

TOWN OF WARWICK PLANNING BOARD

April 7, 2010

Members present: Chairman, Benjamin Astorino
Russell Kowal, Dennis McConnell
Roger Showalter, Carl Singer, Beau Kennedy
Laura Barca, HDR Engineering
J. Theodore Fink, Greenplan
John Bollenbach, Planning Board Attorney
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, April 7, 2010 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

PUBLIC HEARING OF Ted Edwards #3 and James & Carole Linton

Application for Final Approval of a proposed 3-Lot subdivision + 2- Lot Line Changes, situated on tax parcels S 26 B 1 L 67.1, 67.22, and 30; parcels located on the eastern side of Newport Bridge Road 1000± feet south of Prices Switch Road intersection, in the RU zone, of the Town of Warwick, County of Orange, State of New York.

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

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the Edwards #3 and Linton public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by HDR:

- 1 Planning Board to discuss SEQRA.
- 2 Applicant to discuss project.
- 3 A letter report describing the soils found within the inclusion of suitable soils, providing information necessary to explain the engineer's opinion. The report shall be signed and sealed by the Applicant's Engineer and submitted to the Planning Board Engineer along with the plans. This letter report has not been submitted.
- 4 The Applicant's name on line 3 of the Application for Final Subdivision Approval must include Ted Edwards, as well as Mr. & Mrs. Linton.
- 5 Add a note to the plans referencing the Town Board Resolution and Resolution Number.
- 6 The Town-approved 911 addresses must be shown on the drawing.
- 7 The declaration information for the Agricultural Notes will need to be shown on the drawing.
- 8 Surveyor to certify that iron rods have been set at all property corners.
- 9 Payment of all fees.
- 10 Payment of recreational fees (for two lots).

The following comment submitted by the Conservation Board, dated 4/7/10:

Ted Edwards and James & Carole Linton – CB has no comments on this 3-Lot + 2-Lot Line change subdivision.

The following comment submitted by the ARB:

Ted Edwards and James & Carole Linton - None submitted.

1 Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board has been acting as Lead Agency on this application. It is an Unlisted Action. We have been using the short EAF to review the environmental effects of the proposed subdivision and lot line alterations. There were two issues that had to be addressed under SEQR. The first issue was in regards to the Agricultural Protection Overlay District. The site was within the Agricultural Protection Overlay District's qualifying area. In order for one of the 3 lots to be approvable, because it is proposed as a 2-acre lot within a 4-acre minimum lot size district, the applicant was required to go to the Town Board to have the Town Board designate the property within the Town's AP-O District. In doing so, it allowed them to subdivide one lot off at the 1989 Zoning Law minimum lot size requirements. Prior to doing that, what we had done was a compliance analysis of the AP-O District site guidelines. A field visit was made to the site by Laura and I. We prepared a full checklist. We examined the proposed 2-lots. We did not find any incompatibilities with the site guidelines for the AP-O District. That was addressed. This is proposed to be continuation of agriculture. Because there is agriculture in the surrounding area, there will be map notes placed on the subdivision plans. The deeds of the proposed lots would contain references to the map notes about potential issues of living within an agricultural environment. That all has been addressed. The 2nd issue regarding SEQR relates to the potential of further subdivision of one of the lots. There is a remainder lot of approximately 23 acres that has been proposed. That always raises the issue for potential segmentation. In the Draft Negative Declaration it discusses the potential for segmentation of this. Essentially, what it defines is that the remainder parcel if there is any further request to subdivide that lot that it would be subject to the full Environmental Impact Assessment procedure of the Planning Board. The Planning Board would have the ability to require an EIS if it would be necessary. At this point, the issue of segmentation has been addressed. The findings are contained within the Draft Negative Declaration which the Board has in their packets.

Mr. Astorino: Thank you.

2 Applicant to discuss project.

Dave Getz: Ted has given a lot of background information on this project. There are two new lots proposed. Those two lots total about 6 acres. The remainder lot, which would stay as an Agricultural Use is approximately 23 acres.

- 3 A letter report describing the soils found within the inclusion of suitable soils, providing information necessary to explain the engineer's opinion. The report shall be signed and sealed by the Applicant's Engineer and submitted to the Planning Board Engineer along with the plans. This letter report has not been submitted.

Laura Barca: That has been submitted. It is satisfactory.

Mr. Astorino: Ok. We could strike comment #3.

- 4 The Applicant's name on line 3 of the Application for Final Subdivision Approval must include Ted Edwards, as well as Mr. & Mrs. Linton.

Dave Getz: We will address that.

- 5 Add a note to the plans referencing the Town Board Resolution and Resolution Number.

Dave Getz: Ok.

- 6 The Town-approved 911 addresses must be shown on the drawing.

Dave Getz: We have that. We will add that to the plan.

- 7 The declaration information for the Agricultural Notes will need to be shown on the drawing.

Dave Getz: Ok.

- 8 Surveyor to certify that iron rods have been set at all property corners.

Dave Getz: Ok.

- 9 Payment of all fees.

Dave Getz: Ok.

10 Payment of recreational fees (for two lots).

Dave Getz: Ok.

Mr. Astorino: Does the Board or Professionals have any comments? This is a public hearing. If there is anyone in the audience wishing to address the Ted Edwards #3 and James and Carole Linton application, please rise and state your name for the record. Let the record show no public comment.

Mr. Bollenbach: Is there a need for a dedication strip on this? Was there a provision for it or not?

Dave Getz: The property lines don't go out into Newport Bridge Road currently.

Mr. Bollenbach: Ok. That looks like that has already been taken care of.

Mr. Astorino: There are no comments from the Conservation Board. There were no comments submitted by the ARB.

Mr. Showalter makes a motion for the Negative Declaration.

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

617.12(b)

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

Name of Action: Ted E. Edwards Subdivision and Re-Subdivision

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed three lot subdivision and re-subdivision (lot line alterations with adjoining parcels), Town of Warwick, Orange County, New York, and

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

Whereas, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 11-16-09, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

Be It Further Resolved, that the Planning Board authorizes the Chair

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

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

Mr. Bollenbach: Dave, I had a question on the Bulk Requirements. Regarding the small lot 164-45, is it (d) that is referenced for the Bulk Requirements?

Dave Getz: Yes.

Mr. Bollenbach: Ok. Thank you.

Mr. Kowal makes a motion on the Ted Edwards #3 and James & Carole Linton application, granting Final Approval for a proposed 3-Lot subdivision + 2-Lot Line Changes, situated on tax parcels S 26 B 1 L 67.1, 67.22, and 30; parcels located on the eastern side of Newport Bridge Road 1000± south of Prices Switch Road intersection, in the RU zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on April 7, 2010. Approval was granted subject to the following conditions:

1. The Applicant's name on line 3 of the Application for Final Subdivision Approval must include Ted Edwards, as well as Mr. & Mrs. Linton.
2. Add a note to the plans referencing the Town Board Resolution and Resolution Number.
3. The Town-approved 911 addresses must be shown on the drawing.
4. The declaration information for the Agricultural Notes will need to be shown on the drawing.
5. Surveyor to certify that iron rods have been set at all property corners.
6. Payment Of All Fees.
7. Payment of Recreational Fees (for two lots).

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

Dave Getz: Thank you.

Review of Submitted Maps:***Warwick Views, LLC.***

Application for Preliminary Subdivision Plat approval, Special Use Permit approval, and Site Plan approval for the construction of 53 single family dwellings together with \pm 6,020 lineal feet of new Town road, \pm 1,033 feet of new private road, and water, sewer and stormwater management facilities to serve the 53 dwellings, situated on tax parcels S 27 B 1 L 41.131, 47 and 48.1. The property is located on the northern side of Bloom Corners Road approximately 2000 feet southwest of the Hamlet of Edenville and the intersection of Bloom Corners Road and Pine Island Turnpike, in the Rural (RU), Aquifer Protection (AQ-O), and Agricultural Protection (AP-O) Zoning Districts, of the Town of Warwick, County of Orange, State of New York. The Planning Board, acting as Lead Agency under the State Environmental Quality Review Act (SEQR), required the applicant to prepare a Draft Environmental Impact Statement (DEIS). The Final Scoping Document was adopted on 12/6/06. A SEQR public hearing on the DEIS was held on 1/20/10. The Public Hearing on the DEIS was closed on 1/20/10 with the public written comment period open until 3/17/10. The public hearing on the Preliminary Subdivision Plat Approval, Site Plan Approval, and Special Use Permit was adjourned without date. Previously discussed at the 2/17/10 and 3/3/10 Planning Board meetings. Planning Board to discuss project, DEIS, Yield Plan, 4-Step Design Process and Alternatives.

Representing the applicant: Kirk Rother, Engineer.

Mr. Astorino: I will throw this over to Ted Fink in a moment. Right now, we have numerous letters that we received that I will put into the record. We had comments from our professionals, HDR & Greenplan that we discussed at the Work Session. Do any Board members have anything further to add at this point? If not, the final version of the comments from our professionals will be given to the applicant this evening. Is the Board ok with that?

Mr. McConnell: Yes.

Mr. Kowal: Yes.

Mr. Showalter: Yes.

Mr. Astorino: Ok. Ted, could you give a summary of what is going on now with the Warwick Views project?

Mr. Fink: At this point, we are up to the 3rd step in a 4-step SEQR process. The first step was the Scoping process where we identified all of the issues that the applicant was asked to address. They have done that in a Draft Environmental Impact Statement (DEIS) that was subject to a public comment period. I believe we are up to 43 comments that we received from neighbors, Town Board, NYSDEC, and ACOE. We received comments from professionals that were hired by the neighbors to the project. We have the Planning Board Engineer's comments and my own comments on the DEIS. The next step in the process is to prepare a Final Environmental Impact Statement (FEIS), which is the responsibility of the Planning Board. The DEIS was the applicant's responsibility. Now, the Planning Board is responsible for insuring that all the comments that had been received are properly responded to in the FEIS. The FEIS is also an opportunity for the Planning Board to examine the proposed action as well as all of the alternatives that were addressed in the DEIS. If

the Board so chooses to select one of the alternatives as the preferred alternative, we had discussions at Work Shop meetings about one of the alternatives with this community septic system and we would provide the applicant with further direction on proceeding with a plan that addresses that. There are a couple of steps that are necessary because of recent actions by the Town Board. There have been changes that have been made to the Zoning Law that requires the applicant to provide some evidence that they are in compliance with the new requirements for calculating density that the Town Board has enacted. The applicant needs to provide the Planning Board with some sense of how they intend to meet that obligation to provide the full density that they proposed as having 53 lots. With regard to the alternative that I just mentioned called the preferred alternative, because it was examined as an alternative, it has not yet been subjected to the 4-Step Design process which is one of the factors that has to be investigated and analyzed by the Planning Board before they could go forward with full speed ahead with that particular plan. With the Planning Board responsible for preparation of the FEIS, what is generally the rule of thumb is that the applicant and their consultants will prepare for the Planning Board in a preliminary manner that the Planning Board reviews the document in much the same way that we reviewed the DEIS. We did so in both for completeness as well as technical accuracy. In this case, we are reviewing it to make sure that the Planning Board is satisfied that all of the comments we received by interested parties as well as the involved agencies like the DEC have been properly answered. That is the next step of the process. It is for the applicant to produce for the Planning Board a FEIS. That document, in addition to responding to all of the comments, would also have to include the DEIS by reference. That becomes part of the FEIS not physically but simply by reference. As a result of the Planning Board's desire to proceed in the direction of a community septic system so that the proposed lots could be tightened up even further, there would also be the possibility for the need for modifications to the DEIS. Those would also have to be reflected in the FEIS document. Once the applicant does all of those steps, they would present this information to the Planning Board. The Planning Board would review it and make sure that this is technically accurate and is responsive to the comments that have been submitted. When the Planning Board is satisfied that it is, then that document could be adopted as a FEIS. There would be an additional period for public consideration of that FEIS. There would be another final opportunity, not a public hearing on the FEIS. It would be an opportunity where members of the public could review of how the Planning Board has actually addressed all of the comments and concerns that they have raised. Once the FEIS has been completed, it has to be filed with all the involved agencies. It would have to be posted on the Town's website so that it would be available to anyone that would be interested in it and wants to see how the various questions, comments, and concerns that have been raised have been addressed. Once there has been a minimum waiting period for public consideration of that FEIS document, then the final step of the process would be for the Planning Board to reach a finding on the project. That would either be a finding to approve or deny the application that has been made. If it would be a finding to deny, that would be the end of the process. If the applicant wishes to proceed, then they would have to go back to square one. If it would be a finding to approve, then that would mean the applicant could move forward and could request that the Planning Board consider preliminary subdivision approval on the application. That would not be the end of the process. If the Planning Board were to consider preliminary approval, there would still be additional steps. There would have to be approvals by the OCHD, by the NYSDEC, and other agencies as well. As long as they get through further road blocks, then the Planning Board would be in position of final consideration of the subdivision. There were a couple of comments that had come in from some of the professionals that had been retained by the neighbors. These were picked up by the Conservation Board. They had submitted comments for tonight's meeting. What the Conservation Board had done was to restate some of the concerns that had been raised by the NYSDEC, by Dr. Michael Klemens who is an expert on the Bog turtles. There were also some comments by Katherine Beinkafner, PHD of Mid-Hudson Geosciences with regard to hydrologic conditions, water supply, Aquifers, etc... Some of these comments were related to the possible call for a Supplemental DEIS. Generally what happens with that is there are

very specific criteria in SEQR regulations for when a Supplemental DEIS is justified. It involves generally a change in the project. It involves the disclosure of new information that may lead to a potential adverse environmental impact. At this point in the process, the comments that have been raised had been just those comments. I don't think we have yet seen any evidence that there is new information. They had asked for further clarification on the methodology that was used. An example of that would be the examining of the site for Bog turtle habitats. We don't know yet what the answer to that is. If the site for instance were identified as a Bog turtle habitat as a result of the request for further inquiry, then that may be a call for a Supplemental DEIS. But, I am not sure if we are at that point yet.

Mr. Astorino: We would have to wait for the facts.

Mr. Fink: Yes. We would have to wait for the facts. The Planning Board always has the ability to be able to take a step back and to require the applicant to prepare a Supplemental DEIS. But, until we have more information as a result of further inquiry by the applicant's consultants, I don't think we know yet whether or not there is indeed a Bog turtle habitat out there.

Mr. McConnell: What you are saying is that whoever prepares the Draft FEIS that would be the time to consider whether we felt there was a need for a Supplemental DEIS. Is that correct?

Mr. Fink: Yes.

Mr. McConnell: It is the responses to the concerns that we would analyze and evaluate to see if we are satisfied with it. If we are not, then we might suggest or require a Supplemental DEIS.

Mr. Fink: That is right. I think at this point the Bog turtles are a unique situation. It would be a two-step process. There would be a Phase 1 and Phase 2 investigation that would be done. Phase 1, looks at whether or not there would be a potential habitat there. The studies that were completed by Robert Torgeson had indicated that there were no potential Bog turtle habitat over there. Now, that has been questioned by Dr. Klemens and by Dr. Beinkafner. I think that Mr. Torgeson would need to provide us with further information on that. If it is deemed to be a potential Bog turtle habitat, then the next step would be to go out and either do a trapping program which would have to happen very quickly because there is a small window of opportunity that happens in May and June. If they miss that window then they would have to wait until the next May or June. They are in a window right now to move forward on that rapidly. The other possibility would be that they could simply assume that would be a Bog turtle habitat, which I think would present some significant problems with regard to the need for the wetland crossing. Then, it would involve not only the DEC but it could potentially involve the U.S. Fish & Wildlife Service because it is a federally threatened species. It would take it to a different level. What I am saying is that if that would be a circumstance that is brought to our attention in the next month or two, then we might know sooner rather than later about that issue.

Mr. McConnell: Thank you.

Mr. Astorino: Does the Board have any further comments? Does the Board have any questions on Greenplan or HDR's comments? We will list Greenplan's comments, dated 4/7/10 and HDR's comments, dated 4/7/10 for the record. We will also list the correspondences that we received from the public and other agencies, correspondences 1 through 43 for the record. We will also list the Conservation Board's comments, dated 4/7/10 for the record.

The following review comments submitted by, Greenplan, Inc., dated 4/7/10:

MEMORANDUM

GREENPLAN INC.
Environmental Planners
302 Pells Road
Rhinebeck, NY 12572-
3354
845.876.5775
Fax 876.3188
www.greenplan.org

To: Benjamin Astorino, Chairman
Town of Warwick Planning Board

From: J. Theodore Fink, AICP

Date: 04/7/10

Subject: Warwick Views Subdivision Draft EIS Technical Review

Applicant: Warwick Views, LLC

The Draft Environmental Impact Statement (DEIS) for the above captioned project, prepared by the Turner Miller Group and accepted as complete by the Planning Board on November 18, 2009, has been reviewed for its technical sufficiency. The Public Hearing on the DEIS occurred on January 20, 2010 and the public comment period extended until March 17, 2010. The technical review comments developed by GREENPLAN and contained herein were discussed in a Preliminary Draft form by the Planning Board at a work session on March 29, 2010. These comments can now be considered finalized. They, together with comments by the Planning Board, Planning Board Engineer, other Involved and/or Interested Agencies and members of the public, become the basis for the Final Environmental Impact Statement (FEIS). The FEIS will also consist of the DEIS by reference, substantive comments on the DEIS together with appropriate responses to all of the substantive comments and corrections and/or revisions to the DEIS, that are called for based upon the comments thereon.

While the DEIS preparation is the applicant's responsibility, the FEIS preparation is the Planning Board's responsibility. The Board, with the applicant's consent, may assign that responsibility to the applicant and applicant's consultants, since the FEIS is a direct outgrowth of the DEIS. The Planning Board, therefore, should request that the FEIS be prepared in a preliminary form for the Board's consideration. Regardless of who prepares the FEIS, it is the Planning Board that is responsible for determining the accuracy of the document. This is also the most appropriate time to determine whether the Planning Board wishes to proceed with the action as proposed or to select one or a combination of the alternatives. As discussed below and at prior Planning Board meetings, at this time the Planning Board should consider designating a "Preferred Alternative" that will become the principal subject of the FEIS document.

This technical review will outline areas of the DEIS where, in our opinion, clarification, revisions, and/or supplementation should be provided by the applicant. All revisions and supplements to the DEIS must be specifically indicated and identified in the FEIS. Once all comments have been

assembled, the Planning Board should provide concrete direction to the applicant on how to proceed with the FEIS preparation. This comment-response part of the FEIS document can be formatted in one of two ways. Either each substantive comment can be identified, perhaps by number and source, and then an appropriate response provided or the comments can be summarized and grouped by topic so that the responses are not repetitive.

In determining whether comments received are “substantive,” the Planning Board should assess the relevance of the comments to identified impacts, mitigation, and alternatives, or whether the comments raise important, new environmental issues, not previously addressed. The Planning Board may use its responses to comments as an opportunity to explain why an impact is not significant, why a particular topic is not included in the FEIS, or how an alternative or proposed mitigation measure would work. For instance, there were some commentators who raised issue with the applicant’s original Environmental Assessment Form (EAF). This is an example of a “non-substantive” comment since this document was prepared based upon information that was available at the time of application submission (now several years old), and this information has now been superseded by more accurate information from the Scoping process and the studies completed in support of the DEIS preparation. Therefore, the accuracy (or inaccuracy) of the EAF document no longer has relevance to the information currently before the Planning Board.

The comments provided herein have been focused on Alternative “G: Subdivision Utilizing a Community Septic System.” This alternative, identified as Figure V-5 in the DEIS, is dated 9-16-09. While I do not believe that the Planning Board has taken any formal action to date to designate this as their “Preferred Alternative” we have discussed this at length at Planning Board meetings and, in terms of FEIS preparation, should be treated by the applicant as the “Preferred Alternative.”

Two issues will need to be addressed by the applicant and Planning Board before the FEIS review process can be concluded as follows:

1. The first is the effect of Local Law No. 1 of 2010 on the proposed project. As the Board is aware, the Town Board has enacted changes in the way that density is calculated in cluster subdivisions. In order to qualify for the density proposed by the Warwick Views subdivision, the applicant will now need to select four of the six options in the new Law to qualify for full density as proposed. Other aspects of the Zoning Amendments that are relevant to the proposed subdivision include the Biodiversity Conservation Overlay (BC-O) Zoning District and Stormwater Management regulations.
2. Alternative G has not as yet been subjected to the four step design process required for all cluster developments. The applicant will need to prepare the four step design process for Alternative G to comply with the Zoning Law’s requirements.

I. EXECUTIVE SUMMARY

3. Any clarifications, revisions or supplementation made to the body of the DEIS as a result of comment thereon, should be consistent with appropriate changes to the Executive Summary of the FEIS.

II. DESCRIPTION OF THE PROPOSED ACTION

A. Site Location and Description

4. The Hamlet of Edenville has been described but should be supplemented with information that provides the Planning Board and Involved/Interested agencies and the public with a better sense of how the proposed subdivision will be consistent with its character. This response should also be cross-referenced or incorporated into the Chapter III Sections on Visual Impacts, Land Use and Zoning, and Fiscal Impacts. Questions to be answered in terms of consistency with the Hamlet's character include but are not limited to the following:
 - Acreage of lots (minimum, maximum and average size) in the vicinity of the property up to and including the Hamlet of Edenville.
 - Number of dwellings within a radius equal to the greatest distance from the intersection of Pine Island Turnpike and Bloom Corners Road to the outer boundary of the project site or similar relevant distance. Size of single family dwellings, minimum, maximum and average size from County records.
 - Architecture, age of dwelling, and whether 2-story or 3-story
 - Will there be a substantial change in the intensity of use of land in the Hamlet and Hamlet area as a result of the proposed action?
 - Relationship of the site to the Town's Agricultural Protection Overlay District - include Siting Guidelines as part of the SEQR review.
 - Photo simulations were never completed due to the preferred alternative selection, just prior to acceptance of DEIS as complete. The Planning Board and applicant agreed to conduct the photo assessment, as required by the Final Scoping Document, based upon the subdivision plan that was to be deemed the "Preferred Alternative."
5. Page II-1 states that "*Currently gas and electricity infrastructure are available to the project site.*" Will there be sufficient capacity in the local gas and electricity infrastructure to serve the needs of the additional dwellings or will local improvements be necessary? What measures will be taken to reduce electrical and gas consumption through dwelling design? Will any of the proposed dwellings meet LEED or equivalent energy standards? If not, why not? How will such measures reduce "Greenhouse Gas Emissions" (GHG) as recommended in the 2009 *State Energy Plan*" and the New York State Department of Environmental Conservation's (DEC) guidance document *Assessing Energy Use and Greenhouse Gas Emissions in Environmental Impact Statements*, which lists measures that can increase energy efficiency, reduce energy demand, and reduce GHG emissions from proposed projects, where energy use is discussed in a DEIS? The responses to the above comments should be referenced or repeated in regards to the other sections of the DEIS that address energy conservation and use including Chapter III-N, Chapter V-F and Chapter VIII.

6. As stated above, the 4-step design process will need to be completed for the Preferred Alternative. It is highly recommended that this step be completed prior to the applicant proceeding with preparation of the FEIS document, since the Planning Board's consensus that the Preferred Alternative complies with the Zoning Law requirements for this stage of the subdivision design is essential.
7. The plans for pedestrian circulation and amenities such as sidewalks, trails, potential pedestrian and/or bicycle connections to adjoining lands (especially Luft Farm), and bicycle lanes or bicycle-compatible roadways within the subdivision needs to be addressed. One of the required options for the granting of full density in a cluster subdivision is the "construction of multi-purpose trails on the applicant's lands, either for use by the development's residents or by members of the public" [see § 164-41.1.D(5)(ii) of the Zoning Law]. While the DEIS maintains that the applicant will request a waiver from the Planning Board, this can be a viable option to be selected by the applicant.
8. A point-by-point analysis of compliance with the Agricultural Protection Overlay District (AP-O) guidelines for design of house lots," found in § 164-41.1.H of the Zoning Law, needs to be provided. The applicant may use the attached checklist to address compliance in a preliminary manner. The DEIS in the Land Use and Zoning section discusses compliance but also provided conclusory statements without supporting evidence.
9. The impacts upon "prime agricultural soils or soils of statewide significance" needs to be addressed under the Preferred Alternative. This includes a measurement of the acres of such soils (by soil type) that will be lost due to this plan.

B. Project Purpose, Need and Benefits

10. In regards to compliance with the Town Design Guidelines and review by the Town Architectural Review Board, the DEIS states that the "final design will be determined by the home buyer." However, the range of building styles to be offered should be included in the FEIS. Design Guidelines consistency review will not be possible until full building elevations are presented for review by the ARB and the attached Design Guidelines Checklist is completed, which is a prerequisite to the Planning Board reaching a Finding that the project is or is not consistent with the Town's Design Guidelines. To date, only a singular building elevation has been presented showing two possible options (Appendix D of the DEIS). For example, contrary to the assertions made in the DEIS that the "homes will be designed consistent with the Town's Design Guidelines [and] wood clapboard siding will be used," the elevations indicate the use of vinyl siding, which is not consistent with the Design Guidelines.
11. The project purpose states that the proposed subdivision is to be offered to families "who may be looking to move to a more rural environment..." This raises the question of whether the site and surrounding area will remain "rural" after all proposed 53 homes are constructed, after the recently approved Luft Subdivision is constructed, as well as other vacant and surrounding parcels which may be proposed for subdivision in the future. The New York State Legislative Commission on Rural Resources has defined a rural area as one that contains less than 150 persons per square mile. What is the estimated density (i.e. in persons per square mile) of the area surrounding and including the Hamlet of Edenville,

up to and including a radius sufficient to enclose the proposed project, and what will it be after development? This is information readily available from the 2000 Census using Block Data and should be included in the FEIS.

C. Construction and Operation

12. The applicant needs to demonstrate in the FEIS that they have engaged in discussions with either the Town Board, a land trust or other appropriate party, under Article 49 of the New York State Environmental Conservation Law and § 164-41.1.J of the Zoning Law, in regards to which entity will hold the conservation easements over the open space. All planned or permitted uses of the open space and restrictions thereon should be identified since this will affect future use of the open space, regardless of the entity that holds the conservation easements. See Comment 7 above also.

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

A. Soils and Geology

13. Areas of disturbance by soil type, including prime and statewide significant soils, needs to be recalculated for the Preferred alternative.
14. The DEIS discusses direct methods used to identify karst conditions on-site. Have any indirect techniques, such as aerial photography, been used to identify and confirm the possible presence/absence of karst conditions?

B. Water Resources

15. The DEIS discusses the relationship of State and Federal wetlands by indicating that the limits of Federal Jurisdictional Wetlands “*coincide with the NYS DEC wetland.*” Therefore, the wetlands appear to be subject to shared jurisdiction by the State and Federal governments and both State and Federal regulations will apply. The FEIS should discuss Federal compliance by describing whether a Nationwide Permit will apply and, if so, the conditions that will be imposed in order to comply. If an individual permit will be required, then the regulations and procedures required in order to obtain such individual permit need to be described. Compensatory mitigation may be an option, if it is required, and this should also be discussed in the FEIS.
16. The DEIS states that the proposed project will be “incompatible” with the State Wetland Permit requirements found in 6 NYCRR 663.4(d) and that “*A permit shall be issued only if it is determined that the proposed activity satisfies an economic or social need that outweighs the loss of or detriment to the benefit(s) of the Class III wetland.*” Since the DEC is an Involved Agency and is required to prepare their own Findings Statement on the action prior to Wetlands Permit issuance, the FEIS should include the required justification. The justification should follow the standards of 6 NYCRR 663 for receiving a Freshwater Wetlands Permit. This includes a discussion of why impacts to the wetland cannot be avoided entirely, and then demonstrate that unavoidable losses or impacts on the functions or benefits of the wetland have been minimized, and that the applicant will fully compensate for (replace)

any remaining loss of wetland acreage and function unless it can be shown that the losses are inconsequential or that, on balance, economic or social need for the project outweighs the losses.

17. The proposed subdivision plans should contain a note or notes indicating that permits are required from the State and Federal governments for any proposed construction, grading, filling, excavating, clearing or other regulated activity in the State and Federal wetlands identified on the site. The State may have other notes and deed restrictions which may also be applicable. The note should also indicate that there are no other State or Federal wetlands on the property, other than those shown on the subdivision plans. This is especially important since the National Wetlands Inventory maps appear to indicate that there may be other smaller wetlands on the site.
18. Long-term impacts on surface waters relative to the habitation of the site include the introduction of invasive exotic flora and fauna into the wetland, stormwater runoff from impervious surfaces (regardless of the stormwater management controls proposed), insect control by the Homeowners Association, and landscape maintenance dumping to name just a few of the potential effects. This should be discussed in the FEIS.
19. Compliance with the Town's recently adopted Stormwater Management requirements and Biodiversity Conservation Overlay District requirements, in regards to the proposed subdivision plans, needs to be discussed in the FEIS. Specifically, what Low Impact Design (LID) methods will be used as an aid in protection of the functions and values of the wetland?
20. Compliance with the Town's recently adopted Biodiversity Conservation Overlay District requirements, in regards to the proposed subdivision plans, needs to be discussed in the FEIS. Specifically, will the Biological Evaluation that was provided in the DEIS provide an equivalent level of analysis as to what is now required for lands within the BC-O District?

C. Vegetation and Wildlife

21. The DEIS does not provide an analysis of "*impacts on biodiversity resulting from development of a large land holding including the cumulative development of other nearby parcels that are under review by the Town of Warwick, and the resulting effects on wildlife populations and plant species.*" [emphasis added]. The FEIS should correct this deficiency of the DEIS.
22. How many trees over eight inches in diameter at breast height will be removed? [see § 137-23.G(2) of the Town Code, the Subdivision Regulations]. The DEIS states that there are hickories and oaks up to 36 inches in caliper. Will these larger trees or any others over 24 inches in diameter at breast height be removed? Trees to be removed should be identified by species to aid in an assessment of their suitability as habitat for Indiana bats. When updating the 4-step design process for the Preferred Alternative, isolated trees over 12" caliper need to be identified on the plans.
23. Allowing for grading, those significant trees that will be removed, and those that will be preserved, should be clearly indicated in the Tree Location Plan for the Preferred Alternative. This "Location" Plan should become the basis for a "Tree Conservation Plan"

(which is not the Landscape Plan) and it should include the methods to be used for conserving indicated trees and other desirable vegetation for all those areas that will be disturbed. This should also include the edges of these areas, identifying significant trees to be preserved along these edges and the methods that will be employed to assure that these trees are protected from damage during the construction process. The Tree Conservation Plan should be done in a manner that will allow these methods and the trees involved to be communicated clearly to construction workers. This is important because tree preservation starts at an earlier stage of construction than those actions taken as part of a development and landscape plans, and requires clear and decisive instructions to workers who may not be oriented toward preserving trees and the special attention that needs to be made to do so.

24. Methods that will be employed to protect and/or deter landscape plantings from browsing and destruction by deer, as required by the Final Scoping Document, should be discussed in the FEIS, along with evidence of the likely success of these methods. The DEIS acknowledges *“that deer and other ground mammal species are often attracted to residential areas due in part to the introduction of common residential landscaping plants and flowers.”*
25. The FEIS document should include a table showing disturbance of on-site habitats, broken down by habitat type. The existing acreage and post development acreage in each category should be provided.
26. The DEIS refers the reader to *“detail sheet 15 for typical site landscaping...”* However, sheet 15 does not contain such landscaping details in the DEIS (at the reduced 11” x 17” scale) but it can be found on the larger subdivision plans. This should be corrected in the FEIS.
27. What is meant by landscaping *“provided around stormwater management facilities as required by DEC.”*?
28. The statement that the road crossing of the wetland area *“is expected to have very little impact on wildlife.”* needs to be explained since close to one acre of wetland and wetland buffer will be removed for the proposed road construction. What other habitats, including acreage, will be removed for road construction?
29. Details for the proposed wetland crossing are missing from the proposed subdivision plans even though they are referred to in the DEIS. This should be corrected. The wetland crossing should provide for species movement. In this regard, since the wetland crossing involves a substantial area, what is meant by *“a four foot wide by three foot high open bottom culvert”*?
30. The DEIS states that *“A field investigation was undertaken to determine the presence of the identified state listed species that are known to exist within Orange County; Indiana Bat and Bog Turtle.”* and then concludes that the site is not a potential Bog Turtle habitat. The Biological Evaluation in Appendix B of the DEIS states that it followed the protocols outlined in the US Fish and Wildlife Service’s Bog Turtle Recovery Plan. While the Evaluation discusses suitable vegetation, it does not include a discussion of suitable soils (the Recovery Plan’s critical criterion) and suitable hydrology as the recognized criteria for determining whether the wetland is a **potential** Bog Turtle habitat. This should be

corrected in the FEIS. Also, the Evaluation includes correspondence from the NY Natural Heritage Program but not the US Fish and Wildlife Service. Was the Fish and Wildlife Service contacted prior to the Biological Evaluation?

D. Cultural Resources

31. Figure 2, which illustrates the Area of Potential Effect (APE) in the Phase 1 Archaeological Study, does not include portions of the site that have now been proposed for development under the Preferred Alternative. This should be corrected in the FEIS.
32. The letter from the New York State Office of Parks Recreation and Historic Preservation points out in their letter dated September 10, 2007 to the Planning Board that *“if state and or federal permits are necessary, the project will need to be reviewed in accordance with Section 14.09 of the State Historic Preservation Act or Section 106 of the National Historic Preservation Act [and] it may be necessary to conduct further review for architectural resources.* Since the proposed subdivision will require State permits, the FEIS should address the concerns of the OPRHP, including any further review for architectural resources.

E. Visual

33. The applicant and Planning Board discussed delaying further work on the visual impact assessment, as required by the Final Scoping Document, until such time as a Preferred Alternative was identified. Since that has now apparently been accomplished, a post development photographic impact assessment needs to be conducted. As required by the Final Scoping Document, the methodology described in the DEC publication entitled *Assessing and Mitigating Visual Impacts* (see Program Policy DEP-00-2, July 31, 2000) was to be used as the minimum guidance for conducting the assessment. This impact assessment needs to be conducted in accordance with the Final Scoping Document and provided in the FEIS.
34. The Final Scoping Document requires a discussion of the siting guidelines for the Agricultural Protection Overlay District (AP-O) and how the proposed development complies with such guidelines. See comment 8 above for how the applicant can demonstrate compliance with the AP-O Guidelines.

F. Transportation

35. We defer to the Planning Board Engineers for providing the technical review of the Traffic Impact Study.
36. The DEIS states that no trails have been proposed in the open space but that *“nothing would preclude residents from walking, or otherwise using the open space.”* How will residents walk in the open space if there are no trails?
37. The Final Scoping Document required that *“provisions for bicycle and pedestrian facilities within the project will be included.”* in the discussion of mitigation measures. The FEIS should comply with this requirement.

G. Land Use and Zoning

38. The reason(s) why the proposed project site was included in the Town's adopted *Community Preservation Project Plan* should be analyzed and discussed in the FEIS.
39. The FEIS needs to provide an analysis and discussion of whether any aspects of the proposed action would deviate from conformance with the Town's subdivision or site design standards or guidelines and if so, why such deviation is proposed. For example, the Town *Design Guidelines* goals presented in the DEIS include such factors as: a) "Garages should not be a dominant feature on the house." However, the dwellings illustrated on the proposed Subdivision Plans show that the garages will be at the front or side of the dwellings instead of the rear of the dwellings, even though there is a statement in the DEIS that garages will not be placed in the front of the home or if they are, they will be recessed; b) "New developments should be landscaped to provide visual interest in all four seasons." However, the DEIS states that native and "*new species which will assimilate well into the environment*" is proposed as Mitigation but this does not address the goal; c) "Street trees should be incorporated into new developments." The DEIS states that street trees will be provided but no further details are provided; and d) "Homes should be designed that are compatible with Warwick's vernacular and the surrounding architectural character should be upheld." Yet, no complete building elevations are presented in the DEIS to substantiate the claims made in the Potential Impacts section of the DEIS. The Town Architectural Review Board will be unable to conduct their review in the absence of full building elevations. Any deviation from compliance with the subdivision or site design standards or guidelines must meet the requirements of Article VII, Section 164-74.1.A through D of the Zoning Law.
40. The DEIS states that approximately 80 % of the Prime Agricultural soils and the existing farmstead will remain under the Proposed Action. Will this be the case for the Preferred Alternative as currently proposed?
41. The DEIS contains statements concerning siting of the lots in the subdivision according to the AP-O District guidelines by inclusion of the qualifier "*to the greatest extent possible.*" So that the Planning Board can reach its own conclusions about the extent to which the Preferred Alternative has been sited in accordance with the AP-O District guidelines, the statements made should be more specific. For example, rather than simply referring to the Tree Location Plan in reference to whether larger individual trees will be preserved without providing any specifics, an analysis of the inventory of existing large trees (by species type and significance) that will be removed should be provided on a Tree Preservation Plan as discussed above.
42. The Preferred Alternative's compliance with the intent and purposes of the Zoning Law and cluster regulations should include the point by point analysis of compliance with § 164-41.1.A(1) through (11).
43. The Yield Plan was based upon the Town Zoning Law prior to enactment of Local Law No. 1 of 2010. Unless the Planning Board Engineer or Planning Board has further comment on the Yield Plan, the applicant would appear to have demonstrated that 49 lots (+ 4 affordable lots) represent the upper limit for density on the property. However, in order to

achieve this full density, the applicant must now select at least four of the six options identified in § 164-41.1.D(5) of the Zoning Law. I would recommend that this step be undertaken, by disclosing the intent of the applicant in regards to the six options available, prior to going forward with preparation of the four-step design process for the Preferred Alternative.

H. Police, Fire and Emergency Medical Services

44. No comments on this section of the DEIS.

I. School District Services

45. No comments on this section of the DEIS.

J. Fiscal Impact Analysis

46. The Fiscal Impact Analysis is based upon an anticipated \$550,000 average sales price for the 49 market rate dwellings and an average \$350,000 for the four affordable units, as outlined in this section. The calculations for the affordable units should be provided so that a basis for the anticipated sales price of the four affordable units can be examined.

47. Given the assumed average sales prices cited above, the Fiscal Analysis results in a fiscal impact for the Warwick Valley Central School District of $-\$101,517$ and a positive fiscal impact for the other taxing jurisdictions. Thus, the basis for the Fiscal Impact Analysis is the applicant's expectations for the market at the time when dwellings are available for sale, which is assumed in the DEIS to be 2012 (see design year in the Traffic Impact section). Recent housing market conditions may or may not result in sales as high as anticipated. While median housing values in Warwick were as high as \$350,000 in 2006, they have now declined to about \$277,000. Recent research (October 1, 2009) conducted for the Town of Warwick by Claritas, Inc. projects a median housing value of \$352,801 for the project area by the year 2013. If sale prices of homes do not reach the applicant's expectations and are closer to the projected median in the design year, how will this affect the Net Fiscal Impact?

K. Recreation and Open Space Resources

48. No comments on this section of the DEIS.

L. Utilities—Water

M. Utilities—Wastewater

49. The technical review of the DEIS with respect to water and wastewater utilities is respectfully deferred to the Planning Board Engineers.

N. Other Utilities

50. The Site Location and Description section of the DEIS states that gas infrastructure is "available to the project site." However, no assessment of future gas use is provided in this

section. This either needs to be clarified or an impact assessment of gas use needs to be provided in the FEIS.

51. See comment 5 above for further information on gas and electric consumption by the proposed action.

IV. ADVERSE UNAVOIDABLE SIGNIFICANT ENVIRONMENTAL IMPACTS IF PROJECT IS IMPLEMENTED

52. As a result of further analysis called for in the public and agency comments, changes made to the DEIS in regards to unavoidable adverse impacts, should be reflected in a revised Chapter IV.

V. ALTERNATIVES

A. No-Build Alternative

53. The recommendations of the Town's Community Preservation Project Plan for the site, which was cited above in comment 38, if applicable to the No Action Alternative, should be included in the discussion.

B. Traditional Neighborhood Alternative

54. The DEIS indicates that the TND Alternative would provide sidewalks. The Community Septic Alternative provides the potential for a more compact form of development and, as currently proposed, 41 of the 53 lots would range in size from one half (½) to one (1) acre sharing similar characteristics with the TND Alternative. Why would they be provided in this Alternative and not the Preferred Alternative?

C. Conventional Subdivision

55. No comments on this alternative.

D. Reduced Scale Alternative

56. No comments on this alternative.

E. Alternative Cluster Designs

57. No comments on this alternative.

E. Alternative Energy Option

58. There is no mention of wind energy, geothermal, fuel cells, or primary use of solid fuel appliances like pellet or multi-fuel stoves as alternatives to the use of fossil fuels even though they are available locally. The Alternative concludes that even if they are used, it is *'unlikely to have an impact.'* However, the cumulative effect of increasing the use of finite fossil fuels and increasing GHG emissions through new homes that rely solely on systems that produce GHG emissions is an issue that requires a more through consideration, analysis and discussion in the FEIS.

G. Community Septic Alternative

59. The Final Scoping Document required that development of a community septic system and the applicant's proposal to provide individual septic systems be given "equal weight." This alternative avoids the need to obtain waivers from the Planning Board, the Orange County Department of Health and the New York State DEC for the proposal to provide more than 49 lots on individual septic systems, where the Town, County and State require community sewage systems. The New York State Department of Health, in discussing the use of septic systems in rural and suburban areas, recommends that "*Wherever possible, sewage should be collected in community sewers connected to a central treatment plant.*" While the central "treatment plant," in this case, would be individual septic tanks for each household and a series of community leach fields rather than one "plant" the point of the undertaking is to protect health and safety while allowing for a more compact form of development, made possible by avoidance of mandatory minimum separation distances required when individual wells and septic systems are provided. The proposed Alternative shows lots as small as one-half (1/2) acre in size. In view of the minimum distances required between septic tanks and other features, such as dwellings and surface waters, the FEIS should provide an assessment of the smallest size lots that would be attainable under this Alternative, given the Zoning Law's requirement that such lots can be no smaller than 12,500 square feet (slightly more than 1/4 acre per lot).

60. The Town's Comprehensive Plan recommends that "*new state of the art community [septic] systems should be encouraged to allow for smaller lot sizes and improved application of cluster development ideals.* One of the purposes of the Town Zoning Law's cluster subdivision provisions is "*To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, with a strong neighborhood identity.*" A strong neighborhood identity will be challenging for future residents in this Preferred Alternative, as presently designed, due to a lack of connections such as pedestrian/bicycle amenities, between homes. This Alternative will contain lots sizes ranging from one-half (1/2) acre to two and one-half (2 1/2) acres, with both a mean and a median lot size of only slightly less than one (1) acre (excluding lot #40, the largest open space lot). To provide the Planning Board with a visualization of the style of lot sizes in the range currently proposed in this Alternative versus a more compact residential development in a rural area of St. Johnsbury, VT, I have provided two aerial photographs comparing the two below. The suggestion here is that due to sensitive environmental features on-site, proximity to the Hamlet of Edenville, the more compact development attainable with community water and sewer, and the Zoning Law and Comprehensive Plan encouraging more compact development in favor of greater open space protection, perhaps a greater range of house lots could be provided in this Preferred Alternative.

3/4 to 2 acre per lot subdivision

1/4 acre per lot subdivision

61. The DEIS indicates that the TND Alternative would provide sidewalks. The Community Septic Alternative does not even though, like the TND Alternative, provides the potential for a more compact form of development. As currently proposed, 41 of the 53 lots (77 percent) would range in size from one half (1/2) to one (1) acre. The DEIS states elsewhere that a waiver will be requested so that sidewalks do not need to be provided in the subdivision, citing the desire to maintain a more rural character. However, approximately 38 of the 53 proposed lots in this Alternative (71 percent) would front on conserved open

space where trail development would be possible, so that future residents could walk to neighbor's homes without the need to drive. In view of the need for the applicant to consider trail development in order to obtain the density currently being proposed, trail development on the site should be further explored. It should be noted that recent economic analysis studies of the issue of "walkability" in residential neighborhoods have



found that the value of homes in walkable areas can be as much as \$30,000 more per unit than in areas where walkability is not possible.

VI. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

62. No comments on this section of the DEIS.

VII. GROWTH INDUCING ASPECTS

63. No comments on this section of the DEIS.

VIII. EFFECTS ON THE USE AND CONSERVATION OF ENERGY RESOURCES

64. See comments above on use and conservation of energy.

65. This section concludes that effects on energy use and conservation "*will be similar to those associated with all residential construction projects.*" There are numerous examples of residential subdivisions and other types of residential development that have been designed with energy conservation as a focus. LEED certification is one of many approaches to this issue and discussion of its feasibility was a requirement of the Final Scoping Document. Thousands of single-family detached homes have achieved LEED or other certifications through energy conservation planning, so to state that the project will be similar to "all" residential construction projects is an overstatement. An example of a residential subdivision that was LEED certified, Carsten Crossings, resulted in significantly lower utility bills and lower energy use for the residential units. Basic LEED or other equivalent certification is one of the bonus options for attaining full density on the proposed subdivision. Greater consideration and analysis should, therefore be provided in the FEIS.

66. The type of “fuel” cited in the first paragraph in Section A should be identified.

IX. APPENDICES

67. No comments on this section of the DEIS except to the extent that the above comments call for corrections or modifications to the Appendices, should be reflected in corrections or modifications to the applicable Appendix.

The following review comments submitted by HDR, dated 4/7/10:

April 07, 2010

Mr. Ben Astorino, Chairman
Town of Warwick Planning Board
123 Kings Highway
Warwick, New York 10990

**Re: Warwick Views Subdivision
Bloom Corners Road
Tax Map Reference: 27-1-41.131, 47, 48.1**

**Task: PB002
Area = 249± acres**

Dear Mr. Astorino:

Introduction: This project proposes a major subdivision along Bloom Corners Road. This project is currently within the State Environmental Quality Review Act (SEQRA) process.

A long form EAF was presented to the Planning Board dated April 10, 2006. The Town of Warwick Planning Board declared the intent to become Lead Agency on June 07, 2006. On August 02, 2006, the Planning Board issued a Positive Declaration of this project. Therefore the information included in the long form EAF will be superseded with the preparation of a more detailed Environmental Impact Statement (EIS).

The first step in the EIS process is to prepare a Scoping Document; this document describes all of the information that must be addressed within a Draft Environmental Impact Statement (DEIS). Once the DEIS is prepared by the Applicant, the planning board together with its consultants, determine when the document is “complete.” A DEIS is complete when the document has included all of the items as stated within the Scoping Document. The DEIS for the Warwick Views project was determined to be complete by the Planning Board on November 18, 2009.

The next step in the SEQRA process is to distribute the DEIS to all involved agencies and to be made available to the public for comment. Subsequent to the distribution of the DEIS, a public hearing is held. The SEQRA public hearing for this project was held on January 20, 2010. There is a time period after the public hearing where the public can provide written comments; the deadline for written comments for the Warwick Views project was originally February 10, 2010 but was later extended to March 17, 2010.

Subsequent to receiving all written comments, the following information should be collected and used to prepare the Final Environmental Impact Statement (FEIS):

1. List all pertinent correspondence received
2. Identify the questions/comments to be addressed
3. Identify the organizational process to respond to the questions/comments
4. Identify additional studies, etc. (if required)
5. Include Public Hearing transcripts as an FEIS attachment

The FEIS will be prepared and will respond to questions and comments that have been received during the comment period. Depending on the number of comments received, the time to prepare the FEIS varies. The Lead Agency is responsible for the accuracy and adequacy of the FEIS, even if it is originally prepared by the Applicant's consultants.

After the FEIS, the Findings Statement is prepared by the Lead Agency to document the conclusions of SEQRA. It is the last step in the SEQRA process and formulates the rationale of any future approval resolution. No formal decisions can be made on the project until the SEQRA process has been concluded.

Correspondence: We have received the following information:

1. DEIS, accepted as complete on 11/18/09
2. 15-sheet drawing set, last revised 09/28/09
3. All written public comments to date

After reviewing the materials submitted, we have the following comments that identify the comment number, original date of comment, the comment itself, and the current status of the comments (i.e., whether they have been answered or if it is still outstanding).

General Comments: The following comments relate to the overall presentation of the DEIS:

No.	Date	Comment	Status
1	04/07/10	A table should be included that identifies all of the agencies and permits and/or approvals required.	Incomplete.
2	04/07/10	It should be discussed if an amphibian/mammal/animal bridge is necessary in the area of the wetland near the roadway crossing.	Incomplete.
3	04/07/10	If precautions were taken when the recent gas transmission line was installed; this information should be clarified within the FEIS.	Incomplete.
4	04/07/10	There is a document titled "NiSource Gas Transmission and Storage Minimum Guidelines for construction near natural gas pipeline facilities." This document is relevant to the existing gas line on the project site and should be included as an appendix in the FEIS.	Incomplete.
5	04/07/10	The Aquifer Protection Overlay should be shown on the community septic plan.	Incomplete.
6	04/07/10	The Agricultural Protection Overlay should be shown on the community septic plan.	Incomplete.
7	04/07/10	Blasting should not take place nearby the existing gas line located on site or nearby the Franklin Marble soil type.	Incomplete.

Geology and Hydrology: The following comments are based on technical review of the geology and hydrogeology sections of the DEIS for Warwick Views. In particular, my discussion at this

time is to address the following three major concerns and to offer recommendations for further investigation, if warranted:

1. Presence of Thrust Fault and Potential Seismic Hazard
2. Presence of Karst Geology
3. Franklin Marble Containing the Asbestos Mineral Tremolite

See also **Attachment 1** for April 06, 2010 site inspection results.

Presence of Thrust Fault and Potential Seismic Hazard

One potential geologic concern raised by Mr. Eric Hince, a principal scientist with Geovation Engineers in Florida NY, in his affidavit (and included as an attachment in the Lomax public comment letter of February 10, 2010) was the possibility that a “thrust fault” located in the vicinity of the site could be the focus for movement or small earthquakes. Review of a 2008 paper from Sykes *et al.* of Lamont-Doherty Earth Observatory entitled “Observations and Tectonic Setting of Historically and Instrumentally Located Earthquakes in the Greater New York City – Philadelphia Area” indicates that in the northwestern portion of the study area several small magnitude earthquakes have occurred in the vicinity of the New York – New Jersey border during the 320 plus year period for which records are available (1677 – 2006). However, Sykes also indicates that during this period no earthquakes were specifically located within the NY-NJ border area of the Great Valley of the Appalachians – a portion of which in Orange County is now occupied by the Wallkill River and the project site.

Earthquake prediction is not an exact science – for a given area one can only study past trends in earthquake occurrences and attempt to infer the likelihood of similar events occurring in the future. For the proposed development site, based on historical information and the geology of the area, it appears likely that earthquakes similar to those that have occurred in the this area of Orange County and northern New Jersey in the past will occur again in the future since there is a clear correlation between past events and the general structural fabric and fault trends in the area. Based on available evidence, however, it appears that the greatest probability lies with a small magnitude event (magnitude < 3) occurring rather than a larger earthquake. A review of available historical data for earthquakes that have occurred in the area indicated only slight damage having occurred and no evidence that would indicate significant slippage (movement) along the fault(s) nearest to the project site. The most recent significant earthquake occurred during March 2008 in Warwick, NY when a magnitude 2.3 event was recorded that caused slight damage to drywall and glass in the Town of Wawayanda.

According to the Bedrock Geology of the Goshen - Greenwood Lake – Goshen Area, NY map of Offield (1967) the fault referenced in the Lomax letter is a normal fault rather than a thrust fault. This distinction may have implications for the likelihood of earthquake occurrence in the vicinity of the site since in a high horizontal stress environment oriented roughly perpendicular to the fault trends, increased strain might be anticipated in lower angle thrust faults versus the much more steeply dipping normal faults displayed by Offield.

Although historically no earthquakes have been centered on the project site this does not rule out potential impacts from earthquakes occurring elsewhere in the area. Minor earthquakes have occurred in the region surrounding the site, however impacts typically lessen with distance from the epicenter so it is anticipated that earthquakes typical of the area would not result in movement along the fault or other significant impacts at the project site. Overall the existing historical data does not suggest that this site is subject to any unusual seismic hazards that would not be typical for this area.

Presence of Karst Geology

An ongoing discussion regarding the site is whether karst geology is present at the project site. After reviewing the available data regarding karst and its potential impacts on the project it appears that the more relevant questions should be, conceding the fact that carbonate units are present underlying the site, “do these units have the potential for the formation of well developed, mature karst landforms and more specifically is there any indication that these landforms are currently present or are developing on-site.”

The presence of carbonate units and karst geology is well documented as occurring through much of the Great Valley of the Appalachians with significant cave systems present in the north at Howe Caverns in Central New York and even more extensive systems present to the south in Virginia. Figure 7 from the Draft Orange County Water Authority Draft Water Master Plan labels the carbonate units in the vicinity of the site as “Karst Bedrock area” and “Limestone Karst Bedrock”. That being said however, karst is not a black and white classification system, rather it is categorized based on levels of “maturity” that develop according to a complex interaction of mineralogy, climatology, water chemistry, and structural geology. For illustrative purposes, karst landscapes can range from primarily surface manifestations due to minor enhancement of existing fracture and joint patterns all the way up to the major cave networks and subsurface drainage systems such as those that have developed at Mammoth Cave, Kentucky or Carlsbad, New Mexico. Extremely mature karst development is seen in the large limestone spires of southern China’s Guizhou province where a large percentage of the original carbonate rock has been chemically weathered away.

The lithology of the Franklin Marble does not appear to be particularly conducive to the formation of well developed karst landforms since features such as well developed caves and sinkholes typically require pure carbonate. The Franklin Marble is famous for its wide variety of impurities and accessory minerals indicative of the metamorphic grade of the formation. A passage from Offield (1967) offers this summary: *The Franklin Marble is predominantly white and calcitic, but contains numerous gray or bluish dolomitic layers. Disseminated graphite is ubiquitous, in places occurring in flakes as large as a half-inch. Tremolite and phlogopite are very common varietal minerals. Exotic minerals abound throughout the marble, and the Amity – Edenville area has been a famous collecting locality for years.* From the same reference – citing the economic geology potential for the area – a marble quarry that was active until 1943 stopped operating due to the marble not meeting chemical specifications for cement manufacture because of a relatively high percentage of silicate accessory minerals interspersed within the marble. Another requirement of the rock formation for significant karst development is that the rock units be relatively massive, representing homogeneity of the depositional and chemical environment through time. The Franklin Marble however displays significant variability in the form of layering and banding that reflect variations in deposition conditions and segregation of chemical constituents during subsequent metamorphism. Again, taken from Offield (1967): *Layered structure is prominent in the rock, because of pronounced textural variation and lithological differences. Commonly smooth-weathering layers of very fine-textured calcite alternate with coarse, crumbly layers of calcite rhombs ranging up to two inches in size.*

Characterization of the subsurface karst development at the site could be conducted through a comprehensive drilling program or geophysical methods to determine whether subsurface voids are present. In lieu of this very costly program an inspection of drilling logs from neighboring wells could be used to determine whether documented occurrences of significant voids have been encountered in the vicinity of the site. The applicant’s engineer has also provided a Karst Mitigation Plan to be followed in the event that significant karst features were encountered during development. Given the lack of evidence that significant karst features such as sinkholes

and caverns do exist on the site, this Karst Mitigation Plan appears to be a reasonable compromise to mitigate this potential impact.

Franklin Marble Containing the Asbestos Mineral Tremolite

The presence of the asbestos bearing mineral tremolite in the Franklin Marble was referenced from several sources, including the NYS Museum and Science Service Map and Chart Series Number 9 by Offield (1967) and an article entitled “The Amity Area – Orange County, New York” by Lance E. Kearns in the March-April 1978 edition of the journal *The Mineralogical Record*. According to the geologic map and accompanying stratigraphic cross sections prepared by Offield, the bedrock underlying the site area is wholly composed of Franklin Marble.

Tremolite is a variety of asbestos that is thought by some researchers to be a more hazardous type of asbestos due to its crystal structure and tendency to cleave into very small needle-like fibers. By comparison, chrysotile asbestos, the most commonly used industrial form of asbestos, is typically present as curly, hair-like fibers that may be less susceptible to penetrating deep into lung tissue. The potential danger due to tremolite has been a controversial topic reviewed by the USEPA and public health officials and one that warrants further consideration since documented cases of illness have occurred due to exposure to the mineral (as in the well documented case of the vermiculite mine of Libby, Montana). Similar concerns have been raised in Sparta, NJ and El Dorado, California with divergent opinions as to the extent of the potential impacts due to disturbance of naturally occurring tremolite-containing formations. An expert in the mineralogy of tremolite or in the petrology of the Franklin Marble may be consulted to evaluate the potential hazard posed by the presence and distribution of tremolite in the host rock.

Tremolite is listed as an accessory mineral in Offield’s description of the Franklin Marble but the measured percent of the mineral is not reported and HDR was unable to determine any details regarding the distribution of tremolite within the marble (i.e. is it concentrated in certain portions of the formation?). As a mitigation measure, careful dust control and monitoring procedures during blasting or excavation of any portion of the Franklin Marble would be warranted.

Review of Hydrogeology, Aquifer Impact Assessment Report, and Stormwater Plan:

No.	Date	Comment	Status
1	04/07/10	Groundwater Under Direct Influence (GWUDI) from surface waters should be re-evaluated given the results from the initial round of testing where water from both Well 2 and Well 5 contained microscopic organisms indicative of potential connection with surface water sources.	Incomplete.
2	04/07/10	Implications of USEPA Region 2 designation of Warwick being part of the Sole Source Aquifer program should be further investigated. Based on EPA documentation it is unclear as to whether the site property lies within the boundary of the Northwest NJ 15 Basin Aquifer and if it does whether any restrictions are applicable (typically only restricts projects receiving Federal financial assistance).	Incomplete.

No.	Date	Comment	Status
3	04/07/10	Given the highly fractured nature of the bedrock and potential karst features in the subsurface there is some concern regarding the proposed groundwater supply during drought conditions. Recharge figures appear to indicate sufficient recharge to support the supply, however, Well 5 was tested as the back-up well at a yield of 2.5 gpm above the minimum required yield for the project. Since this well must meet the minimum yield with the best well (Well 2) out of service some concern exists that there might be a problem meeting demand in drought conditions if the yield of the well were to drop.	Statement.
4	04/07/10	If community septic fields are to be employed a series of test pits should be excavated in the proposed septic field areas to examine the nature of the overburden stratigraphy and the bedrock interface. The depth to bedrock here is of particular concern since the carbonate bedrock units are heavily fractured and may contain dissolution cavities which would have the potential to allow for the rapid transport of contaminants from the septic systems into the bedrock groundwater.	Incomplete.
5	04/07/10	The Stormwater Plan included within the DEIS has not been reviewed by HDR at this time because of the likelihood that the comments received to date will modify the layout and, thus, change the stormwater plan presented within the DEIS. A revised SWPPP should be included in the FEIS, which is more representative to the Preferred Plan.	Incomplete.
6	04/07/10	The revised stormwater plan must take into account the actual building size that is proposed for construction. The Yield Plan, last revised 10/22/09, shows a 5,000-sf buildable area; if this is the proposed area of the home, it should be shown as this and the SWPPP must be designed to manage the flows generated by a house of that size.	Incomplete.
7	04/07/10	The revised stormwater plan must take into account all stormwater traversing and being generated on the project site; treatment must be provided in accordance with NYSDEC protocols.	Incomplete.
8	04/07/10	It is recommending that the overall drainage area is agreed upon prior to the Applicant's consultant's completing the drainage report.	Incomplete.

Visual Analysis: The following comments relate to the visual analysis for this subdivision:

No.	Date	Comment	Status
1	04/07/10	The Visual Analysis included within the DEIS has not been reviewed by HDR at this time because of the likelihood that the comments received to date will modify the layout and, thus, change the visual analysis presented within the DEIS.	Statement.

Traffic and Transportation: Overall, our review of the Traffic Impact Study indicated it was appropriate in scope and followed standard procedures and methodologies (including projected site-generated traffic volumes). However, we offer the following comments and recommendations:

No.	Date	Comment	Status
1	04/07/10	The Build Scenario assumed the site-generated traffic from Warwick Views would be distributed between the intersection of Road A and Blooms Corners Road and the intersection of Newport Bridge Road and Stonehenge Road but the proposed development plan does not show the internal road connection between Warwick Views and Stonehenge Road. Please provide those details.	Incomplete.
2	04/07/10	The traffic counts were conducted in November and December 2006 and the build date was assumed to be 2012. Given the current economic climate is the Applicant confident in using these data, or should the projections be adjusted?	Incomplete.
3	04/07/10	In support of the capacity analysis, we recommend the Applicant provide all available backup traffic data, including manual turning movement counts, pedestrian counts, bicycle counts, and peak hourly factor (PHF; the peak within the peak) calculation sheet.	Statement.
4	04/07/10	In support of the traffic study, we recommend the Applicant provide all backup accident data to verify injures, fatalities, pedestrians, etc.	Incomplete.
5	04/07/10	The Applicant should correctly label site plan drawings (see Figure-II-X).	Statement.
6	04/07/10	The Traffic Impact Study should identify the selected AM peak hour and PM peak hour.	Statement
7	04/07/10	We recommend the Applicant provide additional details regarding the site staging and schedule details during construction periods. The data should including the following information: (1) Construction site access and parking for workers, equipment and deliveries. (2) Number of workers on site per stage. (3) Number of trucks, truck types, delivery routes and estimated number of delivers.	Incomplete.
8	04/07/10	The site plan should demonstrate sufficient turning radii is available for an emergency response vehicle to access the development units, circulate and depart the site without difficulty.	Incomplete.
9	04/07/10	At the request of the Police Chief to potentially reduce accidents and injuries, we recommend the Applicant reanalyze the intersection of Blooms Corner Road and Orange County Route 1 under the Build Condition as an "All-Way STOP" controlled intersection and comment on the findings.	Incomplete.

Water: The following comments relate to the water supply system being proposed for this subdivision:

No.	Date	Comment	Status
1	04/07/10	Figure V-5 includes a community septic alternative; this plan should show the water supply wells proposed, including proper separation distances and all associated piping.	Incomplete.

Wastewater: The following comments relate to the wastewater treatment system being proposed for this subdivision:

No.	Date	Comment	Status
1	04/07/10	The DEIS states that a waiver from the Orange County Department of Health (OCDOH) will be necessary if more than 49 lots are proposed to be served by individual septic systems. The Town also has a requirement that all subdivisions with more than 49 lot that will be served by septic systems obtain a waiver from the Town Board §137-25(g).	Incomplete.
2	04/07/10	The wastewater flow calculated for the proposed four-bedroom homes is 130 gpd per bedroom; this flow rate assumes that water savings devices are used. A note should be added to the plan stating these requirements.	Incomplete.
3	04/07/10	Garbage disposals would not be allowed with the method that the wastewater flow was determined; a note should be added to the plan stating that garbage disposals are not allowed.	Incomplete.
4	04/07/10	Figure V-5 includes a community septic alternative; this plan should be presented to OCDOH and NYSDEC for initial comments prior to re-submittal of the FEIS.	Incomplete.
5	04/07/10	The community septic alternative would require a 100% expansion area; this area should be shown on the drawing.	Incomplete.
6	04/07/10	In the community septic alternative, would a septic system be located on each lot for primary treatment?	Incomplete.
7	04/07/10	If each lot had its own septic tank, who would be responsible for the maintenance of this tank?	Incomplete.
8	04/07/10	If each lot has its own septic tank, the tank should be located near the main roadway with an easement to the responsible party for maintenance, if maintenance is not the responsibility of the homeowner.	Incomplete.
9	04/07/10	If a pumping station is required in the sewer service for this subdivision, please describe the possible location, purpose, and redundancy of the pumps. Also, please describe the possible entities responsible for maintenance of this system (including financial responsibilities).	Incomplete.

Yield Plan: The following comments relate to the yield plan and the total number of lots being proposed for this subdivision:

No.	Date	Comment	Status
-----	------	---------	--------

No.	Date	Comment	Status
1	04/07/10	The Yield Plan must take into consideration that new 2010 zoning code that was recently adopted in the Town of Warwick. In order to design in a cluster format, the yield plan must meet 4 of the 6 criteria described in §164-41.1.D(5).	Incomplete.
2	04/07/10	The Yield Plan must comply with the revised town code to comply with §164-41.1.D.	Incomplete.
3	04/07/10	Additional conversations with NYSDEC/USACE about the second crossing of the wetland to establish the yield plan may need to take place; it should not be assumed that this crossing would be permitted by these agencies. It is also likely that it will be difficult to obtain written commentary from these agencies about a yield plan.	Incomplete.
4	04/07/10	The roadway grading for both Roads A and B appear to show 30-ft of a level-paved surface and then grading beginning within the balance of the 10-ft right-of-way (ROW) on both sides of the proposed road. The Town specification requires that these 10-ft areas within the ROW are level and have drainage swales; are these roadways proposed to comply with the Town specification?	Incomplete.

Four-Step Design Process: The following comments relate to the Town's Four-Step process used during the subdivision process:

No.	Date	Comment	Status
1	04/07/10	The 100-yr flood plain does not appear to be shown on the Step 1A & 1B sketch plan (DEIS Figure II-2); if there is no 100-year floodplain in this area, there should be a note added to plan stating this.	Incomplete.
2	04/07/10	The sketch plan for Step 1A & 1B shows three areas of PtB soils "Group II" Prime Ag Soils; however two of these areas are classified as primary conservation areas and one is classified as a secondary conservation area. Why are these three areas not classified the same?	Incomplete.
3	04/07/10	The following soil series are to be classified as primary conservation areas and should be shown on the sketch: Groups IX, X, XII, XIII, XIV, and XV as identified in the Environmental Control Formula found in §164-41.3. If none of these soil types are present, a note shall be added to the plan stating this.	Incomplete.
4	04/07/10	The Four Step Design Process should be presented for the community septic plan using the new local law that was recently adopted (2010).	Incomplete.

Miscellaneous: The Applicant's response letter should contain an itemized explanation of how the plans have been revised or modified in order to address these items with specific references to the changes in the plans. In the event that the Applicant should disagree with a comment and choose not to modify the plan, an explanation should be provided.

The above comments represent our professional opinion and judgment and do not in all cases reflect the opinion of the Planning Board. Please revise your plans to reflect these comments with the understanding that further changes may be required. If you have any questions, please contact me at (845) 294-2789.

Sincerely,
Henningson, Durham & Richardson
Architecture and Engineering, P.C.
in association with HDR Engineering, Inc

Laura A. Barca, P.E.
HDR Engineering, Inc., Project Manager

The following correspondences 1 through 43 submitted during the DEIS written public comment period:

- 1) Letter from Kathryn Johnston Lomax, dated 1/25/10
- 2) Letter from Wendy Schlesinger & Mathieu Prevost, dated 1/25/10
- 3) Letter from Patrick Adee, dated 1/26/10
- 4) Letter from Jeffrey A. Fisher, MD., dated 1/29/10
- 5) Letter from Patrick Adee, dated 2/16/10
- 6) Letter from Elizabeth Fisher, dated 2/12/10
- 7) Letter from Carole Liantonio, dated 2/16/10
- 8) Letter from Susan E. Meyer, dated 2/15/10
- 9) Letter from Kathryn Johnston Lomax, dated 2/10/10
- 10) Letter from Christopher Lupton & Simon & Shayne Haysom, dated 2/16/10
- 11) Letter from Brian Orzel, ACOE, dated 2/18/10
- 12) Letter from Wendy Schlesinger, dated 2/27/10
- 13) Letter from Kathryn Johnston Lomax, dated 3/1/10
- 14) Letter from Jean Beattie May, dated 3/4/10
- 15) Letter from Kathryn Johnston Lomax, dated 3/8/10 addressed to Rick Hubner, Town Assessor.
- 16) Letter from Arlene Bruno, dated 3/12/10
- 17) Letter from Thomas J. Owen, dated 3/13/10
- 18) Letter from Charlene E. Anderson, dated 3/12/10
- 19) Letter from Donald R. Lomax, dated 3/15/10
- 20) Letter from Donald R. Lomax, dated 3/15/10 addressed to Michael Sweeton, Supervisor
- 21) Letter from Kim Bulkley, dated 3/14/10
- 22) Letter from James & Margaret Healey, dated 3/15/10
- 23) Letter from Dr. Michael W. Klemens, dated 3/14/10
- 24) Letter from ARB, dated 3/15/10
- 25) Letter from Anthony & Kathleen Vitiello, dated 3/16/10
- 26) Letter from Patrick Adee, dated 3/16/10
- 27) Letter from Keith Pettinato, dated 3/15/10

- 28) Letter from Joseph Booker, dated 3/2010
- 29) Letter from Phil Ernst, dated 3/17/10
- 30) Letter from Adam Peterson, DEC, dated 3/17/10
- 31) Memo from the Town of Warwick Town Board, dated 3/17/10
- 32) Letter Kristina Gentles, dated 3/16/10
- 33) Letter from Cal Miller, dated 3/16/10
- 34) Letter from Denis Kellman, dated 3/16/10
- 35) Letter from Katherine Beinkafner, PHD Geologist, dated 3/16/10 (Water Supply)
- 36) Letter from Katherine Beinkafner, PHD Geologist, dated 3/16/10 (Bog Turtle Habitat)
- 37) Letter from Katherine Beinkafner, PHD Geologist, dated 3/16/10 (Yield Plan)
- 38) Letter from Chief Thomas McGovern Town of Warwick Police, dated 3/26/10.
- 39) Letter from David Church, OCPL, dated 11/30/09.
- 40) Letter from Pat Kennedy, OCDPW, dated 12/10/09
- 41) Letters from CB, dated 11/17/09 & 1/19/10
- 42) Letter from Raymond Bryant, Superintendent of Schools, WV School District, dated 3/22/10.
- 43) Letter from Samantha Sweeton, Warwick Ambulance, dated 4/3/10.

The following comment submitted by the Conservation Board, dated 4/7/10:

Warwick Views, LLC. - The CB has a number of significant concerns regarding this 53 lot subdivision. In order to avoid repetition, the CB will refer to some of the well thought out letters that have come in from residents, scientists and agencies.

Dr. Klemens

The starting point is Michael W. Klemens, LLC letter of March 14, 2010. He notes in his four page single spaced letter that “The DEIS before you has failed on multiple counts to adequately address through detailed scientific assessments the biodiversity of the site.” (page 2). Dr. Klemens also lays out the types of studies that should be required to comply with the Southern Walkill Biodiversity Plan. Surely, the one day field trip is totally inadequate to address the diversity of the site which can be seen from Dr. Klemens list on page 3, there are three species of salamanders of Special Concern out of nine species. There are seven species of frogs, five of turtles (two species are of Special Concern and the bog turtle is endangered) and five species of snakes. Accordingly, CB supports Dr. Klemens recommendation for the preparation of a Supplemental DEIS to comply with the scoping document adopted by the PB. The PB cannot satisfy SEQRA without a good understanding of the flora and fauna at the site in order to mitigate impacts.

DEC

1. Indiana bats

The DEC in its March 17, 2010 letter notes the documented presence of the Indiana bat, a NYS Threatened Species and sets forth three areas that should be addressed. The DEC notes that the additional information is required as part of the permitting process.

2. Freshwater Wetlands

The DEC recommends that a minimum of three larger span open bottom culverts be utilized rather than the single culvert proposed. “[N]ot only will the proposed roadway be limited in providing hydrologic connectivity but will also serve as a substantial barrier to the movement of wildlife between the portions of the wetland to be bisected. The DEC also observes that the DEIS does not propose wetland mitigation in the customary 2 to 1 ratios for the almost 10

thousand square feet to be impacted. The DEC notes that it is unclear whether the property was surveyed for wetlands smaller than 12.4 acres in size. The DEC notes from information it has available that there may be US Army Corps of Engineers jurisdictional wetlands in the northwest area of the site.

3. Sanitary Wastewater Management

The DEC notes that the proposal to use individual septic systems requires a variance, since developments over 50 residences requires a community septic system.

4. Stormwater

The DEC notes five deficiencies in the SWPPP.

Mid-Hudson Geosciences

By letter dated March 16, 2010, Dr. Katherine J. Beinkafner, noted that the yield plan “does not adhere to the intent of the yield planning process.” Dr. Beinkafner also notes that the proposed roads are unlikely to receive DEC permits through the wetlands due to soil unsuitability and flooding. “Construction road above the buried high-pressure gas transmission line is a hazardous plan...” “Blasting is not recommended near the pipeline.” “The Plan does not show reserve septic areas.” “The Madalin soils in the vicinity of Lots 3, 4, 39, 40 are not suitable for buildings and roads because of low strength.” Dr. Beinkafner concludes: “The proposed yield plan does not take into account physical attributes of soils, wetlands, and bedrock. Without access to the property, it is essentially land-locked and undevelopable. I believe if one road could reach the “drylands”, the number of lots would be limited to 18 on the site.”

A second letter from Dr. Beinkafner, also dated March 16, 2010 addresses the endangered bog turtle. “The applicant has not conducted a due diligence survey with respect to Bog Turtle Habitat assessment.” (emphasis in original). A phase 2 survey is recommended to be conducted in the wetlands at the project site.

Finally, a third letter dated March 16, 2010 from Dr. Beinkafner “Either way the proposed project is doomed by site hydrologic conditions.” (emphasis in original). Dr. Beinkafner discusses the Potential for Short-Circuiting/Recharge of Wells from Pumped Water; Contamination in the Water Supply Wells, Aquifer Conditions including the Aquifer Protection Overlay District, US EPA Sole Source Aquifer and Recharge Area and Rate. The letter concludes with a discussion of the Bedrock Geology and the Surface and Wetland Hydrology.

The CB recommends that the PB take a very careful and hard look at these three letters and require that the points raised be addressed in the Supplemental DEIS.

Many residents submitted articulate letters voicing various concerns about this proposed development. The CB recommends that the Supplemental DEIS should address every single issue that was raised.

Until the Supplemental DEIS is prepared, this project is far from beginning the FEIS stage of the SEQRA process. Simply stated it is the CB’s view that Warwick Views’ DEIS is inadequate and does not comply with the PB scoping document.

Mr. Astorino: You have your work cut out for you.

Kirk Rother: Thank you.

Mr. McConnell: Mr. Chairman, I think we have some people that came out tonight for the Warwick Views project. They might be a little confused as to whether we would be doing anything more about it and when it would be, etc..

Mr. Astorino: The bottom line is as Ted had pointed out to the residents, the ball is in the applicant's court to provide us with some information. That is about it. We would have to get the information that is required. We would have to review it. We would then go from there. At this point, that is about it. We really can't comment on anything because we don't know everything yet.

Mr. McConnell: Right. We can't set it for a public hearing yet either.

Mr. Astorino: It was adjourned without date. That is the bottom line. Ted was pretty good with pointing it out. We would have to wait until we get the facts.

Mr. McConnell: I just wasn't sure if everyone caught the significance of what Ted had said.

Mr. Astorino: Right. Dennis, you brought up a good point. Thank you.

Other Considerations:

1. **Brian Singer Subdivision** – Letter from Kirk Rother, Engineer, dated 3/16/10 addressed to the Planning Board in regards to the Brian Singer Subdivision – requesting a 6-Month Extension on Final Approval of a proposed 2-Lot subdivision, situated on tax parcel SBL # 66-1-75; parcel located on the western side of Briller Road 1000 feet south of Continental Road, in the CO zone, of the Town of Warwick. Final Approval was granted on, 10/7/09. *The applicant stated that he is still in the process of satisfying the conditions of final approval.* The 6-Month Extension becomes effective on, 4/7/10.

Mr. McConnell makes a motion on the Brian Singer Subdivision, granting a 6-Month Extension on Final Approval of a proposed 2-Lot subdivision, SBL # 66-1-75. Final Approval was granted on 10/7/09. The 6-Month Extension becomes effective on, 4/7/10.

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

2. **Wheeler Road Estates** – Letter from Ryan McGuire from Pietrzak & Pfau Engineering, dated 3/16/10 addressed to the Planning Board in regards to the Wheeler Road Estates Subdivision – requesting (2) 6-Month Extensions making it their 8th and 9th 6-Month Extensions on Preliminary Approval of a proposed 32-Lot cluster subdivision, situated on tax parcel SBL # 8-2-44.223; parcel located on the northerly side of Wheeler Road (C.R. #41) at the intersection of Dussenbury Drive, in the RU zone. Preliminary Approval was granted on, 11/2/05. *The applicant has stated that their attorney is drafting up the necessary paperwork for the formation of a drainage district for this project.* The 8th 6-Month Extension becomes effective on, 11/2/09. The 9th 6-Month Extension becomes effective on, 5/2/10.

Mr. McConnell: I am confused. How was it that we missed this or the applicant missed this?

Mr. Astorino: The applicant missed it. They are at their risk.

Mr. McConnell: John, is there any protocol to follow here? They apparently have expired.

Mr. Bollenbach: They have expired. There are provisions if there has been a change in zoning. They may have missed their due diligence. We might have to reevaluate their preliminary approval. We could put a hold on this matter. We could discuss this further at a Work Session to see which way the Board would like to go.

Mr. McConnell: I would like to do that. I would like to understand what is going on.

Mr. Bollenbach: We do have new zoning provisions in place regarding cluster subdivisions. There are also provisions in place for grandfathered status. That would be for applications approved prior to the adoption of the new zoning. The cutoff point is pretty much at the time of preliminary approval. However, there is a due diligence to maintain that “grandfathered status” and the eligibility for approval under the prior zoning.

Mr. McConnell: Right. I understand the pressures that the applicants are feeling today with the economy and the real estate market. I think that doesn't mean we should make them cross their t's and dot there i's.

Mr. Bollenbach: Also, their comment on the allegations by the attorney that they are working on this necessary paperwork; I haven't seen any paperwork regarding this drainage easement. Perhaps rather than pointing the finger at an attorney, maybe it might be the economic times right now.

Mr. McConnell: I am like you. I don't like fingers pointed at attorneys.

Mr. Astorino: If the Board is in favor, we will hold the Wheeler Road extensions and put it on the Work Session for discussion.

Mr. McConnell: Yes.

Mr. Kowal: Yes.

Mr. Astorino: We have a consensus from the Board to hold this extension request for now and discuss it at the Work Session.

3. **Normajeon Fusco Subdivision** – Letter from Dave Higgins from Lanc & Tully, dated 3/22/10 addressed to the Planning Board in regards to the Fusco Subdivision – requesting 1st 6-Month Extension on Preliminary Approval and Special Use Permit of a proposed 12-Lot + 1-Affordable Home cluster subdivision, situated on tax parcel SBL # 18-1-31.2; parcel located on the southern side of Taylor Road with Jessup Road, in the RU zone. Preliminary Approval was granted on, 9/2/09. *The applicant and it's professionals are currently working on finalizing the remaining items needed for final approval. They also have been coordinating the review of the subdivision with OCHD and recently received a letter from OCHD, dated 2/8/10 indicating that all technical items have been satisfactorily addressed.* The 1st 6-Month Extension becomes effective on, 3/2/10.

Mr. Bollenbach: With the Fusco application, they have been working on satisfying this.

Mr. Astorino: Yes. They are. I have spoken to the applicant's engineer myself a couple of times.

Connie Sardo: They are also on the next Work Session Agenda.

Mr. Astorino: Yes. They are moving forward.

Mr. McConnell makes a motion on the Normajeon Fusco Subdivision, granting a 1st 6-Month Extension on Preliminary Approval and Special Use Permit of a proposed 12-Lot + 1-Affordable Home cluster subdivision. SBL # 18-1-31.2. Preliminary Approval was granted on, 9/2/09. The 1st 6-Month Extension becomes effective on, 3/2/10.

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

4. **Round Hill Subdivision** – Letter from Steven Spiegel, Attorney, dated 3/31/10 addressed to the Planning Board in regards to the Round Hill Subdivision – requesting a 6-Month Extension on the 3rd Re-Approval of Final Approval of a proposed 19-Lot + 1-Ag Lot cluster subdivision, situated on tax parcel SBL # 7-2-51.1; parcel located on the northerly side of Wheeler Road between Meadow Road and Hunt Drive, in the RU zone. Final Approval was granted on, 10/7/06. The 3rd Re-Approval of Final Approval was granted on, 10/7/09 became effective on, 4/18/09. *The applicant's attorney has stated that the extension is needed because of the condition of final approval requiring construction of roads and significant infrastructure, which real estate market and financial conditions do not permit at this time.* The 6-Month Extension on 3rd Re-Approval of Final Approval becomes effective on, 4/18/10.

Mr. Showalter: I think they gave a good enough explanation on that.

Mr. McConnell makes a motion on the Round Hill Subdivision, granting a 6-Month Extension on Re-Approval of Final Approval for a proposed 19-Lot + 1-Ag Lot cluster subdivision, entitled, "***Round Hill Subdivision***". SBL # 7-2-51.1. Final Approval was granted on, 10/18/06. The 3rd Re-Approval of Final Approval was granted on, 10/7/09 became effective on 10/18/09. The 6-Month Extension becomes effective on, 4/18/10.

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

5. **Jack Pennings Subdivision** – Planning Board to discuss AP-O District Recommendation to the Town Board.

Mr. Bollenbach: There is a letter in your packets. Laura had gone out there.

Mr. Astorino: Laura, do you want to comment on that?

Laura Barca: There are 2 existing houses. That was pretty much what the site inspection was about. They are not moving those houses. They are staying where they are. They are good.

Mr. Astorino: That sums that up. Is the Board ok with this.

Mr. Showalter makes a motion on the Jack Pennings application for the Planning Board to send a Recommendation to the Town Board for opting into the AP-O District.

Mr. Singer: I thought Laura was going to check the septic on the other building on the property.

Laura Barca: We had done that. We have located the wells and septic. That would be on their next plan submittal to us.

Mr. Singer: Ok.

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

6. Planning Board Minutes of 3/3/10 – Planning Board Minutes of 3/3/10 for Planning Board Approval.

Mr. McConnell makes a motion to approve the Planning Board Minutes of 3/3/10.

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

Correspondences:

Mr. Astorino: We have correspondences 1 through 43 that we listed for the record earlier on the Warwick Views project.

- 1) Letter from Kathryn Johnston Lomax, dated 1/25/10
- 2) Letter from Wendy Schlesinger & Mathieu Prevost, dated 1/25/10
- 3) Letter from Patrick Adee, dated 1/26/10
- 4) Letter from Jeffrey A. Fisher, MD., dated 1/29/10
- 5) Letter from Patrick Adee, dated 2/16/10
- 6) Letter from Elizabeth Fisher, dated 2/12/10
- 7) Letter from Carole Liantonio, dated 2/16/10
- 8) Letter from Susan E. Meyer, dated 2/15/10
- 9) Letter from Kathryn Johnston Lomax, dated 2/10/10
- 10) Letter from Christopher Lupton & Simon & Shayne Haysom, dated 2/16/10
- 11) Letter from Brian Orzel, ACOE, dated 2/18/10
- 12) Letter from Wendy Schlesinger, dated 2/27/10
- 13) Letter from Kathryn Johnston Lomax, dated 3/1/10
- 14) Letter from Jean Beattie May, dated 3/4/10
- 15) Letter from Kathryn Johnston Lomax, dated 3/8/10 addressed to Rick Hubner, Town Assessor.
- 16) Letter from Arlene Bruno, dated 3/12/10
- 17) Letter from Thomas J. Owen, dated 3/13/10
- 18) Letter from Charlene E. Anderson, dated 3/12/10
- 19) Letter from Donald R. Lomax, dated 3/15/10
- 20) Letter from Donald R. Lomax, dated 3/15/10 addressed to Michael Sweeton, Supervisor
- 21) Letter from Kim Bulkley, dated 3/14/10
- 22) Letter from James & Margaret Healey, dated 3/15/10
- 23) Letter from Dr. Michael W. Klemens, dated 3/14/10
- 24) Letter from ARB, dated 3/15/10
- 25) Letter from Anthony & Kathleen Vitiello, dated 3/16/10
- 26) Letter from Patrick Adee, dated 3/16/10
- 27) Letter from Keith Pettinato, dated 3/15/10
- 28) Letter from Joseph Booker, dated 3/2010
- 29) Letter from Phil Ernst, dated 3/17/10
- 30) Letter from Adam Peterson, DEC, dated 3/17/10
- 31) Memo from the Town of Warwick Town Board, dated 3/17/10
- 32) Letter Kristina Gentles, dated 3/16/10
- 33) Letter from Cal Miller, dated 3/16/10
- 34) Letter from Denis Kellman, dated 3/16/10
- 35) Letter from Katherine Beinkafner, PHD Geologist, dated 3/16/10 (Water Supply)
- 36) Letter from Katherine Beinkafner, PHD Geologist, dated 3/16/10 (Bog Turtle Habitat)
- 37) Letter from Katherine Beinkafner, PHD Geologist, dated 3/16/10 (Yield Plan)
- 38) Letter from Chief Thomas McGovern Town of Warwick Police, dated 3/26/10.
- 39) Letter from David Church, OCPL, dated 11/30/09.
- 40) Letter from Pat Kennedy, OCDPW, dated 12/10/09
- 41) Letters from CB, dated 11/17/09 & 1/19/10
- 42) Letter from Raymond Bryant, Superintendent of Schools, WV School District, dated 3/22/10.
- 43) Letter from Samantha Sweeton, Warwick Ambulance, dated 4/3/10.

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 April 7, 2010 Planning Board meeting.

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