agreements. If these legal agreements haven't been worked out yet, I would like to know why they haven't been worked out.

Mr. Bollenbach: You are correct.

Mr. McConnell: You might not be able to do anything because of the financial climate, but let us get these agreements in.

Mr. Bollenbach: The agreements were the Water Agreements with the Town Board. They were subject to the BCM project and the Gables project. There were agreements that were executed and in place. However, the time has since lapsed on those agreements. I believe they are still in negotiation with the Town Board and it has yet to be finalized.

Mr. McConnell: So, those agreements were not between Gables and BCM.

Mr. Bollenbach: The agreements are between all three. It is between the Gables, BCM, and the Town Board.

Mr. Astorino: The Gables cannot function without BCM.

Mr. McConnell: I understand that. I am trying to understand what they are telling me here. John, did the agreements have a drop-dead date on them?

Mr. Bollenbach: Yes. They did have time limits on them. They are being re-negotiated at this time.

Mr. McConnell: Ok. That is different from what we are being told here. That was why I had asked the question.

Mr. Bollenbach: Ok.

Mr. McConnell makes a motion on The Gables @ Warwick Subdivision, granting “3rd *Re-Approval*” of Final Approval of a proposed 15-Lt cluster subdivision, situated on tax parcel S 44 B 1 L 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, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on, 12/5/07. The 3rd Re-Approval of Final Approval becomes effective on, 12/5/10.

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

- 5.) **Douglas Tinnirello Subdivision** – Letter from Douglas Tinnirello, dated 12/8/10 addressed to the Planning Board in regards to the Tinnirello Subdivision – requesting a 6-Month Extension on Re-Approval of Final Approval of a proposed 3-Lot cluster subdivision, situated on tax parcels SBL # 49-1-56 & 45.42; parcels located on the southeast side of State Highway 94 1000 feet southwest of Wawayanda Road, in the RU zone, of the Town of Warwick. Final Approval was granted on 6/17/09. 1st Re-Approval of Final Approval was granted on, 6/16/10 became effective on, 6/17/10. *The applicant has stated due to the continued depressed state of the economy, he has not been able to generate enough income to cover the cost of anything such as the Parkland Fees.* The 6-Month Extension on Re-Approval of Final Approval becomes effective on, 12/17/10.

Connie Sardo: Tinnirello’s escrow account is ok.

Mr. McConnell makes a motion on the Douglas Tinnirello application, granting granted a 6 Month Extension on Re-Approval of Final Approval of a proposed 3-Lot cluster subdivision, SBL # 49-1-56 & 45.42. Final Approval was granted on, 6/17/09. Re-Approval of Final Approval was granted on 6/16/10 became effective on, 6/17/10. The 6-Month Extension becomes effective on, 12/17/10.

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

- 6.) **Lands of Brian Singer** – Letter from Kirk Rother, Engineer, dated 11/30/10 received on 12/13/10 addressed to the Planning Board in regards to the Brian Singer Subdivision – requesting a 6-Month Extension on Final Approval of a proposed 2-Lot subdivision, situated on tax parcel SBL # 66-1-75; parcel located on the western side of Briller Road 1000 feet south of Continental Road, in the CO zone, of the Town of Warwick. Final Approval was granted on, 6/2/10. *The applicant has stated that they are still in litigation with the former owner over the right-of-way. It is the applicant's hope that this matter will be resolved in the near future, which the applicable fees will be paid and other applicable conditions satisfied.* The 6-Month Extension becomes effective on, 12/2/10.

Mr. Astorino: This application has outstanding invoices.

Connie Sardo: I have sent letters out to the applicant.

Mr. Astorino: From what I have heard from Mr. Singer, he is waiting for the litigation matter to be over to pay his invoices. It will be up to the Board on this matter.

Mr. McConnell: John, what is the affect if we don't grant this extension?

Mr. Bollenbach: If he pays his fees, then he could seek the extension at that time.

Mr. Singer: How much money are we talking about?

Mr. Astorino: It is about \$2,000.00.

Mr. Singer: I think he should pay.

Mr. McConnell: I think we should wait until he pays.

Mr. Showalter: I would like for him to pay, but I think I understand his situation.

Mr. Astorino: Our Professionals haven't been paid yet up to the point of where we are at. Is that correct?

Mr. Bollenbach: Correct.

Mr. Showalter: The Professionals can't review the application anymore until they get paid.

Mr. Astorino: If that is the Board's decision, we will hold this one over. We will reach out to Brian. We will let him know why.

Mr. McConnell: On the basis of being assured by our Attorney that he doesn't have to go back to square one.

Mr. Astorino: No. He would not.

Mr. McConnell: It would be my suggestion that we wait until he gets current.

Mr. Astorino: Is that the Board's decision?

Mr. Bollenbach: There are also provisions within the grandfathered provisions of the Code that the applicant would proceed with due diligence in payment of fees in escrow which is one of those responsibilities. If he wants to maintain his approval, he would have to act accordingly.

Mr. Astorino: We will "Table" the extension for the Brian Singer application. We will contact him to let him know. We will put the Brian Singer application extension on the 1/19/11 Planning Board meeting.

- 7.) **Lands of Warwick Isle** - Letter from Kirk Rother, Engineer, dated 12/10/10 received on 12/13/10 addressed to the Planning Board in regards to the Warwick Isle Subdivision – requesting a 9th 6-Month Extension on Preliminary Approval of a proposed 30-Lot + 3-Affordable Homes subdivision and Special Use Permit for the Affordable Homes, 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, of the Town of Warwick. Preliminary Approval was granted on, 6/21/06. *The applicant has stated that during their last appearance before the Planning Board, a question arose as to whether the application was in compliance with the current zoning. It is the applicant's understanding that the Town Board has recently adopted a resolution which remedies this matter and they expect to be re-submitting this project for the January 2011 Planning Board meeting.* The 9th 6-Month Extension becomes effective on, 12/21/10.

Connie Sardo: I spoke to Kirk. He said that he would be submitting Warwick Isle for Final Approval for the 2nd meeting in January.

Mr. Astorino: We know that. We went through that with him at the Work Session.

Mr. Bollenbach: This would all have to be reviewed. This is an extension of the Preliminary Approval. It is grandfathered only to the extent of the lot count of the yield. We would have to take a look at the substantial compliance with the rest of the provisions.

Mr. Showalter makes a motion on the Lands of Warwick Isle application, granting a 9th 6-Month Extensions on Preliminary Approval of a proposed 30-Lot + 3-Affordable Homes Subdivision, SBL # 3-1-6.21. Preliminary Approval was granted on, 6/21/06. The 9th 6-Month Extension becomes effective on, 12/21/10.

By Resolution R2010-233, the Town of Warwick Town Board adopted provisions to allow "grandfathering" of the lot count for projects that received a preliminary approval prior to February 18, 2010; the project shall otherwise

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substantially meet the requirements of the “2010 Zoning Law of the Town of Warwick, New York” and Planning Board rules and regulations currently in effect. It is also important to note that this project must be filed in the Orange County Clerk’s Office by January 01, 2013. Please see attached for a complete copy of the resolution.

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

8.) Planning Board Minutes of 12/1/10 – Planning Board Minutes of 12/1/10 for Planning Board’s Approval.

Mr. McConnell makes a motion to Approve the Planning Board Minutes of 12/1/10.

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

Correspondences:

1. **Warwick Views, LLC.** – Letter & Report received from Thomas P. Cusack, CPG from Leggette, Brashears & Graham, Inc. (LBG), dated 11/9/10 addressed to the Planning Board, received on 11/30/10 – in regards to the Warwick Views Subdivision.

Mr. Astorino: We received that document at the Work Session. If any Planning Board members didn’t receive it at the Work Session, you are receiving it tonight.

Mr. McConnell: It is very interesting reading.

Mr. Astorino: Yes. It is. We have this for our reading pleasure. Laura and HDR are currently reviewing this document. Is that correct?

Laura Barca: Yes.

Mr. Astorino: Ted, do you have a copy of this document?

Mr. Fink: Yes.

Mr. Astorino: Ok. We are in the process of reviewing this document.

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. I just want to wish everyone a Happy and Safe Holiday.

Mr. McConnell makes a motion to adjourn the December 15, 2010 Planning Board meeting.

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