

TOWN OF WARWICK PLANNING BOARD

May 21, 2008

Members present: Chairman, Benjamin Astorino
Russell Kowal, Dennis McConnell
Roger Showalter, Carl Singer
Zen Wojcik, Tectonic Engineering
J. Theodore Fink, Greenplan
John Bollenbach, Planning Board Attorney

The regular meeting of the Town of Warwick Planning Board was held Wednesday, May 21, 2008, 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 Sundown Properties, Inc., / Martco, LLC.

Application for preliminary approval of a proposed 20-Lot cluster subdivision, entitled “**Hampton Hill**”, located on tax parcel S 18 B 1 L 27; parcel located along both sides of Jessup Road at the intersection with Spanktown Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. Continued Public Hearing from the 4/2/08 Planning Board meeting.

Representing the applicant: Keith Woodruff from Pietrzak & Pfau Engineering.

The following review comments submitted by Tectonic:

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

YIELD PLAN (last revised 10/24/03)

3. No Comments. Board achieved consensus on 1/18/06

CLUSTER PLAN (6/22/04, LAST REVISED 5/7/07)

4. Well monitoring to date has shown a minimal effect on one adjoining well. However, neighbors report typical well yield of about 1gpm and test wells on the site required hydro-fracturing and air lift to achieve acceptable yields. Board to consider additional wells to be drilled and tested for yield with monitoring of neighboring wells to determine interconnections.
5. Show limits of improvements to Spanktown Road. Provide details and notes.

SWPPP Comments

6. Identify the forebay on the plans for the proposed pond.
7. Provide Emergency Spillway in proposed pond and include details.
8. Prepare a Landscaping Plan for the stormwater pond(s) and buffer area(s) consistent with the Design Manual.

BEFORE FINAL APPROVAL

9. Provide the declaration and the recording information on the plan for current Ridgeline Overlay Notes, Agricultural Protection Notes and Open Space Conservation. Provide the declaration and the recording information on the plan for Homeowner’s Association ownership and maintenance of stormwater management facilities. Indicate easements on plans and include descriptions in deeded declaration.
10. Applicant to offer dedication of R.O.W. strips along Spanktown and Jessup Roads to Town. Show on Survey Sheet and provide offer to Planning Board Attorney for review.

11. Provide offer of dedication of Hampton Drive to Planning Board Attorney for review.
12. Pay performance bond and construction inspection fee for Town road, stormwater management facilities and erosion control.
13. Pay parkland fees.
14. Pay outstanding review fees.

The following comment submitted by the Conservation Board:

Hampton Hill Subdivision – None Submitted.

The following comment submitted by the ARB, dated 5/21/08:

Hampton Hill Subdivision – No further comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: The primary issue that remains with the SEQR review process at the present time is the efficiency of groundwater to supply the wells to the proposed lots. That is reflected in the review comments tonight.

Mr. Astorino: Zen, are the rest of these comments similar?

Zen Wojcik: Yes.

Mr. Astorino: We discussed at the work session to have the applicant and OCHD to coordinate to drill 4 additional wells.

Mr. Bollenbach: That is with the advice of the Planning Board.

Mr. Astorino: It is advised by the Planning Board to do that. As far as monitoring, what was our take on that? Are we to do the ones that are affected? Would that be the Kobylowski well? Were they the ones that were affected the last time?

Mr. Bollenbach: We could discuss that once we get the protocol. We will work on that.

Mr. Astorino: You get the protocol with the County. It will be coordination.

Keith Woodruff: We sent a letter to the County as far as the applicant interested in looking at drilling wells 2, 3, 18, and 19.

Mr. Astorino: Will you provide that correspondence?

Keith Woodruff: We haven't received a letter back stating yes or no.

Mr. Bollenbach: We want to see a copy of the letter that you have sent to OCHD.

Keith Woodruff: Ok. Not a problem.

Mr. Singer: Why did you select those particular lots?

Keith Woodruff: The applicant selected them because they are easier to get to. They are also the closest to the Kobylowski's well.

Mr. Bollenbach: We will take a look.

Mr. Astorino: We will go through it.

Zen Wojcik: They would have a higher potential if the development would go on if they would be developed first.

Keith Woodruff: Correct.

Mr. Astorino: Zen, that is something you could work out with them.

Zen Wojcik: Yes.

Mr. Astorino: Do any Board members have any comments about the wells? We will list comments 2 through 14 for the record. This is a public hearing. If there is anyone in the audience wishing to address the Hampton Hill application, please rise and state your name for the record.

Comment #2: Applicant to discuss project. .

YIELD PLAN (last revised 10/24/03)

Comment #3: No Comments. Board achieved consensus on 1/18/06

CLUSTER PLAN (6/22/04, LAST REVISED 5/7/07)

Comment #4: Well monitoring to date has shown a minimal effect on one adjoining well. However, neighbors report typical well yield of about 1gpm and test wells on the site required hydro-fracturing and air lift to achieve acceptable yields. Board to consider additional wells to be drilled and tested for yield with monitoring of neighboring wells to determine interconnections.

Comment #5: Show limits of improvements to Spanktown Road. Provide details and notes.

SWPPP Comments

Comment #6: Identify the forebay on the plans for the proposed pond.

Comment #7: Provide Emergency Spillway in proposed pond and include details.

Comment #8: Prepare a Landscaping Plan for the stormwater pond(s) and buffer area(s) consistent with the Design Manual.

BEFORE FINAL APPROVAL

Comment #9: Provide the declaration and the recording information on the plan for current Ridgeline Overlay Notes, Agricultural Protection Notes and Open Space Conservation. Provide the declaration and the recording information on the plan for Homeowner's Association ownership and maintenance of stormwater management facilities. Indicate easements on plans and include descriptions in deeded declaration.

Comment #10: Applicant to offer dedication of R.O.W. strips along Spanktown and Jessup Roads to Town. Show on Survey Sheet and provide offer to Planning Board Attorney for review.

Comment #11: Provide offer of dedication of Hampton Drive to Planning Board Attorney for review.

Comment #12: Pay performance bond and construction inspection fee for Town road, stormwater management facilities and erosion control.

Comment #13: Pay parkland fees.

Comment #14: Pay outstanding review fees.

John Galiski: I live on Jessup Road. Is the test only for 24 hours?

Zen Wojcik: Yes. In that time, the wells are pumped to an extent. The purpose is to model the effect as if all the houses were there. There are 4 hours of stabilized drawdown. In that 24 hours, it takes them awhile to get the wells to stabilize. Then, they run it 4 hours at that stabilized level. Then they bring it back. They look for the bounce

John Galiski: Is that the standard procedure for the 24-hour testing?

Zen Wojcik: Yes. That is the State standard procedure.

John Galiski: My other comment is that water is a problem.

Mr. Astorino: That is why we are going a step further.

John Galiski: Now, what is scheduled right behind me is another potential development called Fusco. Then, there is another potential development behind me called Mountain View Estates. Every time there is a minimal drawdown here and there, if we start adding up all of those minimals, sooner or later there will be something there.

Mr. McConnell: Zen, correct me if I am wrong, but it wasn't minimal drawdown. It was drawing down as much water as 20 homes. It was as if 20 homes were drawing at the same time. It wasn't a minimal drawdown. It was to try to replicate as if all 20 homes have been built and they were all drawing down at the same time. It would make no sense to pump one well as if there was only one house, then measure the effect on your well and the other wells in the area. It is a significant drawdown that they are doing at that time.

John Galiski: You are saying that the amount of pumping on the test wells would reflect 20 homes being drawn at the same time?

Mr. McConnell: Yes.

John Galiski: Ok. I understand.

Mr. McConnell: I recognize that you have been here a number of times. I could speak for myself that I and the rest of the Board are concerned about the issue of adequate water supply. We are doing what we can within the limits of the Regulations that are available to us and make use of coordinating with the County. It is not just us being satisfied. There will be other bodies who will eventually be satisfied that this would not cause a hardship.

John Galiski: The only scary part is that no one could guarantee the fact that my well could ever go dry.

Mr. Astorino: We can't guarantee that our well won't go dry either.

John Galiski: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Hampton Hill application? Let the record show no further public comment. I would recommend that the Board adjourn Hampton Hill's public hearing without date. Let them get their testing done and coordinate. We will then go from there.

Mr. McConnell makes a motion to adjourn the Hampton Hill Public Hearing without date.

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

Mr. Bollenbach: For everyone's information, once we get more test data and the Board reviews it, and deems that it is proper, we will bring it on for a continued public hearing. You will receive new notification of when the next public hearing will be.

Keith Woodruff: Thank you.

PUBLIC HEARING OF Country Fairgrounds, LLC.

Application for Final site plan approval, Final special use permit approval, and Final 2-Lot + 2 Municipal Lot subdivision approval for the construction and use of 82,750 square feet of commercial/retail facilities, situated on tax parcel S 51 B 1 L 40; property located on the northern side of NYS Route 94 approximately 1000 feet east of O.C. Route 21, in the DS/OI zones, 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 (SEQRA), required the applicant to prepare a Draft Environmental Impact Statement and a SEQRA public hearing was held on 2/16/05 with the SEQRA public hearing being closed and the preliminary site plan, special use, and subdivision public hearings were closed at the 3/21/07 Planning Board meeting. A Final Environmental Impact Statement has been prepared and adopted by the Planning Board. The Planning Board adopted a SEQRA Findings Statement on 11/15/06 and Amended Findings Statement, adopted by the Planning Board on 2/6/08. Preliminary Site Plan Approval, Preliminary special use permits approval, and Preliminary 2-Lot subdivision approvals was granted on 5/2/07.

Representing the applicant: Dave Getz from Lehman & Getz Engineering. Adrian Goddard from Goddard Associates. Frank Petrucci, applicant.

Connie Sardo: Mr. Chairman, we have received the certified mailings for the Fairground's public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
 - A. Board and applicant to discuss removal of farmhouse.
2. Applicant to discuss project. Status of approvals:
 - A. NYSDOT
 - B. NYSDEC
 - a. SPDES (issued 5/16/08)
 - b. Wastewater Treatment Facility
 - c. Culvert Extensions
 - C. OCHD
 - a. Water Supply

SITE PLANS (LAST REVISED 4/29/08):

3. Update list of property owners within 300' and update property labels.
4. Wetland areas B & C are isolated wetlands not under NYSDEC or ACOE jurisdiction. Revise labels. Note that any disturbance is excavation/filling of organic soils, not wetlands.
5. Note the area of the grocery store footprint on all sheets.
6. Rt. 94 Improvement Plans refer to possible night work. Board to discuss.

Sheet 3 – Demolition & Removal Plan

7. Note and identify headwalls to be removed as part of road widening and reference NYSDEC permit.

Sheet 4 – Subdivision Plan

8. Show limits of wetlands in the Marginal Access Road Detail. Refer to Reference Note #5 on sheet 1.
9. Include the recording information for the Reciprocal Easement Agreement.
10. Provide a municipal lot for the wastewater treatment facilities (Lot #3), including the wastewater treatment plant and absorption field areas, to the Town Engineer's specifications. Make an irrevocable offer of this lot to the Town Board. Provide a metes & bounds description and maps to the Town Board for their approval of a sanitary sewer district.
11. Provide a municipal lot for the water treatment facilities (Lot #4); including the water treatment plant, tank and well field areas, to the Town Engineer's specifications. Make an irrevocable offer of this lot to the Town Board. Provide a metes & bounds description and maps to the Town Board for their approval of a water district.

Sheet 5 – Layout & Signage Plan

12. Show reference ties for boulevard entrance, limits of road improvement, etc.
13. Provide an equality station of the Rt. 94 Improvements with Sta. 0+00 of the applicant's project. Show and identify any existing or proposed NYSDOT bench marks or monuments and provide baseline tie information for the commercial development project.
14. Widening of the highway will affect the existing headwalls of the Class D tributary streams and require extending the culverts. Provide a reference to the highway plans prepared by John Collins Engineers.
15. Replace "Hannaford Bros." with "Grocery Store" in Parking Calculations.
16. Show suitable fire lanes with appropriate striping.
17. Board & applicant to discuss the number of proposed parking spaces.

Sheet 7 – Grading & Utility Plan

18. Temporary construction trailers will be utilized. Per §164-43D, Board to discuss allowable period of time for trailer use and amount of bond. Provide notes on plans specifying same.
19. Reference sheet 20 for details of the Absorption Field.
20. Clarify overlapping text at wells.
21. Identify stormwater management facilities (ponds, bio-filter, etc.) consistent with the SWPPP.
22. The detail for the Retaining Wall at the Service Area states "install timber parking along top of wall". Clarify.

Sheet 8 – Construction Staging Plan

23. Construction Staging Key shows 3 stages, yet there are notes for 4 stages. Clarify on Key that construction of buildings, water and wastewater treatment plants, and Rt. 94 widening will occur in Stage 4.
24. Note that alternative staging is shown on sheet 21.

Sheet 9 – Sediment & Erosion Control

25. Applicant to review maintenance access roads for all SWPPP facilities with the Planning Board Engineer.

Sheet 10 – Landscaping Plan

26. Define landscaping of Infiltration Swale.
27. Board and applicant to discuss additional landscaping abutting federal wetlands.

Sheet 11 – Lighting Plan

28. Lighting Plan by Pyramid Lighting Group, 8/2/04, LAST REVISED 4/2/07
 - A. Note the hours of operation for lighting of car dealership and pad site parking areas.
 - B. The Town of Warwick Code defines "mounting height" as the "distance from the ground ... to the lowest direct-light-emitting part of the luminaire". The proposed mounting height is 18 feet. Revise to the Code specified 16 foot height or request a waiver.

C. Discuss lighting levels.

Sheet 12 – Site Operation Plan

29. Provide notes for operation and maintenance of the water and wastewater treatment facilities and/or reference the location of such notes and details within the plans.
30. Board and applicant to discuss potential effects of snow storage on protected wetlands and mitigation.

Sheet 17 – Construction Details

31. Note that shop drawings and design calculations for all walls exceeding 4 feet in height must be submitted for the Town Engineer's review and approval before commencing construction.

Sheet 21 – Construction Phasing Plan – Grocery Store Only

32. Construction notes similar to the notes found on the Construction Staging Plan shall be included on the plan. Delineate the area of borrow fill excavation; provide erosion control measures during and after excavation and for permanent stabilization of the site.

BEFORE FINAL APPROVAL:

33. Provide the declaration and the recording information on the plan for Agricultural Protection Notes and Aquifer Protection Overlay Notes.
34. Provide a notation on the plan that before construction of the car dealership and/or the pad site begins, an amended Site Plan and architectural drawings shall be submitted for Planning Board review and approval.
35. Provide a blanket easement for a future connection between the wastewater treatment plant and a suitable stream.
36. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
37. Pay performance bond, landscape maintenance bond (3-years) and construction inspection fees for stormwater management, erosion control, water and wastewater treatment, and site landscaping.
38. Pay outstanding review fees.

The following comment submitted by the Conservation Board:

Country Fairgrounds, LLC. – None Submitted.

The following comment submitted by the ARB, dated 5/21/08:

Country Fairgrounds, LLC. - Comments on Price Chopper design have been submitted.

Additional comment: Given the level of design begin required and in light of Mr. McConnell's concern about the visible east side of the building, is it appropriate that the permanent waste water treatment plant should be a lowest-common-denominator metal prefab building instead of visually conforming to the rest of the plan? It will be as visible as temporary construction trailers and unfenestrated walls next to tractor-trailer drives.

Comment #1: Board to discuss SEQRA.

Mr. Astorino: The Planning Board acting as Lead Agency under the State Environmental Quality Review Act (SEQRA), required the applicant to prepare a Draft Environmental Impact Statement and a SEQRA public hearing was held on 2/16/05 with the SEQRA public hearing being closed and the preliminary site plan, special use, and subdivision public

hearings were closed at the 3/21/07 Planning Board meeting. A Final Environmental Impact Statement has been prepared and adopted by the Planning Board. The Planning Board adopted a SEQRA Findings Statement on 11/15/06 and Amended Findings Statement, adopted by the Planning Board on 2/6/08. Preliminary Site Plan Approval, Preliminary special use permit approval, and Preliminary 2-Lot subdivision approvals was granted on 5/2/07.

Mr. Fink: You beat me to the punch on that one.

A. Board and applicant to discuss removal of farmhouse.

Frank Petrucci: As we have talked about before, there were always two options. We have an interested party in this. He has the go ahead to take the house when he is ready to do that. If that does not transpire, we know which items in the house the Historical Society has gone through. We know which items would be preserved as we dismantle the house. As it stands right now, Mr. Tounes Sweetman has not told me that he does not want the house.

Mr. Showalter: What does he want to do?

Frank Petrucci: He wants to move it and place it on his property.

Mr. Showalter: Does he want to move it over your land?

Frank Petrucci: He is exploring. I don't want to speak for him. I know that there are 2 ways to get it there.

Comment #2: Applicant to discuss project. Status of approvals:

A. NYSDOT

Dave Getz: We provided a letter from NYSDOT indicating that they are satisfied with the plans.

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

Zen Wojcik: Yes.

Mr. Bollenbach: If they do have an approval on that, before they start work, they will obtain the actual DOT permit.

Mr. Astorino: Ok.

B. NYSDEC

a. SPDES (issued 5/16/08)

Mr. Astorino: That is in our possession.

Zen Wojcik: Yes.

b. Wastewater Treatment Facility

Dave Getz: Those plans are under review at the DEC. It is our view of the situation that it is an engineering review. It is not a separate permit that needs to be approved.

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

Zen Wojcik: I contacted Mr. Ciesluk today. I needed some clarification on that. Under the SPDES, Special Condition #1 states; *“Prior to any discharge of treated wastewater from this facility, the Permittee must obtain approval of plans for the wastewater treatment plan and subsurface disposal system from the NYS Department of Environmental Conservation, Region 3, Sub-Office, 100 Hillside Avenue-Suite 1W, White Plains, NY 10603-2860, attention Thomas Rudolph, Regional Water Engineer.* Special Condition #2 states; *Wastewater flows from the WWTP to the subsurface disposal system shall not exceed 5,000 gallons per day.* The Engineer’s calculations for this site shows that the average output would be 5,000 gallons per day. That means some days it would be less and some days it would be more. It seems that the State has put a cap on this 5,000 gallons per day. Nevertheless, I asked a question to Mr. Ciesluk if this meant that an additional permit would be required from the State. Alex Ciesluk’s response was that the approval of plans for the Fairgrounds Wastewater Treatment Facility by the DEC is an approval, not a permit. The issuance of a SPDES permit for a wastewater treatment facility is necessary before the DEC could grant any approval for the facility it is on. An additional permit is not required from the DEC. However, an approval is required from the DEC. Ted, do you want to clarify what the responsibility of the Board would be?

Mr. Fink: I looked at the subdivision regulations today to see how that was treated. It is clear in the subdivision regulations that all permits and approvals need to be in the hands of the Planning Board prior to the granting of subdivision approval. That is for the subdivision. I know that under the SEQR regulations when you look at the definitions of an action that includes an approval, permit, entitlement, funding, or any other sort of authorization for land use activity, so SEQR certainly carries within it.

Mr. Astorino: If we have a SPDES permit and that is their “approval”, regarding their permit, does that classify as an approval or are we going to get another letter from the DEC stating that the plant is approved or is the SPDES permit basically one in the same?

Mr. Fink: There are 2 steps to the process. The SPDES authorizes the discharge of the effluent from the sewage treatment plan. They also conduct a review of the plant design. They have to approve that as well. They can’t approve those plans until they first approve the effluent discharge. Then, they approve the facility.

Mr. Astorino: Theoretically, they have the SPDES for the discharge.

Dave Getz: We do have that.

Mr. Astorino: We all have that in our possession. Could a conditional approval be that they could not build a plant until we were in possession of this approval letter for the design of the plant?

Adrian Goddard: We can't build the plant.

Mr. Astorino: That is why I am trying to drive at. You cannot build the plant without this DEC letter.

Adrian Goddard: Right.

Mr. Bollenbach: You can't grant your subdivision approval without the approval letter from the DEC. The permit could be a condition of the approval. That would mean before the maps get signed. They would have to provide the actual permit. The DOT would have to provide the permit before the work starts. Yes, you could make that a condition. But, the approval letter itself cannot be a condition of the approval. We have to have that.

Adrian Goddard: We have a permit.

Mr. Bollenbach: I am talking about Comment #2 B, b need the approval for the wastewater treatment facility from the DEC.

Adrian Goddard: We have a SPDES permit. It would be analogous to us submitting architecture to the Planning Board to get site plan approval. The site plan approval approves a black box that produces the spec that is specified by the DEC. Now, they are going to look at plans. Before they could build it, they would have to say that the plans work. There is no magic here. It is just engineering.

Mr. Astorino: With this wastewater treatment facility, if we to the point where all the comments are addressed and the Board is ready to make a decision, regarding this sign off on the design of this wastewater treatment facility, before the applicant could construct it, could we act on it as a Board?

Mr. Bollenbach: You cannot grant the conditional approval until the permit is in hand.

Adrian Goddard: It is a SPDES permit. We have all the permits that were required by outside agencies.

Mr. Bollenbach: It is not the permit. There is an approval from an outside agency which is the approval of the wastewater treatment facility design. We don't have that approval.

Adrian Goddard: You don't have approval of the architecture of the store either.

Dave Getz: In making analogous to a building permit, you don't need at this level the building permit detailed plans for each building.

Mr. Bollenbach: The detail has already been approved by this Board. It has been reviewed.

Mr. McConnell: The analogy is not an accurate one. What Zen had said from the subdivision was that all the approvals, permits, etc... had to be in hand before we could grant the approval on the subdivision.

Adrian Goddard: The question that was asked to the DEC was whether a permit was required to do this. The answer was no.

Zen Wojcik: The question was to clarify whether an additional permit would be forthcoming for the wastewater treatment plan. Alex Ciesluk had said that it is not a permit. It is an approval. What Ted had mentioned was that the code was broad in not just saying a permit. It is permits, approvals, and things of that sort.

Adrian Goddard: Is there any actual reason why a final site plan approval could not be approved with an engineering review of wastewater treatment plant as an outstanding item?

Zen Wojcik: It is subdivision approval that Mr. Bollenbach was talking about.

Adrian Goddard: Isn't that for septic system?

Mr. Bollenbach: It is pending an approval from an outside agency. It is prior to granting the subdivision approval that the outside agency approval is required.

Dave Getz: If this was just for site plan, would that be a different situation?

Mr. Bollenbach: It would be up to the Board's discretion.

Mr. Showalter: What do you have to do to get the approval from Mr. Ciesluk?

Adrian Goddard: We received an approval. It is a SPDES permit.

Mr. Bollenbach: For the wastewater treatment facility design. That is what we are talking about. What is the status of that?

Adrian Goddard: It was submitted in February 2007.

Mr. Bollenbach: Do we have a copy of that submission?

Adrian Goddard: I don't know. I have it here.

Mr. Bollenbach: We have asked for copies of all submissions. That has been asked many times.

Mr. Astorino: This has been submitted to the DEC.

Adrian Goddard: Yes. That was done 1 year, 3 months ago.

Mr. Astorino: Ok. My point is that they are giving us a permit stating that he could discharge 5,000 gallons per day.

Zen Wojcik: Which is not exactly what the design says. They are saying a maximum 5,000 gallons per day. The design says that the average discharge would be 5,000 gallons per day. That means it would be more and less than 5,000 gallons per day. Functionally down the line, they will have to monitor it. Conceivably at some time along the way they will have a greater discharge than 5,000 gallons. During Thanksgiving and Christmas time holiday shopping, you would have a lot of people going out to the store. The DEC could say that you have discharged too much.

Adrian Goddard: There is no discharge. It is 3600 gallons per day at a maximum.

Zen Wojcik: The design that you have on the plans that was submitted states that the average daily discharge would be 5,000 gallons per day. The point is that we are talking about permits and the approvals that the Board is now considering that it needs to have.

Mr. Astorino: What do we need to take action on this project? Do we have to wait for an approval? Are we going to receive an approval letter from the DEC on this wastewater treatment facility?

Zen Wojcik: We will get a letter. There will be a letter issued once they finish their review. There will be a letter stating that they are happy with this whether it is the wastewater treatment facility the way it is designed right now or they will come back with comments that would have to be satisfied. That version of it, I don't know. I don't think anybody in this room knows.

Mr. Showalter: Zen, when will they finish this review? This has been going on for a long time.

Zen Wojcik: That is the trick between a permit and an approval. Approvals, they have no deadlines.

Adrian Goddard: It doesn't start until SPDES begins. It would be great if the Board could find away to grant final approval with that as a condition.

Mr. Bollenbach: Have your counsel provide verification or justification to do that.

Adrian Goddard: Ok.

Mr. Bollenbach: We have discussed this precise issue before.

Mr. Astorino: That is why I am going over this with great detail. I want to make sure that everyone is on the same page with this so that we don't keep going around on this on what is required or what is not required at this point. We all realize that we are coming towards an end with this project. Let us all be on the

same page with this. We need to know exactly what stage we are in for the DEC. Maybe, Alex Ciesluk's email to you is still a little vague.

Zen Wojcik: I think it is vague because this part of the process is imprecise.

Mr. Astorino: Imprecise to what end?

Adrian Goddard: Zen, why don't you read his response?

Zen Wojcik: Alex Ciesluk's email, dated 5/21/08 reads as follow: *"In response to your inquiry, the approval of plans for the Fairgrounds wastewater treatment facility by DEC is an approval not a permit." "Issuance of SPDES permit for such a treatment facility by DEC is necessary before DEC can grant any approval for the facility design."*

Adrian Goddard: Keep reading that email. Please read the 3rd paragraph.

Zen Wojcik: That is regarding SEQR that I had a question on that Alex responded to.

Adrian Goddard: Ok. What does that paragraph say?

Zen Wojcik: My question to him was asking him to clarify if this approval is an additional permit in the sense that approval of plans and specifications for a sanitary sewer extension for a realty subdivision is considered a permit. That is slightly different.

Mr. McConnell: It seems in what he is saying is that the approval process of the design doesn't begin until a SPDES permit has been issued.

Adrian Goddard: Right. It is a ministerial activity.

Mr. McConnell: It doesn't say that.

Adrian Goddard: Then, someone should contact him. That is what he means. We had numerous discussions of this.

Mr. McConnell: Has your counsel contacted him?

Mr. Astorino: Let us go on now. Does the Board have any other questions regarding this permit?

Mr. Singer: Did you say something about the County? Do they get involved with this?

Mr. Astorino: We will get to that. I want to take these comments one by one so that we are all clear on this.

Mr. Singer: Ok.

Mr. Astorino: Go and have a conversation about this. We will work this through.

Adrian Goddard: Ok.

c. Culvert Extensions

Zen Wojcik: Regarding culvert extensions, this came in late during the process. I wanted to ask Alex separately about that. I didn't have a chance. His response came in too late today.

Mr. Astorino: Let me ask the applicant. Regarding these culvert extensions that you put in, where they supplied to the DEC? Are they going to a Class D stream?

Dave Getz: It is going to a Class D stream. It is part of the Route 94 widening. John Collins Engineering had done the plans for Route 94 that had been approved by the NYSDOT. It is proposed in two locations that the existing culvert be extended the same size.

Mr. Astorino: Have these been reviewed by outside agencies?

Dave Getz: It was reviewed by NYSDOT. Because it is a Class D stream, it doesn't require a DEC permit.

Zen Wojcik: They are going into Federal wetlands that are there.

Mr. Astorino: Is it by any substantial amount?

Zen Wojcik: That is just the question. The way that these wetlands have been treated throughout this process has been extraordinary. It is a fair question to ask whether they need to amend their permits to say that it is allowed. It is only a small taking.

Mr. Bollenbach: You will need to get us a letter.

Mr. Astorino: It sounds like a very minimal amount.

Mr. Singer: You used the word "extraordinary". What does that mean?

Zen Wojcik: The applicant came in and the Fish & Wildlife Service put in a 300-foot barrier away from the wetland area. Because of things that the applicant had done to its site, which they were happy with it, they reduced it to 100-foot. This is that particular wetland.

Mr. Astorino: How much of an area are we talking?

Zen Wojcik: We are talking about less than 1/10th of an acre.

Dave Getz: It is way under 1/10th of an acre.

Mr. Astorino: It is way under. How many feet are you talking about on each culvert pipe?

Zen Wojcik: I don't recall exactly. It is probably no more than 20 feet.

Dave Getz: It is much less than that.

Mr. Bollenbach: Just get confirmation on that.

Dave Getz: From who? Is that from ACOE?

Mr. Bollenbach: Get it from the NYSDEC.

Dave Getz: It is in our EIS that it is a Class D stream. It is not required.

Zen Wojcik: Did they review a plan that showed the culvert extensions? The first time that I had seen it was when I looked at Collins plans that weren't revised until March. I don't know if they had seen the plan that showed the culvert extension. If they reviewed a plan that had the culvert extension on it and they washed their hands of it, then that satisfies the issue. You would just need to get a letter from them.

Dave Getz: I don't think they did. Prior to that, they issued a letter that said; here is the tributary designation for the stream that is a Class D and no permit is needed to disturbance.

Zen Wojcik: I am not concerning myself with stream disturbance or whether it was a Class D or Class C. That wouldn't be the point here. It is the wetlands.

Dave Getz: It is not a DEC wetland.

Mr. Fink: If you look carefully at the special conditions in here, they also now include that wetland on the western part of the site as a wetland eligible to be regulated by the DEC. It is a new condition that I haven't seen before. Now, they have made a determination that wetland may be eligible because of the size. The question becomes, if they are going to require you to put these deed notices and so forth in the deeds that basically says any activity of either grading, construction, excavation, and so forth, it would have go first before the DEC, is this culvert within that area of the wetland now eligible to be regulated by the State?

Dave Getz: I don't know if they could even answer that question. They are in the early process of revising various Towns and the County. Just the idea of having them investigate that, who knows how long that would take.

Zen Wojcik: The question is if they had seen the plan that has the culvert extensions on it. After reviewing that plan, if they went on as they had gone right up to now, with that to my mind, it means that it is insignificant to them. If they have not seen the plan that shows they are encroaching into a wetland that they regulated as heavily as they had with this application, I would doubt it.

Dave Getz: They did not regulate that wetland. They passed it off to Fish & Wildlife Service.

Zen Wojcik: This is the wetland that has the 100-foot buffer on it. Of course, they have regulated it. Fish & Wildlife Services have done that.

Dave Getz: Yes. Not the DEC.

Zen Wojcik: All right. Maybe, you should contact Fish & Wildlife Service.

Mr. Astorino: I think you are talking very minimal at best.

Zen Wojcik: We are.

Mr. Bollenbach: Could we get a confirmation?

Mr. Astorino: I think to send the applicant back to Fish & Wildlife Service, I think would be unnecessary.

Adrian Goddard: I think we are only talking about between 75 x 80 square feet.

Dave Getz: It is probably something like that. It is two locations.

Mr. Astorino: Do any Board member have any other questions? We will look into that.

C. OCHD

a. Water Supply

Dave Getz: They have given us a couple of comments. One of the revisions that we had made to the plan in the last month or two was to switch the building footprint from the Hanaford footprint to the Price Chopper footprint. In that switch, the footprint is very similar in size. The new building footprint is slightly smaller. Certain manholes and pipes needed to be relocated to accommodate the layout. The OCHD was prepared; we thought, 2 weeks ago to issue an approval letter. Then, they realized that they have to check that revised area. We expect to have that letter very shortly.

Mr. Astorino: We are waiting for a confirmation.

Adrian Goddard: We will have that between now and the next meeting.

Mr. Astorino: Ok.

Dave Getz: Yes. That was what they had told us.

Mr. Astorino: Going through this one more time, we have NYS DOT permit in hand. We have the NYS DEC SPDES permit in hand. Your attorney is going to clarify with our attorney of this approval from the DEC for the design whether we

need an approval letter before you could build this or before we could give it an approval.

Mr. Bollenbach: It is before we could grant the approval.

Mr. Astorino: What about the culvert extensions?

Adrian Goddard: I don't know where to go with that.

Zen Wojcik: I would send an email to DEC and copy it to Fish & Wildlife Service asking their opinion on what they think. It is less than 1/10th of an acre. They probably won't worry about it because they have too much to do anyway. This way, we nail it down.

Mr. Bollenbach: Send it to DEC.

Mr. Astorino: We are talking about such a minimal area. You are talking about an extension on a culvert pipe on the edge of the road.

Mr. Bollenbach: Provide the calculations so that we know.

Mr. Singer: Why don't we see if they get the approval first. Then, we could maybe waive that.

Mr. Astorino: I don't even know if it has to be waived. I don't think it is a waivable item. It is an issue that is really a non-issue. Is the Board and applicant clear on all of these approvals?

SITE PLANS (LAST REVISED 4/29/08):

Comment #3: Update list of property owners within 300' and update property labels.

Dave Getz: Ok. We sat down with Zen and went through this list of comments. We are on the same page virtually with every comment listed.

Mr. Astorino: Do any Board members have any questions regarding the rest of these comments?

Mr. McConnell: When you say virtually everyone, which ones are you not on the same page?

Mr. Astorino: Let us go through these comments one by one.

Comment #4: Wetland areas B & C are isolated wetlands not under NYSDEC or ACOE jurisdiction. Revise labels. Note that any disturbance is excavation/filling of organic soils, not wetlands.

Dave Getz: We will revise that.

Comment #5: Note the area of the grocery store footprint on all sheets.

Dave Getz: Ok.

Comment #6: Rt. 94 Improvement Plans refer to possible night work. Board to discuss.

Dave Getz: That is on John Collin's plans that specify allowable work hours.

Mr. Astorino: That is in our code regarding work hours. Is that correct?

Zen Wojcik: Our code does say that work hours are only restricted to daylight hours. There is something on the John Collin's plan that they prepared for DOT's approval that says there could be night work. If the Board feels that they are opposed to this, then go on the record for that. Or, if the Board feels that they are in favor of this, then go on the record for that.

Mr. Bollenbach: This precise issue was brought up with the O&R Route 94 project. The Town Board was opposed to night work. Day work was enough of an inconvenience.

Mr. McConnell: I am opposed to it.

Mr. Astorino: Do we have a consensus on day work hours?

Mr. McConnell: Yes.

Mr. Singer: Yes.

Mr. Showalter: Yes.

Mr. Astorino: Ok. Make a note on the plan.

Sheet 3 – Demolition & Removal Plan

Comment #7: Note and identify headwalls to be removed as part of road widening and reference NYSDEC permit.

Dave Getz: We will do that.

Zen Wojcik: There might not be a permit.

Dave Getz: Right.

Mr. Astorino: It should say reference NYSDEC approval.

Zen Wojcik: Mr. Chairman, we should remove the last part of that comment.

Mr. Astorino: Ok. Comment #7 will read as follow: *Note and identify headwalls to be removed as part of road widening.*

Zen Wojcik: Yes.

Sheet 4 – Subdivision Plan

Comment #8: Show limits of wetlands in the Marginal Access Road Detail. Refer to Reference Note #5 on sheet 1.

Dave Getz: Ok.

Comment #9: Include the recording information for the Reciprocal Easement Agreement.

Dave Getz: That has been submitted to the Town Board for their review. We will do that.

Comment #10: Provide a municipal lot for the wastewater treatment facilities (Lot #3), including the wastewater treatment plant and absorption field areas, to the Town Engineer's specifications. Make an irrevocable offer of this lot to the Town Board. Provide a metes & bounds description and maps to the Town Board for their approval of a sanitary sewer district.

Dave Getz: John McGloin is working on that.

Comment #11: Provide a municipal lot for the water treatment facilities (Lot #4), including the water treatment plant, tank and well field areas, to the Town Engineer's specifications. Make an irrevocable offer of this lot to the Town Board. Provide a metes & bounds description and maps to the Town Board for their approval of a water district.

Dave Getz: John McGloin is working on that.

Mr. Astorino: In this time in between this approval and permitting process, it may be wise for the applicant to proceed with the Town Board.

Adrian Goddard: Yes. As soon as we are square with the maps and the documents are already in place.

Mr. Astorino: John, does this run concurrently?

Mr. Bollenbach: Yes.

Adrian Goddard: We will get the maps to the Town Board soon.

Mr. Bollenbach: The Town Board will have to review it and set it for a public hearing. Then, they would conduct the public hearing and grant the district. You are looking at a couple months out just to get that done.

Zen Wojcik: John, does the Town Board only meet once a month in the summer time?

Mr. Bollenbach: Yes.

Sheet 5 – Layout & Signage Plan

Comment #12: Show reference ties for boulevard entrance, limits of road improvement, etc.

Dave Getz: Will do.

Comment #13: Provide an equality station of the Rt. 94 Improvements with Sta. 0+00 of the applicant's project. Show and identify any existing or proposed NYSDOT bench marks or monuments and provide baseline tie information for the commercial development project.

Dave Getz: John McGloin is working on that.

Comment #14: Widening of the highway will affect the existing headwalls of the Class D tributary streams and require extending the culverts. Provide a reference to the highway plans prepared by John Collins Engineers.

Dave Getz: Will do.

Comment #15: Replace “Hannaford Bros.” with “Grocery Store” in Parking Calculations.

Dave Getz: Right.

Comment #16: Show suitable fire lanes with appropriate striping.

Dave Getz: Ok. Does it require Fire Chief review?

Zen Wojcik: Send the plans to the Fire Chief.

Dave Getz: Ok.

Comment #17: Board & applicant to discuss the number of proposed parking spaces.

Mr. Astorino: Ted, regarding the parking spaces, are we where we are supposed to be?

Mr. Fink: The overall number of parking spaces, we have known throughout the process that they have exceeded the number of spaces that were required by the code. The applicant as part of the SEQR review process offered because of the dealership was to use pervious materials, which would lessen the impact on the wetlands. There was also an area where some of the parking spaces were banked. It could be used in the future should additional spaces be needed.

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

Sheet 7 – Grading & Utility Plan

Comment #18: Temporary construction trailers will be utilized. Per §164-43D, Board to discuss allowable period of time for trailer use and amount of bond. Provide notes on plans specifying same.

Dave Getz: We will comply. Zen has some sample notes.

Zen Wojcik: We have been talking about getting sample notes. John and I will be working on that. Mr. Chairman, on the plans there are five construction trailers shown. Three of the construction trailers are for the grocery store construction and two construction trailers for the car dealership. The Board might want to make a determination on how long those trailers should be there. I believe the Board members are concerned about some screening for these trailers.

Mr. Astorino: How many trailers would you have for the grocery store?

Adrian Goddard: I don't think it would be more than 3 trailers.

Mr. Astorino: How long would those trailers be there?

Adrian Goddard: For the grocery store, the site work would be at least a year.

Mr. Astorino: There will be 3 trailers for a year. They will be sited. We will have them on the plan on where they would be sited.

Dave Getz: We show them on the plan now.

Mr. Showalter: I think we are being a little harsh about this whole construction trailer thing. The Precision Pipeline have trailers all over Town. They need them. It is a temporary office. These people need the same thing. Nobody reviewed that. I think we are being a little difficult with this applicant.

Mr. Bollenbach: Let me make a clarification. This is site plan approval and subdivision approval. It is provided in the code to locate the construction trailers and their time of use. A Board member brought up the issue of screening. I don't know if the applicant has provided us with any proposed mitigation for that. There was also a concern raised regarding sequencing as to when the dealership would be built. Regarding Precision Pipeline, that is a totally separate issue. That has been permitted by FERC, an agency of the Federal Government. There are properties being utilized that are private property. They are subject to violations. We will have them on at our next meeting.

Mr. Astorino: It will be a construction site.

Mr. McConnell: There are construction sites and there are construction sites. If we could without an undue burden, screen some of the ugliness of a construction site. I think we ought to be considering that. The point was made at the work session that it would be over the hill and you wouldn't be able to see it. It turns out that a good deal of it, when the trees don't have leaves on them, and you drive down the road as you come up from the north, there is an area where you could see behind the house easily. If you are sitting at a 90-degree angle, perhaps you won't see them. But, from either end of the property, you might see them. All I asked for was that we don't see them.

Mr. Astorino: Would there be a fence around the site?

Adrian Goddard: I assume so.

Mr. McConnell: I would like to see some type of screening so when I drive past there every day as other people do in this Town; we are not stuck in the eye with a thumb.

Dave Getz: None of the trailers are close to the road.

Mr. McConnell: I know that they are not close to the road.

Adrian Goddard: How would you screen them?

Mr. McConnell: Let me ask you something. If this was next-door to where you live, would you figure out a way to screen them?

Adrian Goddard: There are no houses near there.

Mr. McConnell: There are people traveling the roads. Maybe, fence would be good.

Mr. Astorino: If the Board feels that it requires screening, that is what we will do. In my mind if they could put a fence up that might soften it.

Mr. McConnell: That is what I am looking for. I am not looking for it to be completely hidden, so that no one knows that there is construction there.

Adrian Goddard: I think I know the effect that you are afraid of.

Mr. Bollenbach: In the Ridgeline Overlay, we require earth tones. It is part of the Design Guidelines. We are looking for some type of mitigation.

Mr. Astorino: Is the Board on the same page with that?

Mr. Singer: I agree with Roger. I think we are pushing it.

Mr. Showalter: It is a construction site. In respect to Dennis, I agree with what he is saying. But, if you go to Lowes that is being built in Chester, it is a construction site. It is rather busy.

Mr. McConnell: Roger, I rather not have that on Route 94 in Warwick. That is all that I am saying. We are looking at least a year for the trailers for the grocery store. Who knows how long it would be for the second phase.

Adrian Goddard: We could look into a fence. We don't mind doing that. This whole project will be a silver certified LEED project. The whole tone will be with a view, to accommodating issues like this.

Mr. McConnell: I appreciate that.

Mr. Astorino: Look into something like that that would be acceptable to the Board.

Adrian Goddard: All right.

Comment #19: Reference sheet 20 for details of the Absorption Field.

Dave Getz: Ok.

Comment #20: Clarify overlapping text at wells.

Dave Getz: We have done that.

Comment #21: Identify stormwater management facilities (ponds, bio-filter, etc.) consistent with the SWPPP.

Dave Getz: Ok.

Comment #22: The detail for the Retaining Wall at the Service Area states “install timber parking along top of wall”. Clarify.

Dave Getz: We have corrected that.

Sheet 8 – Construction Staging Plan

Comment #23: Construction Staging Key shows 3 stages, yet there are notes for 4 stages. Clarify on Key that construction of buildings, water and wastewater treatment plants, and Rt. 94 widening will occur in Stage 4.

Dave Getz: Ok.

Comment #24: Note that alternative staging is shown on sheet 21.

Dave Getz: Will do. Sheet 21 is a new sheet that references on what has been discussed. The plans prior to sheet 21 do not indicate that the grocery store might be built first. Sheet 21 clarifies on what is required.

Sheet 9 – Sediment & Erosion Control

Comment #25: Applicant to review maintenance access roads for all SWPPP facilities with the Planning Board Engineer.

Dave Getz: We will get that on the plan.

Sheet 10 – Landscaping Plan

Comment #26: Define landscaping of Infiltration Swale.

Dave Getz: Ok.

Comment #27: Board and applicant to discuss additional landscaping abutting federal wetlands.

Mr. Fink: There is nothing additional on that. They are planning a lot of buffer plantings within the area between the proposed development and the wetlands. I took a look at the

landscape plant materials that they would be using. None of them are considered invasive or exotic. They all seem to be suitable for their intended purpose.

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

Sheet 11 – Lighting Plan

Comment #28: Lighting Plan by Pyramid Lighting Group, 8/2/04, LAST REVISED 4/2/07

A. Note the hours of operation for lighting of car dealership and pad site parking areas.

Dave Getz: Ok.

Zen Wojcik: There is a note on the plan about the parking lot lights being dimmed at certain hours. It was calculated just for the grocery store. I don't know if the lights would be dimmed for the car dealership.

Frank Petrucci: That will be fine.

Dave Getz: That is what we have proposed.

Zen Wojcik: Ok.

- B. The Town of Warwick Code defines “mounting height” as the “distance from the ground ... to the lowest direct-light-emitting part of the luminaire”. The proposed mounting height is 18 feet. Revise to the Code specified 16 foot height or request a waiver.

Dave Getz: We corrected the detail to clarify that. The calculations were good at 16-feet. It will stay at 16 feet in height.

- C. Discuss lighting levels.

Dave Getz: Ok.

Sheet 12 – Site Operation Plan

Comment #29: Provide notes for operation and maintenance of the water and wastewater treatment facilities and/or reference the location of such notes and details within the plans.

Dave Getz: Those plants are being built, owned, and operated by a transportation corporation. That is what those notes will refer to.

Zen Wojcik: Right.

Mr. Bollenbach: That is still ongoing with the Town. That would be part and parcel of the establishment of the districts. The Town Code requires sewer and water facilities to be owned and operated by the Town.

Adrian Goddard: Yes.

Mr. Astorino: That is a process with the Town Board.

Comment #30: Board and applicant to discuss potential effects of snow storage on protected wetlands and mitigation.

Mr. Fink: I know that this was addressed in the SEQR EIS process. I will take another look at this to make sure that everything is in line with the Findings. I believe it has already been addressed. I will double check that.

Sheet 17 – Construction Details

Comment #31: Note that shop drawings and design calculations for all walls exceeding 4 feet in height must be submitted for the Town Engineer’s review and approval before commencing construction.

Dave Getz: Ok.

Sheet 21 – Construction Phasing Plan – Grocery Store Only

Comment #32: Construction notes similar to the notes found on the Construction Staging Plan shall be included on the plan. Delineate the area of borrow fill excavation; provide erosion control measures during and after excavation and for permanent stabilization of the site.

Dave Getz: Ok.

BEFORE FINAL APPROVAL:

Comment #33: Provide the declaration and the recording information on the plan for Agricultural Protection Notes and Aquifer Protection Overlay Notes.

Dave Getz: Ok.

Comment #34: Provide a notation on the plan that before construction of the car dealership and/or the pad site begins, an amended Site Plan and architectural drawings shall be submitted for Planning Board review and approval.

Adrian Goddard: Yes.

Comment #35: Provide a blanket easement for a future connection between the wastewater treatment plant and a suitable stream.

Adrian Goddard: Ok.

Comment #36: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.

Dave Getz: In this case, with the construction going on, could we bond that? The pins will be in locations that will be disturbed immediately.

Mr. Bollenbach: Yes.

Comment #37: Pay performance bond, landscape maintenance bond (3-years) and construction inspection fees for stormwater management, erosion control, water and wastewater treatment, and site landscaping.

Adrian Goddard: Yes.

Comment #38: Pay outstanding review fees.

Adrian Goddard: Yes.

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

Mr. Singer: I have some concerns on where the car dealership will be. It could be quite a while before the car dealership is built. You will be borrowing dirt from there to fill in on this property. There will be considerable disturbance of that property. Could you make some provision that it be seeded in the interim?

Dave Getz: Yes. We have that on there already?

Mr. Singer: Also, if you could have a provision on not putting construction machines or materials on that would be good.

Adrian Goddard: We have that already on the plan.

Mr. Singer: Ok.

Mr. Bollenbach: That could be addressed under comment #32.

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

Mr. Bollenbach: I have one comment concerning the Route 94 south traffic mitigation fee. There has been discussion about that. I do not see that on here. What is the position with that?

Zen Wojcik: John that is a good question. They are building the traffic light.

Mr. Bollenbach: I know that. There will be additional impact on Route 94 south corridor. I know that was discussed at one time. Under the prior approval, there were some calculations. I don't know what the status of that is.

Adrian Goddard: It has been a long time.

Frank Petrucci: Maybe there is a way to look back on this. I believe we have contributed to that. It was part of the original approval.

Mr. Bollenbach: You will need to check on that. Zen, maybe you could pull that out and take a look at that to see where we were. Ted, take a look at that under SEQR. I know that it had been discussed sometime in the past. I don't know the status of that.

Mr. Astorino: Do any Board members or Professionals have anything further? This is a public hearing. If there is anyone in the audience wishing to address the Fairgrounds project, please rise and state your name for the record.

Phyllis Briller: I was a member of the Comprehensive Plan committee. We spent many hours looking at such things as the amount of traffic and the impact that we will have on Route 94. There will be a light planned for the Fairgrounds project. We are already going to have a light at Shop-Rite. We already have a light for County Route 1. If you look at that stretch of road, we have light, after light, and after light in an environment that theoretically is being kept rural. In theory, it is going to allow traffic to move along there. One of the ways of eliminating some of the major traffic on roads is to have service roads. Does the plan currently allow a service road that would take you from Fairgrounds down to the Bowling Alley so that you could get out of the Shop-Rite light?

Mr. Astorino: Yes. There is a marginal access on the plan.

Phyllis Briller: Will that be constructed or is it for sometime in the future?

Mr. Astorino: I think it is in the future. It is there to be constructed when the Town deems it. Is the marginal access being dedicated to the Town?

Zen Wojcik: Yes.

Mr. Astorino: It is being dedicated to the Town. If the Town deems it fit, then it will be built.

Phyllis Briller: If that service road was constructed, why couldn't we access Fairgrounds by going to that light and/or turning in immediately rather than crossing traffic? Why do we have to have another light on Route 94?

Mr. Astorino: That was the recommendation from the DOT.

Zen Wojcik: The DOT reviewed the traffic report. The amount of traffic will be generated by the Fairgrounds grocery store and the car dealership. It is warranted for a light at that intersection by the DOT for the safety of the public.

Mr. Astorino: This is a State call. We have no designation to tell them anything.

Zen Wojcik: The point of having a marginal access road is that it will allow people to shop from one store to the other without driving out onto the highway.

Phyllis Briller: A couple of you gentlemen were also on the Comprehensive Plan with me. You may remember that we had some considerable discussion. One of the comments was made that we need the service/access roads on either side. If we don't have them there, then the State will come along and require us to have 4 lanes going through that area. We don't need 4 lanes. The Comprehensive Plan suggested that we don't want 4 lanes. We don't need another light in front of Fairgrounds eventhough they could access it from a light that isn't there yet, which would be at Shop-Rite.

Mr. Astorino: First, we are not the State. We can't set the level of service on which they would install a light or not. They have seen these plans. That is their recommendation. They will be the ones installing the traffic light. As far as your issue regarding the marginal access roads, I don't think we have all the parcels along Route 94 for the Town to even construct that. We would have it go from parcel A to parcel B and skip parcels C, D, and E. You can theoretically have those marginal access roads at such a time, when they most likely will be built out and be functional. At the present time, all the pieces aren't in place.

Phyllis Briller: But the pieces would be in place to go from Fairgrounds to the Shop-Rite light because it is only one parcel. Is that correct?

Mr. Astorino: That would be if the Town deems to do that.

Zen Wojcik: There are 2 parcels.

Mr. Astorino: There is one parcel in between.

Phyllis Briller: Right.

Mr. Astorino: This is still in the beginning stages on this process.

Mr. Bollenbach: Zen, which comment is the offer of dedication for marginal access road?

Zen Wojcik; I don't have that. We will add that comment.

Mr. Astorino: I know that it is on the plan.

Mr. Bollenbach: We will add the comment, provide offer of dedication for marginal access road.

Mr. Astorino: Mrs. Briller, do you have anything else?

Phyllis Briller: I am simply registering my complaint that we don't need another light on Route 94.

Mr. Astorino: Thank you. Is there anyone else in the audience wishing to address the Fairgrounds application?

Mr. Singer: Phyllis, I think we also don't have a right to put the access road in front of the Bowling Alley which would be required to get to the Warwick Turnpike light.

Phyllis Briller: I am asking you the status of all that.

Mr. Astorino: It is private property. That would be something the Town Board would have to determine.

Mr. Bollenbach: The Town Board has been in touch and communicated with the Bowling Alley and the Pennings property to provide for marginal access.

Phyllis Briller: I understand. I would hate to see final approval given requiring them to put in a light when we don't want it.

Mr. Astorino: Is there anyone else wishing to address the Fairgrounds project? Let the record show no further public comment. I am going to address this comment to the applicant. Where are you with your approvals?

Adrian Goddard: We will be getting the approval from the OCHD between now and the next meeting. We will provide that. We will also address your concerns regarding the DEC approvals.

Mr. Bollenbach: We could adjourn this public hearing to June 18, 2008. I will be away for the June 4, 2008 meeting. This is not a novel issue. This has been discussed many times. We are still waiting for documentation. It will be up to the Board.

Mr. Singer; I know that we are waiting for Fish & Wildlife on another project. Sometimes, they take quite awhile to get back.

Mr. Astorino: I don't think we are waiting for Fish & Wildlife on this project.

Mr. Singer: We might.

Mr. Bollenbach: No. We are looking for DEC and OCHD.

Mr. Astorino: I think our biggest issue on the permitting stage is the status of the approval letter from the DEC for the design of the wastewater treatment plant. I think the OCHD will be a cut and dry issue.

Zen Wojcik: Alex Ciesluk is the project manager coordinating with the DEC on getting the SPDES permit. The sub-office in White Plains is the one reviewing the application for the wastewater treatment plant and all those details. They will be the ones issuing the letter. That is traditionally what happens.

Mr. Astorino: I suggest that the applicant get in touch with them to find out what the issue is.

Adrian Goddard: I think it is just a matter of completing engineering review.

Mr. Bollenbach: We will adjourn this public hearing to June 18, 2008. You still need the Town Board approvals on the districts. I don't see any prejudice to the applicant.

Mr. Astorino: You will have to go before the Town Board to get approval on these districts. So, it wouldn't matter continuing the public hearing to either June 4th or June 18th. You will have to get that done first.

Mr. Showalter makes a motion to adjourn the Country Fairgrounds, LLC., public hearing to the June 18, 2008 Planning Board meeting.

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

Mr. Astorino: Gentlemen, hopefully you will have everything in place for the June 18th meeting. For the public that come out for the Fairgrounds public hearing, this public hearing has been adjourned to the June 18, 2008 Planning Board meeting. There will be no other notices given. This is your notice.

Adrian Goddard: Thank you.

PUBLIC HEARING OF Mountain Glen @ Warwick Corp.

Application for Site Plan Approval for the construction and use of proposed grading and excavation to mitigate existing drainage concerns, entitled, *Mountain Glen #2*, situated on tax parcel S 66 B 1 L 1; project is located on the southeastern side of Miriam Drive 825 feet from the intersection of Bellvale Blvd., in the RU/MT zones, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant; Kirk Rother, Engineer. Neil Frishberg, Attorney.

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

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Provide design calculations for the temporary diversion swale considering the drainage area and potential flows.
4. Provide a profile view of the swale and note the finished grade.
5. The swale appears to be diverting the runoff from a portion of the site into an existing drainage ditch which passes through several properties downhill of the parcel. §164-46H(7) states that drainage shall be designed to “protect other properties and public roadways” and to “avoid an increase in peak stormwater volume and velocity”. Show that the proposed scheme meets these requirements.
6. Earth Dike Note #5 refers to runoff “conveyed to a sediment trapping device”. No sediment traps or basins are shown on the plan. Applicant to discuss.
7. The applicant proposes an earthen berm, shown to be 4’ high on sheet 1 and 3’ high on sheet 2. Clarify.
8. The source of fill for the berm is onsite excavation. Provide proposed grading at the excavation site, show that a drainage or stability problem will not result from the excavation, and provide notes and details for the stabilization of the excavation. Provide a calculation showing that the amount of material proposed to be removed approximately equals the material required for the berm.
9. Provide additional shrubs on the landscaping plan, to the Town Planner’s specification.
10. The Violation Notice notes that the apparent cause of the erosion is “temporary roads ... now being used as ATV trails.” The plans do not address the cause of the current problem nor do they provide a means of resolution. Applicant to discuss.
11. Show the limits of proposed paved swale construction on Miriam Drive.
12. Pay outstanding review fees.

The following comment submitted by the Conservation Board:

Mountain Glen #2 – None submitted.

The following comment submitted by the ARB, dated 5/21/08:

Mountain Glen #2 – The ARB had no comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: This is an Unlisted Action. The Planning Board has already declared Lead Agency. We have reviewed the application using the short EAF. Everything seems to be in order at this time.

Comment #2: Applicant to discuss project.

Kirk Rother: The application before the Board is for a site plan review of Chapter 150 in the Town Code for an excavation permit. This application is being made to satisfy an Order To Remedy, which was issued by the Town of Warwick Building Department for some existing erosion concerns of the westerly end of Miriam Drive.

Comment #3: Provide design calculations for the temporary diversion swale considering the drainage area and potential flows.

Kirk Rother: It is the easterly end of Miriam Drive.

Comment #4: Provide a profile view of the swale and note the finished grade.

Kirk Rother: Ok.

Comment #5: The swale appears to be diverting the runoff from a portion of the site into an existing drainage ditch which passes through several properties downhill of the parcel. §164-46H(7) states that drainage shall be designed to “protect other properties and public roadways” and to “avoid an increase in peak stormwater volume and velocity”. Show that the proposed scheme meets these requirements.

Kirk Rother: Right. There is an existing drainage course. We will be diverting flows around the rear of the two properties lying immediately to the north of us. It is pretty substantial in size. We will provide some supporting calculations.

Comment #6: Earth Dike Note #5 refers to runoff “conveyed to a sediment trapping device”. No sediment traps or basins are shown on the plan. Applicant to discuss.

Kirk Rother: We will add a sediment trapping basin.

Comment #7: The applicant proposes an earthen berm, shown to be 4’ high on sheet 1 and 3’ high on sheet 2. Clarify.

Kirk Rother: It is 4’ high.

Mr. Astorino: Ok. We could strike 3’.

Comment #8: The source of fill for the berm is onsite excavation. Provide proposed grading at the excavation site, show that a drainage or stability problem will not result from the excavation, and provide notes and details for the stabilization of the excavation. Provide a calculation showing that the amount of material proposed to be removed approximately equals the material required for the berm.

Kirk Rother: Right. There is proposed grading on the plan. We are taking a knob out. I will give Zen supporting quantity of calculations for that.

Comment #9: Provide additional shrubs on the landscaping plan, to the Town Planner's specification.

Mr. Astorino: Is that on the berm?

Mr. Fink: Yes.

Kirk Rother: I just wanted to point out that we submitted this plan quickly. We do show some shrubs on the plan right now. Maple trees and Norway Spruce is not the intent.

Mr. Astorino: It is not. We want something that will stop ATV's from going through.

Comment #10: The Violation Notice notes that the apparent cause of the erosion is "temporary roads ... now being used as ATV trails." The plans do not address the cause of the current problem nor do they provide a means of resolution. Applicant to discuss.

Kirk Rother: I don't know the answer to this. We could contact the Police Department to try to enforce no trespassing.

Mr. Astorino: The bottom line is that you are going to keep the erosion from coming down onto the people's properties and roads.

Mr. Bollenbach: This was specifically discussed before. The applicant has not incorporated a response. Right in Chapter 150, which we are dealing with, there are provisions for timber harvest, which requires water bars. We have discussed this precise issue. It is not reflected on these plans.

Mr. Astorino: Do you want to drop in some trees? What do you want to do?

Mr. Bollenbach: Provide mitigation to Town Engineer's specification.

Kirk Rother: John has mentioned water bars. We will add them. Trees might stop the ATV's.

Mr. Bollenbach: A tree is like a water bar. That is what water bars could be. You will need to provide some.

Kirk Rother: We will do the best we can.

Comment #11: Show the limits of proposed paved swale construction on Miriam Drive.

Kirk Rother: Yes.

Comment #12: Pay outstanding review fees.

Kirk Rother: Ok.

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

Mr. Bollenbach: I have a couple additional comments to add. Comment #13, provide landscape bond and construction fees. Comment #14, mitigation to be completed 30 days from the date of conditional approval.

Kirk Rother: Ok. 30 days from the date of conditional approval will be fine.

Mr. Astorino: This is a public hearing. If there is anyone in the audience wishing to address the Mountain Glen #2 application, please rise and state your name for the record.

Richard Mazur: We received notice in the mail about this. We don't know exactly where it is. I need some clarification. Will this be an extension of Miriam Drive?

Mr. Astorino: No. The issue is run off coming of the hillside. There is erosion coming down onto the road and adjoining properties. It is raising havoc due to some activities that happened on the site. It is before us to correct the situation. We are here to stop that from coming down on the road and adjoining properties.

Mr. Bollenbach: There was also some excavation within the Town Road.

Mr. Astorino: There was some rip-rap put onto the Town Road. That will be removed. It will be asphalted.

Richard Mazur: That road ended as far as I know, ended right there.

Mr. Astorino: They did work on the Town Road in the Town's R.O.W. They cannot do that. They can't have their property discharging water, debris, or erosion onto other people's properties or a Town Road.

Richard Mazur: They are not building a road.

Mr. Astorino: No. Everything will be staying the same. It will actually get better. You won't be flooded out.

Richard Mazur: There are problems. We have water coming down the valley. Fortunately, I am on the other side of the road. It is a big problem for my neighbors.

Mr. Astorino: That was why a violation notice was issued to the applicant. They are before us to correct the situation.

Richard Mazur: Is this a restoration?

Mr. Astorino: It will be corrected.

Kirk Rother: If you drove to the end of Miriam Drive where the pavement ends and you are looking at this property, we are going to build a 4-foot high earth berm across there to stop the runoff and divert it around the residences that are on the left hand side of Miriam Drive as well as the residence that is on the right.

Richard Mazur: All of that runoff will be directed into the creek.

Kirk Rother: Yes.

Mr. Bollenbach: It will not go directly into the creek. It will eventually go into the creek. There will be sediment erosion control basins.

Kirk Rother: It all goes into the creek now. It runs down Miriam Drive into catch basins, then into the creek.

Richard Mazur: That is the way it is running now.

Kirk Rother: Yes.

Richard Mazur: With the berm being put in, I assume you will be sending some major earth moving equipment up there.

Kirk Rother: Right. There will be an excavator going up there.

Richard Mazur: Bellvale Park and Miriam Drive are stone, tar & chip roads.

Mr. Astorino: We will keep an eye out on that.

Richard Mazur: It is not suitable for heavy equipment. They have brought a lot of stuff up there in the past. Maybe, it was not these people in particular. But, there has been a lot of activity in the back where extremely heavy equipment has been brought up there. They are destroying our roads.

Mr. Astorino: We will keep an eye on that. Most of the roads in the Town of Warwick are tar and chip roads. If there is any damage to the road, it will be the contractor's responsibility.

Richard Mazur: Will there be a bond put up?

Mr. Astorino: There will be a landscape bond for the project. As far as the road goes, if the road is ripped up, there will be a violation. It will go through the Building Department.

Richard Mazur: Ok. So, it is not per say that a road will be going up there. It is just restoration of the area.

Mr. Astorino: We cannot say, "It is restoration." They are going to do work on the Town Road. They will fix that.

Richard Mazur: There won't be a road or anything in the back.

Mr. Astorino: No. That will not happen. They are not going to put in another road.

Richard Mazur: Ok.

Mr. Astorino: There will be just an access to get to the property.

Kirk Rother: We are not here voluntarily. The Town of Warwick issued my client an Order To Remedy stating that you must appear before the Planning Board to solve an existing drainage erosion problem that is there. There is no proposed development or road. There are no proposed buildings. We are trying to stop the water from running down Miriam Drive.

Richard Mazur: There has been a lot of construction activity going on up there that should not have been going on. The situation up there, the land has been used by ATV riders. I am not blaming anybody. I just want to make sure that this is not happening.

Mr. Astorino: They are just here to correct this drainage problem.

Richard Mazur: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Mountain Glen #2 application?

Steve Supek: I live on Miriam Drive across the road. The water drainage problem isn't just at the end of Miriam Drive, it comes down from the top. When you come up Bellvale Blvd., it comes from the top right there. It comes off that and across the road. It started to flood my neighbor's basement across the street. All that water that you thought was going to that creek that you were talking about, running down Miriam Drive into the creek, it is not. The water is going straight across the road. It goes straight down towards Route 17A. It is not veering off.

Mr. Astorino: It will once this is done.

Mr. Bollenbach: Zen, what is the extent of this berm? Does it go up to the intersection of Miriam Road and Bellvale Blvd.?

Zen Wojcik: It does not.

Mr. Bollenbach: I believe that is the area that this gentleman is talking about.

Zen Wojcik: That would be a considerably larger berm than what we are talking about here.

Kirk Rother: I just want to make the Board aware of something. The terrain of this parcel of land is rolling. There are several channels of water running down through this acreage. It is 100+ acres of land just from our property. It is several hundred acres which is contiguous to Miriam Drive area. The particular area that we are addressing is runoff of around 10 acres of land.

Mr. Astorino: That was where these trails and what have you were cut in.

Mr. Bollenbach: It was site disturbance.

Mr. Astorino: We can't control water coming off a mountain.

Steve Supek: Since they had done that construction with the big machinery, it has gotten worse. The runoff coming off that mountain has gotten worse. It has never been that bad.

You could come and see my property. I left it the way it was. The erosion into the place coming down the side of my property is amazing. It was never like that before.

Mr. Astorino: Is there a road? On that adjoining property that comes back by Bellvale Blvd., and Miriam Drive, was there construction activity back in there?

Steve Supek: Yes. It goes up and back.

Mr. Astorino: Is it following this road down?

Steve Supek: Yes. I think there is some sort of pipe sticking out of the ground.

Mr. Astorino: That is where the applicant put their well at one time.

Kirk Rother: There was one well drilled.

Mr. Astorino: That is where that water is following that trail.

Steve Supek: It is coming down off that trail. It is running straight down the hill. It is not veering off to the creek.

Mr. Astorino: Kirk that is an issue you will have to look at.

Kirk Rother: I will take a look at that.

Mr. Astorino: If that is the case, that will have to be addressed. These roads were cut in to get that well in there.

Kirk Rother: Is that the work you were talking about regarding the well?

Steve Supek: Yes.

Mr. Astorino: To get a well drilling machine on the side of that mountain, there would be substantial issues.

Neil Frishberg: To get that machine up... I have walked it.

Mr. Astorino: I didn't walk back that far. I have been up there.

Neil Frishberg: I have walked up to the well. It looks like there was a road there already. It was just widened.

Kirk Rother: There was definitely a road there already. We set the well right off the existing roads.

Neil Frishberg: Right. It was not as if we had to clear a whole road. There was a road there already.

Mr. Astorino: Apparently, there is something.

Kirk Rother: I will take a look at that issue. I have not gone up to the well site in the last 1-1/2 years.

Mr. Bollenbach: Sir, how long have you lived there?

Steve Supek: I have lived there 4-years. I never had a problem in the first 2 years. My neighbor next to me has been there 20 years. He has never seen it that bad.

Mr. Bollenbach: That could be addressed under comment #10. We will add to that comment, provide mitigation to the Town Engineer's specifications regarding the temporary roads.

Mr. Astorino: Zen, maybe you could go up there and touch base with Kirk.

Steve Supek: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Mountain Glen #2 application?

Margaret Primm: I have been there 30 years. I am concerned about more water coming through the creek. My house to the creek is just feet away. Erosion has gotten so bad. It use to be knee high. Now, it is over your head.

Mr. Astorino: As I had said earlier, the water that is coming off that mountain now, it all goes into that creek.

Margaret Primm: I understand that. That is my problem. I don't want more water going into the creek.

Mr. Astorino: No more water will go into the creek. We are not taking any more water off. We are just directing it so that it does not flood out the properties.

Mr. Bollenbach: That was addressed in comment #5. It states that drainage shall be designed to avoid an increase in peak stormwater volume and velocity. The comment was to show that the proposed scheme meets these requirements to protect other properties downstream. That is precisely what this plan is intended to address.

Margaret Primm: Ok.

Kirk Rother: Where on Miriam Drive do you live?

Margaret Primm: I am next to the last house.

Mr. Astorino: Is there anyone else wishing to address the Mountain Glen #2 application?

Richard Mazur: Looking at the drawing for the first time. These berms seem to address the first 2 houses on the corner. There is a road there.

Mr. Astorino: We will check that out. We will address that.

Richard Mazur: I have been up here 30 years. There have been trails and stuff like that all through there. Because of people being up there with construction vehicles, not ATV's, there have been construction vehicles dumping soil and stuff in the area. That road has gotten wider and more of a dirt road than what it would have normally been if those construction vehicles were not there. The problem does extend all the way from the well, which is on the eastern/western end of property all the way to Miriam Drive on the eastern side.

Mr. Astorino: We will have our Engineer go up there and check it out. We have addressed it in the comments so that it is corrected.

Richard Mazur: Thank you.

Mr. Singer: Mr. Chairman, is this creek a protected stream? What is this creek? Putting additional stress on this creek maybe...

Mr. Astorino: How is it putting additional stress?

Mr. Bollenbach: That was addressed in comment #5. It stated, avoid an increase in peak stormwater volume and velocity. Show that the proposed scheme meets these requirements. It is a requirement that the Engineer has to provide.

Mr. Singer: We have a young lady telling us that she is getting continue the erosion of her property because of the water going down the creek. Could we ask the applicant to make the creek deeper so that there would be less erosion?

Mr. Bollenbach: No.

Zen Wojcik: No.

Mr. Astorino: No. If you make it deeper, it might cause more erosion. It might cave in on it.

Mr. Singer: I think it is caving in now.

Mr. Astorino: All this water on the mountain that is coming down no matter how it comes down ends up in that creek.

Margaret Primm: I think the creek also has to run off from Cascade Lake. When that lake is full, that creek runs too fast.

Mr. Astorino: That is not the issue that we have here. We have an issue that there is an erosion problem on this piece of property that has been caused by the applicant. We are here to correct that problem.

Steve Supek: All the water is not going into that creek. It is following across Miriam Drive towards Route 17A straight down. It is not diverting into that creek. If you do divert all that water into that creek, you will probably get more erosion.

Mr. Astorino: There are catch basins up there that go into that creek. The issue here is: there was a manmade issue up there that caused this problem. As we have pointed out, we will remedy it.

Kirk Rother: I agree that all the water that comes off this mountain goes into the creek. It follows several channels through down the mountain over the width of Miriam Drive and to the western side of Miriam Drive. We are not going to solve all of these problems. The immediate problem was the 10 acres that directly flow down the stub of Miriam Drive. We are going to immediately divert around Miriam Drive. Whatever else that may have been created by the well that was drilled, I don't know if we are going to send that into the creek. Maybe that is not where it goes now. If it is not, we will try to fix the problem.

Steve Supek: That was my point. How would you mitigate that?

Mr. Astorino: The Engineer is going to check that out.

Kirk Rother: We are not looking to alter the hydrology of all this water that comes down the mountain. We cannot stop it.

Margaret Primm: On that mountain, there is a lot of shale. People that are in the middle of Miriam Drive have springs underneath their houses and garages. They flood normally. How do you plan to solve all of that.

Mr. Astorino: We are not. You can't.

Mr. McConnell: That is natural. That is not created by what the applicant had done.

Margaret Primm: Eventually, are there going to be houses built there?

Mr. Astorino: There is nothing proposed right now. There is nothing before the Planning Board for that. That is a completely separate issue.

Mr. Bollenbach: I want to go back to comment #14 regarding the mitigation to be completed in 30 days of conditional approval. That would be from tonight if this is granted. You will have to get the engineering in.

Neil Frishberg: I don't think they could do it 30 days from tonight.

Mr. Bollenbach: That is a precise issue. Any excavation is supposed to stay seeded and stabilized within 14 to 15 days.

Kirk Rother: I have no problem consenting to that. We will do it as quickly as we can. At this point, the Town has been cooperative in working with us on it. I am going to guess that for some unforeseen reason that it is not 100% done in 30 days, the Town would say that I could have 2 more days to finish.

Mr. Bollenbach: Ok. Comment #14 will read as follow, mitigation to be completed within 30 days of conditional approval. It is really subject to the violation of the Building Inspector. We will leave that to his discretion.

Neil Frishberg: I am just leery as to whether my client could get it done. If they can't, we would have to come back to say that we have started it.

Mr. Bollenbach: There is urgency. That \$250.00 a day fine is ticking.

Mr. Astorino: Hook up with Zen to take care of that well issue. Is there anyone else wishing to address the Mountain Glen #2 application?

Mrs. McCallister: The well that was drilled, is that well serving a purpose today? Is that for their future development?

Mr. Astorino: The applicant drilled a well when they had a proposal before this Board. They pulled that proposal.

Kirk Rother: There are other applications before this Planning Board in the immediate area. There was a lot of discussion regarding the water quality of Miriam Drive that relates to radioactivity. This applicant a couple years ago made a submittal to the Planning Board for a subdivision at the same time when these other projects, BCM and Gables, were pending. This well was drilled for the purpose to see what our water quality was. We wanted to see if we had radioactive water. That was the only purpose to drill.

Mrs. McCallister: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Mountain Glen #2 application?

Virginia Rudy: I have lived here 35 years. Last year, we were flooded out 3 times. I look forward to the correction of the problem in the quick future. I thank you for all your efforts.

Mr. Astorino: You are welcome. Is there anyone else wishing to address the Mountain Glen #2 application? Let the record show no further public comment.

Mr. Kowal makes a motion for the Negative Declaration.

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

617.12(b)

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

Name of Action: Mountain Glen #2 Site Plan

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed Erosion Control Site Plan, 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 4/14/08, 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 to take such further steps as might be necessary to discharge the Lead Agency's responsibilities on this action.

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

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

Mr. Showalter makes a motion on the Mountain Glen @ Warwick Corp., application, granting Site Plan Approval for the construction and use of proposed grading and excavation to mitigate existing drainage concerns, entitled, *Mountain Glen #2*, situated on tax parcel S 66 B 1 L 1; project is located on the southeastern side of Miriam Drive 825 feet from the intersection of Bellvale Blvd., in the RU/MT zones, of the Town of Warwick, County of Orange, State of New York, subject to the following conditions:

1. Provide design calculations for the temporary diversion swale considering the drainage area and potential flows.
2. Provide a profile view of the swale and note the finished grade.
3. The swale appears to be diverting the runoff from a portion of the site into an existing drainage ditch which passes through several properties downhill of the parcel. §164-46H(7) states that drainage shall be designed to "protect other properties and public roadways" and to "avoid an increase in peak stormwater volume and velocity". Show that the proposed scheme meets these requirements.
4. Earth Dike Note #5 refers to runoff "conveyed to a sediment trapping device". No sediment traps or basins are shown on the plan. Provide to Town Engineer's specifications.
5. The applicant proposes an earthen berm, shown to be 4' high on sheet 1 and 3' high on sheet 2. Clarify.
6. The source of fill for the berm is onsite excavation. Provide proposed grading at the excavation site, show that a drainage or stability problem will not result from the excavation, and provide notes and details for the stabilization of the excavation. Provide a calculation showing that the amount of material proposed to be removed approximately equals the material required for the berm.
7. Provide additional shrubs on the landscaping plan, to the Town Planner's specification.

8. The Violation Notice notes that the apparent cause of the erosion is “temporary roads ... now being used as ATV trails.” The plans do not address the cause of the current problem nor do they provide a means of resolution. Provide mitigation to the Town Engineer’s specifications.
9. Show the limits of proposed paved swale construction on Miriam Drive.
10. Mitigation to be completed 30-Days from the date of Conditional Approval.
11. Provide Landscape Bond and Construction Inspection Fees.
12. Pay Outstanding Review Fees.

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

Kirk Rother: Thank you.

Review of Submitted Maps:***Zircar #2***

Application for site plan approval and special use permit for the construction and use of a new 3,260 square-foot addition to the rear of a commercial building (addition partially in the T/Warwick and V/Florida) to support current manufacturing process, situated on tax parcels S 8 B 1 L 5 (Warwick) and S 101 B 1 L 6 (Florida); project located on the northern side of Round Hill Road 240± feet west of the intersection of Round Hill Road and Roe Street, in the OI zone, of the Town of Warwick. ZBA granted variances on 1/28/08. Previously discussed at the 12/19/07 Planning Board meeting.

Representing the applicant: Dave Getz from Lehman & Getz Engineering. Tom Hamling and Peter Hamling, applicants.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Applicant has received a variance from the Town of Warwick ZBA for exceeding the maximum lot coverage and for rear setback. Place full text of the ZBA variance on the plans.
4. Identify proposed use of addition and note how it complies with the Special Conditions.
5. Pay outstanding review fees.

The following comment submitted by the Conservation Board:

Zircar #2 – None submitted.

The following comment submitted by the ARB, dated 5/21/08:

Zircar #2 – The ARB has no further comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has already declared itself Lead Agency. It is an Unlisted Action. SEQR has been taken care of at this point.

Comment #2: Applicant to discuss project.

Dave Getz: It is a proposed addition for storage at the rear of an existing facility. The addition is partly in the T/Warwick and V/Florida. The Town of Warwick ZBA has granted variances. The applicant required a variance from the Village of Florida ZBA, which was granted. They are in a similar situation in the Florida process of requesting to be set for a public hearing by the Planning Board.

Comment #3: Applicant has received a variance from the Town of Warwick ZBA for exceeding the maximum lot coverage and for rear setback. Place full text of the ZBA variance on the plans.

Dave Getz: Will do.

Comment #4: Identify proposed use of addition and note how it complies with the Special Conditions.

Tom Hamling: It is for the storage of raw materials and work in process. Our material has to sit for a long time.

Dave Getz: They are familiar with the conditions that we have on this note, special condition 133 on the plans. The proposed use does comply with those conditions.

Comment #5: Pay outstanding review fees.

Tom Hamling: Yes.

Mr. Astorino: Do any Board members or Professionals have any comments? Does the Board have any other concerns? We need to set this application for a public hearing.

Mr. McConnell makes a motion to set the Zircar #2 application for a public hearing at the next available agenda.

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

Mr. Kowal: Right now, you are doing a little work on the left hand side of the lot.

Tom Hamling: We are putting in a grass strip. We want to get our landscaping bond back for the last one.

Peter Hamling: Yes. We are putting in a grass strip so that we could get our landscaping bond returned.

Dave Getz: Thank you.

Warwick Water Corp. / Brock Majewski / Evan Pankin

Application for Sketch Plat Review of a proposed **3-Lot (Minor)** subdivision and application for Site Plan Approval and Special Use Permit for the construction and use of commercial warehouse facilities, situated on tax parcel S 35 B 1 L 21; project located on the southern side of Lake Station Road 800 feet west of Kings Highway, in the OI Zone, of the Town of Warwick.

Representing the applicant: Keith Woodruff from Pietrzak & Pfau Engineering.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
 - A. Planner to discuss Full EAF.
2. Applicant to discuss project.

3. Subdivision Plan
 - a. The plan shows a three-lot subdivision. A small portion of Lot #1 is cut-off from the principal portion of Lot #1 by the stem of proposed flag Lot #3. The cut-off portion is undevelopable due to setback requirements. Applicant to discuss.
 - b. Show S.C.S. soil mapping.
4. Site Plan & Special Use Permit
 - A. Place a list of prohibited activities (i.e., storage of chemicals, including salt and deicing materials, servicing of motor vehicles, etc.), to the Town Engineer's specifications.
 - B. The plan does not indicate provisions for sanitary sewage facilities. Applicant to discuss.
 - C. Show the location of fire lanes and provide a letter from the Warwick Fire District that the access is sufficient.
 - D. Plan states that on-site DEC wetlands were certified in 2002. Provide a copy of a plan with a completed validation block for the Planning Department's files.
 - E. The submitted SWPPP was not reviewed at this time because the plans are very conceptual.
5. Applicant's Name is different on plans and applications. Revise for consistency.
6. Place the following note on the plans; "Cut slopes shall not be constructed steeper than as shown on this approved plan. Certification signed and sealed by a NY licensed Professional Engineer shall be provided to the Building Department that the slope has been properly graded according to the approved plan. Topsoil shall be placed on the finished slope, seeded and stabilized with a rolled erosion control product installed in conformance with the detail contained herein. The stabilized slope shall be periodically watered until vegetation is established (a root mass adequate to provide continued erosion control has formed). The individual property owner is responsible for maintaining the continued stability of the slope."
7. For all lot accesses, provide sight distance triangles at driveway / road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Dimension sight triangles. Indicate that actual sight distance equals or exceeds minimum sight distance. Include a note that the area of the triangles shall be kept free from visual obstructions.

8. Provide the declaration and the recording information on the plan for Agricultural Protection Notes and Aquifer Protection Overlay Notes.

The following comment submitted by the Conservation Board:

WWC/Majewski/Pankin – None Submitted.

The following comment submitted by the ARB, dated 5/21/08:

WWC/Majewski/Pankin - The Architectural Review Board would like to see the architectural drawings and elevations for this commercial project as early as possible. This will be visible from the road and should be designed to minimize visual impacts, as well as minimize lighting impacts.

Significant screening and buffering will be required to mitigate the impact on the residences abutting the project, both in the Town of Warwick and in the Town of Chester.

Provisions must be made to safeguard the wells on the property.

Comment #1: Board to discuss SEQR.

A) Planner to discuss Full EAF.

Mr. Fink: At the Work Session, we didn't have a copy of the EAF. Since that time, we received the EAF. One of the things that was identified on their proposed plan was the installation of a proposed monitoring well within the NYSDEC wetland area. The DEC was not identified on the EAF as an involved agency. There were no permits required. Not only is a permit required, but according to the DEC regulations a well is incompatible with wetlands. The applicant's representative indicated that the plans might change. So either the plans get changed or the EAF needs to be changed before we could do a circulation for Lead Agency. I would suggest that we do a circulation for Lead Agency on this one eventhough it is an Unlisted Action because of the potential DEC involvement on this and whether of not it is a permittable activity to drill a wetland well.

Mr. Astorino: Are these comments relevant with the plans or we don't know yet?

Mr. Bollenbach: I thought this test well was done on a prior approval.

Keith Woodruff: Correct. That was part of the Kings Estates approval.

Mr. Bollenbach: That was part of Kings Estates. That well was never drilled. There is no intent to drill that. Is that correct?

Keith Woodruff: No. That was something in the approval process to monitor to insure that the potable water supply which was the other existing well on the property, noted as well #12, that it would still be able to supply, sufficient quantity for Kings Estates. It is not there to be as a supply well. It is not going to be taking out anything. That was something already listed on the approved filed map.

Mr. Fink: I know that. But, when you look at the DEC regulations, they don't distinguish between a production well and a monitoring well. That is something we have to sort out with the

DEC. If this is not proposed, then if you remove the proposed monitoring well from this location, that might take care of it. John, I don't know if that is possible.

Mr. Bollenbach: I don't know that. What I am saying is those wells are already permitted. You need to confirm if yes, you could delete this from the map or you cannot. You will need to take care of the problem.

Keith Woodruff: Ok.

Mr. Fink: Once that issue is resolved, then we could deal with SEQR and move on.

Mr. Astorino: Ok.

Comment #2: Applicant to discuss project.

Keith Woodruff: We are proposing 2 blocks of warehousing within the central location of the property. We are also looking to do a 3-lot subdivision breaking out parcels of land for where the existing water supply is for Kings Estates. Those 2 pieces of property would then be transferred to the Warwick Water Corporation who is the actual corporation in charge of the water supply system for Kings Estates. The remaining land, lot #1 would be transferred to Rich Majewski who will use it as those warehouses for strictly storing his vehicles.

Mr. Singer: It is Brock not Rich.

Keith Woodruff: I am sorry.

Comment #3: Subdivision Plan

A) The plan shows a three-lot subdivision. A small portion of Lot #1 is cut-off from the principal portion of Lot #1 by the stem of proposed flag Lot #3. The cut-off portion is undevelopable due to setback requirements. Applicant to discuss.

Keith Woodruff: We will add that portion of land to lot #3 so that it would provide further access. It will still not be buildable. It will be under the control of Warwick Water Corp.

B) Show S.C.S. soil mapping.

Keith Woodruff: Will do.

Comment #4: Site Plan & Special Use Permit

A. Place a list of prohibited activities (i.e., storage of chemicals, including salt and deicing materials, servicing of motor vehicles, etc.), to the Town Engineer's specifications.

Keith Woodruff: Will do.

B. The plan does not indicate provisions for sanitary sewage facilities. Applicant to discuss.

Keith Woodruff: I am still in talks with the applicant to see if does want to do a septic system at this time. He did not wish to put in a septic system for the proposed warehouses. They would be just a facility for the keeping of his vehicles.

Zen Wojcik: Mr. Chairman, could the Planning Board approve this lot under the condition that it would have to come back before the Planning Board for the approval for a septic system in the future? Maybe that is a question for Mr. Bollenbach.

Mr. Bollenbach: I think the concern of the Town Board was the feasibility of hooking this up to the existing sewer district. This is a well site. We are creating a subdivision for commercial use. Maybe this is the appropriate time to hook it up to the central sewer system which is available to try to further protect this well site. This is a well site area to service the entirety of Kings Estates. It might be something the applicant might want to consider.

Keith Woodruff: Ok.

- C. Show the location of fire lanes and provide a letter from the Warwick Fire District that the access is sufficient.

Keith Woodruff: We could do that.

- D. Plan states that on-site DEC wetlands were certified in 2002. Provide a copy of a plan with a completed validation block for the Planning Department's files.

Keith Woodruff: We could do that.

- E. The submitted SWPPP was not reviewed at this time because the plans are very conceptual.

Keith Woodruff: OK.

Comment #5: Applicant's Name is different on plans and applications. Revise for consistency.

Keith Woodruff: Yes.

Comment #6: Place the following note on the plans; "Cut slopes shall not be constructed steeper than as shown on this approved plan. Certification signed and sealed by a NY licensed Professional Engineer shall be provided to the Building Department that the slope has been properly graded according to the approved plan. Topsoil shall be placed on the finished slope, seeded and stabilized with a rolled erosion control product installed in conformance with the detail contained herein. The stabilized slope shall be periodically watered until vegetation is established (a root mass adequate to provide continued erosion control has formed). The individual property owner is responsible for maintaining the continued stability of the slope."

Keith Woodruff: We could do that.

Comment #7: For all lot accesses, provide sight distance triangles at driveway / road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Dimension sight triangles. Indicate that actual sight distance equals or exceeds minimum sight distance. Include a note that the area of the triangles shall be kept free from visual obstructions.

Keith Woodruff: We could do that.

Comment #8: Provide the declaration and the recording information on the plan for Agricultural Protection Notes and Aquifer Protection Overlay Notes.

Keith Woodruff: We could do that. Could we be set for a public hearing?

Mr. Astorino: We have not done Lead Agency yet. Touch base regarding that well issue. Then, we could do Lead Agency. Also, ask your client about that septic regarding hooking into the system.

Keith Woodruff: Ok.

Mr. Singer: What road is the sewer line in?

Keith Woodruff: I believe you could see the sewer manhole on Sheppard Road on the plans. I am assuming that is the one that you are looking at us to connect into.

Mr. Bollenbach: I think that one might be the closest.

Keith Woodruff: I think that one is the closest.

Mr. Bollenbach: It would be your option.

Keith Woodruff: Ok. Thank you.

Webster Plaza/Robert Schreibeis, Jr.

Application for Site Plan Approval and Special Use Permit for the construction and use of a proposed 5,000 square foot Mixed Use/Retail Space, situated on tax parcel S 13 B 2 L 2; project located on the western side of Pulaski Highway, in the LB zone, of the Town of Warwick.

Representing the applicant: Kirk Rother, Engineer. Rob Schreibeis, Jr., applicant.

The following review comment submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. The property is owned by an LLC. Provide a list of all stockholders, directors and officers to attach to the application.
4. Planner to discuss application of Design Guidelines and compliance with Special Condition 122.
5. The Parking Calculation implies that an Accessory Apartment is requested for this site. Show compliance with Special Condition 51.
6. Revise Aquifer Protection Notes to current version. Water intensive uses, such as laundrettes, may require an Aquifer Impact Assessment. Board and applicant to discuss.
7. Dimension setback lines.
8. Show a conceptual drainage plan for the site.
9. Provide plans satisfying the minimum plan requirements per the Site Plan & Special Use Checklist.

The following comment submitted by Conservation Board:

Webster Plaza – None Submitted.

The following comment submitted by the ARB, dated 5/21/08:

Webster Plaza - The plan for a mixed use building is commendable in the Pine Island hamlet. The applicant's interest in building a structure that is in the style and form of the old Webster Feed & Grain/ Bordens' Creamery is admirable and to be encouraged. Since this is a commercial structure and current zoning will mean repositioning the building on the site, the ARB would like to begin working with the applicant as early in the process as possible.

Comment #1: Board to discuss SEQR.

Mr. Fink: The applicant has submitted a short EAF. It is an Unlisted Action. The County is the only other involved agency. The Planning Board could go ahead and declare itself Lead Agency.

Mr. Kowal makes a motion for Lead Agency.

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

617.6

State Environmental Quality Review (SEQR)
Resolution Establishing Lead Agency
Unlisted Action Undergoing Uncoordinated Review

Name of Action: Webster Plaza

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan/Special Use Permit application by R Land LLC for a \pm 0/95 acre parcel of land located at Pulaski Highway, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 4/30/08 was submitted at the time of application, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is an Unlisted action, and

Whereas, the Planning Board has determined that the proposed project is within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) apply meaning that an Agricultural Data Statement must be submitted, forwarded to all farmers within 500 feet of the site, and then considered by the Planning Board, and

Whereas, after examining the EAF, the Planning Board has determined that there are other involved and/or federal agencies on this matter.

Now Therefore Be It Resolved, that the Planning Board hereby declares itself Lead Agency for the review of this action.

Be It Further Resolved, that a Determination of Significance will be made at such time as all information has been received by the Planning Board to enable it to determine whether the action will or will not have a significant effect on the environment.

Comment #2: Applicant to discuss project.

Kirk Rother: It is a proposed 5,000 s.f. retail establishment situated on the northern side of County Route 6 within the LB zone in Pine Island. We are before the Board with a sketch plan at this time. We have shown the Board a photograph from the tax records of what use to be Webster's Creamery. Mr. Schreibeis would like to build a structure that would be similar on the architectural style of the original Creamery. We will give you better renderings as we move through the process. I know this site is required to adhere to the Design Guidelines to the greatest extent that we can. The most significant topic of discussion on this matter as we move through the process would be the parking. Right now, we do have it shown in the front of the building. I believe the Design Guidelines encourages the parking to be on the side or the rear. I have gone over this with Mr. Schreibeis. We have developed this plan. I think it might be a challenge to put the parking in the rear. As we have some more work sessions on this, I will show the Board some alternatives on what the possibilities might be. Other than that, it is what it is. There are no specific tenants proposed at this time. It would be a retail use available for rent.

Mr. Singer: I appreciate the fact that you are trying to reproduce a similar building to what was there. The previous owner of this building, Mr. Webster was a collector of significant artifacts. His wife is in possession of these artifacts. She would love to have them somehow incorporated into your project as a display for the public to see. I was hoping you would consider doing something like that.

Rob Schreibeis: That would be great. We are naming it after both of them.

Mr. Singer: Ok.

Comment #3: The property is owned by an LLC. Provide a list of all stockholders, directors and officers to attach to the application.

Kirk Rother: Will do. It is Mr. Schreibeis, singular.

Comment #4: Planner to discuss application of Design Guidelines and compliance with Special Condition 122.

Mr. Fink: I think Kirk has already brought up one of the potential areas of conflict with the Design Guidelines regarding the location of parking. If it is possible to take a look at some of the alternatives, that would be beneficial.

Mr. Astorino: What about some mitigation?

Mr. Fink: Yes. That could be one of the alternatives to have some landscape screening, if they are unable to deal with parking in any other way. It is an odd shape parcel. Given the configuration of Legion Road, County Route 6, and so forth, I could understand some of the design issues that we face. If there any other possibilities, it would be good to see them.

Mr. Showalter: I would feel confident that the applicant would do good with significant mitigation. He has demonstrated in discussions with me that he wants to make something very nice there and preserve the character with that old building. One of his businesses is landscaping. I think he would show off some of his work as an example.

Kirk Rother: I pointed out to Rob the parking in the front. I told him if this is the way it would end up, be prepared to mitigate it with some extensive landscaping.

Mr. Astorino: Let us see your alternatives.

Comment #5: The Parking Calculation implies that an Accessory Apartment is requested for this site. Show compliance with Special Condition 51.

Kirk Rother: Right. I have looked at the code since the workshop. My understanding is that for an accessory apartment for anybody to occupy is where there is potential rub. Perhaps, it is permitted for a caretaker for the residence or an employee. We will clarify that as we move forward. We will either eliminate it or limit it to whatever uses it occupies.

Mr. Bollenbach: I don't know if the applicant wants to necessarily qualify for the accessory apartment, however, single-family dwelling units are permitted within that zone. You might want to explore that option and deem it to be a single-family dwelling unit as a component of the entire structure rather than an accessory structure. Accessory structures are very limited. It is for either caretakers, watchmen, or what have you. Or, if you have your principal office or principal dwelling there that you could have an accessory apartment. I don't think that is your intent. I think to pursue it as a single-family dwelling unit would be better.

Kirk Rother: That would be fine. I believe the bulk requirements for that is only ¼-acre in this zone.

Comment #6: Revise Aquifer Protection Notes to current version. Water intensive uses, such as laundrettes, may require an Aquifer Impact Assessment. Board and applicant to discuss.

Kirk Rother: A Laundromat is on the wish list. I told Rob, if you are going to have it, it is not going into the septic. It would have to be a recyclable facility.

Zen Wojcik: Mr. Chairman, one of the points with this is that it is a very peculiar shape lot with the building coming in and the parking lots that would be required. We might need some creativity as far as a septic system goes. Let's see what the Engineer comes up with. Let us hold off on whether an Aquifer Impact Assessment is required or not.

Kirk Rother: We are hoping not. If we do a Laundromat, it would have to recycle its water.

Mr. Astorino: Have you done a septic design?

Kirk Rother: We have done test pits out here. We haven't done a detailed design yet. Tectonic has not witnessed it yet. We have done the preliminary work.

Comment #7: Dimension setback lines.

Kirk Rother: Will do.

Comment #8: Show a conceptual drainage plan for the site.

Kirk Rother: Ok.

Comment #9: Provide plans satisfying the minimum plan requirements per the Site Plan & Special Use Checklist.

Kirk Rother: Yes.

Mr. Kowal: Was there any reason why you didn't consider having your driveway enter onto Legion Road rather than having it go out onto the highway?

Kirk Rother: We based it on the fact that it is a commercial building. It would be preferable for the facility to have its own access. We weren't sure what the reaction would be from the community in putting that traffic onto Legion Road.

Mr. Kowal: Ok.

Kirk Rother: Thank you.

Lands of Kirk Rother

Application for Sketch Plat Review of a proposed 2-Lot Cluster (Major) Subdivision, situated on tax parcel S 42 B 1 L 110.4; parcel located on the western side of County Route 1 1885 feet north of Waterbury Road, in the RU zone, of the Town of Warwick.

Representing the applicant: Kirk Rother, Engineer and Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Board to discuss site visit.

YIELD PLAN:

4. Provide elevations on topographic contours.
5. Show locations of existing rock outcrops on plan.
6. Estimate the area of disturbance and note it on the plan.

CLUSTER PLAN:

7. Proposed Lot #1 is a flag lot. Flag lots are not permitted with frontage on a county highway (County Rt. 1A). Applicant to discuss.
8. Show locations of existing rock outcrops on plan.

The following comment submitted by the Conservation Board:

Lands of Rother – None Submitted.

The following comment submitted by the ARB, dated 5/21/08:

Lands of Rother - The architectural review board would like to see elevations and plans before a building permit is granted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has received a short EAF. It is an Unlisted Action. There are no other involved agencies. The Planning Board could go ahead and declare itself Lead Agency.

Mr. McConnell makes a motion for Lead Agency.

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

617.6

State Environmental Quality Review (SEQR)
Resolution Establishing Lead Agency
Unlisted Action Undergoing Uncoordinated Review

Name of Action: Rother Subdivision

Whereas, the Town of Warwick Planning Board is considering action on a proposed Subdivision application by Kirk Rother for a \pm 7 acre parcel of land located at County Route 1, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 4/30/08 was submitted at the time of application, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is an Unlisted action, and

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

Whereas, after examining the EAF, the Planning Board has determined that there are other involved and/or federal agencies on this matter.

Now Therefore Be It Resolved, that the Planning Board hereby declares itself Lead Agency for the review of this action.

Be It Further Resolved, that a Determination of Significance will be made at such time as all information has been received by the Planning Board to enable it to determine whether the action will or will not have a significant effect on the environment.

Comment #2: Applicant to discuss project.

Kirk Rother: We are proposing a 2-lot cluster subdivision. It is situated on approximately 6.6 acres of land on County Route 1. The property is located in the RU zoning district. There is 1-existing residence on lot #1. Lot #2 would be the remainder of the property of 5 acres that I would like to keep for myself to build a new house. I am going to include a pond that is there. I am going to include some wetlands of the open area that is visible from County Route 1 and some rock outcrops that I am going to put all under a conservation easement. I don't know if conservation easement is the right term.

Mr. Bollenbach: It is called open space area.

Comment #3: Board to discuss site visit.

Mr. Astorino: Does the Board or Professionals have any comments on the site visit? I think it is pretty straight forward.

YIELD PLAN:

Comment #4: Provide elevations on topographic contours.

Kirk Rother: Yes.

Comment #5: Show locations of existing rock outcrops on plan.

Kirk Rother: Will do.

Comment #6: Estimate the area of disturbance and note it on the plan.

Kirk Rother: Ok.

CLUSTER PLAN:

Comment #7: Proposed Lot #1 is a flag lot. Flag lots are not permitted with frontage on a county highway (County Rt. 1A). Applicant to discuss.

Kirk Rother: I briefly discussed this with Zen. I haven't found an answer yet on what the definition of what a flag lot is. Zen suggested that we would have to ask Mr. Bollenbach for that answer. I will change that line if I have to.

Mr. Bollenbach: We will take a look at that.

Comment #8: Show locations of existing rock outcrops on plan.

Kirk Rother: Ok.

Mr. Astorino: Dennis, do you want to run down on some of those cluster questions for us?

Mr. McConnell: Yes. Kirk, I don't know if you are prepared to answer these for us tonight. Let us run through them to get a sense of it.

Kirk Rother: I will do the best I can.

Mr. McConnell: This is from the Town Code §164-41.1 Cluster subdivision. It is in regards to the purposes of a cluster subdivision. They are as follow:

- (1) To provide greater economy, efficiency and convenience in the siting of services and infrastructure, including the opportunity to reduce road lengths, utility runs, and the amount of paving required:

Kirk Rother: In the yield plan, we propose a Town cul-de-sac that is a few hundred feet in lengthened 24 feet wide. We eliminated the town road and are proposing a common driveway on the cluster plan.

Mr. McConnell: Ok in that I understand your answer not that I am approving your answer.

- (2) To conserve important open lands, including those areas containing unique and sensitive natural features, such as steep slopes, floodplains, stream corridors, and wetlands by permanently setting them aside from development:

Kirk Rother: On the yield, I show a dwelling that is more or less 25 feet from the pond. Much more than that, I would like to put that all into open space.

Mr. McConnell: Ok.

- (3) To protect areas of the Town with productive agricultural soils for continued or future agricultural use, by conserving blocks of land large enough to allow for efficient farm operations:

Kirk Rother: We don't have any group 1 through 4 primary Ag soils.

- (4) To provide multiple options for landowners to minimize impacts on environmental resources and natural or cultural features such as mature woodlands, hedgerows, and tree lines, critical wildlife habitats, historic buildings and sites, and fieldstone walls:

Kirk Rother: I am in the woodlands here. I indicated at the site visit that I want to preserve substantial large trees to the greatest extent possible.

Zen Wojcik: In that line, there are some significant trees there. Could you locate them on the plan to show that they are outside the disturbance area?

Kirk Rother: Yes.

Mr. Astorino: There are some nice ones.

Kirk Rother: Yes. Not a problem.

- (5) To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, with a strong neighborhood identity:

Kirk Rother: That is impossible. It is 2 lots.

Mr. McConnell: Ok. You don't have to get all.

- (6) To provide for a balanced range of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups and residential preferences, so that Warwick's population diversity may be maintained:

Kirk Rother: Instead of two 4-acre lots, I have a 1.5-acre lot with a 1700 s.f. house. The 5-acre lot will be my house.

- (7) To provide a reasonable setback for new development adjacent to lands in active farming due to potential incompatibility with nonfarm uses:

Kirk Rother: Not applicable.

- (8) To implement policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the Town's Comprehensive Plan, including provisions to create a greenway trail system and other areas for active or passive recreational use for the benefit of present and future residents:

Zen Wojcik: The pond in this lawn area, which he would be preserving as open space, would certainly be recreational use for your family.

Kirk Rother: Yes. There are no trails to or from.

Mr. Astorino: That is not a requirement. It is recommended on some. It is not a requirement.

- (9) To conserve scenic views and elements of the Town's rural character, and to minimize perceived density, by limiting views of new development from existing roads:

Kirk Rother: The Board had seen obvious objective with this plan.

Mr. McConnell: What about the house in the back?

Mr. Astorino: You wouldn't even see it.

- (10) To promote development in harmony with the goals and objectives of the Town's Comprehensive Plan:

Kirk Rother: Whatever the case may be.

Mr. Astorino: It is in the Code.

- (11) To mitigate identified environmental impacts under the State Environmental Quality Review Act (SEQR):

Kirk Rother: On here, it will be wetlands, pond, and steep slopes.

Mr. Astorino: Is that it?

Mr. McConnell: Yes. That is the laundry list. Thank you.

Kirk Rother: On 2 lots, we hit the majority of them.

Mr. Astorino: Yes. There were only a couple of them that did not apply. I think you could say that for most subdivisions.

Mr. McConnell: I don't think anyone expects at the time that was drafted expects any cluster would necessarily get all of them.

Mr. Astorino: I think it was a valid point that you read those questions.

Mr. McConnell: My point here is to start considering these things more in depth and specifically.

Mr. Showalter: In this particular case, it shows with your list that this one meets most of that criteria.

Mr. McConnell: Yes.

Mr. Astorino: Yes.

Mr. Showalter: We need to look at it on a case-by-case basis.

Mr. Astorino: Good idea.

Mr. Showalter: Dennis, well done.

Kirk Rother: Thank you.

Other Considerations:

1. **Vieldhouse #2 Subdivision** – Letter from Pietrzak & Pfau Engineering, dated 5/9//08 – in regards to the Vieldhouse #2 Subdivision requesting a 6-Month Extension on Re-Approval of Final Approval for a proposed 2-Lot subdivision, SBL # 53-1-39. Re-Approval of Final Approval was granted on, 11/7/07. *The applicant's attorney is drafting up the common driveway use and maintenance agreement for this project.* The 6-Month Extension becomes effective on, 5/7/08.

Mr. McConnell makes a motion on the Vieldhouse #2 subdivision, granting a 6-Month Extension on Re-Approval of Final Approval for a proposed 2-Lot subdivision, SBL # 53-1-39. Re-Approval of Final Approval was granted on, 11/7/07. The 6-Month Extension becomes effective on, 5/7/08.

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

2. **Maynard Subdivision** – Letter from Lehman & Getz Engineering, dated 5/13/08 – in regards to the Maynard Subdivision requesting a 6-Month Extension on Final Approval of a proposed 3-Lot Cluster subdivision, SBL # 64-3-23.1. Final Approval was granted on 11/21/07. *The applicant is close to submitting plans for final review prior to signature, but want to make sure that they do not allow the approval to lapse.* The 6-Month Extension becomes effective on, 5/21/08.

Mr. McConnell: Is this the 1st extension on this?

Connie Sardo: This is a 6-month extension on final approval. It would be the only 6-month extension on final approval. Plans were submitted today for Zen's final review and the chairman's signature.

Mr. McConnell makes a motion on the Maynard Subdivision, granting a 6-Month Extension on Final Approval of a proposed 3-Lot Cluster subdivision, SBL # 64-3-23.1. Final Approval was granted on 11/21/07. The 6-Month Extension becomes effective on, 5/21/08.

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

3. **The Gables At Warwick Subdivision** – Letter from Lehman & Getz Engineering, dated 5/13/08 – in regards to the Gables At Warwick Subdivision requesting a 90-Day Extension on Final Approval of a proposed 15-Lot Cluster subdivision, SBL # 44-1-132. Final Approval was Granted on 12/5/07. *The applicant is working on finalizing the conditions of the approval for this project.* The 1st 90-Day Extension becomes effective on, 6/5/08.

Mr. McConnell: Do we have an idea which conditions of the approval that they are working on?

Mr. Astorino: They have a whole laundry list of conditions.

Mr. Bollenbach: There were also conditions regarding the water agreement with the Bellvale Water District and BCM.

Mr. McConnell: Ok.

Mr. McConnell makes a motion on the Gables At Warwick Subdivision, granting a 1st 90-Day Extension on Final Approval of a proposed 15-Lot cluster subdivision, SBL # 44-1-132. Final Approval was granted on 12/5/07. The 1st 90-Day Extension becomes effective on, 6/5/08.

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

- 4. Wheeler Road Estates Subdivision** – Letter from Pietrzak & Pfau Engineering, dated 5/13/08 – in regards to the Wheeler Road Estates Subdivision requesting a 5th 6-Month Extension on preliminary approval of a proposed 31-Lot subdivision, SBL # 44-2-44.223. Preliminary Approval was granted on, 11/2/05. *At this time, the applicant's attorney is drafting up the necessary paperwork for the formation of the drainage district for this project.* The 5th 6-Month Extension becomes effective on 5/2/08.

Mr. Astorino: That is the information that we have.

Mr. Singer makes a motion on the Wheeler Road Estates Subdivision, granting a 5th 6-Month Extension on preliminary approval of a proposed 31-Lot subdivision, SBL # 44-2-44.223. Preliminary Approval was granted on 11/2/05. The 5th 6-Month Extension becomes effective on, 5/2/08.

Seconded by Mr. Showalter. Motion carried; 4-Ayes and 1-Abstained (Mr. McConnell).

- 5. Planning Board Minutes of 4/16/08** – Planning Board Minutes of 4/16/08 for Planning Board Approval. (On 5/13/08 @ 1:45 p.m. I emailed minutes to PB).

Mr. McConnell makes a motion to Approve the 4/16/08 Planning Board minutes.

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

Correspondences:

1. Letter from Phyllis R. Briller and attachments, dated 5/12/08 addressed to the Planning Board – in regards to the Brian Singer 2-Lot Subdivision.

Mr. Astorino: We have that for our reading pleasure. Zen, I don't believe we have received anything from the applicant. Is that correct?

Zen Wojcik: Not yet. I had a phone call from him. He told me that he had spoken to his Title Company. There was some resolution of the changes. We are expecting to see a plan. Once we get the plan, I will go out and take a look.

Mr. Astorino: Ok. We will wait until we get the information.

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 May 21, 2008 Planning Board meeting.

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