

TOWN OF WARWICK PLANNING BOARD

March 4, 2009

Members present: Chairman, Benjamin Astorino  
Russell Kowal, 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, March 4, 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.

**PUBLIC HEARING OF 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.

Representing the applicant: David Smith from Tom Hitchins & Associates

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the Oscar Blandi #2 public hearing.

Mr. Astorino: Thank you.

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-foot 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.
5. Pay final review fees.

The following review comment submitted by the Conservation Board, dated 3/4/09:

Oscar Blandi #2 – CB has no further comments.

The following comment submitted by the ARB:

Oscar Blandi #2 – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: I thought the Planning Board passed a Resolution determining that this application would be a Type 2 Action under SEQR. SEQR is not necessary on this application.

Mr. McConnell: Do we have the Resolution for the Type 2 Action.

Connie Sardo: Yes. We have a Resolution for the Type 2 Action.

Mr. Fink: Yes. Wasn't that already adopted by the Planning Board?

Connie Sardo: We had spoken about this yesterday. The Planning Board had declared Lead Agency. We never got to this point for the Resolution for the Type 2 Action because the applicant did not show up for that meeting. Then the applicant withdrew its application.

Mr. Fink: Right. The Resolution for Type 2 Action was drafted but never actually adopted. The Board should go ahead and adopt a formal Resolution classifying this as a Type 2 Action. After that, you would then comply with SEQR.

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

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

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

**Name of Action:** Blandi Site Plan Amendment for New Boathouse Roof

**Whereas**, the Town of Warwick Planning Board is in receipt of a Site Plan application by Oscar Blandi for a ± 0.348 acre parcel of land located at Jersey Avenue, Town of Warwick, Orange County, New York, and

**Whereas**, an Environmental Assessment Form (EAF) dated 6/1/07 was submitted at the time of application, and

**Whereas**, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is a Type 2 Action that meets the thresholds found in 6 NYCRR 617.5(c)(10) and, therefore, SEQR does not apply, and

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

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

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

Comment #2: Applicant to discuss project.

David Smith: We are at the end of this. You have seen the design. We had changed the roof. We moved the bridge over in accordance with desires of the Board to comply with the setbacks.

Mr. Astorino: Have you taken care of all the violations?

David Smith: Yes.

Mr. Astorino: Zen, did you check with the Building Department on that?

Zen Wojcik: Yes.

Mr. Astorino: Ok. That has been taken care of.

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

David Smith: Yes. Ok.

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-foot minimum.

Mr. Astorino: You said that you had done that.

Dave Smith: We did.

- 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.

David Smith: Yes. It passed.

Comment #5: Pay final review fees.

David Smith: Fine.

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

Mr. McConnell: I want to clarify something on comment #4-A. I think I heard two different things. Comment #4-A, talks about labeling on the amended site plan. It states, label the offset from the property line to the bridge connecting to the new roof deck as 5-foot minimum. I thought, I heard this gentleman say that the bridge had been moved.

David Smith: I don't know. The drawing had been adjusted.

Mr. McConnell: Ok. I just wanted to be clear on that. Thank you.

Mr. Astorino: This is a public hearing. If there is anyone in the audience wishing to address the Oscar Blandi #2 application, please rise and state your name for the record. Let the record show no public comment.

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

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

Mr. Kowal makes a motion on the Oscar Blandi #2 application, granting "*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. A SEQR Negative Declaration was adopted on 3/4/09. Approval is granted subject to the following conditions:

1. 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 squaring off ...", note that this refers to the previous approval.
2. 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-foot 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.
3. Pay Final Review Fees.

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

David Smith: Thank you.

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

Application for Site Plan Approval and Special Use Permit for the construction and use of a commercial site plan of a 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. Planning Board issued a Positive Declaration on 4/16/08. Previously discussed at the 1/21/09 Public Scoping Session. *Planning Board to discuss Final Scoping Document.*

Representing the applicant: Dave Getz from Lehman & Getz Engineering.

The following review comments submitted by Tectonic: None submitted.

The following comment submitted by the Conservation Board, dated 3/4/09:

HOMARC, LLC. – CB has no further comments.

The following comment submitted by the ARB:

HOMARC, LLC. – None submitted.

Mr. Fink: Under SEQR where we stand is that we conducted a Public Scoping Session on this application. We allowed for an additional period after the Public Scoping Session for anyone to submit written comments. We only received one written comment on that other than Tectonic. Tectonic also had comments on the Draft Scoping Document. The most recent comments are about 5 or 6 of them that I had received from Zen yesterday. What I have done was prepared a proposed Final Scoping Document showing any proposed changes to the Draft Scoping Document. Unless, any Planning Board members have any additional comments tonight, what I would propose to do would be to finalize the scoping document subject to incorporation of all those additional changes that were made as well as Zen's that he suggested yesterday. Dave, did you receive a copy of Zen's recommendations?

Dave Getz: No.

Mr. Fink: Ok. I could tell you what they are. These comments come from Zen's memo, dated 3/3/09 that was emailed to me. In the Scoping Document under Section III.D.2.c; this was in regards to correcting the format for numbering (I, ii, iii). It doesn't affect the substance of the document. It would be just the matter of renumbering.

Dave Getz: Ok.

Mr. Fink: The next item would be Section III.D.2.f.; Zen, has suggested that we include a reference to preparing a master sign plan for potential multiple establishments, per §164-43.1G(4)(c) in the Town's Zoning Law. Section IV.B.1.a.; Zen has suggested that after the word "wetland" insert "and NYSDEC classified streams." Section IV.D.2.f.; The reference to NY Guidelines for Urban Erosion...is outdated. This document has been supplanted by NYS Standards & Specifications for Erosion & Sediment Controls (NYSDEC). That would be a change in the reference.

Dave Getz: Ok.

Mr. Fink: In Section IV.F.1.g.; Since it is under construction and not completed, add Fairgrounds to the list of projects to be considered as fully built-out for the Traffic Analysis. Name – The Fairgrounds, Lots – 4 (commercial & municipal), SBL/Location – 50-1-40.1 through 40.4, NYS Rt. 94, Status – Approved.

Dave Getz: Ok. I have a couple of comments. Could I mention those comments now?

Mr. Fink: Yes.

Dave Getz: On the 2<sup>nd</sup> page, there were two things that were carryovers from earlier. There was one that I think was a typo. On the 1<sup>st</sup> page, it mentions a total disturbance area about 55% of the site. I think that is accurate. Item #1, of page 2, says approximately 80% of the site.

Mr. Fink: Ok. Is the correct figure 55%?

Dave Getz: Yes. That is in the first paragraph on page 1 regarding the 55%.

Mr. Fink: Ok.

Dave Getz: On page 2, item #6, I think was a carryover from an earlier plan where it states onsite sewage disposal would be proposed. You have mentioned that could be a conflict within the plan.

Mr. Fink: Are you sure that this is not the section of the document that refers to the Positive Declaration?

Dave Getz: Oh. Yes. Ok.

Mr. Fink: I do remember that I went through that. What I will do is provide a clarification that there had not been changes to the project that were not reflected in the Positive Declaration since that was issued.

Dave Getz: Ok. I think the 80% matter was a typo.

Mr. Fink: Ok. I will make sure I correct that.

Dave Getz: Ok.

Mr. Singer: Ted, you mentioned that we received one written comment. Could you give us an idea what that was about?

Mr. Fink: Yes.

Mr. Astorino: Was that the letter to the Editor?

Mr. Fink: We actually received an email dated February 1, 2009.

Mr. Astorino: Wasn't that the same thing?

Mr. Singer: I think I know what that was. Ok.

Mr. Fink: I believe it was the same thing as the letter to the Editor. We asked her to submit it to us formally as a comment rather than just through the Editor. I think she understood that. The comments that she had made were addressed in the Scoping Document.

Mr. Singer: Ok.

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

Dave Getz: No. I just had a question on the procedure. The question would have to do with this property to tie into the Sewer District that is currently under construction next door at the Fairgrounds site. Would that be a process through the Town Board?

Mr. Bollenbach: Yes.

Dave Getz: Ok. To include extra properties beyond the Fairgrounds when involved with the marginal access plan, could the DEC approve all? Would that be something we would initiate with the Town Board?

Mr. Bollenbach: Yes.

Dave Getz: Ok.

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

Mr. Fink: If there would be nothing else, I will produce a clean copy of the Final Scoping Document with these corrections made to it. Under the SEQR regulations, it needs to be filed with all of the other Involved and Interested Agencies and filed with the Town Board, the Town Supervisor, with the Planning Board, and Applicant.

Mr. Astorino: Ok. You will take care of that.

Mr. Fink: I will take care of that tomorrow so that Connie could file it with all the agencies right away.

Connie Sardo: Yes.

Mr. McConnell makes a motion on the HOMARC, LLC., application to adopt the Final Scoping Document along with the necessary changes that Mr. Fink had stated.

Seconded by Mr. Singer. The following Final Scoping Document was carried 4-Ayes.

### *Final Scoping Document*

For Preparation of a Draft Environmental  
Impact Statement For The Homarc Property

NYS Route 94 Town of Warwick,  
Orange County, New York

**Classification of Action:** *Unlisted*

**Lead Agency:** *Town of Warwick Planning Board  
Town Hall,  
132 Kings Highway  
Warwick, NY 10990*

**Final Scoping Document Adopted:** *March 4, 2009*

#### **DESCRIPTION OF PROPOSED ACTION**

*Homarc Land, LLC proposes to develop professional office, retail and food service uses on land totaling approximately 5.1 acres on NYS Route 94 (New Milford Road) east of Sanfordville Road in the Town of Warwick, Orange County, New York. The property is zoned for this purpose. The proposed development is comprised of an approximately 29,120 square foot two-story building with parking in the basement level. The project will utilize on-site water supply and municipal sewage system, will have a total of approximately 115 parking spaces, and have a total disturbance area of 2.8 acres or 55 percent of the site.*

#### **SITE DESCRIPTION**

*The site is currently vacant, undeveloped, non-agricultural meadow/brushland, freshwater wetlands and wooded uplands. The site topography is gently sloped, rising toward the southern portion of the property and generally draining toward the watercourse to the north and east and toward the wetland on the northeast portion of the site.*

*The site contains an area of US Army Corps of Engineers wetlands totaling approximately 0.4 acres. A New York State protected stream flows through the Federal wetland on the site, that is a*

*tributary of the Wawayanda Creek. No New York State Department of Environmental Conservation wetlands are present on site or immediately adjacent, but such State wetlands are located in the general vicinity of the site. Well-drained to moderately drained soils cover the majority of the property.*

*The subject property is located in the Designed Shopping (DS) zoning district. Land use in the vicinity of the site includes vacant, agricultural, commercial, and residential uses. The site has approximately 440 feet of frontage on Route 94.*

The proposed Homarc development was classified as an Unlisted Action and was subject to a Positive Declaration, issued by the Town of Warwick Planning Board on April 16, 2008. At that time, the Planning Board directed the applicant to prepare a DEIS. Potentially significant adverse impacts identified by the Planning Board in the Positive Declaration, which were based upon a preliminary plan of development that has now been revised and superceded for the Final Scoping Document (Site Plan dated 11/24/08) include, but are not limited to, the following.

1. The proposed action involves the physical alteration of approximately 80 percent of the site. This has the potential to cause soil erosion and subsequent sedimentation of protected surface waters.
2. The proposed action includes construction activities adjacent to protected wetlands and streams. The discharge of stormwater runoff from developed areas on the site would be directed to such wetlands and stream. The wetlands in this area are known to harbor an endangered species, the Bog Turtle and in such cases, consistency with the US Fish and Wildlife Service's Bog Turtle Recovery Plan is necessary. The site may also provide habitat suitable for the endangered Indiana Bat.
3. The proposed action would require the use of groundwater wells to supply the potable water needs of the development. Sanitary sewage from a commercial use would be discharged into an individual septic disposal system within the Town's Aquifer Protection Overlay District.
4. The proposed action will irreversibly convert Prime Farmland Soils within a New York State Agricultural District and a Town of Warwick Agricultural Protection Overlay District. The site is also in an area where the Town of Warwick has made significant expenditures of public funds for the purchase of development rights on nearby farms.
5. The proposed action has the potential to impact traffic on local, State and county roads as well as pedestrian movements in the area. A preliminary Traffic Study completed for the proposed development indicates that a separate turn lane would be required for the proposed development on Route 94, thereby potentially altering the rural character of the highway. The Town of Warwick Comprehensive Plan recommends the use of secondary access (marginal access) roads to limit

the number of curb cuts and the Town Zoning Law requires limits on the location and number of access points on Route 94.

6. The proposed project may not be consistent with the Town of Warwick Comprehensive Plan's recommendation to use significant natural buffering between proposed developments in the DS Zone and the highway due to the proposed location of a septic disposal system between Route 94 and the proposed parking lot. The Town of Warwick Design Guidelines recommends that all parking be provided at the side and rear of proposed non-residential developments, which the proposed project is also not consistent with.

*On January 21, 2009 at 7:30 PM, the Planning Board held a public scoping session at the Town of Warwick Town Hall, 132 Kings Highway, Town of Warwick. The applicant prepared a Draft Scoping Document that outlines the areas, they have proposed for study in the DEIS. This document was available in the Planning Department at Town Hall for review or reproduction. The document was also available at the Wisner Library for viewing and on the Internet for viewing, downloading, or printing at <http://www.townofwarwick.org>. Written comments on the Draft Scoping Document were welcomed. Persons attending the public scoping session had an opportunity to speak to make their scoping suggestions known. The period for submitting written comments on the scope of the DEIS closed on February 2, 2009. This Final Scoping Document incorporates public and agency comments on the Draft Scoping Document.*

#### **GENERAL DEIS FORMAT**

*The applicant should closely examine the SEQR regulations for direction on the required content of a Draft EIS. Unless otherwise directed by this Draft Scoping Document, the provisions of 6 NYCRR 617.9(b) apply to the content of the Draft EIS and are incorporated herein by reference.*

*The DEIS shall cover all items in this Scoping Document. Each impact issue (e.g., soils, surface water, traffic, etc.) should be presented in a separate subsection as it relates to existing conditions, future conditions without the project (as may be applicable) and future conditions with the project as presently planned, and any mitigation measures designed to minimize the identified impacts.*

*Narrative discussions should be accompanied by appropriate tables, charts, graphs, and figures whenever possible. If a particular subject can be most effectively described in graphic format, the narrative discussion should merely summarize and highlight the information presented graphically. All plans and maps showing the site should include adjacent properties (if*

appropriate), neighboring uses and structures, roads, and water bodies.

Information should be presented in a manner which can be readily understood by the public. Efforts should be made to avoid the use of technical jargon. All references to documents used in this Final Scoping Document, if dated, should include the most recent version of the document.

Discussions of mitigation measures below are examples. The document should clearly indicate which measures are included within the project plans.

The document and any appendices or technical reports should be written in the third person (i.e., the terms "we" and "our" should not be used). All assertions will be supported by evidence. Opinions of the applicant that are unsupported by evidence will be identified as those of "the applicant."

Any assumptions incorporated into assessments of impact should be clearly identified. In such cases, the "worst case" scenario analysis should also be identified and discussed.

#### **I. INTRODUCTORY MATERIAL**

Cover Sheet: The DEIS must begin with a cover sheet that identifies the following:

1. That it is a Draft Environmental Impact Statement.
2. The name and description of the project.
3. The location of the project.
4. The Lead Agency for the project and the name and telephone number of the following person to be contacted for further information:

Town of Warwick Planning Board  
Attn.: Ben Astorino, Chairman  
Town Hall  
132 Kings Highway  
Warwick, NY 10990

5. The name and address of the project sponsor, and the name and telephone number of a contact person representing the applicant.
6. The name and address of the primary preparer(s) of the DEIS and the name and telephone number of a contact person representing the preparer.
7. Date of acceptance of the DEIS (to be inserted upon acceptance).
8. Deadline for comments on the DEIS (to be inserted upon acceptance).

9. *Date of Public Hearing on the DEIS (to be inserted upon acceptance).*

*List of Consultants Involved With the Project: The names, addresses and project responsibilities of all consultants involved with the project shall be listed.*

*Table of Contents: All headings which appear in the text should be presented in the Table of Contents along with the appropriate page numbers. In addition, the Table of Contents should include a list of figures, a list of tables, a list of appendix items, and a list of additional DEIS volumes, if any.*

## **II. SUMMARY**

*The DEIS must include a summary. The summary should only include information found elsewhere in the main body of the DEIS and should be organized as follows:*

- 1. Brief description of the action.*
- 2. List of Involved and Interested Agencies and required approvals/permits, incl. status of these approvals.*
- 3. Brief listing of the anticipated impacts and proposed mitigation measures for each impact issue discussed in the DEIS. The presentation format should be simple and concise.*
- 4. Brief description of the project alternatives considered in the DEIS. A table should be presented which assesses and compares each alternative relative to the various impact issues.*
- 5. Brief description of issues and potential controversy, if any.*
- 6. Listing of matters to be decided, including listing of permits and approvals.*

## **III. DESCRIPTION OF THE PROPOSED ACTION**

### **A. Introduction**

- 1. The reasons for and purpose of the DEIS and the nature of the proposed action.*

### **B. Project Purpose, Needs, and Benefits**

- 1. A description of benefits to be fulfilled by the project. This includes the anticipated tax revenues (property tax, sales tax) to the Town of Warwick and other jurisdictions including the Warwick School District and Orange County.*

2. Objectives of the project sponsor. Define the proposed retail center in terms of an industry standard in common use.
3. A description of public needs for and benefits of the project. Identification of public need for the project is required by the SEQR regulations and is an especially important consideration if there are adverse environmental impacts identified that cannot be mitigated or avoided.

C. Project Location, Description and Environmental Setting

1. Description of the geographic boundaries of the project in the region and Town, including proximity to other commercial development on Route 94. Provide a written and graphic description (preferably use tax maps and USGS 1"=2,000" scale maps) of the location of the site in the context of the Town of Warwick, Orange County. Include a map or maps identifying the relationship of the site to residential and commercial development within one-half (1/2) mile of the site. Include an aerial photo of the site and surrounding properties.
2. Description of access to the site, including any special features unique to the site. Identify existing curb cuts on State Route 94. Describe in text and graphics proposed new ingress and egress locations including design parameters. Discuss interconnections to adjoining parcels, as required by § 164-42F of the Town Zoning Law (i.e. marginal access road development). Discuss whether any off-site improvements would be necessary for such interconnections.
3. Description of the site including existing zoning, topography, site characteristics, and land use.

D. Project Description and Layout

1. Characteristics of the site and surrounding area.
2. Structures and Site. The proposed site plan drawings (including profiles where required) should be submitted with the Draft EIS, in conformance with the Town Zoning Law requirements. Small scale plans, profiles and drawings (i.e. 8/4" x 11", 11" x 17", or other suitable size) can be provided in the Draft EIS for illustration purposes. Include a description of proposed:
  - a. Building layout, use and architecture. Provide architectural elevations and architectural character of all proposed structures. Typical elevation views, that would be visible from drivers on Route 94, should also be provided.
  - b. Floor area.
  - c. Grading and drainage plans. Identify in graphics and text the total on-site land area to be:

- i) cleared for building, landscaping, utility, stormwater, and parking development;
  - ii) on-site areas subject to grading; and
  - iii) on-site areas that will not be physically altered. The Grading and Drainage Plans should also identify stormwater management facilities consistent with the Stormwater Pollution Prevention Plan included in the document.
- d. Parking area layout and circulation. Provide justification for the proposed number of parking spaces in relation to the Town's parking requirements. Relate Urban Land Institute and/or Institute of Transportation Engineers standards to the proposed parking generation rate. Location and number of handicapped spaces identified. Discuss how parking may be banked until demand is evident. Discuss the feasibility of providing alternative parking surfacing (such as block pavers) for peak use times (a performance bond could ensure proper compliance if demand exceeds supply). Describe the pattern of vehicle movement for entering and exiting traffic as well as site circulation including (without limitation) delivery, service, and emergency vehicles. Fire lanes should be identified on plans. See the Alternatives section below for a discussion of the need for alternative parking layouts.
- e. Landscaping plan, including screening and buffering. A planting schedule should be provided describing location, type, number, and size of all proposed landscape materials. Describe whether any existing vegetation will be incorporated into the landscape plan, either in situ or transplanted.
- f. Lighting and signage plan. Provide illustrations of all proposed identification signage and identify location, size (including height), color, materials, and type of all signs. Prepare a master sign plan for potential multiple establishments in accordance with §164-43.1(G)(4)(c) of the Zoning Law. Identify lighting by location, type and photometries of all proposed light fixtures, including building mounted luminaries. Provide catalogue descriptions of lights and shielding details.
- g. Erosion and sedimentation control plan. Emphasis should be on the Plan's relationship with the required Stormwater Pollution Prevention Plan. Erosion and Sediment Control measures shall be implemented, constructed, and maintained in accordance with the latest revision of the NYS Standards and Specifications for Erosion and Sediment Control (NYSDEC).
- h. Setbacks and buffer treatments.
- i. Pedestrian safety within parking area. Pedestrian, mass transit, and bicycle access for patrons should be

discussed. This would include provision of connections to residential and commercial land uses by walkways and transit stops, and design of amenities for such users including but not limited to benches, bus shelters, shade trees, and bicycle racks. Address pedestrian safety on-site including, without limitation, speed bumps, pavement striping and lettering, and sidewalks or other exclusive pedestrian zones.

- j. *Impervious Surfaces* - Provide calculations of impervious surface coverage, broken down by type and acreage.
- k. *Off-site Construction* - Describe proposed off-site improvements (if any) including transportation, stormwater, and utility construction activities. Vegetation removal and re-grading in connection with such improvements should be described.

#### E. Construction and Operation

##### 1. Construction.

- a. *Total construction period anticipated.*
- b. *Schedule of construction (sequencing). Provide a flowchart for the maximum anticipated duration, including start and completion for key milestone tasks such as site clearing, grading and fill placement, settlement monitoring duration, infrastructure, foundations, superstructure, off-site improvements, and site amenities. Describe whether any construction activities will be ongoing after any store is occupied. If so, provide sequencing and safety plans to accommodate this situation.*
- c. *Erosion and sedimentation control to be utilized during construction.*
- d. *Construction equipment and staging area. Provide hours of the day construction activity will occur. Identify staging areas for material handling and storage, including access and egress during construction.*
- e. *Truck traffic.*
- f. *Dust suppression.*

##### 2. Operation.

- a. *Hours of operation. Provide hours of the day when the retail center will operate.*
- b. *Deliveries. Discuss anticipated retailer delivery schedule.*
- c. *Lighting and Security.*

F. Approvals and Involved Agencies

A complete listing of all Involved Agencies along with their addresses and required approvals/permits they may grant.

G. Interested Parties

A listing of agencies, persons, and groups who have expressed interest in reviewing the DEIS.

**IV. IMPACT ISSUES**

The sub-headings presented under each impact issue below represent items of specific interest which shall be addressed. The discussion under each impact area should -highlight potential impacts caused by the proposed project and any mitigation measures that minimize or eliminate adverse impacts.

This section should describe the existing environmental conditions on the site and any off-site areas that may be affected by the proposed project (including but not limited to areawide aquifers, downstream surface waters, potential bog turtle habitat, or area intersections). Each issue identified should be addressed in the context of the baseline existing conditions, the project's potential environmental impacts on such conditions, and the applicant's proposed mitigation measures to reduce or avoid adverse impacts, including alternatives.

The extent of off-site areas studied (i.e. radius from site) for the existing conditions subsection should be defined for each issue so that a determination can be made as to whether: 1) potential impacts can be mitigated to the greatest extent practicable; 2) there are unavoidable adverse impacts that cannot be mitigated; or 3) the extent of the impact can be identified as inconsequential. Sufficient detail should be provided so that reviewers are able to gain an understanding of current conditions. Highly technical material should be summarized in the body of the Draft EIS and included in its entirety in an appendix.

Primary (or direct) impacts should be identified separately from secondary (or indirect) impacts. Short term and long term impacts should also be identified separately. The discussion of impacts need not be confined to adverse impacts. Identification of any beneficial impacts of the action can assist in the balancing process, conducted by each Involved Agency, during the preparation of their written findings statements.

A. Soils and Topography

In order to fully assess potential impacts of the proposed project on the land and water setting, it is necessary to

understand and document the existing pre-construction soil, overburden, bedrock, wetland, and groundwater components of the hydrogeological setting. Then it is necessary to understand and document the potential impacts on the hydrogeological system that will be created by the interaction of the site operations, such as production groundwater for on-site water supply, the accumulation and disposal of stormwater and wastewater discharge.

1. Existing Conditions.

a. Existing topographic and slope conditions.

b. Soils types and characteristics, including subsurface engineering conditions based on test pit records.

2. Potential Impacts.

a. Area of disturbance, steep slopes disturbance, erosion potential.

b. Grading plan, retaining walls, amount of cut and fill. The proposed parking level should be clearly identified (i.e. whether it will be partially or fully subterranean). Considering the proximity to wetlands on the site, this section should identify the existing depth to groundwater (and reference to seasonal variations), define the limits of excavation and potential impacts of such, provide cut/fill balance calculations (and discuss the disposition of any excess fill that may result from excavation, including the temporary or permanent effects), and the depth and type of proposed foundation.

3. Mitigation Measures, incl. alternatives to impervious paving.

B. Wetlands

1. Existing Conditions.

a. Delineation, survey and mapping of existing Federally regulated wetlands and New York State classified streams, and mapping of all regulatory setback areas.

b. For each wetland identified, indicate:

(1) Location

(2) Wetlands type

(3) Wetland and wetland buffer acreage

(4) Description of wetland and wetland buffer function including wetland benefits

2. Potential Impacts.

- a. *Acreeage of direct and indirect wetlands and wetlands adjacent area disturbances, as regulated by the Army Corps of Engineers.*
  - b. *Short-term and long-term modifications of wetlands functions.*
  - c. *Description of any permits required.*
  - d. *Proposed wetland restoration/mitigation.*
    - (1) *Size and location of proposed treatment.*
    - (2) *Effectiveness.*
    - (3) *Capacity and capabilities.*
    - (4) *Proposed maintenance.*
  - e. *Qualitative analysis of construction-related impacts.*
  - f. *Other impacts.*
3. *Mitigation Measures.*
- a. *Replacement and enhancement of wetlands for loss of wetlands areas and/or functions, or intrusion into the wetland buffer areas.*
  - b. *An Erosion and Sedimentation Control Plan which incorporates best management practices (BMPs) for control of erosion and sedimentation during construction.*
    - (1) *Principal elements*
    - (2) *Implementation technique*
    - (3) *Monitoring*
  - c. *Special construction techniques.*
  - d. *Other.*

C. Terrestrial and Aquatic Ecology

1. *Existing Conditions. This Section will identify and evaluate the vegetative characteristics of the site and will provide an inventory of the representative flora and fauna for on-site ecological communities by a qualified biologist. The existence of Endangered, Threatened, Special Concern, and Rare (ETR) plants and wildlife on or in the vicinity of the project site will be identified and evaluated using the DEC Natural Heritage Program files, direct contact with Natural Heritage Program staff, review of U.S. Fish and Wildlife Service database, and a field survey conducted during the appropriate times of year.*
  - a. *Existing habitat types and typical associated wildlife based on a late summer survey. Discuss the on-site DEC*

*classified stream and downstream fishery resources of the Wawayanda Creek. Identification and description of on-site vegetative communities as described in Ecological Communities of New York State (Edinger, 2002 or most recent) will be provided.*

*b. Potential for use by rare, endangered or protected species, including bog turtle. Review of DEC Natural Heritage Program files, discussion with Natural Heritage Program staff, and review of the U.S. Fish and Wildlife Services database for ETR species that may exist on the site will be undertaken, along with a field survey conducted during appropriate times of year. Particular attention should be placed on the wetlands and the on-site tributary to the Wawayanda Creek. In determining potential use by rare, endangered or protected species, a comprehensive survey of the site, resulting in a list, should be performed based on recognized sampling techniques. Identify invasive and/or non-native species that may be present on the site (such as mile-a-minute weed).*

*c. The entire site is located within an important biodiversity area identified in the Southern Wallkill Biodiversity Plan. The Biodiversity assessment will be conducted of the site and its interrelationship to the identified "Western Wawayanda Creek" complex. Use the methodology outlined in the Southern Wallkill Biodiversity Plan for conducting the assessment.*

## *2. Potential Impacts.*

*a. Site disturbance by habitat type.*

*b. Potential impact to fisheries, biodiversity, wildlife and wildlife habitats. Discuss potential downstream impacts (including cumulative effects such as nutrient loading and siltation) to the fishery resources of the Wawayanda Creek. Discuss potential degradation of the Creek's fisheries and biota from any alterations to the on-site wetlands.*

*c. Potential impact to rare or endangered species.*

## *3. Mitigation measures.*

### *D. Water Resources*

#### *1. Existing Conditions.*

*a. Existing drainage patterns on the site and within a 1/4 mile radius of the site, including areas on the site subject to flooding.*

- b. *Discharge points of existing drainage.*
  - c. *Stormwater runoff quantity. The volume of site stormwater runoff and stormwater routed through the site, and peak discharge rates for the two (2), ten (10), and one hundred (100) year design storms. The proposed project will create impervious surfaces on the site which may increase both the volume and rate of stormwater runoff from the site. Stormwater runoff from the development site is proposed to discharge to federal jurisdictional wetlands, and to tributaries to New York State protected streams. Provide a detailed description of the proposed Stormwater Management System including the mandatory Stormwater Pollution Prevention Plan. Estimate the area of recharge for the wetlands system. Estimate how much of that area will be impervious to recharge by infiltration by project structures and parking areas. Estimate the quantitative effect of retaining stormwater runoff and releasing it to proposed surface water points and to downstream surface waters.*
  - d. *Existing stormwater quality (Simple Method).*
  - e. *Existing sewage disposal and water supply.*
  - f. *Existing groundwater. Proposed project may be located over a principal aquifer as mapped by the US Geological Survey. Baseline groundwater quality data should be obtained by sampling the proposed production wells and analyzing for Part 5 Drinking Water Parameters.*
2. *Potential Impacts.*
- a. *Stormwater runoff quantity. The volume of stormwater runoff and peak discharge rates for the two (2), ten (10), and one hundred (100) year design storms resulting from the project.*
  - b. *Stormwater runoff water quality impacts.*
  - c. *Description of any permits required from State agencies.*
  - d. *Sewage disposal discharge potential impacts.*
  - e. *Proposed wells and pump test results.*
  - f. *Other potential impacts including an analysis and discussion of potential impacts to the subject aquifer and to downstream surface waters. The following reference resources are to be consulted where appropriate:*
    - *Reducing the Impacts of Stormwater Runoff from New Development, NYSDEC, (April 1993 or most recent).*
    - *New York Standards and Specifications for Erosion and Sediment Control, NYSDEC, (August 2005 or most recent).*

- Compliance with water quality mandates and guidelines promulgated by NYSDEC pursuant to Environmental Protection Agency (EPA) Phase II Stormwater Regulations (1999 or most recent), including the New York State *Stormwater Management Design Manual*, NYSDEC (August 2003 or most recent).

### 3. *Mitigation Measures.*

- a. *Erosion and sedimentation control measures.*
- b. *Stormwater Management Plan (quantity controls).*
- c. *Stormwater runoff quality control measures in conformance with DEC requirements.*
- d. *Maintenance of Stormwater control systems.*
  - (1) *Type of maintenance.*
  - (2) *Frequency of maintenance.*
  - (3) *Responsible parties providing short and long term maintenance.*
- e. *Compliance with NYSDEC SPDES.*
- f. *Type of sewage treatment and approvals required. Provide a detailed description of the proposed wastewater treatment process, including discharge limitations and discharge points. Outline and describe the information that will be required for a SPDES Permit for sewage effluent. Evaluate phosphorus loadings and removal processes to preserve water quality in receiving waters.*
- g. *Other.*
- h. *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.*

## E. Zoning and Surrounding Land Uses

### 1. *Existing Conditions.*

- a. *Description of the existing land use and zoning on and in the vicinity of the project site and the surrounding area, and a discussion of the land use patterns in the area.*
- b. *Description of Town Comprehensive Plan, Zoning Law and Design Guidelines as they relate to the proposed project,*

*project site and the surrounding area, and any other relevant County or regional plans.*

2. *Potential Impacts.*

- a. *Compatibility of proposed project with surrounding land use patterns.*
- b. *Compliance or non-compliance with the Comprehensive Plan, Design Guidelines, zoning and other land development regulations.*
- c. *Compatibility with Agricultural District and agricultural history of the project area. Discuss importance of on-site prime agricultural soils and potential impacts of loss of such soils.*
- d. *Compatibility with Town Comprehensive Plan, including relationship to current zoning requirements. Analyze and discuss all applicable Comprehensive Plan policies that relate to the proposed action.*
- e. *Compatibility with County and/or other regional plans.*

3. *Mitigation Measures.*

F. *Vehicular Traffic and Roadways*

1. *Existing Conditions.*

- a. *A description of the following area roadways including pavement width conditions, number of lanes, posted speed limits, types of roadways, parking and traffic controls.*
  - (1) *NYS Route 94*
  - (2) *Sanfordville Road*
  - (3) *Warwick Turnpike (CR 21)*
  - (4) *Pelton Road (CR 1A)*
- b. *Manual traffic movement surveys at the following intersections for existing PM peak hour and Saturday midday peak periods: Traffic volumes should reflect conditions on typical days.*
  - (1) *NYS Route 94 and Sanfordville Road/Pennings Lane*
  - (2) *NYS Route 94 and Warwick Turnpike (CR 21)*
  - (3) *NYS Route 94 and Pelton Road (CR 1A)*
  - (4) *NYS Route 94 and Site Access Points*
- c. *Capacity analyses should be completed for existing conditions at each intersection noted above, following procedures from the 1997 Highway Capacity Manual (latest edition).*

- d. *Analysis of site access point(s), including existing road conditions and sight distances, queue lengths, storage capacity and character.*
- e. *Existing pedestrian and bicycle traffic on State Route 94 in the vicinity of the site.*
- f. *Existing or planned mass transit facilities that serve or could serve the site.*
- g. *The following is a list of approved and pending projects that shall be considered as fully built-out for the traffic analysis:*

<b>NAME</b>	<b>LOTS</b>	<b>SBL/LOCATION</b>	<b>STATUS</b>
WEST VIEW (PELTON CROSSING)	49	42-4-1 thru 49 CR 1A & West Street	Approved
SHAPIRO	7	42-4-50 CR 1A & Sandfordville Rd.	Pending
MILLER'S RIDGE	18	51-1-41 & 7.4 NYS Rt. 94	Pending
ORCHARD VALLEY	41	63-1-1.2, et. Al. NYS Rt. 94	Pending
TINNIRELLO	3	49-1-56 & 45.42 NYS Rt. 94	Pending
ANSLEY	4	63-1-16 Wawayanda Road	Approved
FAIRGROUNDS	4	50-1-40.1 to 40.4 State Route 94	Approved

2. *Potential Impacts.*

a. *Site generated added peak hour traffic. Source and distribution of truck traffic.*

b. *Evaluate distribution of project generated traffic including traffic that may use the above intersections.*

c. *Background traffic volume for the design year, including a general growth factor and any pending or approved land development applications in the immediate vicinity of the site.*

d. *Capacity analysis based on future background traffic conditions for each intersection for the proposed design year conditions, incl. evaluation of driveway geometry at Route 94.*

e. *Capacity analysis of combined conditions for each intersection (including proposed development of site plus future background traffic).*

- f. *The Traffic Study shall analyze and discuss access to this parcel via a Marginal Access Road parallel to Rt. 94 and extending from the intersection of Rt.94 and CR 21 to the proposed traffic signal at the entrance to The Fairgrounds.*
  - g. *Documents submitted previously notes that limited space in the proposed building may be designated for food service. The study should determine whether there will be an effect on the analysis if food service is included in the building.*
  - h. *Safety concerns regarding existing roadways.  
Sight distance evaluation at the proposed access points.*
  - i. *Emergency access to the site.*
  - j. *Construction traffic on local roads and traffic.*
  - k. *Potential impact to existing pedestrian and bicycle traffic in the vicinity of the site.*
3. *Mitigation Measures.*
- a. *Roadway improvements (as needed). The preliminary Traffic Impact Report prepared in 2007 recommends a left turning lane on Rt. 94 Northbound. Schematically show how this lane will function considering the existing Rt. 94 Southbound left turning lane for Shop-Rite and the proposed Rt. 94 Northbound left turning lane for The Fairgrounds.*

G. Community Services/Socioeconomic

1. *Taxes.*

a. *Existing Conditions. Current level of taxes generated from project site.*

(1) *Property taxes.*

- (a) *Orange County*
- (b) *Town of Warwick*
- (c) *School District*

(2) *Other taxes (special districts).*

b. *Potential Impacts.*

(1) *Property taxes after development. Analyze and discuss the potential costs (impacts) on community services providers (such as police, fire and emergency services) as a result of the project. Determine what additional costs will be required to the Town and/or special districts as a result of any increased need for services and whether revenues generated will offset those costs. Identify any additional capital expenditures required by*

*community services providers (such as roads) as a result of the project.*

- (a) Orange County*
- (b) Town of Warwick*
- (c) School District*

*(2) Other taxes after development.*

*c. Mitigation Measures.*

*2. Market Conditions.*

*a. Existing Conditions.*

*Market Analysis.*

*b. Potential Impacts.*

*Identify direct and indirect impacts, if any, to current office/retail uses in the Village of Warwick and Town of Warwick.*

*c. Mitigation Measures.*

*3. Employment.*

*a. Existing Conditions.*

*b. Employment Opportunities.*

*(1) Short term construction jobs.*

*(2) Long term employment.*

*c. Mitigation Measures.*

*4. Police/Fire Protection and Ambulance Services.*

*a. Existing Conditions.*

*b. Potential Impacts.*

*c. Mitigation Measures.*

*5. Solid Waste.*

*a. Existing Conditions.*

*b. Potential Impacts, location of compactors and storage relative to surrounding land uses.*

*c. Mitigation Measures, inch screening, buffering, pest management.*

*H. Air Quality*

1. Existing Conditions.

a. Primary and secondary pollutants.

b. Status of Warwick as a non-attainment area under State and Federal standards.

2. Potential Impacts.

3. Mitigation Measures.

I. Noise

1. Existing Conditions.

a. Current ambient noise levels in vicinity of project site.

b. Local noise ordinance.

2. Potential Impacts.

a. Construction Noise.

b. Operational Noise.

(1) Truck and automobile traffic.

(2) Schedule of truck traffic and loading.

3. Mitigation Measures.

J. Cultural Resources

1. Historic and Archaeological Resources.

a. Existing Conditions.

b. Potential Impacts. Provide correspondence from the New York State Office of Parks Recreation and Historic Preservation in regards to the Phase I Archaeological Investigation conducted on the site.

c. Mitigation Measures.

2. Visual Quality.

a. Existing Conditions.

Views of the site from area roads.

b. Potential impacts.

(1) Analysis of altered views using photographs, sight line diagrams and/or cross-sections, as appropriate.

(2) Architectural elevation view of each building as seen from Route 94.

- (3) *Lighting and signage. Include a discussion of the potential for any lighting affects to the Warwick Drive-In and nearby residential uses.*

*c. Mitigation Measures.*

- (1) *Landscaping.*
- (2) *Lighting plan that describes type, location, and timing of exterior lighting fixtures. Discuss compliance with the Town Lighting Regulations.*
- (3) *Other.*

## **V. ALTERNATIVES**

*The following alternatives to the Proposed Action are to be evaluated in terms of the impact issues listed above. The description and evaluation of each alternative should permit a comparative assessment of the alternatives discussed and should be analyzed in summary format.*

- A. No Action.*
- B. Site and building design alternative (building and parking orientation, including alternative number of parking spaces). Address use of vernacular architecture for proposed on-site buildings to offset loss of existing farm structures and rural/agricultural character of site as well as the potential use of clusters of buildings close to the road, providing all parking at the side and/or behind buildings, discrete signage made of natural materials, and landscaping with mature trees. Discuss use of the on-site farm buildings as an alternative to demolition as well.*
- C. Alternatives to wetland loss or mitigation.*
- D. Alternative that provides access exclusively from the adjoining Bowling Alley and/or Fairgrounds sites in accordance with the Marginal access requirements of the Zoning Law.*

## **VI. ADVERSE ENVIRONMENTAL EFFECTS THAT CANNOT BE AVOIDED**

*This section will describe those impacts that cannot be avoided regardless of mitigation measures that are implemented.*

## **VII. OTHER ISSUES**

- A. Irreversible and Irretrievable Commitment of Resources.*
- B. Growth Inducing Impacts.*
- C. Effects on the Use and Conservation of Energy Resources:*
  - 1. The energy sources to be used if the Proposed Action is implemented.*

2. *Increased energy consumption.*
3. *Energy conservation measures.*
4. *In relation to Sections VII.A and VII.C of this Final Scoping Document, analyze and discuss LEED certification for the proposed building. Include preparation of the "LEED for New Construction: Registered Project Checklist" (version 2.2 or most recent) to provide a pre-construction estimate of potential compliance.*

#### **VIII. SOURCES AND BIBLIOGRAPHY**

#### **IX. APPENDICES**

- A. *All SEQR documentation, including a copy of the Environmental Assessment Form (EAF), the Positive Declaration, and the DEIS Scoping Outline.*
- B. *Copies of all official correspondence related to issues discussed in the DEIS.*
- C. *Copies of all technical studies, in their entirety.*

Dave Getz: Thank you.

#### ***Lands of Howard Shapiro***

Application for sketch plat review of a proposed 7-Lot (Major) subdivision, situated on tax parcel S 42 B 4 L 50; parcel located on the northern side of Orange County Route 1A 500 feet north of West Street Extension, in the SL zone, of the Town of Warwick. Previously discussed at the 2/4/09 Planning Board meeting.

Representing the applicant: None.

The following review comments submitted by Tectonic: None submitted.

The following comment submitted by the Conservation Board, dated 3/4/09:

Lands of Howard Shapiro - CB has no further comments, except to emphasize this further subdivision appears to an impermissible segmentation that should not be authorized.

The following comment submitted by the ARB:

Lands of Howard Shapiro – None submitted.

Mr. Astorino: There is no one here tonight to represent the applicant. A letter came into the Planning office late this afternoon.

Mr. Bollenbach: The letter came into the Planning office around 5:00 p.m. today.

Mr. McConnell: It says on top of the letter that the letter came in by fax today at 4:37 p.m.

Mr. Astorino: I will read the letter for the record. The letter is from Alan Lipman, Attorney from the Law Offices of Fabricant, Lipman & Frishberg addressed to the Planning Board and myself, dated 3/4/09. The letter is stated as follow:

*Re: Application of Howard Shapiro for a Seven Lot Subdivision*

*Dear Ben:*

*For several months now, there has been a request before the Planning Board for its adoption of a resolution which determined that the subject application (the "Application") was incomplete, because in the Planning Board's opinion, the application did not propose the establishment of public sewer and water facilities for the seven lots which are the subject of the pending application, nor does the plan provide for the extension of those services to the existing forty-nine (49) lots created by the West View Subdivision.*

*Indeed, at a recent workshop meeting of the Planning Board, at which I was present, the Board established to its satisfaction, that it was the consensus of its members that the application was, indeed, incomplete for the reasons set forth above. Because it was clear to me that I had requested the adoption of a simple resolution to that effect, I questioned why the adoption of such a resolution was not discussed at that time. John Bollenbach responded that he had apparently misunderstood my request and agreed to prepare such a resolution.*

*At the most recent workshop, it appears that whatever resolution was discussed in the first five minutes of that meeting, generated some controversy which prevented a decision on this subject which was agreed upon by all of the members of the Planning Board.*

*Today, I had the opportunity to read the resolution that is proposed for adoption this evening. I regard that resolution to be nothing more than an attempt to recite portions of the history of the West View Subdivision incorrectly and colored in such a way that it does not reflect the historic facts or the truth. Nor is the resolution responsive to my request or the discussion which took place at the workshop meeting which I attended, as aforesaid. At no time did I request a resolution which recited the Applicant's options. I have a complete understanding of the options that are available to the Applicant, which continue to grow.*

*The adoption of this resolution is a waste of time and effort and another attempt to stonewall the Applicant in his efforts to resolve once and for all, the issue of whether or not community sewer and water are indeed required, in order to create additional lots.*

*Therefore, I respectfully withdraw my request for any resolution. I hope that you will have the courtesy to read this letter at your meeting tonight before adopting the proposed resolution, in the event that I am unable to be there.*

*Very truly yours,*

*Alan S. Lipman*

Mr. Astorino: Regarding Mr. Lipman's letter, I don't understand what he was talking about regarding the last Work Session. We discussed it. The meeting started on time. If his personal can't make it to the Work Session or comes in late, that would be his problem, not our problem.

Mr. Kowal: He came to the Work Session late.

Mr. Astorino: He did come in late to the Work Session. It was discussed with all the Board members. That would be his issue, not ours. We were not making a decision at the Work Session. A Work Session is for discussion.

Mr. Bollenbach: In Mr. Lipman's letter, he stated that there were some inaccuracies regarding the characterization or the timeline. Does anyone here see any inaccuracy? If you do, I wish you would comment on it. We discussed it at the last Work Session. If you had any comments, I wish they would be forthcoming.

Mr. Singer: John, could you read what you are talking about to us?

Mr. Bollenbach: There was a Draft Resolution. Would you like a copy of that?

Mr. Astorino: He was saying that there were some inaccuracies in the Resolution.

Mr. Singer: Where were the inaccuracies? What was he talking about?

Mr. Bollenbach: I have no idea.

Mr. Astorino: I think that was what John was asking. Do any of us feel there were any inaccuracies?

Mr. Kowal: He doesn't specify what the inaccuracies are.

Mr. Astorino: I don't feel there are any inaccuracies.

Mr. Bollenbach: Mr. Lipman baldly claims that this is "an attempt to recite portions of the history of the West View Subdivision incorrectly and colored in such a way that it does not reflect the historic facts or the truth."

Mr. Astorino: All you would have to do is get the file. That would tell you what happened. John, is that correct?

Mr. Bollenbach: I believe so.

Mr. Fink: John, you asked me to take a look at this to see whether it properly reflected the SEQR requirements.

Mr. Bollenbach: Yes.

Mr. Fink: Everything that I have seen in this was accurate.

Mr. Astorino: I don't see how you could dispute that. It was a timeline with what had happened.

Mr. McConnell: I didn't find any inaccuracies. I do find an inaccuracy in Mr. Lipman's letter, dated 3/4/09 in the first paragraph where it states as follow; *"because in the Planning Board's opinion, the application did not propose the establishment of public sewer and water facilities for the seven lots..."* It just isn't there. It is not an opinion that it is not there, it is not there.

Mr. Astorino: True.

Mr. McConnell: I am not sure what he was trying to say. I do not find any inaccuracies.

Mr. Astorino: Russ, how do you feel?

Mr. Kowal: I didn't find any inaccuracies.

Mr. Bollenbach: Does the Board wish to make a motion on the Resolution?

Mr. McConnell makes a motion on the Resolution deeming the application as incomplete.

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

Whereas, Howard Shapiro ("Applicant") has applied for further subdivision of a tract of land, identified as tax parcel S 42 B 4 L 50, which was part of an earlier related subdivision which created 49 residential lots; and

Whereas, the earlier subdivision was the subject of extensive environmental review, including, concerns with soils and geology related to septic disposal and its effect on ground water; and

Whereas, the SEQRA findings concerning the earlier subdivision determined that any further subdivision of the tract would require the installation of central sewer and water services in response to the environmental concerns and in accordance with the law and policy of the Town of Warwick; and

Whereas, the filed subdivision map for the earlier subdivision, “West View Estates”, contains a note which specifically requires the installation of central sewer and water services “for all lots” if additional lots are subdivided; and

Whereas, the Applicant, as developer of the earlier subdivision, filed a restrictive covenant which expressly acknowledges that it is intended to implement and “not relieve the Owner of the obligation to comply” with the subdivision local law requirement limiting the total number of lots which may be subdivided without central sewer and water services; and

Whereas, no challenge to the subdivision approval or SEQRA findings was brought within the statute of limitation running from the approval of West View Estates; and

Whereas, the Applicant now has specifically configured the current proposed lots in a way that precludes obtaining a waiver from the commissioner of environmental conservation of the central sewer and water services requirement, a waiver which may only be obtained upon an affirmative determination that the waiver was warranted by soils characteristics; and

Whereas, the Town of Warwick has now amended its sanitary code provisions in the subdivision code to permit applicants to obtain a waiver from the Town Board of the central sewer and water services requirement, even if the commissioner, or his/her delegatee, lacks jurisdiction; and

Whereas, the Applicant has submitted a subdivision proposal which neither proposes central sewer and water services for all lots, nor has a waiver of the requirement been obtained; and

Whereas, the Applicant, through his attorney, has requested that the Planning Board pass a resolution outlining his options;

Now, therefore, be it resolved, by the Planning Board of the Town of Warwick that the Applicant’s submitted subdivision proposal is incomplete and that the following options exist for the subdivision of the Applicant as proposed:

1. A waiver of the central sewer and water services requirement may be sought from the Town Board upon a showing that the waiver is warranted by the soil characteristics and under such conditions as the Town Board may require; or
2. The Applicant may seek to amend the earlier subdivision and its SEQRA findings by presenting a supplemental environmental impact statement addressing the new proposal, the existing soil characteristics, septic/sewerage disposal, and water service issues; or
3. The Applicant may submit a revised plan showing a central sewer and water services design in accordance with the environmental findings and meeting the requirement for serving the existing previously subdivided lots and the proposed lots; or
4. The Applicant may proceed in any other lawful manner available to him.

### **Other Considerations:**

1. **Planning Board Minutes of 2/4/09 & 2/18/09** – Planning Board to Approve the 2/4/09 and 2/18/09 Planning Board Minutes.

Mr. McConnell makes a motion to Approved the 2/4/09 and 2/18/09 Planning Board Minutes.

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

### **Correspondences:**

1. O.C. Citizens Foundations – Reinventing our places using community planning practices to effect change and make great places. Seminar to be held at the Aquinas

Hall, Mount St. Mary College, Newburgh, NY, on Friday, 3/13/09 8:00 a.m. – 4:00 p.m.. If any Board members are interested in going, notify PB Secretary, Connie Sardo by Friday, 3/6/09.

Mr. Astorino: If any Board members wish to attend the seminar, please notify Connie by 3/6/09.

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

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

**Mr. McConnell makes a motion to adjourn the March 4, 2009 Planning Board meeting.**

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