

TOWN OF WARWICK PLANNING BOARD

January 21, 2009

Members present: Chairman, Benjamin Astorino
Roger Showalter, Dennis McConnell
Carl Singer
Zen Wojcik, Tectonic 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, January 21, 2009 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: Since this is our first meeting of the New Year, I would like to do a little housekeeping before we get to the agenda. I would like to appoint Roger Showalter as Vice-Chairman to the Planning Board for the year-2009. I would also like to wish everyone a Happy New Year.

Mr. McConnell: What did you just say about Roger?

Mr. Astorino: Roger will be the Vice-Chairman to the Planning Board for 2009.

Mr. McConnell: Congratulations Roger.

Mr. Showalter: Thank you.

PUBLIC SCOPING SESSION

HOMARC, LLC.

Application for Site Plan Approval and Special Use Permit for the construction and use of a commercial site plan of a 29,120 square foot office/retail building, situated on tax parcel S 51 B 1 L 5.231; project located on the northern side of NYS Route 94 425± feet east of Warwick Turnpike, in the DS zone, of the Town of Warwick, County of Orange, State of New York. Planning Board issued a Positive Declaration on 4/16/08.

Representing the applicant: Dave Getz from Lehman & Getz Engineering. Paul Canevari, Applicant.

The following comment submitted by the Conservation Board, dated 1/21/09:

HOMARC, LLC. – CB will provide written comments on Draft Scoping Document on or before the February 2nd deadline.

The following comment submitted by the ARB, dated 1/21/09:

HOMARC, LLC. - While the applicant is some time away from finalizing design, we concur with the Planning Board's comments at the 1/12 workshop. We would encourage the applicant to meet with the Architectural Review Board as soon as feasible. The proposed design of this building with the potential for parking under the building creates some unique challenges. The difference in elevation from the front of the building to the back of the parking lot will create some accessibility challenges, the potential for parking under the building will create some concerns about accessing the interior, and if there is mixed use, the potential for deliveries and larger vehicle parking has not been taken into consideration in the initial designs.

We would like to meet with the client and his design professional(s) in a pre-PB/ARB meeting to look at the mechanicals and entryways, as well as elevators for the building. Much of that will dictate the layout of the parking and the structural elements of the building. Those items will also have a profound effect on the overall design of the building. And the overall design of the building and the incorporation of parking, traffic and provision for deliveries will in turn dictate potential uses and occupants of the building and its overall economic viability.

Mr. Astorino: This is a Scoping Session. Ted, do you want to go through the process first?

Mr. Fink: Yes. I could give you a little rundown on the purpose of the meeting tonight. The Planning Board has determined that this proposed project might have a significant impact on the environment. We have directed the applicant to prepare a Draft Environmental Impact Statement (DEIS). The purpose of the meeting tonight is not a public hearing on the application. The purpose is to determine the content of the Environmental Impact Statement. The applicant and their consultants have developed a Draft Scoping Document. The Draft Scoping Document is a detailed table of contents of all the different studies that they have proposed based upon some guidance that the applicant has received from the Planning Board about the issues that may be studied and presented to the Planning Board in the DEIS. We have copies of the Draft Scoping Document here for anyone that is interested in it. In addition to any comments that any one has on this document tonight, the Planning Board would also be accepting written comment on this through February 2, 2009. If you have not seen the Draft Scoping Document, you could take a copy with you tonight. Any written comments that you have on this document will be received by the Planning Board until February 2, 2009. At that time, the Planning Board will take any comments either from members of the public or from any other agencies that are involved. We will integrate those into a Final Scoping Document that the Board would then provide to the applicant. That would be their direction on preparation of the DEIS. The first step of the process is to present that DEIS. That document becomes a document that is subject to full disclosure. Anyone that is interested could go to the Town Hall and take a look at the document. It will be posted on the Town's Website. There will be a public comment period to accept comments on the DEIS. There will be a public hearing on the DEIS. After that, there will be a Final Environmental Impact Statement (FEIS) that would be prepared and a Findings Statement. There are 4 steps in the process. There is the Scoping, DEIS, FEIS, and the Findings Statement. All of those steps would have to be in place before the Planning Board could make any decisions on the application.

Mr. Astorino: Thank you. We have for the record an article we received...

Connie Sardo: We have for the record; I received in the mail from Judith Green a copy of an article that was in the Dispatch on January 14, 2009 regarding HOMARC, LLC.

Mr. McConnell: I would like to make a clarification on that. It seems to me that is not an article. It is a letter to the Editor, which would suggest it is entirely the responsibility of the author, not of the paper.

Mr. Astorino: Thank you. If there is anyone in the audience wishing to address HOMARC, LLC., Scoping Document, please rise and state your name for the record.

Judith Green: I sent that letter. I sent it to Connie. Are you Connie?

Connie Sardo: Yes.

Judith Green: I sent it to Connie to be presented to the Board.

Mr. Astorino: It has been presented to the Board.

Judith Green: It wasn't the paper that sent it. I sent it.

Connie Sardo: I said that it was from Judith Green.

Judith Green: I sent in a letter to the Editor.

Mr. McConnell: I understood that. I just read it. I didn't have any comment on the content. It was represented as being an article in the paper. It was a letter to the Editor.

Judith Green: It was. I sent it the letter to the Editor to the Dispatch.

Mr. McConnell: What I am seeing is a letter to the Editor.

Mr. Astorino: I think we have that clarified.

Judith Green: I did write it. I would like it submitted.

Mr. Astorino: It has been submitted. We have it.

Judith Green: Great. Thank you.

Mr. Astorino: Is there anyone else wishing to address the HOMARC, LLC., Scoping Document? Let the record show no further public comment. Do any Board members or Professionals have any comments? The written comment period to the Planning Board will be open until February 2, 2009.

Mr. Fink: Connie, we had a publication appear in the newspaper about this.

Connie Sardo: I advertised it twice in the Dispatch.

Mr. Fink: Did the Draft Scoping Document go out to NYSDOT and the other agencies?

Connie Sardo: Yes.

Mr. Astorino: Ok. So everyone has been notified.

Mr. Fink: Ok.

Review of Submitted Maps:***Mountain View Estates***

Application for sketch plat review of a proposed 47-Lot + 4-Affordable Homes subdivision, situated on tax parcel S 18 B 1 L 2; parcel located on the eastern and western side of Old Ridge Road 1500 feet south of Taylor Road, in the MT/RU zones, of the Town of Warwick. Planning Board issued a Positive Declaration on 10/3/07. Final Scoping Document adopted by Planning Board on 4/2/08. *Planning Board to discuss DEIS completeness.*

Representing the applicant: Kirk Rother, Engineer.

The following review comments on the DEIS submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.

YIELD PLAN (DATED 4/24/07, LAST REV. 8/26/08)

3. Dimension setback lines.
4. Show the line demarcating the RU and MT zones.
5. Reference the survey and the wetland delineation on the plan.
6. Thirteen of the proposed yield lots show buildable areas located in RSB or RSD soils where the potential depth to bedrock is shallow. Witnessed percs & deeps found 4 ft. or greater depth to bedrock – which is acceptable. Applicant’s engineer to provide letter report per the Planning Board’s “poor soil” protocol.
7. Deep soil testing for Yield Lot 40 show shallow depth (18”) to mottling and describes a soil - gravelly silt – which is very similar to the Soil Survey description of ErB soil, the soil type mapped immediately adjacent to the soil test location. This site is also next to delineated wetlands. Applicant’s engineer to provide a letter report per the Planning Board’s “poor soil” protocol discussing this location and whether an inclusion of ErB soils is present. The Town Code classifies ErB soils as Group VII Soils unsuitable for septic systems.

CLUSTER PLAN (DATED 6/2/08)

8. Provide a Key Map showing the interrelation between the various Subdivision Plans.
9. Reference the filed survey map and provide a signed and sealed survey of the parcel.
10. Open Space lots “B” and “C” are proposed to be owned by the Homeowner’s Association. These lots should be numbered as they will be separate tax lots. Provide Open Space Notes per the Planning Board Attorney.
11. Identify the roads (Road “A” thru “D”) on the Cluster Subdivision Plan.
12. Provide a schematic detail of a structure to carry the road over the stream. Identify the NYSDEC stream classification.
13. Provide all information required per the Major Subdivision Preliminary and Final Checklists, details of erosion control measures, etc. for a fully engineered set of plans.

DRAFT ENVIRONMENTAL IMPACT REPORT (DATED 10/29/08)

14. Proofread and correct occasional typographical errors in report.
15. When discussing paving driveways, note that all driveways must be designed in accordance with §A168-19 of the Town Code.

16. Federal jurisdiction wetlands are identified on the parcel. Although only a small area of conversion is proposed, the Nationwide General Permit requires notification of the US Army Corps of Engineers. List the NY District, Corps of Engineers as an Involved Agency.
17. Applicant proposes over 40 lots. Per §164-46J(100), four affordable housing units are required. Potentially, this subdivision may exceed 49 lots. The provisions of §137-7B(3)(b) apply. Applicant to discuss.
18. In Table I-1, a Water District is listed as a permit/approval required from the Warwick Town Board. A Water District would be required if community water supply is proposed. Clarify.
19. In the Summary table - Table I-2:
 - A. Under Soils & Geology, it is noted that, “No excess material will be exported off site.” The statement implies that the potential impact of spreading excess material where it is not really required by site conditions is less than exporting clean material off-site to a suitable location. Provide information to support this assertion.
 - B. Note that erosion control measures used on the site must not only be installed consistent with the approved SWPPP, installation of such measures must also be in accordance with the most recent revision of the NYSDEC *Standards & Specifications for Erosion & Sediment Control*.
 - C. The list of potential endangered/threatened species includes species ordinarily only listed for projects along the Hudson or Delaware Rivers or their immediate tributaries. Provide a copy of the documentation from the State’s Natural Heritage Program.
 - D. Under Cultural Resources, the reference to Old Ridge Road being the potential route of an Indian foot trail should be credited to the Town’s Historian.
 - E. Under Police, Fire and Emergency Medical Services, it is stated that a portion of the taxes generated by the proposed development would presumably mitigate the costs incurred by emergency services as a result of this project. The DEIS includes a fiscal analysis of this project which should determine whether or not sufficient tax revenue is generated by the proposed project to mitigate costs. Revise the statement and remove the ambiguity.
 - F. Under Recreation and Open Space Resources, it is stated that the percentage of open space under conservation and private ownership is 75%. Elsewhere in the document, this percentage is reported to be 73.7%. Clarify.
 - G. Under Other Utilities, there is reference to dwellings using gas appliances. Note that gas service is not available on Old Ridge Road. Propane is available townwide.
20. In the Description of Proposed Action and elsewhere in the document (notably as Alternative 2), the Yield Plan is referred to as a “Conventional Subdivision”. The Yield Plan is developed using lots sized to take advantage of the cluster subdivision density bonus – that is the minimum lot size is one-acre less than the minimum lot size required in the zone. If the applicant wishes to utilize a “Conventional Subdivision” as a basis for comparison, a true conventional plan should be developed with 4 acre minimum lots in the RU zone and 5 acre minimum lots in the MT zone.
21. In several locations, the document refers to the project site as being “surrounded almost entirely by ... residential subdivisions.” A quick glance at *Exhibit III.G-1 Land Use* would support that contention, as most of the land use noted is residential. However, the Exhibit is incorrect as is the assumption. Properties to the north, northeast, west and southwest of the project site have agricultural exemptions to their taxes and are either actively farmed or leasable by farmers. The reference to residential land use should be reworded to better reflect the current residential and agricultural mixed use of the project area and *Exhibit III.G-1* should be revised to reflect the true use of the surrounding lands. Whatever conclusions the authors have derived from this mistaken assumption should be reconsidered.

22. A Fiscal Impact Analysis has been prepared for this proposed subdivision. In several locations in the Summary and Description sections of the document, ambiguous terms like “presumably” are used when the fiscal impact of the project is discussed. The conclusions developed in the various analyses supplied by the Applicant should be carried through the document and ambiguous terms removed.
23. In discussing the proposed water supply and sanitary wastewater treatment for the development, the Applicant often cites groundwater recharge of the aquifer by individual septic systems as supportive of individual wells. What is the range of time for the return cycle of groundwater recharge, based on the assessment of the aquifer and potential water use?
24. The study notes that cut and fill slopes for roadway embankment and stormwater management facilities will be in the range of 2:1 to 3:1. Include in the study proposed measures for slope stabilization (i.e. rolled erosion control product (RECP), vegetative cover) and provide appropriate details and notes on the plans.
25. Consideration was given for recreational opportunities in the development and access for bicycles. Include a discussion of opportunities for passive recreation and accessibility to adjoining developments for pedestrians. Are there significant ecological communities on the parcel that should be protected from hikers/walkers?
26. Lot 1 includes the existing farm and open space land suitable for agriculture. At 8.5 acres, is there sufficient arable space on this lot to sustain an agricultural concern? (The assessment of potential impacts on page III.G-10 is essentially a statement of the proposed condition, not of the lot’s viability.)
27. The study reports that “multiple” community septic systems would be required for the proposed development, which is part of the argument used against their use. Are there any development locations within this site where use of a community septic system would be beneficial, even though individual septic systems would be more advantageous in other locations? It is noted that pump stations are required for all community septic systems considered, but not for any of the individual septic systems. Are there any suitable locations for community septic systems where pump stations are not necessary? Why are these locations otherwise unsuitable?
28. Part of the stated purpose of this project is to “sensitively design” this cluster subdivision. Which aspects of the design are considered sensitive design and how would this be different from any another cluster subdivision in the Town of Warwick?
29. The applicant proposes to construct “five or six model homes”. This is inconsistent with Town policy.
30. The applicant proposes construction between 7am and 6pm Monday through Saturday. Note that the applicant and the Planning Board shall discuss the hours of construction.
31. The construction staging area is not shown on the Erosion Control Plan, as stated in the study. One staging area is proposed, located on the parcel at the west side of Old Ridge Road. It is also stated that construction on the parcel west of Old Ridge Road will not commence until the parcel east of the road is built-out (16 units). Will the construction staging area proposed for the west side be used during construction of the dwellings on the east side? Clarify access and screening of the staging area. Provide a visual analysis. Are any construction or sales trailers proposed? Note their location.
32. Soils & Geology - As portions of the subject property has been used actively for agricultural purposes within the last 40 years, a surficial soils investigation should be considered to test for the presence of pesticides and herbicides, including mercury and arsenic, prior to conversion to residential use. The applicant should endeavor to determine the intensity and nature of agricultural use on the parcel in the past (and report them) in determining whether or not such an investigation is warranted.

33. Visual Analysis – The woodlands on the parcel in question and in its vicinity are overwhelmingly deciduous. Did the assessments of the potential visibility of this development from adjacent proposed and existing houses consider the view in winter? Vantage point #4 is noted to be at the proposed entrance to the westerly developed area. However, the photo simulation does not include the proposed boulevard. Roads tend to open up views, and there already is a paucity of screening vegetation along the road at this location and at vantage point #3. Consider landscaping treatment of the boulevard entrance to better mitigate the view of the proposed houses and wide road. Additional landscaping alongside Old Ridge Road would also be beneficial in softening the visible development impact in the vicinity of vantage points #3, #5 and #6.
34. Land Use and Zoning – On page III.G-12, the study references Exhibit III.G-3. There is no such exhibit. That paragraph goes on to discuss the Yield Plan as if it were a Conventional Major Subdivision Plan. As noted in a comment above, this is erroneous. The error continues into Table III.G-2, the statement describing compliance with the first purpose of cluster subdivision. The compliance statement for the seventh purpose of cluster subdivision is also in error where it states that “there are no active farms surrounding the project site” as is a similar statement in Table III.G-3, guidelines B & C. In fact, several of the adjoining agricultural properties are active and at least one is being considered for the Town’s Purchase of Development Rights program. The compliance statement for the eighth purpose of cluster subdivision should also discuss the contiguity of this parcel’s open space with existing or proposed open space areas in adjoining parcels. Also, since part of this purpose is creating areas for active or passive recreational use, note how his proposed development complies. Also as part of this section’s discussion of Potential Zoning Impacts, note if the proposed houses comply with the Town Code’s requirements for setbacks from active agricultural lands as stated in §164-41.1G.(4) and §164-41.1H(2)(c). Please state, in the discussion of Compliance of the Yield Plan that the Yield Plan requires no waivers or variances.
35. Police, Fire and Emergency Medical Services – The authors should endeavor to obtain relevant information regarding the Florida Fire District, wherein this parcel is located. The information regarding just the adjoining Warwick Fire Department is insufficient. Also include more complete information regarding Emergency Medical Services.
36. School District Services – Check the locations of Florida schools relative to the project location.
37. Utilities – Wastewater – A statement is made in Section 1b that the “soil test results reveal soil well suited for use in individual septic systems.” The applicant was asked to consider community septic, and this statement appears to exclude subsurface community septic. How exactly do the test results support individual septic systems but not community septic systems? Regarding proposed individual septic systems located in RSB (Rock Outcrop-Nassau) soils, the Town Code categorizes these soils as Group VIII soils which are marginally suitable for septic absorption systems. The study contends that soil testing shows deeper, more suitable soils in the vicinity of proposed septic systems in areas mapped RSB. Include a signed and sealed report by a NYSPE, per the Town’s “poor soil” protocol, attesting to the suitability of the soils in the EIS. Reference the report in this section. Section 1c lists the unusual geologic conditions on the site but does not state if there are or aren’t any potential impacts due to the proposed septic systems. Section 2b asserts that a “central sewer ... minimizes groundwater recharge.” How would central sewer utilizing community septic fields or a wastewater treatment plant with subsurface discharge minimize groundwater recharge? When considering community septic, did the designers consider that, without the requirement for separation distance between individual wells and septic systems on lots, the lots could be reduced in size, allowing location of community septic systems in areas that would otherwise be needed for building lots under the desired cluster subdivision scheme?

Explore this potential in this section. The applicant does not discuss the community septic option as required in the DEIS scoping document.

38. Adverse Impacts that cannot be Avoided – Short Term Construction Impacts have been identified (noise, dust, vibration, and traffic) and an unspecific construction/work plan is offered as mitigation. These impacts are typically significant to the community and should be addressed more fully in the report. Considering the amount of rock outcrop on the site, will on-site processing of material take place? How will the adverse impacts of processing (noise, dust, and vibration) be addressed? If material stockpiling and processing will take place in the construction staging area, will this occur on the west side of Old Ridge Road when road, stormwater facility and home construction is taking place on the east side of Old Ridge Road? In the discussion of the Soil Erosion and Sediment Control Plan Implementation, include reference to the Contractor and Sub-contractor responsibilities in the revised 2008 SPDES General Permit, including the Contractor's responsibility for a Trained Individual on-site. In the Long Term Impact section it is noted that the project will create additional impervious surface, but the long terms impacts of this is not discussed. Support the assertion that long term impacts of increased impervious surfaces and population are not significant.
39. The Planning Board will discuss the presented Alternatives with the applicant.

Archaeology & Cultural Resources

40. Exhibit III.D.1 incorrectly identifies the Area of Potential Effect as indicated on Figure 1 of the Phase I Archaeological Investigation by Tracker Archaeological Services, Inc.
41. In accordance with the standards set forth by the New York Archaeological Council and the New York State Office of Parks, Recreation and Historic Preservation, the applicant shall address potential impacts upon architectural resources. Specifically, the Phase I Archaeological Investigation notes the presence of one historic building within the project area. While site plans indicate that the historic building will be incorporated within the proposed subdivision as Lot 1, the assessment should include a discussion of potential direct and indirect effects of the proposed development upon this resource.
42. The Final Environmental Impact Statement shall discuss any comments submitted by the New York State Office of Parks, Recreation and Historic Preservation in regards to their review of the DEIS for compliance with Section 14.09 of the State Historic Preservation Act.
43. While Section III.D (Cultural Resources) does not specifically reference the presence or absence of stone walls within the project area, the applicant does indicate that no stone walls were identified on page V-22. On page III.C-14, however, the applicant records the existence of stone walls as evidence of historic agricultural use within currently forested areas. This discrepancy should be addressed.

Traffic

44. The location of the study site is incorrectly shown on Figure 1 Area Map in the Traffic Study.
45. Under "Existing Conditions", correct the heading for New York Routes 17A/94 and remove the word "south" from the third sentence under Old Ridge Road. The meaning of the second sentence under Taylor Road is not clear. (In Traffic Study and Section III.F Transportation.)
46. Under "Capacity Analysis", the next to last sentence in the discussion of Methodology for Unsignalized Intersections states that an increase of less than two seconds in average vehicle delay at an intersection is "almost universally accepted as a significant change in operating conditions." (Reviewer's emphasis.) Is this conclusion valid as stated?
47. State the source of the growth factor for projected future traffic used in the Study. Discuss whether the factor is valid if the current downturn in new home construction continues.
48. The report notes – correctly – that there is no right turn allowed from Old Ridge Road onto Rtes. 94/17A at the north Old Ridge Road intersection. However, this movement is shown, and ascribed a volume, on the traffic diagrams. Remove the movement.

49. The horizontal alignments of the north and south intersections of Old Ridge Road with Rtes. 94/17A are skewed. The south intersection is currently at LOS C and projected to be LOS D in both the future (2012) Build and No-Build Conditions. Are there any geometric changes that may be recommended to improve the LOS? Does the south intersection warrant a traffic signal or flashing light in 2012, based on this analysis?

Hydrology & Water Resources

50. The applicant may wish to indicate that the project area is located in a FEMA Zone C for clarification on page III.B-3.
51. The applicant's Hydrogeologic Assessment Report indicates that the Martinsburg Formation bedrock has a low permeability except where wells intersect existing fractures. The fracture trace analysis described in the report indicates that most of the site is not within these preferred fracture zones, particularly the areas on the east side of Old Ridge Road. Based on our observations of wells at the adjacent Hampton Hill subdivision and nearby Eurich Heights subdivision, well yields are highly variable in the Martinsburg Formation. We recommend that if the applicant pursues the individual well option then the applicant should show that each well has the sufficient yield and storage to meet NYSDOH requirements prior to receiving a certificate of occupation.
52. The applicant should clearly identify why the individual lot well option would have a lesser impact than a community water supply option specifically for the Mountain View Estate Subdivisions.

Wetlands

53. On page III.B-4, the applicant indicates that there are several small wetland features on property west of Old Ridge Road. The applicant should further record the presence of two additional areas of wetlands on the property east of Old Ridge Road.

Vegetation & Wildlife – Endangered, Threatened & Rare Species

54. Per the scoping document, the applicant shall directly reference any specific investigation or review regarding reports of a Spotted turtle (*Clemmys guttata*), a Species of Special Concern, being located in the vicinity of the project site.
55. The discrepancy regarding the nine (9) ecological communities listed on page III.C-1 and the seven (7) mapped communities in Exhibit III.C-1 and Exhibit III.C-3 (which excludes Floodplain forest and Farm pond) should be addressed.
56. Table III.C-1 includes Rocky headwater stream and Floodplain forest as one Ecological Community Type. While it is acceptable that these two community types are grouped together based on their association, the applicant should provide a discussion offering clarification thereof.
57. The discrepancy regarding the nine (9) ecological communities listed on page III.C-1 and the six (6) ecological communities listed in Table III.C-2 (which excludes Rocky headwater stream, Mowed lawn with grass, and Palustrine scrub/shrub wetland) should be addressed.
58. Discrepancies/inconsistencies regarding the total area of disturbance, open space areas and conservation areas identified on page III.C-12 and those identified on page III.C-14, as well as I-3, should be addressed.

Stormwater Pollution Prevention Plan

59. The SWPPP report submitted was incomplete. HydroCAD analysis and output report for Post-Development conditions is missing.
60. The report should discuss the outlet of proposed "Pond W" within sub-catchment area identified as "Basin W1". The plans and report does not reflect if there is a receiving body of water at this point. Will an easement be required on an adjacent property? Note that stormwater is being concentrated at this point.
61. Discuss the feasibility of minimizing total site impervious area by means of using alternative roadway layouts that minimize imperviousness and/or using permeable paving materials.
62. Note that, the removal of existing vegetation shall be avoided as much as possible. Minimal disturbance methods should be used to limit the amount of clearing and grading.

63. The application proposes the use of shared driveways that connect two or more houses. Discuss the potential for use of alternative surfaces such as double-tracks, reinforced grass, and permeable paving materials.
64. Include a discussion in the Narrative of the SWPPP of how Low Impact Development strategies and practices have been implemented in the SWPPP and how these have mitigated the detrimental effects of stormwater runoff from the developed portion of this parcel. Include in the discussion the strategies and practices that were rejected by the Applicant and the rationale for that rejection.
65. Peak Flow Rate tables referenced in the Draft Environmental Impact Statement report shall be consistent with tables from the SWPPP report.

The following review comments on the DEIS submitted by Greenplan, Inc.:

MEMORANDUM

To:	Benjamin Astorino, Chairman Town of Warwick Planning Board	GREENPLAN INC. Environmental Planners 302 Pells Road Rhinebeck, NY 12572-3354 845.876.5775 Fax 876.3188 www.greenplan.org
From:	J. Theodore Fink, AICP	
Date:	1/21/09	
Subject:	Mountain View Estates Subdivision Draft EIS Completeness	
Applicant:	Elljay Development, Inc.	

The proposed Draft Environmental Impact Statement (DEIS) for the above captioned project, prepared by Saccardi & Schiff, Inc. and dated October 29, 2008, has been reviewed for completeness. We have used the Final Scoping Document, dated April 2, 2008, to help the Planning Board determine whether this document is complete with respect to its scope and content for the purposes of commencing public review.

While the DEIS is clearly written and follows the format of the Final Scoping Document, in our view, the proposed document is not as yet complete and our recommendation is that it should not be accepted by the Planning Board for public review at this time. Our reasons for recommending that the document be deemed incomplete are provided in detail below. We recommend that these comments be used together with the Town Engineer's comments and any other comments that Planning Board members may have on the completeness issue in formally adopting a "Resolution Determining DEIS Incomplete." I have prepared such a resolution in draft form for the Board's consideration.

PROCEDURES

General standards by which we review a DEIS for "completeness" are as follows:

- Does the DEIS address all of the issues identified by the Planning Board in the Final Scoping Document?
- Does the information provided in the DEIS follow the format directed by the Planning Board's Final Scoping Document?
- Does the content of the DEIS provide a sufficient level of detail on the range of issues identified in the Planning Board's Final Scoping Document to enable involved and interested agencies and the

public to make informed judgments, including information necessary for involved agencies to make their own findings on the action?

- Has the information provided in the DEIS been presented clearly to facilitate review by involved and interested agencies and the public (i.e. simple language, visual material, summaries of technical studies/appendices for lay people, etc.)?

The submitted DEIS does not provide all of the information required by the adopted Final Scoping Document. In addition, the DEIS does not adequately discuss and justify many of the critical assumptions included in the evaluations, many of which are simply stated as assertions.

This is a completeness review only. With the exception of a few inconsistencies that are discussed herein and must be addressed for clarity, technical issues will be addressed in our technical review once the proposed preliminary DEIS has been revised, reviewed again for completeness, and accepted as complete by the Planning Board. We recommend that the Planning Board direct the applicant to prepare revisions using “red-lining” or other revision marking techniques so that changes made to the document can be most efficiently review for completeness upon a second submission.

FRONT MATERIAL

1. The contact person for the Town Board should be corrected to denote “Michael Sweeton, Town Supervisor.”

I. EXECUTIVE SUMMARY

2. On page I-3, it is noted that “On-street parking would be prohibited throughout the project site.” This should be further explained since a 24 foot wide street is normally adequate for two parking lanes and a traffic lane or one parking lane and two moving lanes, according to the Institute of Transportation Engineers and American Society of Civil Engineers (see *Residential Streets*, third edition).
3. On page I-5, it is stated that “The financial burden associated with the upfront costs of creating community septic systems...justify the use of individual septic systems.” This should be further explained since the Town of Warwick requires central sewage facilities for all subdivisions over 49 lots by § 137-7.B(3)(b) of the Town Code and encourages the use of community septic systems (see § 164-41.1.M). Furthermore, the applicant’s economic interests fall outside SEQRA’s purview and are therefore not within the jurisdiction of the Planning Board in the environmental review of the project. As described in *Environmental Impact Review in New York* (Matthew Bender & Company, Inc., LexisNexis, August 2008) “economic considerations” must be weighed with environmental impacts as economic impacts *to the community*, not the applicant. “*While SEQRA’s definition of environment does protect the ‘socio-economic’ elements reflected in existing population patterns and neighborhood and community character, pure economic or competitive interests fall outside SEQRA’s protection. In general, socio-economic factors are not to be considered in the assessment of potential environmental effects, but rather later in the careful balancing of environmental and nonenvironmental factors that must precede governmental decisions.*” (Bender, 2.05[3]).
4. The list of Required Permits and Approvals in Table I-1 does not include the need for the waivers required from § 137-7.B(3)(b) of the Town Code which requires “central sewer and water services” for subdivisions greater than 49 lots, unless waived by the DEC Commissioner “if warranted by soil characteristics.”
5. Table I-2 states (see A. Soils) that soil type MdB is “a prime agricultural soil and soil of statewide significance.” This should be corrected.

6. The references to “fracture trace lineations” in Table I-2 should be simplified so that it is described in plain language that can be readily understood by the public.
7. In section E, Proposed Mitigation, in Table I-2, there is a typo in the third sentence.
8. Alternatives 2 and 3 are not in compliance with the Town of Warwick Affordable Housing program which requires one affordable (bonus) unit for every 10 market rate units. Thus, the 35 lot conventional Alternative 2 would be 35 lots + 3 and the reduced scale Alternative 3 would be 36 + 3.
9. The DEIS should define what is meant in the second paragraph on page I-3 by use of the term “controlled” by the Mountain View Estates Homeowners Association (HOA) in reference to the open space. The reference to 126.11 acres is not consistent with other acreage figures provided elsewhere in the DEIS. The issue of “control” of the open space is also important. The Orange County Department of Planning recommends against HOA ownership or protection of the open space in their review letter dated August 23, 2007. The Town of Warwick Conservation Board also concurs with the County’s recommendation.

II. DESCRIPTION OF THE PROPOSED ACTION

- A. **Introduction.** In all cases where there are completeness review comments in the Executive Summary and the Description of the Action affecting other Chapters of the DEIS, appropriate revisions should be made to all Chapters.
 10. In the third paragraph on page II-1, the reference to July 18, 2008 should be corrected to July 18, 2007.
 11. The Site Context Plan, Exhibit II-3, does not conform with § 164-41.1E(1)(f) of the Zoning Law, and should be revised. The on-site stream, federal wetlands, and woodlands are missing. Since this map is also designed to illustrate the proposed subdivision within its neighborhood context, the areas proposed for conservation on the site together with the open space areas on the adjoining sites subject to subdivision applications (i.e. Hampton Hills and Fusco) should also identify their proposed open space areas to illustrate the contiguity of open space areas. Also, if there are no public lands or lands protected under conservation easements in the area, then a note to that effect on the Site Context Plan should be provided.
- B. **Site Description**
 12. Exhibit II-3 does not identify areas of adjoining sites that have conservation restrictions, either existing or proposed. This is information important to the configuration of the proposed open space on the Mountain View Estates site, to determine whether linkages will be possible to connect such open space areas.
 13. In the first sentence of subsection 3 on page II-4, there seems to be a word, phrase or sentence missing.
 14. In subsection 4 on page II-6, it is stated that the overlay district table can be found on Exhibit II-6. This table is missing on Exhibit II-6. Also missing on this Exhibit are the soils labels. Soil boundaries are delineated and acreages provided but soil types on the site are not identified by name or symbol.

C. Project Description

15. In all cases where there are completeness review comments affecting other Chapters of the DEIS, appropriate revisions should be made to the Project description, subsections 1 through 18.
16. Exhibit II-6 has "Total Length of Stream" repeated.
17. The second paragraph on page II-8 has a grammatical error.
18. The third paragraph on page II-8 repeats the mistake identified above in comment 5.
19. The statement in subsection 2 on page II-8 leaves the reader questioning what impacts to groundwater have been identified. It is stated that the use of wells and septic systems "is not likely to significantly impact the groundwater conditions in the vicinity of the site." Any identified impacts should be disclosed so that the Planning Board and others can reach their own conclusions about significance.
20. The statement in subsection 4 on page II-9 that 78 acres were included in the Area of Potential Effect (APE) should be further explained in relation to the \pm 44.89 acres of the site that are stated in another section of the DEIS as the area to be developed (see 4th paragraph on page II-6).
21. The statement on page II-9 that "The Phase 1A/1B site investigation did not indicate any stonewalls, nor other indications of historic agricultural activity on the project site" conflicts with Exhibit II-4, which identifies stonewalls on the site, and with the statements on page II-4 that "Both parcels...have been historically farmed..." This should be corrected.
22. The second paragraph has a typo in the last sentence, i.e. "flowers and plans..."
23. The reasons why on-street parking would be prohibited, as stated on page II-10, should be explained.
24. The statement on page II-11 that "The proposed project site is surrounded almost entirely by existing or proposed single-family residential subdivisions" is not correct. The parcel southwest of the site, known as the Myruski Farm (SBL 18-1-18.21), is part of the Town's PDR program as is the Quackenbush Farm adjoining this farm, the Jewitt Farm northeast of the site is proposed as part of the Town's PDR program, and the Bollenbach Farm north of the site is a large active agricultural operation that forms a greenbelt around the southern boundary of the Village of Florida. The parcel and all surrounding parcels southwest to northeast of the site are within the Town's Agricultural Protection Overlay District and are in a New York State Agricultural District. The Randall parcel east of the site has not been subdivided nor proposed for subdivision. Only two parcels adjoining the site have been proposed for subdivision, the Hampton Hill subdivision and Fusco subdivision, both west/northwest of the site.
25. The statement on page II-11 that "If the project site were to be developed in conformance with existing zoning bulk standards for the RU District and the MT District, the site would yield 47 lots." This implies that the proposed subdivision is not in conformance with the bulk standards, which is incorrect because the bulk standards for a cluster subdivision are being used in conjunction with the Yield Subdivision plan to arrive at a base density.
26. The statement on page II-11 about "preservation of agricultural soils." cannot be verified without a breakdown by soil type of agricultural soils proposed for development. The question of which agricultural soils are preserved is important from a cluster subdivision and Town policy standpoint

(see Comprehensive Plan recommendations). It was also raised by the Orange County Department of Planning in their review letter of August 23, 2007. The County questioned whether the proposed cluster plan maximizes usable productive farmland and minimizes conflicts with neighbors. The DEIS does not adequately address these issues.

27. The 27.4 acres of land that is referred to on page II-13 as “undisturbed open space” is not proposed for conservation restrictions, would become a part of the proposed house lots, and would therefore, be subject to further development in the future. Thus, any references to this land as undisturbed open space should be removed.
28. The typo in the first sentence on page II-14 should be corrected (i.e. sewerage).
29. The DEIS is required to “Analyze and discuss LEED certification for all 51 houses.” The conclusory statement on page II-14 that “The applicant will not pursue LEED certification for this project.” is insufficient.
30. The grammatical error in the first sentence of subsection 15 on page II-14 needs to be corrected.
31. Who will monitor “Construction activity” as stated on page II-14 should be specified.
32. The statement that “the project has set aside approximately 127.6 acres as open space for use by Mountain View Estates residents.” needs to be corrected. This acreage includes 27.4 acres on the 51 house lots (i.e. not encumbered with conservation restrictions) that will be subject to accessory uses, building additions, accessory structures such as garages, sheds, guest dwellings or any other structure or use that is permitted by the Zoning Law. Therefore, this acreage must not be used to count towards the open space in the development. All references to 127.6 acres of open space should be corrected throughout the document.
33. The statement on page II-15 that “the completed buildings will require electricity, natural gas and oil.” is not consistent with statements elsewhere that the homes will be provided with gas-fired heat and hot water.
34. The statement in the third paragraph on page II-16 should be corrected as outlined in comment 24 above.
35. The DEIS should explain how the proposed homes will be designed to exceed the state’s Energy Conservation Code as stated on page II-16. As required by the Final Scoping Document, the DEIS must analyze and discuss use of alternative energy sources including solar and groundwater source heat pumps.

D. Description of Project Infrastructure

36. No completeness comments at this time.

E. Subdivision Plans

37. Secondary conservation areas may consist of “vegetation types by community” and depend upon their significance as determined by field investigations. The comments below in Section III-C should be used in conjunction with the 4-step process to determine secondary conservation areas. Thus, the statement on page II-17 that “The remaining 49 acres is land, which does not fit the definition of Primary or Secondary Conservation. This land is comprised of woods or

brushland...” will likely need to be adjusted pending a re-examination of the vegetation types on the site. Some of the 49 acres may have significance as a secondary conservation area.

38. The “significant viewsheds,” “important existing undisturbed habitat,” and “agricultural soils” described in the third paragraph on page II-19 need to be described and mapped since their areal extent are not identified on Exhibit II-9.
39. The discussion of lands included within the proposed 100.2 acres of open space is difficult to follow. A table, presenting the various acreages related to soil and other constraints, would clarify the discussion.
40. Use of the open space has not been included. Other sections of the DEIS describe passive recreational use and mention is made of the potential for trails. This should be discussed in subsection (4) on page II-21.
41. The statement in subsection (8) on page II-23 that “Each single family home includes a side-loaded two car garage...” is not consistent with Exhibits III.E-3 and III.E-4, which illustrates front-loaded garages. Exhibit III.E-5 shows a side-loaded garage but it projects forward of the front of the house including the front entrance. Such exhibits are inconsistent with the Town’s Design Guidelines, which call for garages to be set back *at least ten feet from the front façade to emphasize its ancillary use.* [emphasis added, see page 12 of the Design Guidelines].
42. Sidewalks and other pedestrian amenities, including pedestrian connections to adjoining lands that are proposed for cluster subdivision (i.e. Hampton Hill and Fusco) are not discussed in subsection (9) on page II-23. A map illustrating the relationship of the proposed open space with open space proposed on such other proposed subdivisions is specifically called for in the Zoning Law [see § 164-41.1.E(3)(a)].
43. Subsection (11) on pages II-23 and II-24 do not “analyze and discuss the use of village-scale lots in a rural setting...” as shown on this graphic that was included in the Final Scoping Document. The Zoning Law permits lots in a cluster subdivision to be as small as 12,500 square feet, normally what would be considered “village-scale.” Alternative 5 perhaps comes closest to the use of “village-scale” lots as suggested by the Final Scoping Document and could be developed using community septs and potentially community water.
44. The “potential development areas” shown on Exhibit II-9 differs significantly from the “potential development areas” shown on Exhibit II-7. Some of the “potential development areas” shown on Exhibit II-9 include secondary conservation areas. These two maps need to be consistent, showing clearly the areas identified as primary and secondary conservation areas. This is also important for the compliance table II-1 on page II-25, which states that the proposed development “does not encroach upon primary or secondary conservation areas.”
45. The table presenting project compliance with the house lot standards required by § 164-41.1.H of the Zoning Law is incomplete. Only subsections (1) through (5) have been assessed. More importantly, the sections of the Zoning Law that have not been included in the table, subsections (6) and (7), are designed to determine compliance with agricultural standards and guidelines including setbacks for wells, guidelines relating to prime agricultural soils and other farm features,



as well as the residential siting guidelines. The proposed project's conformity and/or consistency with such standards and guidelines is essential to an understanding of the subdivision's impact on agriculture on the site, in the neighborhood, and in the Town (see also comment # 24).

F. Utilities

46. There is a grammatical error in the first sentence of Section F on page II-27.
47. The discussion of community septic systems in Section F on page II-27 dismisses this option because it places "home sites and proposed access roadways in areas of more severe terrain or shallow depth to bedrock, areas less suited for development." However, most lots are proposed in the one-acre to two-acre size. If smaller lots were proposed as encouraged by the Town Design Guidelines and Town Zoning Law and as discussed in comments 4 and 43, then additional acreage would presumably be available for community septic systems without encroaching on "areas less suited for development."
48. The statement on page II-27 that "The financial burden associated with the upfront costs of creating community septic systems...justify the use of individual septic systems." is not relevant to the DEIS since it involves a cost to the applicant and not the Town of Warwick (see Comment 3 above). According to the US EPA, "Onsite and cluster systems can provide a high level of public health and natural resource protection if they are properly planned, sited, designed, constructed, operated and maintained." [emphasis added, see the EPA's *Handbook for Onsite and Clustered (decentralized) Wastewater Treatment Systems*.]

G. Objectives of the Project Sponsor

49. The statement on page II-29 that "all of which would be held as permanent open space." In reference to the "126.11 acres" is incorrect. As stated elsewhere in the DEIS, only 100.2 acres are proposed to be subject to conservation restrictions (i.e. restrictive covenants). The DEIS elsewhere refers to an additional 27.4 acres of land that is not proposed to be disturbed but will also not be included in the area subject to the conservation restrictions. As pointed out in comments 9 and 32 above, all references to undisturbed lands being counted towards open space need to be removed unless the applicant is also proposing that such lands be included in the areas subject to conservation restrictions.
50. The statement that the "proposed project should have a positive effect on the surrounding property values." should be amended or reconsidered. Surrounding lands include active farms, active farms participating in the Town's PDR program, active farms proposed to be in the Town's PDR program, as well as farms and other lands that are vacant or proposed for subdivision approval. Unless the DEIS also explains how each of these different land uses would be positively affected, then this statement should be removed or identified strictly as an opinion of the applicant.

H. Project Purpose, Need and Benefits

51. The statement that the homes are "estimated to be between up to 3,000 square feet" needs to be corrected.
52. The statement that "the proposed project...adheres to the vision articulated in the CPPP as well as the Town's Comprehensive Plan." should be identified as an opinion of the applicant or further explained, since the site is identified in the Community Preservation Project Plan (CPPP) as "open space trails" and the applicant has not proposed trails as part of the open space on the site.

I. Construction

53. Completeness comments in this section of the DEIS are respectfully deferred to the Town Engineers.

J. Operations

54. In regards to section J-2 on page II-33, if the owner of this lot wished to continue farming operations, would the setbacks required by § 164-41.G(4) be available from proposed lots 2, 4 and 5?
55. See comment 45 above for a discussion of the project's potential compatibility or incompatibility with agriculture in regards to section J-2 on page II-33.

K. Agencies and Approvals

56. No completeness comments at this time.

III. EXISTING SETTING, POTENTIAL ENVIRONMENTAL IMPACTS AND PROPOSED MITIGATION MEASURES

57. Throughout the Existing Setting sections, there are portions of text that deal with impacts and mitigation. All such references should be moved from Existing Setting to the Impacts or Mitigation sections to avoid confusion and facilitate document review.

A. Soils and Geology

58. The text in subsection (b) on page III.A-5 states that "Soil test results reveal soils well suited for use in individual septic systems." However, since the Town encourages cluster (or community) septic systems and the Final Scoping Document directed the applicant to explore such systems, this statement should be further explained as to why use of the term "individual" was used, qualified by inserting "or community" after "individual" or simply stated as an opinion of the applicant.
59. The soils table provided lacks information identifying construction limitations, permeability, depth to bedrock, and seasonal water table.
60. The cluster regulations are designed to preserve unique environmental features such as steep slopes and the Subdivision Regulations contain standards relating to the buildability of each lot in a subdivision. The 5,000 square foot buildable area (and other criteria required by § 137-21.A of the Town Code) rule should be demonstrated for each lot. Some of the lots, such as # 8, 22, 32, 33, due to their steep slopes, will have little usable areas for outdoor activities. Furthermore, lots 32 and 33 in particular will be shaded from southern exposure (and possibly 31, 34 and 14), especially in the winter months, due to the terrain consisting of steep slopes and rock outcrops south of the proposed house locations. This may make solar access difficult if not impossible and may make these lots undesirable.
61. The first sentence in subsection (2a) on page III.A-6 is an incomplete sentence.
62. The impacts section lacks an analysis of the amount of disturbance within each slope category.

63. Subsection (3a) states that “no blasting will be required during the construction of the project.” This statement is much more definitive than prior statements about blasting, which say that it “is not anticipated.” or that “blasting may be required and the appropriate blasting permits will be obtained. If blasting is required, a blasting plan would be prepared and submitted with the FEIS.” The DEIS must be consistent throughout.
64. The Final Scoping Document required that a blasting plan be discussed (see page 11). If it is determined that “blasting may be required” as stated in the DEIS, then the blasting plan must be provided in the DEIS, not the FEIS as stated on page III.A-1.

B. Water Resources

65. In Part (a) on page III.B-1, the first paragraph is confusing in that it does not set up a discussion of existing water resources. Additional information is needed, for example, descriptions of watersheds (and subwatersheds if applicable), and a description of where water is flowing, originating, or ponding onsite. This is an existing condition description regardless of where any construction is to take place.
66. This section does not include information about the wetlands in the context of the watershed. What are the functions of the wetlands on this site? This information is missing from the DEIS and from the wetland delineation report; it is necessary in order to determine impacts.
67. The Surface Waters Map in Part (a) of the DEIS text and the Wetland Delineation Report should include all surface waters on-site regardless of jurisdictional status. It should also include the following information:
- Wetlands’ contributing drainage areas and the watersheds/subwatersheds of all streams. All intermittent and ephemeral streams, drainage ditches, seeps, and springs (for seeps and springs approximate locations should be shown).
 - The map should show adjacent wetlands, such as the farm pond, and hydrologic connections between onsite and offsite wetlands or other surface waters.
 - Wetland 1 is actually comprised of several different wetlands and a stream corridor. Each of these should be described separately and shown on the water resources map.
 - Hydrologic connections from wetland 5 to wetland 3 and an unmapped seasonal stream are described in the wetland report and should be shown on the surface waters map as well.
68. How does the existing vegetation onsite function as part of the watershed? Does it protect banks from erosion, provide habitat buffers, provide riparian habitat, slow overland flow, and so on? This information is needed for a description of existing water resources from an ecological, watershed, and natural resources standpoint. As currently written, much of the water resources information in this chapter is engineering-based information that focuses on stormwater management and regulatory compliance. This too is needed, but it is not a substitute for sound ecological information on the functions and values of on-site surface waters as required by the Final Scoping Document.
69. What is the relationship between soil hydrologic groups and water resources? How do different soil types affect drainage patterns and the capability of the site to assimilate effluent from septic? (Refer to Urban-Mead, R. 2006. Dutchess county aquifer recharge rates and sustainable septic system density. The Chazen Companies. Poughkeepsie, NY.)

70. In Part (b), relate “subcatchment” areas to watersheds and contributing drainage areas, wetlands and streams.
71. The description of hydrologic characteristics includes streamflow, wetland hydroperiod, depth to high water table, and water sources for wetlands and streams. This discussion omits sources of water supply to surface water resources.
72. Part (c) contains little or no information about stream conditions for Quaker Creek and its tributary. EPA’s criteria for describing stream conditions provides a good checklist (physical, chemical and biological condition) for this purpose. (Refer to EPA’s Rapid Bioassessment Protocols for use in streams and rivers. EPA/440/4-89/001).
73. The DEIS needs to describe existing wetland buffers and vegetation, buffer condition, and slopes (buffer functions are affected by degree of slope and vegetation).
74. Part (d) needs to explain the following data that has been provided: seasonal/storm event flow in streams, degree of bank erosion or scouring, flooding, and fate of water during ‘high water’ events.
75. Part (f) on page III.B-4, should be relocated to the opening paragraph for this section, as part of the overall water resources description.
76. Part (f) needs to explain how the geology described relates to on-site hydrology. How do geologic conditions affect water supply and seasonal availability of water for wetlands and streams? How do trace fractures affect surface water resources and/or hydrologic connections to groundwater?
77. The water yield and well information found on page III.B-6 needs to be moved to the impacts section.
78. In Part (g), the second paragraph, the conclusions regarding “no significant impact” are not documented by sufficient information. Nor is this existing condition information. The discussion should be moved to the impacts section. Refer to the previously identified Urban-Meade study regarding septic system impacts.
79. Page III.B-8 contains elements of existing conditions, impacts and mitigation. This information (part (h), 1-6) should be moved out of ‘existing conditions’ to a separate section, with an introductory paragraph about the *Southern Wallkill Biodiversity Plan* and how it relates to this project.
80. Page III.B-8. Should describe the vegetation and conditions within the existing riparian zone, especially within 100 feet of the stream. This should be provided for all streams onsite, whether perennial, intermittent, or ephemeral. Similarly, the degree of slope and vegetation within 100 feet of each wetland should be described.
81. To effectively discuss preservation or restoration of streams onsite, more information about the stream channel is needed. See comment above about EPA Rapid Biodiversity Assessment.
82. In the second paragraph on page III B-9, the discussion of treatment trains is not clear. The term should be defined as it is defined by the New York State Department of Environmental Conservation (DEC), and explained in terms of specific onsite stormwater management practices rather than in general terms. As currently described, onsite practices do not constitute a treatment train.

83. The impervious surfaces discussion on page III.B-9 is missing an analysis. For example, where are the impervious surfaces in relation to surface water resources? How does post construction impervious surface area within each watershed or contributing drainage area compare to pre-construction impervious surface area? This is significant information for evaluating impacts on surface water quality and supply.
84. On page III.B-9, how far from streams and wetlands are the proposed septic systems? The stated "Distant" is not specific enough for impact assessment purposes.
85. On pages III.B-9/10, additional information is needed on the existing site features and water resources' role in flood control and water quality protection. How are onsite wetlands or streams currently functioning to control flooding? How will these functions be protected during and after construction? How do vegetated buffers of sufficient size function in stormwater runoff control and water quality protection? Will existing buffers and their functions be preserved? Are there other water features onsite (ditches, intermittent or ephemeral streams) that currently play a role in the watershed for absorption of flood flows, water quality improvement, sediment trapping, etc.?
86. On page III.B-10, the discussion of LID practices and strategies, as used in this DEIS, should be defined. Is the intent to use EPA's "Reducing Stormwater Costs through Low Impact Development (LID) Strategies and Practices"? If so, onsite practices should be related to an overall strategy to manage runoff as close to its sources as possible:
- How have driveways and roads been shortened? Were they longer in previous subdivision plan submissions?
 - How will the riparian corridor relate to wetlands in the floodplain? Will they be included? Will they have vegetated buffers?
 - Are houses located in the less sensitive areas and restricted only to Potential Development Areas identified on Exhibit II-7? A review of Exhibit II-7 indicates that the proposed house locations are not confined to identified Potential Development Areas. More information is needed in regards to what are the most sensitive areas onsite (see also comments on the Vegetation and Wildlife section below).
87. The DEIS states that hiking trails may be considered for development within the open space (see page II-13). The DEIS should provide a more definitive statement concerning trails so that an assessment can be made of their potential impacts on surface waters, vegetation, and open space/recreation.
88. A map of the entire area of disturbance for this site is needed. This area should include all places where existing vegetation will be removed, as well as all areas traversed by heavy equipment. Section II states that 44.89 acres are to be developed, Section III-D states that the area of potential effect (APE) is 78 acres. Should the entire 78 acres APE be considered the entire on-site area where disturbance is to be anticipated?
89. All mitigation information discussed on page III.B-11, subsection (a) should be moved out of the impacts section and into the mitigation section. The impacts subsection should instead describe how the existing drainage conditions would be affected by proposed project activities, that includes contributing drainage areas. In the last two sentences in this paragraph, how will changes in vegetation affect existing drainage patterns onsite? Please provide information to explain the last sentence. If it means that less water will be available for streamflow and wetlands, how will this impact the existing water resources and their hydrologic functioning?

90. Table III.B-2 on page III.B-13 shows that onsite receiving waters will be able to assimilate stormwater flows, but how will they be affected by these flows?
91. Is the portion of the Table on page III.B-3 a fragment, or is it part of the same table that appears in full on the following page?
92. What is the fate of untreated stormwater contaminants in the outflows from stormwater ponds described on page III.B-14? Will these impact receiving waters? (Note these ponds only remove a percentage of the contaminants found in stormwater runoff (for example up to 80% total suspended solids and up to 40% total phosphorus) and some contaminants cannot be removed at all, but flow through the system (e.g. road salt).
93. In Table III.B-4, does 'post-development' refer to conditions before or after stormwater management practices have been installed? Please clarify.
94. On page III.B-15, part e, the discussion of impacts is not complete. It needs to include all indirect impacts to wetlands and streams including but not limited to the following:
 - road salt accumulations
 - hydrologic changes in the contributing drainage area (from increased stormwater runoff, decreased groundwater recharge, flow constrictions)
 - hydrologic stressors (from increased ponding depth, increased water level fluctuation, decreased groundwater discharge, hydrologic drought in riparian wetlands)
 - pollutant accumulation in wetland sediments
 - nutrient enrichment (N and P)
95. Will soil compaction in the area of disturbance affect groundwater recharge, as discussed on page III.B-15, part f?
96. Do the impacts discussed on page III.B-15, part g also pertain to all onsite surface waters?
97. Please describe the identified "minor" changes to groundwater quality discussed on page III.B-15, part h, and describe the potential impacts on surface waters before concluding the impacts will be "minimal."
98. Please provide more information on the 21 day flow time (leach fields to receiving waters) discussed on page III.B-17(3). If depth to groundwater is unknown, how can a conclusion be reached regarding pathogen travel time?
99. What are the potential impacts from pharmaceuticals flowing from leach fields?
100. Regarding the discussion of Nitrogen and Phosphorus on pages B-16-17: N and P are also components in stormwater runoff, especially across fertilized lawns. What is the cumulative effect of these other sources when added to flow from septic leach fields?
101. On page III.B-18, Section (4) does not contain information on water resources, amount of groundwater needed to recharge wetlands and streams and maintain seasonal flows and hydroperiod.

102. Additional information is needed on page III.B-18, Section (4). While groundwater recharge rates are provided, how is this affected by an increase in impervious surfaces and the re-routing of runoff as a result of stormwater management practices?
103. The first paragraph on page III.B-21 states that nitrogen discharges are not expected to affect surface waters, based on safe drinking water standards. Additional information is needed regarding the relationship of safe drinking water standards to impacts on surface waters and biota. For example, what level of nitrogen leads to algal blooms or other ecological disruptions?
104. Please match the mitigation discussion with all identified impacts. How will the impacts identified in parts d-h on page III B-15, and in the above comments be mitigated?

C. Vegetation and Wildlife

105. This section should begin with an overview of the existing conditions over the entire site, rather than with a summary of the Endangered, Threatened, and Rare species report (ETR report). The first paragraph narrows the focus even before an overview has been provided, and it should be replaced with an introduction to the site's overall biological resources.
106. The reference used *Ecological Communities of New York State* has been updated (Edinger, G. et.al. 2002, second edition, NY Natural Heritage Program). Please use the new version and revise text accordingly. The list of habitats for the site is not complete. The wetland habitats are clearly described in *Ecological Communities of New York State*, and these are the descriptions that should be used in the DEIS. They are more specific and provide more information than the wetland habitat descriptions in the ETR. Wetland 1 contains several different habitat types which should be discussed separately and each should be noted on the habitat map. Additional habitats that should be included are: seeps and springs, intermittent streams, vernal pool, and rocky outcrops. These are described in *Ecological Communities of New York State*.
107. Exhibit III C-1 should be revised to reflect the additional habitats identified in the comment above. Other special wildlife areas, such as those described in the DEIS as conducive to Indiana bat roosting, should also be noted on the habitat map.
108. In Exhibit III.C-2, as described above in the comments under Water Resources, a complete water resources map would be useful for this section as well. The existing wetlands map is focused on jurisdictional status (as per its title) and does not provide enough information for an ecological review of all on-site wetland and aquatic habitats.
109. Tables III.C-1 and C-2 should be amended to include all the habitat types added to this section (see comments above). Each type should be described and mapped separately, e.g. rocky headwater stream and floodplain forest are two habitat types, not one.
110. Aquatic habitats are not described. In-stream information should be provided, using EPA's biomonitoring protocol. Since the onsite tributary flows into Quaker Creek, any water quality changes to the tributary may be transferred to the Creek; these potential impacts should be described in the DEIS in the context of water quality and temperature impacts on aquatic habitat, and stream flow changes.
111. Since a biodiversity assessment considers habitats and their connections, common species, species of conservation concern, and invasive species, the following comments pertain to both the assessment and to the collection of information on species:

- An overview of typical or common species of plants and animals found in each of the above described habitat types should be provided. This has already been completed for some of the habitats and needs to be updated to include all habitats identified as per the *Ecological Communities of New York State* comment above.
 - Threatened, Endangered and Rare species. The term “rare” should be defined for the reader if it is to be used in this DEIS. A preferred approach is to focus on species of conservation concern, a more inclusive list and a much more informative and complete approach to informing a biodiversity assessment. Information from the US Fish and Wildlife Service and the New York Natural Heritage Program is not sufficient/complete for identification of all species of concern, and not even for all possible threatened and endangered species. These programs only record known occurrences of some species; most sites have not been field surveyed. This is only one information source. To compile a more complete list, species of conservation concern should be the starting point, based on habitat information, onsite observations, specific field surveys, and the following resources. Species of conservation concern include the following, a list which has been verified as valid by DEC’s Estuary Program and biodiversity personnel:
 - Endangered or Threatened species under the federal Endangered Species Act
 - NYS list of Endangered, Threatened, Rare, or Special Concern species (animals)
 - NYS list of Endangered, Threatened, Rare, and exploitably vulnerable species (plants)
 - Animals listed as Species of Greatest Conservation Need, in the NYS Comprehensive Wildlife Conservation Strategy www.dec.state.ny.us
 - S1, S2, or S3 by the New York Natural Heritage Program
 - Regionally rare, scarce, declining, or vulnerable in Kiviatic and Stevens (2001)
 - NYNHP Rare plant status list (www.nynhp.org)
112. Tables that list animal species of conservation concern that may use the project site at some stage of their life cycle should be prepared based on the above mentioned resources, and including the Breeding Bird Atlas, Hudsonia’s Biodiversity Assessment Manual, the Southern Wallkill Biodiversity Plan, local information and other available resources.
113. On page 27 of the ETR report in Appendix C.6, the Breeding Bird Atlas, NYS listing of Species of Greatest Conservation Need, and NYS Herp Atlas information should be used to generate lists of species of conservation concern (not limited to threatened and endangered species as is presently the case). If more site specific information on birds is needed, a breeding bird survey should be conducted in spring/early summer.
114. Page 28 of the ETR report in Appendix C.6 describes the use of the NYS Herp Atlas, and states that of the list of species that could occur on the site, none were observed during site visits. This is not surprising, as many of these species require specific field surveys during specific seasons and are very difficult if not impossible to find during other seasons. If adequate habitat conditions are present, then it can be assumed that these species may be found onsite, and brief species profiles documenting habitat needs should be provided. If more specific information is needed, surveys for particular species should be undertaken at the appropriate time of year. If such a survey is to be conducted for vernal pool breeding amphibians, it must be completed very early in spring.
115. The DEIS lacks information on plants of conservation concern, especially herbaceous plants. DEC’s listing of endangered, threatened, rare and vulnerable plants can be used, along with the NY State Natural Heritage Program’s plant atlas with specific Orange County listings and habitat

information, to compile a list or table of plants of conservation concern which may be found on the site.

116. Table III.C-3 doesn't provide sufficient information for any conclusions, isn't related to habitats, and should be omitted.
117. For deriving lists of species found on-site, the method of cross-referencing Natural Heritage data with field observations will yield only incomplete information about the site. If it is necessary to verify the actual existence of a species of conservation concern onsite, field surveys may be undertaken that are seasonally timed for optimal viewing of the species or species group that is the target of the survey. Uncommon species are often difficult to find even during the optimal season. To find them, the field survey personnel must look for them specifically, which is one reason why species information that depends on "general" site visits will be far from complete, and will only include mostly common species.
118. Based on the above described tables of species of conservation concern, and upon site-specific habitat information, a list of species of conservation concern that are likely to use the site can be compiled. Species profiles should be provided with information on specific habitat needs so that impacts to that habitat/species can be assessed and mitigation can be developed if necessary.
119. On page III.C-9 subsection (e), this interrelationship has not been adequately described. The western portion of the project site is within the Wheeler/Stony Creek Significant Biodiversity Area as shown by the figure in the Final Scoping Document. To describe the interrelationships, the species of conservation concern that inhabit the Biodiversity area and their habitat needs must be described and considered. This includes turtles (e.g. the spotted turtle) that require a complex of different habitats to meet their life cycle needs. It also includes a more in depth characterization of the matrix woodland that comprises much of this portion of the project site, and the species that inhabit it.
120. A biodiversity assessment for the site as described by the Final Scoping Document has not been completed. The habitat descriptions and species lists (i. e. common species, species of conservation concern, invasive species, and species observed on the site) are the first steps in a biodiversity assessment. Following the general methods found in the Southern Wallkill Biodiversity Plan requires a hard look at the condition and fragmentation of the habitat, habitat variety and connections, degree of habitat fragmentation, water resources and interconnections, and species. The species discussion includes species of conservation concern (i.e. development sensitive) including threatened and endangered species, invasive species, common species and development-associated species. The assessment also includes discussion of the relative numbers of development sensitive species and development associated species (i.e. "focal species" as defined in the Biodiversity Plan) and biodiversity hubs and connections.
121. Where are the wildlife corridors that facilitate movement between habitats and habitat complexes, both onsite and offsite to adjacent habitat areas?
122. Some of the species of conservation concern that are mentioned in the text or in Jason Tesaro's letter are dismissed without sufficient information. The only species profiles are those threatened or endangered species identified by the NY Natural Heritage Program or US Fish and Wildlife Service letters. This does not represent a complete study. For example, birds of conservation concern identified in the Breeding Bird Atlas block that encompasses the project site should each have a brief profile describing habitat needs.

123. Because the existing conditions are incompletely described, the impacts on vegetation and wildlife are also incomplete, and should be re-assessed after a more complete picture of on-site biota (including the biodiversity assessment) is produced. Many of the impacts listed in the Final Scoping Document have not been evaluated in the DEIS. Conclusions are provided with no documentation; this information should be reviewed and edited accordingly.
124. Evaluations of the “conservation areas” on-site and their actual habitat value have not been completed. When the biodiversity assessment is complete, the important biodiversity areas on-site can then be identified. For example, the western portion of the site falls into the identified Wheeler-Stony Creek biodiversity conservation area, some of which is proposed for subdivision development. Impacts on the Wheeler-Stony Creek biodiversity area (described in the Southern Wallkill Biodiversity Plan) have not been described. Completion of the biodiversity assessment will provide information regarding the most significant and sensitive biological areas onsite, and this can be used to evaluate the conservation areas and the need for alternative house lot locations.
125. The conclusions reached in the final two paragraphs of the ETR report are based on insufficient information. They should be amended accordingly after the above requested information has been provided.
126. Once a more complete “area of disturbance” map has been produced, it can be used to determine how many acres of each habitat type will be disturbed, and this will in turn provide information regarding potential impacts on associated animal species.
127. On page III.C-12, hayfields may be used by some birds of conservation concern. This should be documented.
128. Agricultural lands may provide habitat for rare plants; this should be considered and discussed in the DEIS.
129. Page III C-12 refers to mature forest. If this is a different habitat, with different value for wildlife from the successional southern hardwood community, it should be described and mapped separately.
130. Page III C-12 describes mitigation as well as impacts; please sort these out and present all the impacts first.
131. Pages III.C-12 and C-19 refer to land on individual lots which will not be cleared. Please provide more information. Unless this protection is mandated by deed restrictions or conservation easements, it cannot be enforced and should be removed from the list of “undisturbed lands” and from the mitigation section as described above under other comments.
132. The discussion on page III.C-20 on buffers, raises the question of how large will these buffers be? What vegetation do they support? Do they include slopes or thin soils? Where are they located onsite (i.e. which water resources are to be protected by buffers)? This could be depicted on a mitigation map for clarity.
133. Please describe what native species could be used in the discussion of landscaping on page III.C-20.

D. Cultural Resources

134. The statement that “The Phase 1A/1B site investigation did not indicate any stonewalls, nor other indications of historic agricultural activity on the project site” conflicts with Exhibit II-4, which

identifies stonewalls on the site, and with the statements on page II-4 that “Both parcels...have been historically farmed...” This should be corrected.

135. Correspondence with the New York State Office of Parks Recreation and Historic Preservation should be included with the DEIS as soon as it is received by the applicant and/or its consultants.

E. Visual

136. The Visual Impact Assessment does not include any indication that the methodology required by the Final Scoping Document and in common use for such assessments was, in fact, used to perform the assessment. Use of the DEC publication entitled *Assessing and Mitigating Visual Impacts*, is required for the visual impact assessment. This includes the first basic step in the visual assessment process, as detailed in the DEC publication, which is an inventory and mapping of aesthetic resources using the list of 15 potential resources of statewide significance from the list provided.
137. The DEIS states on page III.E-8 that “Unmitigated images present the worst case scenario for the proposed development...The unmitigated images do not include any landscaping or proposed street trees.” However, more importantly from an impact assessment perspective, the visual assessment was conducted during the summer months in a “leaf-on” condition. Both the existing site and proposed development superimposed on the site using photographic simulations understates visibility of the proposed development in “leaf-off conditions.” Furthermore, although the text states that “Both the mitigated and unmitigated images account for proposed site grading and include roads.” it is not clear if the proposed grading (and its attendant vegetation removal) includes both road regrading and individual lot regrading in the visual assessment. This should be explained.

F. Transportation

138. Review of the technical aspects of this section of the DEIS for completeness is respectfully deferred to the Town Engineers.
139. The question of whether there are pedestrian or bicycle movements in the area is not answered by the statement on page III.F-4 that “There are no pedestrian or bicycle routes either existing or planned in the project site area.” Do pedestrians or bicyclists use Old Ridge Road or other roads in the area potentially affected by the increased traffic generation from the project?
140. Subsection (2g) lacks a discussion of impacts on pedestrian and bicycle movements.
141. The first sentence of the last paragraph on page III.F-16 is missing a clause or words to form a complete sentence.
142. Although Context Sensitive Solutions (CSS) is mentioned in one sentence on page III.F-15, it does not include an “assessment and discussion” as required by the Final Scoping Document. CSS involves far more than the road following “the existing land features and contours” and balancing “cuts and fills” as stated. CSS includes, among other things, and assessment of facilities such as bicycle facilities, crosswalks, sidewalks, lane widths, and roundabouts in conjunction with the Town’s Public Works Department as well as existing and potential future users of such facilities.

G. Land Use and Zoning

143. The Existing Land Use Figure III.G-1, and the text accompanying the Exhibit on page III-G-1, requires revision. Several parcels labeled as residential are currently in active agricultural use and

some have been protected as farms in the Town's PDR program. Parcels labeled as "Possible Subdivision" require further explanation. Have applications for subdivision approval for such parcels been filed with the Town of Warwick?

144. Overlay Zoning Districts have been omitted from Exhibit III.G-2 even though they are discussed on page III.G-5. This should be corrected.
145. There appears to be wording or a phrase missing from subsection (d)(1)(c) on page III.G-7.
146. The statement that "The Project is consistent with the surrounding land uses." on page III.G-9 has not been demonstrated. This conclusion is reached through a statement in the DEIS that "surrounding land uses are mainly residential." As stated above in comments 9, 24, and 143, many of the surrounding land uses are not residential but agricultural including some that have been placed into the Town's Purchase of Development Rights (PDR) program, proposed for such program or involve active farms. This statement needs to be corrected. All references to surrounding land uses being residential or "is entirely surrounded by vacant or residential land uses." must be corrected. In cases where consistency/compatibility with such land uses is stated, it should also be stated that residential land uses have the potential for incompatibility with agricultural land uses. Measures or alternatives to ensure land use compatibility should be further discussed under Mitigation Measures or explored in the alternatives chapter.
147. The statement on page III.G-11 that "The Town of Warwick Planning Board requested that the applicant propose a Cluster Subdivision for the project site." should be checked with the records at Town Hall.
148. The statement on page III.G-13 that "there are no active farms surrounding the project site" needs to be corrected. This statement or one similar to it is found in numerous locations in the DEIS. Each instance should be corrected.
149. The reference to Exhibit II-7 on page III.G-15 needs further clarification. Exhibit II-7 identifies soils on the site, but doesn't superimpose the proposed house lots to determine whether "the project layout has been designed to minimize disruption to agricultural soils to the maximum extent possible." Agricultural soils should be clearly identified on a map showing the proposed house lots together with the acreage of prime and statewide significant soils to be lost to development by the proposed subdivision.
150. There is no mention of the inconsistency of the proposed project with the Design Guidelines' recommendations on locations of garages as discussed above in comment 41, nor an assessment of all rural design guidelines concerning Architecture, Stormwater, Site Design and Streetscapes. Point by point analysis needs to be provided in the DEIS.

H. Police, Fire and Emergency Services

151. No completeness comments at this time.

I. School District Services

152. No completeness comments at this time.

J. Fiscal Impact Analysis

153. No completeness comments at this time.

K. Recreation and Open Space Resources

154. The statement on page III.K-4 concerning the percent of open space preserved needs to be corrected in accordance with other comments above.
155. The statement that “hiking trails, may be considered for development” on page III.K-4 should be further elaborated upon. Any proposed development within the open space should be addressed by the DEIS. Also, please address the CPPP’s recommendation for this site’s potential for trail development.

L. Utilities—Water

156. The assessment of completeness of the DEIS with respect to water utilities is respectfully deferred to the Town Engineers.

M. Utilities—Wastewater

157. The assessment of completeness of the DEIS with respect to wastewater utilities is respectfully deferred to the Town Engineers. Other comments relating to an assessment of community (cluster) septic systems have been provided elsewhere in this Memorandum. The responses and modifications to the DEIS called for elsewhere should be repeated in this section of the DEIS as well.

N. Other Utilities

158. As stated elsewhere in this Memorandum, the reasons why the applicant is not pursuing LEED certification, as stated on page III.N-1 should be provided. The Final Scoping Document required the applicant to “analyze and discuss LEED certifications for all 51 homes.”

IV. ADVERSE UNAVOIDABLE SIGNIFICANT ENVIRONMENTAL IMPACTS IF PROJECT IS IMPLEMENTED

159. No completeness comments at this time.

V. ALTERNATIVES

160. Do the 35 lots proposed in Alternative 2 and the 36 lots proposed in Alternative 3 include the mandatory three affordable units?
161. Has the applicant held discussions with the Town Board or a land trust concerning their holding of conservation easements on the open space as suggested in Alternative 4? There are no conclusions regarding whether this is a viable option for the Planning Board to consider. The potential impacts of ownership of the open space by the HOA needs to be addressed to ensure the Town’s requirements for preservation of open space in perpetuity are properly addressed. Questions raised by this option, that need to be addressed by the DEIS, include the following:
- The HOA should be set up before the final subdivision plat is approved and should comply with all applicable provisions of the General Business Law.
 - Membership must be mandatory for each lot owner, who should also be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.

- The open space restrictions must be in perpetuity.
- The HOA should be responsible for liability insurance, property taxes, stewardship of the land, and the maintenance of recreational and any other facilities.
- Property owners must each pay their pro rata share of the costs, and the assessment levied by the HOA must be able to become a lien on the property.
- The applicant should make a conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the HOA. Such offer should be irrevocable and may be accepted by the Town, at the discretion of the Town Board, only upon the failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations or to pay its real property taxes. This should not prevent the applicant or HOA from voluntarily offering the open space for dedication to the Town at any time.
- Ownership should be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.
- Ongoing maintenance standards should be established and enforceable by the Town against the owner of the open space land as a condition of subdivision approval, to ensure that the open space land is not used for any purpose or structure prohibited by the conservation restriction.
- The Planning Board attorney should find that the HOA documents satisfy all such other conditions as the Planning Board deems necessary.

162. The discussion of Alternative 8 on page V-25 states that the “residential building lots...are confined entirely to the ‘Potential Development Areas’...as presented in Exhibit II-9.” needs to be revised (see comment 44 above).

163. The comparative assessment of alternatives found in Section II should be repeated in Section V.

VI. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

164. No completeness comments at this time.

VII. GROWTH INDUCING ASPECTS

165. No completeness comments at this time.

VIII. EFFECTS ON THE USE AND CONSERVATION OF ENERGY RESOURCES

166. See comments 29, 35 and 158 concerning LEED certification and alternative energy use.

IX. APPENDICES

Appendix C.5: Wetlands Delineation Report

167. The information requested in the comments below may best be provided within the text of the DEIS or in a separate wetland ecology or other similar report. The delineation report is generally complete for its intended purpose of documenting delineations, with the exception of the request for additional map information and a few other comments (as follows):

- The photographs provided as part of the wetland delineation report are very helpful; however, they would be much more useful if the locations associated with a wetland flag are shown as the photo number on a corresponding map.
- While the report documents the delineation of wetlands onsite, the DEIS text needs additional information about wetlands that is not provided in either location. This information includes an ecological characterization of wetlands and streams that does not focus on jurisdictional status but rather on the role of wetlands and streams within the watershed. This ecological characterization should include a discussion of wetland functions - this is important information for the evaluation of site impacts.
- The term RPW in this report can be confusing; it should be replaced with more specific descriptive terms such as intermittent stream, ephemeral stream, drainage ditch, pool, seep.
- It is not clear from the text of the wetlands report whether all the waters referred to as RPW's, are included in wetland delineations. Nor is it clear whether springs and seeps have been included in delineations. If not, their locations (at least general vicinity) should be noted on the wetland map.
- References to the creek should be consistent: the report refers to Quaker Creek while the DEIS text refers to a tributary of Quaker Creek.
- Page 3. The Creek and its tributary should be described in more detail to document the conclusions reached, i.e. "...stream does not possess high species diversity and abundance of fish, amphibians and macroinvertebrates..." On what information is this conclusion based? More information such as that provided by specific stream biomonitoring data is required before impacts to the stream can adequately be described.
- The report refers to Quaker Creek (or its tributary?) floodplain wetlands, but these are not mentioned in the text of the DEIS Water Resources section; this information should be presented so that existing conditions descriptions are complete, and impacts can more easily be evaluated.
- Figure 2. This map shows two small tributaries to Quaker Creek; one is included in Wetland 1, but the other is not described. More information is needed.
- Page 12 states that wetlands 1, 3, 5, A, B all have streams associated with them; please describe these as part of the ecological characterization and add them to the map.

The following comment submitted by the Conservation Board, dated 1/21/09:

Mountain View Estates - The CB does not have sufficient resources to comment on the completeness of the DEIS. When the DEIS is finalized, the CB will try to provide comments on that document as input to the FEIS. Meanwhile, here verbatim for convenience are the CB's comments, dated October 3, 2007, to the PB on this subdivision.

The CB notes that this potentially 53 lot subdivision on 169 acres has been given a Positive Declaration with a Type I SEQR Status. Over one mile of roadway will be constructed to access the building lots. Soils of statewide significance may be lost. The location of the property in the

Ridgeline Overlay may adversely affect scenic views. Construction on slopes greater than 15% appears to be proposed. There are wetlands and streams that may be adversely impacted during construction. Almost any one, standing alone, of these impacts could support a Positive Declaration.

The Orange County Department of Planning notes that due to proximity of agricultural lands, steep slopes, Quaker Creek (a tributary to the Wallkill River), etc., the property is "marginal for development and recommend that the applicant substantially decrease the number of proposed lots." The CB concurs with OCDP recommendation.

OCDP also objects to the open space residing across five lots and recommends that two or three, at the most. OCDP also recommends that a land trust be used to preserve the open space and that a homeowners association should not own and protect the open space. The CB concurs with OCDP.

Finally, OCDP notes that OC Health Department requires community water and sewer

when 50 or more lots are proposed. However, since the primary recommendation is to reduce the yield, it is not likely that central water and sewer would be required. The CB notes that bedrock is fairly close to the surface, i.e., 18 inches or less and concurs with the PB's Engineer that all lots provide percs and deeps.

This parcel since it is benefited by a stream and wetlands is likely to be an environmentally sensitive area and more information should be provided on the flora and fauna.

The following comment submitted by the ARB, dated 1/21/09:

Mountain View Estates - The ARB encourages the Planning Board to examine the alternative proposals for this subdivision and to work with the applicant to find the best possible design for the property. Our comments on the potential designs will follow. We feel it is important to make a very careful analysis of the cumulative impacts of the project as it abuts the Hampton Hills project, the Fusco project, the new Glenmere project and other development.

We would also suggest that the Planning Board should not only look at preserving open space on the site, but also at its impact on the surrounding agricultural lands, many of which have not been taken into consideration in the initial DEIS. The fact is that on the parcel, the proposed development will take the best agricultural lands out of production while saving the least agriculturally suitable (and least suitable to development) lands. We have a perfect opportunity before us to define the rationale for open space preservation in our subdivisions and to work with the applicant to achieve the best and most beneficial design.

Mr. Astorino: Kirk, you might want to get together to set up a meeting with Ted and Zen to go over these DEIS comments.

Kirk Rother: Yes. We are not looking to postpone the Board deeming it incomplete. Go ahead and deem it incomplete. We will set up a meeting with the consultants on this matter.

Mr. Astorino: Ok.

Mr. Showalter makes a motion on the Draft EIS Incomplete.

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

617.9(a)(2)

**State Environmental Quality Review (SEQR)
Resolution Determining Draft EIS Incomplete
Mountain View Estates Subdivision**

Whereas, the Town of Warwick Planning Board is in receipt of Subdivision and Special Use Permit applications by Elljay Development Inc. to develop a ± 171 acre parcel of land as a 51 lot residential cluster subdivision, and

Whereas, the overall development parcel is located on Old Ridge Road in the Town of Warwick, Orange County, New York, identified on the Orange County Tax Maps as Section 18, Block 1, Lot 2 and is currently zoned in the Rural (RU) and Mountain (MT) Zoning Districts, and

Whereas, the Planning Board, after duly circulating the project's application and Environmental Assessment Form (EAF) to all Involved Agencies, was designated the SEQR Lead Agency for the review of the proposed development, and

Whereas, having reviewed the potential environmental effects of the proposed project, as identified in the EAF, the Planning Board issued a Positive Declaration for the project on July 18, 2007, requiring the applicant to prepare a Draft Environmental Impact Statement (EIS), and

Whereas, the Planning Board conducted a public Scoping Session to identify each relevant issue to be studied in the Draft EIS and adopted a Final Scoping Document on April 2, 2008, and

Whereas, a Draft EIS was submitted by the applicant and accepted for review by the Planning Board on November 19, 2008, and

Whereas, the Planning Board is in receipt of memoranda from the Town Planner and Town Engineer, recommending that the Draft EIS not be accepted as complete at this time.

Now Therefore Be It Resolved, that the Planning Board, after conducting its own independent analysis of the completeness issue, has determined that the Draft EIS is inadequate for public review because it does not contain all of the

information required by the Final Scoping Document, as detailed in memoranda from the Town Planner and Town Engineer and attached to this Resolution as Attachment "A" and hereby directs the applicant to revise the Draft EIS in accordance with Attachment "A", the Final Scoping Document, and any other issues related to completeness identified by Planning Board members, and

Be It Further Resolved, that the Planning Board will review a resubmitted Draft EIS at such time as the applicant has complied with all of the identified deficiencies.

Connie Sardo: Mr. Chairman, we received comments from the Conservation Board and the ARB, dated 1/21/09 for the record.

Mr. Astorino: Ok. They are in for the record.

Kirk Rother: Thank you.

Oscar Blandi #2

Application for “*Amended*” Site Plan Approval for the construction and use of a replacement of a Boathouse Roof with a Deck and Walkway to the new deck located within “A Designated Protection Area” of Greenwood Lake, situated on tax parcel S 74 B 5 L 31; project located on the eastern side of Jersey Avenue (236 Jersey Ave.), in the SM zone, of the Town of Warwick, County of Orange, State of New York. Previously discussed at the 5/7/08 Planning Board meeting.

Representing the applicant: Dave Smith from Tom Hitchins & Associates.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Applicant has provided an Amended Site Plan.
 - A. Revise the “Approved” note: “Site Plan for addition to existing house within the Designated Protection Area of Greenwood Lake approved 11/3/04.”
 - B. On the call-out for “Area of squareing off ...”, note that this refers to the previous approval.
4. In response to the comments of the public hearing and the Building Inspector’s 4/8/08 memo:
 - A. On the Amended Site Plan, label the offset from the property line to the “bridge” connecting to the new roof deck as 5-feet minimum.
 - B. A 4” white plastic pipe, evidently a discharge directly into the lake from some location on the Blandi property, was noted by the Building Inspector. This pipe should be shown to outlet onto the lawn at a sufficient distance from the lake to allow the discharge to spread across the vegetation.
 - C. Applicant to discuss whether other facilities owned by Mr. Blandi on the Vujic side of the stone wall are on Mr. Blandi’s property or that they have been removed.
5. Pay final review fees.

The following comment submitted by the Conservation Board, dated 1/21/09:

Oscar Blandi #2 – CB has no further comments.

The following comment submitted by the ARB, dated 1/21/09:

Oscar Blandi #2 – ARB has no further comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has declared itself Lead Agency on this application. It is an Unlisted Action. The application was withdrawn the last time. We were ready at that time to complete SEQR on this application. At this point, there is not much else to say about SEQR.

Comment #2: Applicant to discuss project.

Mr. Astorino: It is pretty much of where you left off the last time.

Dave Smith: Yes. We are now ready to move forward. We have adjusted the bridge 8 feet from the property line.

Mr. Astorino: I think you had some concerns with the Building Department. John, were those concerns addressed?

Mr. Bollenbach: Yes.

Comment #3: Applicant has provided an Amended Site Plan.

- A. Revise the "Approved" note: "Site Plan for addition to existing house within the Designated Protection Area of Greenwood Lake approved 11/3/04."

Dave Smith: Correct.

- B. On the call-out for "Area of squaring off ...", note that this refers to the previous approval.

Dave Smith: Correct.

Comment #4: In response to the comments of the public hearing and the Building Inspector's 4/8/08 memo:

- A. On the Amended Site Plan, label the offset from the property line to the "bridge" connecting to the new roof deck as 5-feet minimum.

Dave Smith: Correct. That was changed to 8 feet.

Mr. Astorino: That is fine.

- B. A 4" white plastic pipe, evidently a discharge directly into the lake from some location on the Blandi property, was noted by the Building Inspector. This pipe should be shown to outlet onto the lawn at a sufficient distance from the lake to allow the discharge to spread across the vegetation.

Dave Smith: That has been done.

- C. Applicant to discuss whether other facilities owned by Mr. Blandi on the Vujic side of the stone wall are on Mr. Blandi's property or that they have been removed.

Dave Smith: That has been done.

Comment #5: Pay final review fees.

Dave Smith: Ok.

Mr. Astorino: Do any Board members or Professionals have any comments? Could we have a motion to set the Blandi #2 application for a public hearing?

Mr. McConnell makes a motion to set the Oscar Blandi #2 application for a Public Hearing at the next available agenda.

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

Dave Smith: Do we come back and have a public hearing?

Mr. Astorino: Send in a letter to our Secretary.

Connie Sardo: Send a letter to me stating that you would like to be placed on the next available agenda for a public hearing. If you want, you could fax that letter to me. If you, fax that letter to me, the public hearing would probably be on the second meeting in February.

Dave Smith: Ok. Thank you.

Other Considerations:

1. **Planning Board Minutes of 12/3/08 & 12/17/08** – Planning Board to Approve the Planning Board Minutes of 12/3/08 and 12/17/08.

Mr. Showalter makes a motion to approve the Planning Board Minutes of 12/3/08 and 12/17/08.

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

2. **Norden Subdivision** – Letter from Lehman & Getz, dated 12/30/08 addressed to the Planning Board in regards to the Norden Subdivision requesting a 6-Month Extension on “Re-Approval” of Final Approval of a proposed 4-Lot cluster subdivision, SBL # 40-1-25.21 & 25.224. *The applicant is still currently working on legal issues that is in the process of being finalized.* Final Approval was granted on, 3/21/07. Re-Approval of Final Approval was granted on 3/19/08. 6-Month Extension on Re-Approval of Final Approval becomes effective on, 9/19/08, subject to the conditions of final approval granted on 3/21/07. **ESCROW OK.**

Mr. Astorino: John, was this the application that had trouble with the driveway and the descriptions of the R.O. W.?

Mr. Bollenbach: Yes. That since has been corrected. The recording of those documents should be imminent.

Mr. McConnell makes a motion on the Norden subdivision granting, a 6-Month Extension on “Re-Approval” of Final Approval of a proposed 4-Lot cluster subdivision, SBL # 40-1-25.21 & 25.224. Final Approval was granted on, 3/21/07. “Re-Approval” of Final Approval was granted on 3/19/08. The 6-Month Extension on “Re-Approval” final Approval becomes effective on, 9/19/08.

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

3. **Jordan Subdivision** – Letter from Lehman & Getz, dated 1/13/09 addressed to the Planning Board in regards to the Jordan Subdivision requesting a 2nd 90-Day Extension on Final Approval of a proposed 3-Lot cluster subdivision, SBL # 55-1-27.2. *The applicant’s attorney, Ben Ostrer is finalizing legal issues with the Town’s attorney, John Hicks that are required prior to the signing of final plans.* Final Approval was granted on, 4/16/08. The 2nd 90-Day Extension becomes effective on 1/16/09.

Mr. McConnell makes a motion on the Jordan Subdivision granting, a 2nd 90-Day Extension on Final Approval of a proposed 3-Lot cluster subdivision, SBL # 55-1-27.2. Final Approval was granted on, 4/16/08. The 2nd 90-Day Extension becomes effective on 1/16/09.

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

4. **Lands of Kirk Rother** – Letter from Kirk Rother, dated 1/5/09 addressed to the Planning Board in regards to the Kirk Rother Subdivision requesting a 6-Month Extension on Final Approval of a proposed 2-Lot Cluster subdivision, SBL # 42-1-110.4. *The applicant is still in the process of satisfying the conditions of Final Approval.* Final Approval was granted on, 7/16/08. The 6-Month Extension becomes effective on, 1/16/09.

Mr. McConnell makes a motion on the Lands of Kirk Rother, granting a 6-Month Extension on Final Approval of a proposed 2-Lot cluster subdivision, SBL # 42-1-110.4. Final Approval was granted on, 7/16/08. The 6-Month Extension becomes effective on, 1/16/09.

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

5. **Cedar Ridge Subdivision** – Letter from Kirk Rother, dated 1/5/09 addressed to the Planning Board in regards to the Cedar Ridge Subdivision requesting a 6-Month Extension on Final Approval of a proposed 36-Lot Cluster subdivision, SBL # 7-2-51.2. *The applicant is still in the process of satisfying the conditions of Final Approval.* Final Approval was granted on, 7/16/08. The 6-Month Extension becomes effective on, 1/16/09.

Mr. McConnell makes a motion on the Cedar Ridge Subdivision granting, a 6-Month Extension on Final Approval of a proposed 36-Lot cluster subdivision, SBL # 7-2-51.2. Final Approval was granted on, 7/16/08. The 6-Month Extension becomes effective on, 1/16/09.

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

Correspondences:

1. Memo from Supervisor Sweeton, dated 1/20/09 addressed to the Planning Board in regards to Revision to Section 137.

Mr. Astorino: That memo is in our packets.

Privilege Of The Floor For Agenda Items!!

Mr. Astorino: If there is any one 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. Do any Board members have any comments?

Mr. McConnell: I have a comment on the Mountain View Estates application. I had seen some emails today that suggested that the applicant was looking to have a meeting with the Professionals. I think it would be appropriate if that meeting was done with all of the Planning Board members. I would like to be there to hear that.

Mr. Astorino: Then, it would have to be a regular meeting.

Mr. McConnell: That would be fine. That is what I am suggesting so I could hear what their responses to the concerns and deficiencies that are pointed out by our Professionals.

Mr. Astorino: We could do that before a work session. Dennis, I don't know if that would be ok for you. I don't know what your schedule would be like. That might be tough for you. I don't know how long it would take. Are you looking to go through these comments one by one?

Mr. Fink: I hope not.

Mr. Astorino: That could take up to 4 hours.

Mr. Fink: I hope they narrow it down to just review the specifics that they need clarification on.

Zen Wojcik: Warwick Views DEIS meeting took us 2 hours.

Mr. Fink: Right.

Mr. Bollenbach: So, this would take Mountain Views at least 2 hours. Mountain Views DEIS is not in any better condition than Warwick Views DEIS.

Mr. McConnell: If I had far enough advance notice, I could work it out.

Mr. Astorino: How far advance notice do you need?

Mr. Showalter: Do you need a months' notice?

Mr. McConnell: I need about 2 weeks notice.

Mr. Astorino: That is something you could work out. Do you want to do it before a work session?

Mr. McConnell: Or, we could do it another night. I think that it is important.

Mr. Showalter: I think Dennis is right.

Connie Sardo: It would be a meeting.

Mr. Astorino: It would have to be noticed. We would have to see if we could get the room available.

Connie Sardo: Or, you could do it at the February 23, 2009 Work Session.

Mr. Fink: We could break it up. We could give them an hour before a meeting. If that is not enough, then we could do it at another meeting.

Mr. Astorino: I like that idea.

Mr. McConnell: Yes. However, you work it out would be fine. I just want to be there to hear the responses.

Mr. Showalter: Connie, do we have a lot of things for the next couple of work sessions?

Connie Sardo: That was why I mentioned the February 23, 2009 Work Session.

Mr. Astorino: Why don't we try to do it at the February 23rd Work Session? If that work session is a light one, we would be able to go on with that for another ½ hour. If that works out, we will put it on for the February Work Session.

Connie Sardo: Do you want me to put it on the February 23rd Work Session?

Mr. Singer: We would have to talk to the applicant first.

Mr. Astorino: We will talk to them. Connie, you have the emails.

Connie Sardo: Ok. Do you want me to potentially set it for the February 23rd Work Session?

Mr. Astorino: Talk to Ted and the applicant about it. We will work through it.

Mr. Showalter: Just schedule it when we don't have a heavy load.

Mr. Fink: I could contact the applicant to let them know that is what the Planning Board wants to do.

Mr. Astorino: Ok.

Connie Sardo: Ted, you would then let me know.

Mr. Fink: I will let you know.

Connie Sardo: Ok.

Mr. Astorino: Ok. Does the Board have anything further?

Mr. Showalter makes a motion to adjourn the January 21, 2009 Planning Board meeting.

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