

TOWN OF WARWICK PLANNING BOARD
September 2, 2009

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
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, September 2, 2009 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

PUBLIC HEARING OF Normajeon Fusco

Application for Preliminary Approval of a proposed 12-Lot + 1-Affordable Home cluster subdivision and Special Use Permit for the Affordable Home, entitled, *Fusco Subdivision*, situated on tax parcel S 18 B 1 L 31.2; parcel located on the southern side of Taylor Road with Jessup Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. Continued Public Hearing from the August 19, 2009 Planning Board meeting.

Representing the applicant: Dave Higgins from Lanc & Tully Engineering. Normajeon Fusco, Applicant. Ira Emmanuel, Attorney.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
 - A. * Driveway in Lot 2 and shared driveway for Lots 12 & 13 show significant trees that are in conflict with proposed driveways and not labeled TBR.
 - B. * Much of the proposed developed area is within the Wheeler/Stony Creek Biodiversity Area, identified by the Metropolitan Conservation Alliance "Southern Walkkill Biodiversity Plan". Applicant to analyze how the proposed development is consistent with the Plan's recommendation to minimize impacts on wetland and streamside habitats in this parcel, to the Town Planner's specifications.
 - C. * Applicant and T/Planner to discuss 2 lots separated from cluster, common driveway across steep slope.
 - D. * Project is within the Ridgeline Overlay District. Provide a viewshed analysis – Visual EAF Addendum and line-of-sight profiles – to the Town Planner's specifications.
2. * Applicant to discuss project.
YIELD PLAN (DATED 8/26/05), LAST REVISED: 10/11/05
3. * No further comments. Board accepted Yield Plan by consensus, November 16, 2005.
CLUSTER PLAN (DATED 9/30/05, LAST REVISED 6/16/09)
4. FOR THE RECORD – Applicant has contacted NRCS and determined that soils in the proposed open space are suitable for continued Ag use.

5. * Applicant proposes a Town Road. Board has reported that the Town Board does not prefer accepting cul-de-sacs. Applicant to discuss.
6. * Per §A168-10D, testing of the road subgrade and design of the pavement is required. Provide test results and pavement design calculations for Town Engineer's review and approval before final approval.
7. * Board and applicant to discuss Notes 10 and 11 regarding drainage easements and responsibility for maintenance of Stormwater Management facilities.

SWPPP COMMENTS (SWPPP REPORT 10/14/08, REV. 4/09)

8. * No Further Comments.

WELL TESTING & MONITORING

9. No Further Comments.

BEFORE FINAL APPROVAL:

10. * Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, Open Space Conservation Notes, Stormwater Management Facility Ownership and Maintenance Notes and Common Driveway Use and Maintenance Notes.
11. * Provide the recording information on the plan for a map note for preservation of existing drainage channels through subdivided lots.
12. * Provide the recording information on the plan for the dedication of portions of Taylor and Jessup Roads.
13. * Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at corners of open space.
14. * Propose a road name for the proposed road. Applicant to provide 9-1-1 addressing.
15. * Pay parkland fees.
16. * Pay Landscape Maintenance Bond (street trees, SWPPP landscaping) for period of 3 years.
17. * Pay Performance Bond and construction inspection fee for public improvements (stormwater management facilities and erosion control measures).
18. * Pay outstanding review fees.

The following comment submitted by the Conservation Board:

Normajejan Fusco – None submitted.

The following comment submitted by the ARB:

Normajejan Fusco – None submitted.

Comment #1: Board to discuss SEQR.

- A. * Driveway in Lot 2 and shared driveway for Lots 12 & 13 show significant trees that are in conflict with proposed driveways and not labeled TBR.
- B. * Much of the proposed developed area is within the Wheeler/Stony Creek Biodiversity Area, identified by the Metropolitan Conservation Alliance "Southern Wallkill Biodiversity Plan". Applicant to analyze how the proposed development is consistent with the Plan's recommendation to minimize impacts on wetland and streamside habitats in this parcel, to the Town Planner's specifications.
- C. * Applicant and T/Planner to discuss 2 lots separated from cluster, common driveway across steep slope.

- D. * Project is within the Ridgeline Overlay District. Provide a viewshed analysis – Visual EAF Addendum and line-of-sight profiles – to the Town Planner’s specifications.

Mr. Fink: This application is a Type 1 Action. The Planning Board declared its Intent to be Lead Agency. The Planning Board has been acting as Lead Agency. We have been using the full EAF to assess impacts to a number of different areas. The applicant has provided us with a number of special studies and reports regarding Agriculture, Bio-Diversity, Visual Impacts, and Water Supply. Those were the preprimary issues that needed to be studied in depth by the Planning Board. We have asked for a number of modifications to be made to the studies based upon the Town Engineer and myself. Based upon the answers that we have received, I have prepared a draft Negative Declaration for the Board’s consideration.

Mr. Astorino: Thank you. Zen, regarding the rest of these comments, we had them at the 7/15/09 and 8/5/09 public hearings. We have discussed those comments. Is that correct?

Zen Wojcik: Yes. I believe what we were waiting for was some environmental information from Lanc & Tully Engineering. Ted, is that correct?

Mr. Fink: Yes.

Mr. Astorino: Have you received all of that?

Mr. Fink: Yes.

Mr. Astorino: Zen, are there any comments that stick out at you?

Zen Wojcik: No.

Mr. Astorino: Ok. We will list comments 2 through 18 for the record. They have all been addressed. Do any Board members or Professionals have any other comments or concerns? This is a public hearing. If there is anyone in the audience wishing to address the Normajean Fusco application, please rise and state your name for the record?

Comment #2: * Applicant to discuss project.

YIELD PLAN (DATED 8/26/05), LAST REVISED: 10/11/05

Comment #3: * No further comments. Board accepted Yield Plan by consensus, November 16, 2005.

CLUSTER PLAN (DATED 9/30/05, LAST REVISED 6/16/09)

Comment #4: FOR THE RECORD – Applicant has contacted NRCS and determined that soils in the proposed open space are suitable for continued Ag use.

Comment #5: * Applicant proposes a Town Road. Board has reported that the Town Board does not prefer accepting cul-de-sacs. Applicant to discuss.

Comment #6: * Per §A168-10D, testing of the road subgrade and design of the pavement is required. Provide test results and pavement design calculations for Town Engineer’s review and approval before final approval.

Comment #7: * Board and applicant to discuss Notes 10 and 11 regarding drainage easements and responsibility for maintenance of Stormwater Management facilities.

SWPPP COMMENTS (SWPPP REPORT 10/14/08, REV. 4/09)

Comment #8: * No Further Comments.

WELL TESTING & MONITORING

Comment #9: No Further Comments.

BEFORE FINAL APPROVAL:

Comment #10: * Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, Open Space Conservation Notes, Stormwater Management Facility Ownership and Maintenance Notes and Common Driveway Use and Maintenance Notes.

Comment #11: * Provide the recording information on the plan for a map note for preservation of existing drainage channels through subdivided lots.

Comment #12: * Provide the recording information on the plan for the dedication of portions of Taylor and Jessup Roads.

Comment #13: * Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at corners of open space.

Comment #14: * Propose a road name for the proposed road. Applicant to provide 9-1-1 addressing.

Comment #15: * Pay parkland fees.

Comment #16: * Pay Landscape Maintenance Bond (street trees, SWPPP landscaping) for period of 3 years.

Comment #17: * Pay Performance Bond and construction inspection fee for public improvements (stormwater management facilities and erosion control measures).

Comment #18: * Pay outstanding review fees.

John Galiski: I am reading Tectonic's report in reference to the wells. It says of the 11 wells monitored, only 3 wells showed any interconnection. What 3 wells were that?

Zen Wojcik: It is the well at the Fusco property, well #1 and the two wells that are located on Jessup Road. The two wells that are close to each other was 27 or 25 Jessup Road. Those were the only ones that were interconnected.

Mr. Bollenbach: There was one well on Taylor Road and another one immediately next to that.

Zen Wojcik: There were two wells on the same lot.

Dave Higgins: It is 23 Taylor Road.

Zen Wojcik: Right. It was 23 Taylor Road.

Mr. Astorino: There were two wells on that lot.

Zen Wojcik: We had asked that question to LBG, Inc. At the last public hearing, Mr. Cusack said that he had sent us an amended statement saying that they were also testing well #1, which was part of OCHD requirements. That was the only interconnectivity between those two wells. None of the other wells were affected at all.

John Galiski: 3 wells out 11 wells tell me that is 30%.

Zen Wojcik: If there was only one well on that property, Taylor Road, there would have been 2 out of 11. That was completely away from where most of the other houses are.

John Galiski: What you are saying is that because they were testing well #1, it had an effect on 23 Taylor Road?

Zen Wojcik: Well 1 is the existing well. That interconnectivity is going on right now. It has been for as long as that well has been in existence.

John Galiski: Ok. Again, we are always concerned with the water. We have a major problem up there with water.

Mr. Astorino: That was why we required the testing.

John Galiski: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Normajean Fusco application? Let the record show no further public comment.

Mr. Singer makes a motion for the Negative Declaration.

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

617.12(b)

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

Name of Action: Fusco Subdivision

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed 13 lot subdivision, Town of Warwick, Orange County, New York, and

Whereas, there are other involved agencies pursuant to SEQR, including the Town Board of the Town of Warwick, the Orange County Department of Health and the New York State Department of Environmental Conservation and

Whereas, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 8/19/09 (as revised), 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 Normajeon Fusco application, granting , preliminary approval and special use permit for a proposed 12-Lot + 1-Affordable Home cluster subdivision, situated on tax parcel S 18 B 1 L 31.2; parcel located on the southern side of Taylor Road with Jessup Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. The proposed subdivision was classified by the Town of Warwick Planning Board, acting as Lead Agency. A SEQR Negative Declaration was adopted on September 2, 2009.

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

Mr. Bollenbach: For the public's information, this was a preliminary approval. There will be a final approval. The neighbors will receive an additional notice for a final public hearing. That will be done sometime after the applicant returns from the OCHD.

Dave Higgins: Thank you.

PUBLIC HEARING OF Alan and Maureen Mante

Application for Preliminary Approval of a proposed 2-Lot (Major) subdivision, situated on tax parcel S 47 B 1 L 78.234; parcel located on the eastern side of Bellvale Lakes Road and 2,725 feet south of Rabbitt Hill Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York. Continued Public Hearing from the August 5, 2009 Planning Board meeting.

Representing the applicant: Kirk Rother, Engineer.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Construction of driveway culverts at Sta. 11+00 and 16+70 appear to have a minor effect on delineated wetlands. Planner and applicant to discuss wetland verification..
4. The inlet end of the culvert alongside the driveway in Lot #1 is not aligned with the upstream roadside swale. Applicant’s engineer to provide an alternative at the inlet end to prevent bypass of the culvert. Increase the average (D₅₀) size of rip-rap in outlet aprons to six inches.
5. The proposed lot #2 does not accommodate the Town’s square rule. Applicant requests a waiver.

BEFORE FINAL APPROVAL:

6. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Notes, Aquifer Protection Overlay Notes, and Private Road Use and Maintenance Agreement Notes.
7. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
8. Applicant to provide 9-1-1 addressing.
9. Pay parkland fees.
10. Pay outstanding review fees.

WAIVERS & EXEMPTIONS

<i>CODE</i>	<i>ACTIVITY</i>
§137-21K.(1)	Shape of lots. Waiver from the requirement to inscribe a 350-foot square within proposed lot #2’s boundary.

The following comment submitted by the Conservation Board:

Alan and Maureen Mante – None submitted.

The following comment submitted by the ARB:

Alan and Maureen Mante – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: This is an Unlisted Action. The Planning Board has declared itself Lead Agency. We have been reviewing this application using the short EAF. There were a couple of issues that we had to look at in depth. One of the issues was the location of the site within the Town's Ridgeline Protection Overlay District. Based on the plans submitted, there is no construction proposed within the RL-O District boundary itself. Map notes have been placed on the plans to that effect. This property is located within the Aquifer Protection Overlay Zoning District. Maps notes have been placed on the plan for the AQ-O District. The other issue is in regards to the wetlands. There were 3 Federal Jurisdictional Wetlands found on the property. There are two proposed disturbances to these wetlands. One is for a replacement culvert. The disturbance would be about 266 s.f. The other one is to provide access to the proposed new lot. There is no other alternative but to cross the wetland. Where the plans show it, it is shown at the narrowest part of the wetland. This would be about 248 s.f. of disturbance to put in a culvert. This disturbance is well below the 4,000 square-foot threshold that is permitted under the Nationwide Permit, which is #18 by the ACOE. The only issue related to this was that the wetlands were delineated 4 years ago. There might have been some minor changes over the years that happen to wetlands. Sometime they get larger or smaller. I would recommend that these wetlands be flagged again in the field just to verify that the impact would not be any more than it is. It is still only about 1/10th of what is permitted under the ACOE Nationwide Permit.

Mr. Astorino: Ok. Thank you.

Comment #2: Applicant to discuss project.

Kirk Rother: The Board is familiar with this project. It is a proposed 2-lot subdivision, situated on approximately 12 acres of land. It is located in the MT zone.

Comment #3: Construction of driveway culverts at Sta. 11+00 and 16+70 appear to have a minor effect on delineated wetlands. Planner and applicant to discuss wetland verification.

Mr. Astorino: We have just done that.

Mr. Bollenbach: Ted, do you still want to have that flagged in the field?

Mr. Fink: Yes.

Mr. Bollenbach: Ok. We will let comment #3 stay.

Kirk Rother: I just want to clarify something on that. We don't necessarily have to do the whole wetland. It was just the areas of potential disturbance.

Mr. Fink: Yes. We know where the rest of it is.

Zen Wojcik: There is also potential disturbance from the turnaround which is adjacent to the wetland area. It would be a good idea to flag that.

Kirk Rother: No problem.

Comment #4: The inlet end of the culvert alongside the driveway in Lot #1 is not aligned with the upstream roadside swale. Applicant’s engineer to provide an alternative at the inlet end to prevent bypass of the culvert. Increase the average (D₅₀) size of rip-rap in outlet aprons to six inches.

Kirk Rother: Ok. We will take a look at that and correct it as needed.

Comment #5: The proposed lot #2 does not accommodate the Town’s square rule. Applicant requests a waiver.

Kirk Rother: Right. We spoke about this at the work session. Lot #2 tappers. The parent parcel does. At the end of our 350 square-foot rule, it would be about 296 square feet. We have a sliver of land that is roughly 4’ wide x 60’ long. That would be about 35 square feet in total. We are a little bit shy on the area that is required by the square rule.

Mr. Astorino: Ok.

BEFORE FINAL APPROVAL:

Comment #6: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Notes, Aquifer Protection Overlay Notes, and Private Road Use and Maintenance Agreement Notes.

Kirk Rother: Ok.

Comment #7: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.

Kirk Rother: Ok.

Comment #8: Applicant to provide 9-1-1 addressing.

Kirk Rother: Yes.

Comment #9: Pay parkland fees.

Kirk Rother: Will do.

Comment #10: Pay outstanding review fees.

Kirk Rother: Ok.

WAIVERS & EXEMPTIONS

<i>CODE</i>	<i>ACTIVITY</i>
§137-21K.(1)	Shape of lots. Waiver from the requirement to inscribe a 350-foot square within proposed lot #2’s boundary.

Mr. Astorino: Do any Board members or Professionals have any comments? This is a public hearing. If there is anyone in the audience wishing to address the Alan and Maureen Mante application, please rise and state your name for the record. Let the record show no 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: Mante Subdivision

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed two lot subdivision, 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 2/19/09, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

Be It Further Resolved, that the Planning Board authorizes the Chair to take such further steps as might be necessary to discharge the Lead Agency's responsibilities on this action.

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

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

Mr. Showalter makes a motion to waive §137-21K.(1) Shape of lots. Waiver from the requirement to inscribe a 350-foot square within proposed lot #2 boundary.

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

Mr. Showalter makes a motion on the Alan and Maureen Mante application, granting Preliminary Approval for a proposed 2-Lot (Major) subdivision, situated on tax parcel S 47 B 1 L 78.234; parcel located on the eastern side of Bellvale Lakes Road and 2,725 feet south of Rabbitt Hill Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration was adopted on September 2, 2009.

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

Kirk Rother: Would the Board consider waiving the final public hearing and granting a conditional final approval on the Mante subdivision?

Mr. Bollenbach: There were no issues. There were no public comments. I think it could be justified.

Mr. McConnell: We have a representation that those potential disturbances would be flagged.

Mr. Astorino: We will put that in the notes in the conditional final approval.

Mr. Showalter makes a motion to waive the Final Public Hearing on the Alan and Maureen Mante application.

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

Mr. Showalter makes a motion on the Alan and Maureen Mante application, granting Final Approval was granted for a proposed 2-Lot (Major) subdivision, situated on tax parcel S 47 B 1 L 78.234; parcel located on the eastern side of Bellvale Lakes Road and 2,725 feet south of Rabbitt Hill Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York. The proposed subdivision was classified by the Town of Warwick Planning Board, acting as Lead Agency under the State Environmental Quality Review Act (SEQR), as an Unlisted Action. On September 2, 2009, the Planning Board issued a SEQR Negative Declaration on this action. Preliminary Approval was subsequently granted on September 2, 2009. Final Approval is granted subject to the following conditions:

1. Construction of driveway culverts at Sta. 11+00 and 16+70 appear to have a minor effect on delineated wetlands. Planner and applicant to discuss wetland verification and Re-Submit delineation for verification in areas of proposed construction.
2. The inlet end of the culvert alongside the driveway in Lot #1 is not aligned with the upstream roadside swale. Applicant's engineer to provide an alternative at the inlet end to prevent bypass of the culvert. Increase the average (D₅₀) size of rip-rap in outlet aprons to six inches.
3. Provide the Declaration and the Recording Information on the plan for Ridgeline Overlay Notes, Agricultural Notes, Aquifer Protection Overlay Notes, and Private Road Use and Maintenance Agreement Notes.
4. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
5. Applicant to provide 9-1-1 addressing.
6. Pay Parkland Fees.
7. Pay Outstanding Review Fees.

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

PUBLIC HEARING OF Brian and Melissa Singer

Application for Final Approval of a proposed 2-Lot subdivision, situated on tax parcel S 66 B 1 L 75; parcel located on the western side of Briller Road 1000 feet south of Continental Road, in the CO zone, of the Town of Warwick, County of Orange, State of New York. Continued Public Hearing from the August 19, 2009 Planning Board meeting.

Representing the applicant: Kirk Rother, Engineer. Brian Singer, Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
 - A. Planner & applicant to discuss wetland verification and potential location of Class B(T) tributary of Long House Creek.
 - B. Applicant to discuss potential onsite habitat for threatened and/or endangered species.
2. Applicant to discuss project.
3. A swale is indicated on the northerly-side of the common driveway between Briller Road and the turnaround, crossing the alleged former bed of a DEC classified stream at the turnaround. The gradient of the swale is approximately 12%. Show appropriate erosion control measures. Provide a means to keep the flow within the proposed swale, ultimately discharging on the applicant's property, and not allowing diversion into the former stream bed.
4. Provide screening plantings, as necessary, to the Town Planner's specification.

BEFORE FINAL APPROVAL:

5. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, Radon Reduction Notes, Private Road Use and Maintenance Agreement Notes, and Open Space Notes.
6. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns at corners of open space.
7. Pay parkland fees.
8. Pay outstanding review fees.

The following comment submitted by the Conservation Board:

Brian and Melissa Singer – None submitted.

The following comment submitted by the ARB:

Brian and Melissa Singer – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has been acting as Lead Agency on this application. It is an Unlisted Action. We have been reviewing it with the short EAF. The final remaining comments on this are related to the potential for endangered species as well as the Federal wetlands that are on the property. Karen Schneller-McDonald had verified the wetlands with Dave Griggs in the field this past Monday. Apparently, they discovered some of the wetlands were flagged in error. They had to put up some new flags. It was my

understanding that Kirk Rother has picked up those flag locations. They are shown on the plans. I received a copy of the plans late this afternoon by email. I have only just seen the plans a short while ago for the first time. As far as the endangered species are concerned, the applicant has proposed placing conservation easements on the property to cover all of those rock out crops that exists where there is potential for rattlesnake habitation. That information was placed on the map. That was also just presented late this afternoon. Given those two documents, they require some careful scrutiny. At this point, we are ready for a draft Negative Declaration as well as completion of the remainder of the SEQR documents.

- A. Planner & applicant to discuss wetland verification and potential location of Class B(T) tributary of Long House Creek.

Mr. Astorino: Ted, is that in those wetlands that we have just discussed? At the last meeting, we discussed the stream.

Mr. Fink: On the report that was completed, they did not find a stream along the northeast boundary of the Brian Singer property. This was from the report that we received yesterday. They walked the boundary from Briller Road to wetland C. It may be possible that a stream existed substantially further to the east. They were not authorized to be on the neighboring property. They did not attempt to locate it. They were not able to find a stream on the property. This came from two Biologists that were out in the field.

Zen Wojcik: Kirk forwarded an email to me that he had with Doug Gaugler from the NYSDEC, dated 8/27/09. He asked a question about that stream. Mr. Gaugler said; "*Kirk, interesting problem. The map sent to you is definitely wrong. It looks like the paper version of the regulatory map (based on 1973 NYS DOT planimetric mapping) was subsequently corrected.*" Mr. Gaugler told Kirk he would get him a corrected jurisdictional letter. I don't think a letter has been received yet.

Mr. Astorino: Ok. We pretty much know what the deal is.

Kirk Rother: Included in that email was a copy of their in-house GIS mapping that shows the correct line of the stream, which is consistent with the USGS map.

Mr. Astorino: Ok. We received confirmation. That was what we were looking for.

Mr. McConnell: Kirk, looking at the map, is that this line that is located here?

Kirk Rother: Yes.

- B. Applicant to discuss potential onsite habitat for threatened and/or endangered species.

Mr. Astorino: We received the map this evening. I believe we discussed it at the last meeting.

Kirk Rother: On this map, the hatched area, Brian is voluntarily placing open space, which would be roughly 76% of the site.

Mr. Astorino: Ok. That would be in your deed restrictions.

Mr. Fink: Kirk, in terms of the disturbance on what we would be able to calculate in the area of the proposed driveway, what would that be?

Kirk Rother: It is on the map. It would be 341 square feet.

Mr. Fink: Ok. That is well below the threshold.

Comment #2: Applicant to discuss project.

Kirk Rother: There is nothing new.

Comment #3: A swale is indicated on the northerly-side of the common driveway between Briller Road and the turnaround, crossing the alleged former bed of a DEC classified stream at the turnaround. The gradient of the swale is approximately 12%. Show appropriate erosion control measures. Provide a means to keep the flow within the proposed swale, ultimately discharging on the applicant's property, and not allowing diversion into the former stream bed.

Mr. Astorino: Zen, we know that is not the case now. Is that correct?

Zen Wojcik: Yes.

Mr. Astorino: Could we strike that comment?

Zen Wojcik: Strike only part of that comment.

Mr. Astorino: Right. We could strike part of comment #3 that states; "*crossing the alleged former bed of a DEC classified stream at the turnaround*" and "*not allowing diversion into the former stream bed*".

Kirk Rother: We have addressed that.

Zen Wojcik: We are ok with that.

Mr. Astorino: Ok.

Comment #4: Provide screening plantings, as necessary, to the Town Planner's specification.

Mr. Bollenbach: Ted, have you been out there yet to take a look with the applicant regarding the screening?

Mr. Fink: No. John, I will do that before the next meeting.

Mr. Bollenbach: Ok.

Mr. Astorino: The rest of the comments are the same from the last time. We will add comments 5 through 8 for the record. Do any Board members or Professionals have any comments? This is a public hearing. If there is anyone in the audience wishing to address the Brian and Melissa Singer application, please rise and state your name for the record.

BEFORE FINAL APPROVAL:

Comment #5: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, Radon Reduction Notes, Private Road Use and Maintenance Agreement Notes, and Open Space Notes.

Comment #6: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns at corners of open space.

Comment #7: Pay parkland fees.

Comment #8: Pay outstanding review fees.

Mr. Bollenbach: Mr. Chairman, I just want to point out that we cannot complete SEQR this evening. The public hearing will have to be adjourned.

Mr. Astorino: Ok. Is there anyone wishing to address the Brian and Melissa Singer application?

Theresa McQuade: I had a few comments about my septic tank. We went through the Town when we built. The map of the septic tank that I believe you have, my ex-husband drew it up. It was approved. When I measured it today, I have 10 feet from the rock wall to the end of my septic. Would there be a septic verification before they build a road?

Mr. Astorino: Is your septic in the R.O.W.?

Theresa McQuade: I have no idea. We went through the Town Board. We had inspectors out. We had a house built. I was assured by the Town when we went for our building permits and put in our septic that somebody did this so when this came along, this was not going to happen. That is what I want to be assured of.

Mr. Bollenbach: The location of the septic is the homeowner's obligation, not the Town's obligation. That information is provided to the Town for our records. The Town does not go out and survey it and verify the location. That would be up to the individual landowners.

Theresa McQuade: Ok. What type of screening would be put up?

Mr. Astorino: Ted, I don't think you can answer that right now. You will be going out to the site to see what would be needed. Is that correct?

Mr. Fink: Yes. That would be the next step. The next step would be for me to go out to the field and take a look to see what screening would be sufficient.

Theresa McQuade: You do know that there is a 4-foot drop.

Mr. Astorino: The applicant has already agreed to install screening.

Mr. Fink: It would be a question of location, species, etc...

Theresa McQuade: I am losing half my driveway.

Mr. Bollenbach: Perhaps the applicant could put some stakes out there so that Ted would have some idea.

Mr. Astorino: Kirk, why don't you hook-up with Ted to meet out there?

Kirk Rother: Ok.

Theresa McQuade: That is about it. I have a pool that goes to the end. The other thing I am concerned about is having people turnaround in my driveway.

Mr. Astorino: There is a turnaround on the plans.

Theresa McQuade: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Brian and Melissa Singer application?

Phyllis Briller: The turnaround that you mentioned is solely on Brian Singer's property.

Mr. Astorino: It is a K-turnaround provided to turnaround.

Phyllis Briller: But, it is solely on Brian Singer's property.

Mr. Astorino: Mrs. Briller, I can't stop someone from driving up Briller Road and turning around in someone else's driveway. If that becomes an issue, then that would be a police matter. That would be with any driveway or roadway in the Town. The applicant was asked to provide a turnaround. They have done that. I can't have them put a turnaround on your property or Mrs. McQuade's property. They put a turnaround at the most feasible location.

Phyllis Briller: Maybe, I misunderstood. You in fact feel that you did ask him to provide a turnaround.

Mr. Astorino: He has provided that.

Phyllis Briller: Actually, I provided it. That is ok.

Mr. Astorino: It is on Brian Singer's map.

Phyllis Briller: It is on his map. Therefore, you are saying that it would be acceptable for everyone.

Mr. Astorino: It is on for a turnaround. If there is an emergency vehicle that needs to turnaround, I am sure they will turnaround on it.

Phyllis Briller: I have a question regarding the road maintenance agreement.

Mr. Astorino: John, have you reviewed that?

Mr. Bollenbach: Yes. There have been several of them. This road use and maintenance agreement is for Brian Singer to provide it for that portion of the road so that there would be safe access out to Continental Road. That is what their concern is. How that is achieved is still yet to be determined. It would be a condition of the approval.

Phyllis Briller: Would the homeowners have a chance to see that to insure that they are either impacted or not impacted by that?

Mr. Bollenbach: Yes. It would be a public record.

Phyllis Briller: It would be on record before the public hearing closes.

Mr. Bollenbach: No. It would not be before the public hearing closes. It would be a condition of the approval.

Phyllis Briller: How would we know if it would impact us or not?

Mr. Bollenbach: That is for you to work out with Brian Singer and the adjoining neighbors. If they all agree, then that would be fine. If they don't all agree, then my concern would be that Brian Singer would provide a safe adequate access from his property out to Continental Road.

Phyllis Briller: I am not sure that I understand that.

Mr. Bollenbach: You could have your attorney contact me. I will explain it to him.

Phyllis Briller: John, are you saying that Brian Singer should be expected to contact all of the neighbors and to agree on this before submitting it to the Board?

Mr. Bollenbach: It would not be before submitting it to the Board. It would be before it is recorded. What I am looking to have is all the neighbors to agree. If they all agree to participate, then fine. If they don't agree to participate, then the minimum that we could require is for Brian Singer to provide a safe adequate access from his parcel to Continental Road.

Phyllis Briller: Would it be put on the notes as it was described in the agenda? In recording it, does it also go on the site plan?

Mr. Bollenbach: Yes. Take a look at the site plan. You should have a copy of it.

Phyllis Briller: I do have a copy of the site plan. I don't find it on the site plan.

Mr. Bollenbach: You could come in and talk to Zen about it. He would be glad to show it to you.

Phyllis Briller: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Brian and Melissa Singer application? Let the record show no further public comment. Ted, I think the Board would agree with me that we are ready for you to prepare a Negative Declaration as you stated, the Part 2 EAF. Is the Board in an agreement with that?

Mr. McConnell: Yes.

Mr. Kowal: Yes.

Mr. Showalter: Yes.

Mr. Astorino: Ok. We have a consensus from the Board on the preparation of a Negative Declaration.

Mr. Bollenbach: Ted, what do you need time wise? Could we do this at the first meeting in October, which would be October 7, 2009?

Mr. Fink: Yes.

Mr. McConnell makes a motion to adjourn the Public Hearing to the October 7, 2009 Planning Board meeting.

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

Mr. Astorino: To the residents that came out, this Public Hearing has been adjourned to the October 7, 2009 Planning Board meeting. There will be no other notices sent. This is your notice.

Kirk Rother: Thank you.

Review of Submitted Maps:***Mary Ellen Riccardo***

Application for sketch plat review of a proposed 2-Lot subdivision, situated on tax parcel S 16 B 1 L 33; parcel located on the eastern side of Chardavoyne Road 750 feet north of the intersection with Mountainside Road, in the RU zone, of the Town of Warwick. Previously discussed at the 11/7/07 PB Meeting.

Representing the applicant: Ron Cabriele, Engineer. Mary Ellen Riccardo, Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
 - A. Parcel is entirely within the Mount Adam and Eve Biodiversity area. Planner to discuss.
2. Applicant to discuss project.
3. The proposed subdivided lots have insufficient lot area per the Table of Bulk Requirements. Lot #2 is configured as a flag lot. The depth of the strip from the roadway to the front yard line exceeds 300 feet (§137-21K(2)(a)[2]). The applicant had been referred for variances to the ZBA, which has referred it back to the Planning Board. Board and applicant to discuss.
4. Submitted plans are a substantial advancement in design from the previous (9/23/07) plans and have been re-dated. Provide a completed Sketch Plan checklist.
5. Provide a bar scale on the Subdivision Plan.
6. In the "Site Data" tables on various sheets, remove "2 Family" from the listing for Existing Town Zoning.
7. Provide sufficient erosion control measures on plans consistent with the current *NYS Standards and Specifications for Erosion & Sediment Control* and include details.
8. Provide one percolation test at the effective depth of each proposed dry well.
9. Add note stating: "For each lot, no site preparation or construction, including utility connections, shall commence before a valid Driveway Permit has been secured from the Town of Warwick Department of Public Works"
10. Include a declaration and the recording information on the Sight Distance Plan that the property owner shall keep the area of the sight triangles free from visual obstructions.
11. Applicant to discuss site drainage. Provide a design and details for proposed stormwater facilities on Lot #2. Provide a plan for hydric landscaping. Provide details for the proposed rain gardens.
12. The proposed Detention Pond at El. 150, adjacent to the Lot #2 driveway, will be retained by an earthen berm. Provide construction notes for the Pond, including acceptable soil, maximum height of lift, and compaction. Place the following note in the vicinity of "Section B-B" on sheet 2: "The embankment slopes at the Detention Pond 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 compacted and graded according to the approved plan. Topsoil shall be placed on the finished slope, and the slope stabilized by seeding or placement of sod. The stabilized slope shall be periodically watered until vegetation is established (a root mass adequate to provide continued erosion control has formed). Woody vegetation may not be planted or allowed to grow within 15 feet of the toe of

embankment. The individual property owner is responsible for maintaining the continued stability of the slopes.”

13. Septic design:

- a. General Notes and some Design Notes refer to OCHD approvals and/or inspections. Because of the nature and the layout of the site, the Town of Warwick Engineer has jurisdiction over approving the septic design. Remove references to OCHD.
- b. Note on the plan that a NYSPE shall provide signed and sealed certification to the Building Department after construction that the septic system has been constructed in accordance with the approved plans.
- c. The next to last bullet under “Septic Notes” seems to refer to Westchester County Health Department. Remove the reference.
- d. Note the distances from the bottom of the pump chamber for the “pump on” and “alarm on” in the Pump Chamber detail.
- e. The Septic Profile for Lot #1 appears to indicate that the finished grade at the absorption field is situated at the crest of a hill and is trending down. However, the topography shown on the Septic Plan indicates that the finished grade continues to trend up, although at a gentler grade. Correct.

14. Applicant to consider an irrevocable offer of a R.O.W. strip of Chardavoyne Road.

The following comment submitted by the Conservation Board:

Mary Ellen Riccardo – None submitted.

The following comment submitted by the ARB:

Mary Ellen Riccardo – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The applicant has submitted a short EAF. It is an Unlisted Action. There is no need to do a coordinated review. This application doesn’t meet the zoning. They have been referred to the ZBA as it is stated in Comment #3.. The ZBA has referred it back to the Planning Board.

A) Parcel is entirely within the Mount Adam and Eve Biodiversity area. Planner to discuss.

Mr. Astorino: It is pretty much in the Biodiversity area. What is the significant aspects of that area?

Mr. Fink: It is an area that is important for wildlife habitat. I think it would be important to take a look at the habitat that exists on the property to see what the significance of that is and to study the SEQR.

Mr. Astorino: Ok.

Mr. McConnell: Is it not just habitat, but also access to other parcels that provide habitat?

Mr. Fink: Yes. One of the features of this particular Biodiversity area is apparently there are large predators there and a bobcat that do use this area. They have a very large territory. There are connections that are made. A biologist would have to determine whether or not that it is important from a connectivity standpoint.

Mr. McConnell: This parcel might not be a prime habitat, but maybe providing connectivity to areas that are prime habitat.

Mr. Fink: That could be possible. We don't know that yet.

Mr. McConnell: Right. If they came back and said, it is not a habitat, that would not end the discussion.

Mr. Fink: Right.

Mr. McConnell: Ok. Thank you.

Comment #2: Applicant to discuss project.

Mary Ellen Riccardo: I have a question.

Mr. Astorino: Ok.

Mary Ellen Riccardo: I started this project myself about 3 years ago. Through all of the research that I have done up to this point, I have never seen anything as discussed for this property as being possibly a prime habitat area. Is this a newly discovered thing?

Mr. Bollenbach: Ted, could you explain the Biodiversity?

Mr. Fink: The Metropolitan Conservation Alliance prepared a multi inter-municipal biodiversity conservation plan called the Southern Walkkill Biodiversity Plan. It was done for the Town of Warwick, Goshen, and Chester several years ago. What they had done was identified a number of different areas within each of these towns that have some importance. The importance doesn't necessarily mean the property is unsuitable for development that it only be suitable for wildlife. It means to take a closer look at these properties to see whether or not if there are critical habitat areas for endangered species or for specific species like the rattlesnakes, Indiana Bats, or any of the things that might be present.

Mary Ellen Riccardo: I understand that. I respect that. With that being said, what you do discover, and then what would that mean?

Mr. Astorino: I think you are getting a little ahead of yourself.

Mr. Fink: Yes.

Mary Ellen Riccardo: I am really concerned about this.

Mr. Astorino: You have been referred back to us from the ZBA. We want to hear from you what you propose out there.

Ron Cabriele: Their concern is that this has been going on well over a year.

Mary Ellen Riccardo: This has been going on for 3 years.

Ron Cabriele: This study had been done years ago. This is the first that we are hearing about this.

Mr. Bollenbach: This application is just in the sketch phase. It is not well advanced in the Planning process at all with the Planning Board. This is the very beginning stage. You don't even have any variances yet. You haven't gotten that far yet.

Mary Ellen Riccardo: Ok.

Mr. Astorino: We want to hear what you want to do so that we could give a referral to the ZBA. We can't go much further without the variances. It is fruitless.

Ron Cabriele: That is not the way. The way that this was set up, you were supposed to find it approvable. They were going to issue the variances. Then, we would come back.

Mr. Bollenbach: No. That is not how it works.

Mr. Astorino: No.

Ron Cabriele: That was the way it was originally planned.

Mr. Astorino: The bottom line is that we are not going to approve anything. Right now, you have a plan that is un-approvable without variances. Explain to us what you propose to do. The Planning Board would then make a recommendation to the ZBA. If the ZBA denies you a variance, you will not be doing anything and not what you have proposed. That is where we are.

Mary Ellen Riccardo: Ok. We understand that. We respect that.

Mr. Astorino: I can't change that. What do you propose?

Ron Cabriele: Since the last time we were here, we identified the areas for subsurface disposal. We have met all of the requirements with the Town Engineer for inspections on those.

Comment #3: The proposed subdivided lots have insufficient lot area per the Table of Bulk Requirements. Lot #2 is configured as a flag lot. The depth of the strip from the roadway to the front yard line exceeds 300 feet (§137-21K(2)(a)[2]). The applicant had been referred for variances to the ZBA, which has referred it back to the Planning Board. Board and applicant to discuss.

Mr. Bollenbach: I have reviewed the last ZBA minutes. This has been a project in flux. This is the first time that we have a plan submitted for a 2-lot subdivision. The ZBA is curious as to what variances are required. That was asked of the applicant. The ZBA is looking for the Planning Board to render assistance to determine which variances are applicable.

Ron Cabriele: There is a question as to whether it is a flag lot. At 75 feet required setback for front yard, the lot is 250 feet wide.

Mr. Bollenbach: That would be something for the ZBA to determine.

Ron Cabriele: At the required setback, if the lot maintains the required width, then it would not be a flag lot.

Mr. Bollenbach: That is an issue we could discuss at a work session before we make a recommendation to the ZBA. There was also one additional issue raised in the course of the 3 years with the ZBA. That was found in §164-43B in the supplemental regulations. There was a question regarding the Right-Of-Way. It is stated as follow: *“In calculating the required lot area, lot width, depth of yards as part of the required area (including those measured according to §164-43.2), right-of-way shown, if any, shall not be considered as part of the required area”*. There may be additional variances required. You would have to take a look. I believe there are some utilities. I don't know if they are easements or R.O.W. That would also be something for the ZBA to determine. Also, there might be a dedication strip. That would also have to be taken into account. I think before the Planning Board could make any recommendation, the applicant's engineer would need to provide those calculations to show whether or not they are in conformance and to what degree they are.

Comment #4: Submitted plans are a substantial advancement in design from the previous (9/23/07) plans and have been re-dated. Provide a completed Sketch Plan checklist.

Mary Ellen Riccardo: I have another question. Am I correct in understanding that if the dedication of the road property strip that I own interferes with the compliance of any setbacks, could I say no to that?

Mr. Bollenbach: It would be an offer of dedication. You don't comply now.

Mary Ellen Riccardo: Ok. I know that.

Mr. Bollenbach: You have to go to the ZBA anyhow. To include that at that time would be my suggestion.

Mary Ellen Riccardo: To include it.

Mr. Bollenbach: Yes.

Mr. McConnell: You are going to have to get a variance anyway. It is just a little bit more.

Mary Ellen Riccardo: But, my question is that I don't have to.

Mr. Bollenbach: It would be the applicant's option.

Ron Cabriele: I have approached the subject with them twice. When they asked what variance do you need, I said if we would dedicate the road to you, I would need an additional variance for the setback on this first house from the required 75 feet to 70 feet. I also said, or, you could approve the property and they could give you the R.O.W. later to make it legal non-conforming. I totally confused them. We did not get anywhere with the discussion.

Mr. Bollenbach: Perhaps, you discuss that with Zen.

Mr. Astorino: You have to realize what you need. It seems to me you have to know exactly what you need for your variances. Maybe that is why you are here. Zen, as far as the rest of these comments here tonight, I think we are a little ahead of ourselves.

Zen Wojcik: We are, unless they get the variances.

Mr. Astorino: I am going to stop here. We will list comments 5 through 14 for the record. Do any Board members have any comments? We could discuss this at a work session.

Comment #5: Provide a bar scale on the Subdivision Plan.

Comment #6: In the "Site Data" tables on various sheets, remove "2 Family" from the listing for Existing Town Zoning.

Comment #7: Provide sufficient erosion control measures on plans consistent with the current *NYS Standards and Specifications for Erosion & Sediment Control* and include details.

Comment #8: Provide one percolation test at the effective depth of each proposed dry well.

Comment #9: Add note stating: "For each lot, no site preparation or construction, including utility connections, shall commence before a valid Driveway Permit has been secured from the Town of Warwick Department of Public Works"

Comment #10: Include a declaration and the recording information on the Sight Distance Plan that the property owner shall keep the area of the sight triangles free from visual obstructions.

Comment #11: Applicant to discuss site drainage. Provide a design and details for proposed stormwater facilities on Lot #2. Provide a plan for hydric landscaping. Provide details for the proposed rain gardens.

Comment #12: The proposed Detention Pond at El. 150, adjacent to the Lot #2 driveway, will be retained by an earthen berm. Provide construction notes for the Pond, including acceptable soil, maximum height of lift, and compaction. Place the following note in the vicinity of "Section B-B" on sheet 2: "The embankment slopes at the Detention Pond 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 compacted and graded according to the approved plan. Topsoil shall be placed on the finished slope, and the slope stabilized by seeding or placement of sod. The stabilized slope shall be periodically watered until vegetation is established (a root mass adequate to provide continued erosion control has formed). Woody vegetation may not be planted or allowed to grow within 15 feet of the toe of embankment. The individual property owner is responsible for maintaining the continued stability of the slopes."

Comment #13: Septic design:

- a. General Notes and some Design Notes refer to OCHD approvals and/or inspections. Because of the nature and the layout of the site, the Town of Warwick Engineer has jurisdiction over approving the septic design. Remove references to OCHD.
- b. Note on the plan that a NYSPE shall provide signed and sealed certification to the Building Department after construction that the septic system has been constructed in accordance with the approved plans.
- c. The next to last bullet under "Septic Notes" seems to refer to Westchester County Health Department. Remove the reference.

- d. Note the distances from the bottom of the pump chamber for the “pump on” and “alarm on” in the Pump Chamber detail.
- e. The Septic Profile for Lot #1 appears to indicate that the finished grade at the absorption field is situated at the crest of a hill and is trending down. However, the topography shown on the Septic Plan indicates that the finished grade continues to trend up, although at a gentler grade. Correct.

Comment #14: Applicant to consider an irrevocable offer of a R.O.W. strip of Chardavoynne Road.

Mr. Bollenbach: The applicant’s Engineer should take a look at these additional comments and discuss them with Tectonic to see what the nature and the extent would be required for the project. This way the applicant would be fully aware of what is required.

Mr. McConnell: It would be better to discuss them at a work session. The gentleman had said that he had not received the comments. He needs the opportunity to read them, digest them, and discuss them with Zen.

Mr. Astorino: The ZBA is requesting some sort of a letter from the Planning Board.

Connie Sardo: Yes. The ZBA needs some sort of a letter from the Planning Board by 9/28/09.

Mr. Bollenbach: We don’t have anything to review. September 28th is our next work session. It is not going to happen.

Mary Ellen Riccardo: We should submit a letter to the ZBA advising them of the variances that we will be requesting.

Mr. Astorino: I don’t know if that is the case.

Connie Sardo: No. For right now, since our next work session isn’t until 9/28/09, what the applicant should do is submit a letter to the ZBA requesting to be adjourned to the October ZBA meeting until the Planning Board had a chance to discuss this matter at the 9/28/09 work session.

Mr. Astorino: The applicant needs to make an appointment with our Professionals. Then, the Planning Board could discuss it at the next work session. Zen, after you have a conference with the applicant figure out what is going on and what variances are required, we could then get a letter off to the ZBA.

Connie Sardo: Mrs. Riccardo, give me a call tomorrow at the Planning office and I will help you with what to do.

Mary Ellen Riccardo: Ok.

Zen Wojcik: I just want to follow up on a discussion that we had at the work session. Is there some other way the Planning Board would like to see this application presented?

Mr. Astorino: You could look at it as a cluster, but there are still many issues.

Zen Wojcik: The Board could choose to have this as a cluster. That would eliminate some of the issues.

Mr. Bollenbach: Ted, perhaps you could go over that with us at the next work session. That would be the Board's option.

Mr. Fink: Ok.

Mr. Bollenbach: If it is clustered, you could avoid some of the environmental sensitivity. Also, it would give greater flexibility to the variances that are required. Under the cluster, it would only need a total of 6 acres, which I believe they comply with.

Mary Ellen Riccardo: Yes.

Ron Gabriele: It is 5.996 acres.

Mr. Bollenbach: That is not 6 acres.

Mary Ellen Riccardo: It shows 6+ acres.

Mr. Astorino: John, that is something we could discuss. That is premature right now. You should definitely make an appointment with Zen and go through this.

Mary Ellen Riccardo: Ok. When I was working on this a long time ago, I was looking into clustering. I know the ZBA was against it at that time. Does a cluster require that I give up any more property to the Town.

Mr. Astorino: No. I don't believe you would be giving up any property to the Town no matter which way you do it.

Mary Ellen Riccardo: Ok. Thank you.

Watchtower Bible and Tract Society of NY, Inc. / World Headquarters for Jehovah's Witnesses

Application for Site Plan Approval and Special Use Permit for the construction and use of campus of buildings for religious use on approximately 30 acres of previously developed land, situated on tax parcels S 85 B 1 L 4.1, 4.2. 5.1. 5.2; parcels located on the southwest side of Long Meadow Road 6,000 feet north of Sterling Mine Road (CR 72), in the LC zone, of the Town of Warwick.

Representing the applicant: Bob Krahulik, Attorney. Stewart Turner from Turner Miller Group. Bob Pollock, Project Manager.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. The applicant proposes the demolition of some or all remaining structures on the former INCO site and construction of a campus to house administrative offices and staff for the Jehovah's Witnesses and its publications. The scope of the application is such that relevant SEQRA issues may be best addressed via an Environmental Impact Statement. Board to consider.

The following comment submitted by the Conservation Board:

Watchtower – None submitted.

The following comment submitted by the ARB:

Watchtower – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The applicant has provided us with a lengthy full EAF. This project is a Type 1 Action under SEQR. There are other agencies involved. The first step for the Board to take as far as SEQR is concerned is to declare its Intent to be Lead Agency. The other involved agencies are as follows; ZBA, OCDPW, NYSDEC, and the OCHD. The EAF did not identify the OCHD as an involved agency. But, I took a look back at the old Kings College application at the EIS that was prepared. They had identified the need for one permit from the OCHD. To be on the safe side, it is better to identify agencies even if you find out later that you don't need a permit from them. You should do your circulation for Lead Agency because if you find that you miss somebody, then you would have to redo it again. I have prepared a Resolution for the Planning Board to declare itself Intent to be Lead Agency. I have the circulation letters to be circulated to the other involved or interested agencies. That would be a 30-day process. Assuming that no agencies compete with the Planning Board for Lead Agency, then the Planning Board would automatically become Lead Agency after the 30-days have passed.

Mr. McConnell makes a motion for the Intent to be Lead Agency.

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

617.6
State Environmental Quality Review (SEQR)
Resolution Establishing Intent to be Lead Agency
Type 1 Action

Name of Action: World Headquarters for Jehovah's Witnesses

Whereas, the Town of Warwick Planning Board is in receipt of a Subdivision, Site Plan/Special Use application by Watchtower Bible and Tract Society of NY Inc. for a ± 257 acre parcel of land located at Long Meadow Road, Town of Warwick, Orange County, New York; and

Whereas, an Environmental Assessment Form (EAF) dated August 11, 2009 was submitted at the time of application; and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is a Type 1 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 including the Town of Warwick Zoning Board of Appeals, the Orange County Department of Public Works, the Orange County Department of Health, and the New York State Department of Environmental Conservation.

Now Therefore Be It Resolved, that the Planning Board hereby declares its intent to be Lead Agency for the review of this action; and

Be It Further Resolved, that the Planning Board hereby authorizes its Chairman to circulate the attached lead agency coordination request letter(s) to all other involved agencies and to discharge any other SEQR responsibilities as are required by 6 NYCRR 617 in this regard; and

Be It Further Resolved, that unless an objection to the Planning Board assuming lead agency status is received within thirty (30) days of the date of mailing the EAF, the Planning Board will become lead agency for the review of this action.

Comment #2: Applicant to discuss project.

Stewart Turner: As you are all aware, this project is in the very early stage of the process. The plan that we had at the pre-application conference (the applicant presents a plan of the previous approval of the Kings College buildings to the Board), we basically have very refined the site plan. What this plan shows is comparing it to what we are proposing with our development with the previous approval of the Kings College back in the year 2000. On this plan, it shows the IBM building, lake, and the water plant. What had been previously

approved was approximately 800,000 square feet of a building along with 1,340 parking places, playing fields, recreation, etc... This project took up a large portion of the 170 acres on the western side of Long Meadow Road. What we are looking at today is approximately 450,000 square feet of office and support. There will also be approximately 500,000 square feet of residents to be occupied by everyone in a religious corridor. They would be all adults. There would be no children. What we had done since the previous discussion we had at the pre-application conference, we have adjusted the location of some of these buildings. It allowed us to pull it way from the boundary a little bit. We were showing two buildings up front. Looking at the plan, we were able to incorporate some of that square-footage into this building, which is the services building. We were able to reduce that to one building. During our initial investigation, we discovered that there is a Chestnut Oak community located up here on the map. We moved a small recreation down to this area. We are presenting this project to you to get the ball rolling with SEQR. I am sure there will be many opportunities for comments.

Mr. Astorino: Thank you.

Comment #3: The applicant proposes the demolition of some or all remaining structures on the former INCO site and construction of a campus to house administrative offices and staff for the Jehovah's Witnesses and its publications. The scope of the application is such that relevant SEQRA issues may be best addressed via an Environmental Impact Statement. Board to consider.

Mr. Astorino: That would be a no brainer on this application.

Mr. Fink: We have talked about this during the pre-application conference. There was a significant amount of prior EIS work that was done by the Kings College.

Mr. Astorino: Could we supplement that?

Mr. Fink: Although the Planning Board can't take any further action until they are Lead Agency, the next step would be to prepare a Positive Declaration, which would be the intent to prepare a Draft EIS. Knowing this, if the applicant wants to begin to develop a Draft Scoping Document, then we could begin that process. I don't see any reason why we couldn't do those things simultaneously by adopting a Positive Declaration and begin the Scoping process.

Mr. Astorino: That would be wise to do. Do any Board members have any comments?

Mr. McConnell: That would make sense to me.

Mr. Astorino: In the near future, I think we should probably set up a site visit.

Bob Krahulik: We also extended an invitation to the Board to visit a comparable site up at the Town of Wallkill Facility.

Mr. Astorino: I think that would be wise to do. I have mentioned that to the Board at the last Work Session. Maybe, you could give Connie a call about that.

Bob Krahulik: Yes. We would be available at your convenience. Connie, do you want to coordinate that among your Board members?

Mr. Astorino: That could be something we could work out amongst ourselves.

Mr. Singer: I strongly object to this present proposal of us going to Wallkill. All the time since I have been on the Planning Board, we have never gone to a previous project of a developer to see what kind of projects they build. Why are we making an exception here? We are going to travel 3 hours back and forth visiting just to see this particular applicant. That has never happened before.

Mr. Astorino: I understand that. But, I don't think we have ever seen an application of this size before.

Mr. Singer: We have had many developers. We have never looked at their projects previously. Why are we giving this application special attention?

Mr. Astorino: I would not call it special attention. That would be your opinion. I think this site visit would be a wise move to do. I don't think this Board has ever seen a project of this size and type.

Mr. McConnell: We have not seen a project of this type. It is not a housing project.

Mr. Astorino: In my opinion at the pre-application meeting, it was an invitation that was extended. If any Board members would like to go, that would be fine.

Mr. Singer: I also object to them telling us that this compared to Kings College is less use of the property. That was a different Code back then. This Board wasn't even in existence back then. Why are they comparing the two? We didn't have anything to do with that.

Mr. Astorino: I understand that. But, if you take a look at the maps, one was different than the other. That is what they show. Whether that is any interest to you or not, that would be your opinion.

Bob Krahulik: It is relevant that there was a plan approved and an EIS was adopted.

Mr. Singer: But, it was a different Code back then. The Code has now since changed.

Bob Krahulik: Absolutely, it was. But, we are going to take a step away from that application. I think the history of that project is relevant. To the extent that you find it objectionable, we apologize. It is harmless. It would be just for your information.

Bob Pollock: I think our purpose in bringing it up was to just to illustrate. The whole SEQR process is designed for everyone to understand the impacts of the project. We just wanted to illustrate that we will discuss the impacts of this project. But, we just wanted to illustrate that it would not have the same impacts on the site as other things that you may have considered in the past.

Mr. Showalter: Carl, I think it might be a good idea that we visit the site itself to get better layout of the land.

Mr. Singer: For this site in Warwick. It has nothing to do with the site in Wallkill.

Mr. Showalter: Carl, I see your point.

Mr. Singer: They want to show us that they are good guys and all of the work they have done. I think it would be irrelevant.

Mr. Showalter: Personally in my opinion, I don't see it as a problem by seeing a sample of somebody's work.

Mr. Singer: How come we have never asked anyone else?

Mr. McConnell: The applicant has asked us. We have not asked them.

Mr. Singer: Ok.

Mr. McConnell: If other applicant's haven't asked us if we wanted to see their prior developments, you cannot hold that against this applicant.

Mr. Showalter: I don't think it would be a bad idea to look at a sample of their work.

Mr. Astorino: I agree.

Mr. Showalter: I find it harmless.

Mr. Astorino: We will discuss it at a Work Session.

Connie Sardo: Bob, the Board will discuss this at the September 28th Work Session. The Board and the applicant could set up a date and time at that Work Session.

Mr. Astorino: That would be better when we are all together. Then, we could figure that out. Do any Board members or Professionals have any other comments?

Bob Krahulik: Thank you.

Castle Tavern

Application for Site Plan Approval and Special Use Permit for work within “A Designated Protection Area” of Greenwood Lake and satisfaction of outstanding violations, situated on tax parcel S 76 B 1 L 33.12; project located on the left side of Castle Court (8 Castle Court) 1-foot of Greenwood Lake, in the SM zone, of the Town of Warwick. Previously discussed at the 8/19/09 Planning Board meeting.

Representing the applicant: Kirk Rother, Engineer. Mr. Lipman, Attorney.

Mr. Bollenbach: Are you of Counsel Mr. Lipman? We have had several players here.

Mr. Lipman: Yes. I am it.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Applicant has been issued a series of Violations by the Building Department. The application should address these items:
 - Complaint #20090267 – Illegal Signs
 - Complaint #20090265 – Work within Designated Protection Area of Greenwood Lake without PB approval
 - Complaint #20090264 – Building without permit (need site plan approval)
 - Complaint #20090263 – No C/O or C/C (interior renovations)
 - Complaint #20090266 – Fire/Safety
4. A septic dye test was performed at the parcel. Engineer to discuss.
5. Provide a revised application to the Planning Board Secretary. Include a completed Site Plan Application Checklist. Update the plans to comply with the checklist.
6. The EAF notes that a canopy was erected within the Designated Protection Area. Show the location of this structure. Clarify if any of the components of the canopy are permanent.
7. Provide a calculation for parking. If the gravel parking area on SBL 76-1-105 is required to accommodate the needs of the restaurant, include this SBL on the revised application and in the title block.
8. Show the location and details of existing/proposed signs.
9. Show the location of the dumpster. Provide a detail for screening.
10. Eating and drinking establishments are a permitted use in the Traditional Neighborhood Overlay District. Place the full text of Special Conditions §164-46J(53), (129), and (145) on the plan. Applicant to discuss conformance with The Town’s Design Guidelines, per §164-46J(53).
11. Provide a calculation for septic disposal on the site.

The following comment submitted by the Conservation Board:

Castle Tavern – None submitted.

The following comment submitted by the ARB:

Castle Tavern – None submitted.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has already declared itself Lead Agency on this application. We are in the process of collecting information related to SEQR.

Comment #2: Applicant to discuss project.

Mr. Astorino: Do you have anything further from the last time?

Kirk Rother: We spoke about this at the workshop. At that time, we had just been engaged in trying to put together a map. We have done that. It shows the existing conditions and the two improvements to the structure that has been built. Recently, we have just conducted a dye test. We have come up with some calculations based on the number of tables and stools that are now and the anticipated number of tables and stools at the upstairs building. Running through those numbers, we came up with 260 seats. We used the DEC Design manual on a per seat basis to arrive at a flow rate. In the long and short of it over the course of 8 hours we introduced 2,800 gallons into the system. It is worth noting that during that time the restaurant was currently in operation. The dye test was done on Tuesday. We went out there again today. We checked for dye. The conclusion of the test on Tuesday, Zen was there right towards the end of it, we did not see any evidence of dye any place. Today again, we checked. We did not see any evidence of dye.

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

Zen Wojcik: I did go out to the site. I was there three different times yesterday. We had seen a lot of water and dye. We took a look around. I took some photographs. I have distributed those photographs to the Board. The septic dye test, we intended to see if there would be any catastrophic failure of the system. We had not seen any evidence of catastrophic failure of the system. There were things that we talked about while we were out there. The most unsettling thing to me was the area that Mr. Rother had identified as a potential area for the absorption field at the southern end of the property, this area has been over burdened by 8" to 1' of soil and stone. The applicant had put that soil and stone there. He was trying to grade it out so he could store some boats over there. I had noted to the applicant that filling over a septic system is not a good idea. I also told him storing heavy vehicles of any type over a period of time is not a good idea. That could cause damage to the septic system. We recommended at that time that they try to locate exactly where the septic system is and to determine what type of septic system is out there. In doing that, he would be able to use a majority of that property for storage and still preserve the fact that he has something that seems to be working at some level. The Board might want to make a recommendation to Mr. Batz for the applicant to remove 8" to 1' of soil. I don't know if that would be allowed right now while SEQR is open.

Mr. Bollenbach: Perhaps, a Stop Work Order should be issued if it hasn't already been issued. Mr. McConnell had questions about work still ongoing without the benefit of permits. Apparently, it still is. It just baffles me how he could be doing work in a reputed septic area where the septic is one of the concerns. This is a leaching area or a disposal area.

Zen Wojcik: Nobody was working at the site the day that we were there.

Mr. Bollenbach: In the photographs, it looks like it was recent work. It doesn't look like it was grassed over.

Zen Wojcik: You are right. It was recent work that has been done. This was just opened up recently. It would be a benefit to have that soil removed.

Mr. Bollenbach: Before they do any additional work, let's have no work done. That would be my recommendation.

Mr. Lipman: There is no work being done at this time. There will be no work done.

Mr. Bollenbach: When the dye test was conducted, I believe there were other septic facilities or there was an accessory apartment to the Tavern. Was that also tested? Is there also a 2-family dwelling on the property? Was that also tested? Where does that septic go? Are we just testing one component?

Kirk Rother: The 2-family dwelling does all go into the same leachfield reputedly. This was what we had been told. It seems to be that way. We did introduce an additional 280 gallons into the septic. It was above and beyond the 2,800 gallons for the restaurant for that accessory apartment. With regards to the apartment that is attached to the restaurant, we did not include anything additional to that. I was not aware of that until today when I spoke to Zen.

Zen Wojcik: That apartment is currently vacant.

Mr. Bollenbach: Is that abandoned?

Zen Wojcik: That would be for the applicant to determine.

Mr. Lipman: That would be a legal question. I can't answer that.

Comment #3: Applicant has been issued a series of Violations by the Building Department. The application should address these items:

- Complaint #20090267 – Illegal Signs
- Complaint #20090265 – Work within Designated Protection Area of Greenwood Lake without PB approval
- Complaint #20090264 – Building without permit (need site plan approval)
- Complaint #20090263 – No C/O or C/C (interior renovations)
- Complaint #20090266 – Fire/Safety

Mr. Astorino: We went through these the last time. You are aware of them.

Mr. Lipman: It is more like a vendetta than complaints.

Mr. Astorino: It is not a vendetta. It is something that the Building Department had found.

Mr. Bollenbach: Mr. Lipman, for your benefit, the applicant met with Zen and I under a pre-application to the Building Department to discuss the premises. At that time, which was back in May, there was no work to be done. A plan was to be submitted. Now, we finally have someone before the Planning Board.

Mr. Lipman: Do you mean a site plan or a building plan?

Mr. Bollenbach: A site plan. A site plan was to be submitted to tell if there was a greater intensity of use on the property and also for the construction activities within A Designated Protection Area.

Mr. Lipman: How would you know from a site plan if there was a greater intensity of use?

Mr. Bollenbach: It is to show what the calculations are for septic, water, parking, and traffic generation.

Mr. Lipman: Isn't this septic system under the jurisdiction of the Health Department?

Mr. Bollenbach: What is the capacity of the system? What is the total capacity of the entire restaurant with the prior approvals?

Mr. Lipman: That data is with the Health Department. They inspect this system every year. I am sure about that.

Mr. Bollenbach: That is the information that we have been looking for.

Mr. Lipman: It is not hard to look in Goshen.

Mr. Bollenbach: The applicant's prior attorneys were going to provide that information.

Mr. Lipman: Ok. I did not know that. Now, I know that. But, you already had the dye test done.

Mr. Bollenbach: That was done only on a portion of the property.

Mr. Lipman: It was for all but the apartment that is vacant.

Mr. Bollenbach: It was also for the 2-family house.

Mr. Lipman: The 2-family house is part of this system.

Mr. McConnell: Do we know that for a fact? Are we just guessing that?

Mr. Lipman: I don't think it is a guess. It is an educated opinion as to where it is going based upon the review of the site by Kirk.

Mr. Astorino: Do we know exactly where the fields are?

Kirk Rother: I have personally seen a grease trap outside the restaurant. I have seen the septic tank and the pump chamber. I have seen the cover for the septic tank up behind the existing dwelling. Then, I had seen the leach area. I had never seen the seepage pit. Looking at the site, the only place that it could be would be in this area on the map. That would be the only natural place to put that. Otherwise, it would be underneath the parking lot that is paved and where there is a lot of traffic. I don't think that it is located there.

Zen Wojcik: When we were out at the dye test, Ed and I walked all around the property. If the absorption field or leachfield is not in the location of where it is reported to be, and it had failed, we would have seen dye coming out of the ground. We did not see any dye while we were there.

Mr. Astorino: You are pretty certain that the dye test had passed.

Zen Wojcik: Passed is an interesting phrase. We are just certain that there hasn't been any catastrophic failure to the system.

Mr. Kowal: Then, it did not fail.

Kirk Rother: We did include the flow for that separate dwelling.

Mr. Astorino: There are still some other violations. We all know that.

Mr. Lipman: They are notices of violations.

Mr. Astorino: Yes.

Mr. Lipman: There are no violations.

Zen Wojcik: Mr. Chairman, it should be noted that the reason that this application is before us is that all of these things need to be resolved by action of the Planning Board. Mr. Rother has prepared a plan. It is only one plan. It is a site plan based upon the survey of the lot. We don't have any information about the signs. We have sketchy information about the work done within A Designated Protection Area, etc...

Mr. Astorino: I am sure that would be forth coming.

Mr. Lipman: There are no proposed signs. There is a sign.

Mr. Astorino: That sign does not meet the requirement.

Mr. Bollenbach: That was recently changed. It doesn't meet the Code.

Zen Wojcik: It doesn't have approval from the Town.

Mr. Lipman: Let us try to get some ground rule here. Is it your intention to apply current zoning standards to this property?

Mr. Astorino: I believe we are going to apply the standards that we have before us.

Mr. Bollenbach: Any time an application is before the Building Department or the Planning Board or if there are any updates and regulations concerning signage or lighting, the site has to accommodate those changes.

Mr. Lipman: What about parking?

Mr. Bollenbach: Parking is required. Has it been expanded? Let's determine that first. That is to be determined.

Mr. Lipman: Just like the violations are to be determined. We had not done anything that increased our capacity to serve patrons.

Mr. Bollenbach: There was an addition of a deck. There was an addition to the restaurant.

Mr. Lipman: The deck was there. The canopy was not. The other work that was done was to create room to store, not to serve patrons.

Mr. Astorino: But, that was done without the benefit of a permit.

Mr. Lipman: You are absolutely right.

Mr. Astorino: Building without a permit, is that that complaint valid?

Mr. Lipman: I don't know if the complaint is valid. I know that the building was constructed without a permit but with the knowledge of the Building Department.

Mr. Astorino: That would be something for you to take up with the Building Department. They are showing us a complaint.

Mr. Lipman: I understand.

Comment #4: A septic dye test was performed at the parcel. Engineer to discuss.

Mr. Astorino: We had discussed that issue earlier.

Comment #5: Provide a revised application to the Planning Board Secretary. Include a completed Site Plan Application Checklist. Update the plans to comply with the checklist.

Connie Sardo: Mr. Chairman, I have received a revised application today and the checklist. It needs to be filled in on who the attorney is now. I have not received any updated plans.

Kirk Rother: We haven't submitted anything since the workshop.

Mr. Lipman: Would you like me to fill in where the name of the attorney goes? I have my pen.

Connie Sardo: I think I know who the attorney is now.

Comment #6: The EAF notes that a canopy was erected within the Designated Protection Area. Show the location of this structure. Clarify if any of the components of the canopy are permanent.

Kirk Rother: Ok. We will add that.

Comment #7: Provide a calculation for parking. If the gravel parking area on SBL 76-1-105 is required to accommodate the needs of the restaurant, include this SBL on the revised application and in the title block.

Kirk Rother: Ok.

Comment #8: Show the location and details of existing/proposed signs.

Kirk Rother: Ok.

Comment #9: Show the location of the dumpster. Provide a detail for screening.

Kirk Rother: Yes.

Comment #10: Eating and drinking establishments are a permitted use in the Traditional Neighborhood Overlay District. Place the full text of Special Conditions §164-46J(53), (129), and (145) on the plan. Applicant to discuss conformance with The Town's Design Guidelines, per §164-46J(53).

Mr. Lipman: Please explain that?

Mr. Bollenbach: The use of the Design Guidelines are mandatory.

Mr. Lipman: For what?

Mr. Bollenbach: For the additions, for the expansions.

Mr. Lipman: Is it for the structures that we built to store stuff and for the canopy?

Mr. Bollenbach: That is correct. It would also be for the dock or the deck. There were other modifications done to the exterior of the property.

Mr. Lipman: Ok.

Comment #11: Provide a calculation for septic disposal on the site.

Kirk Rother: Ok. What I gave to you in an email, I will throw it on the plan.

Mr. Bollenbach: There was also another comment regarding the status of the current ACOE or DEC approvals for the docks, deck, and OCHD approval.

Zen Wojcik: Regarding the Health Department, the Building Department received a certificate for the restaurant. That happened before the last meeting. At that last meeting, the attorney for the applicant at that time said that they were going to FOIL a number of documents. We were going to get those documents from them.

Mr. Bollenbach: But, we have not received those documents yet.

Mr. Lipman: Which attorney was that?

Zen Wojcik: Mr. Stewart Rosenwasser.

Mr. Lipman: I know him. He is a nice guy.

Mr. Bollenbach: Ben Oster was involved at one time.

Mr. Astorino: These are the comments. I am sure you will be getting the stuff into us.

Connie Sardo: Kirk, would you be submitting for the 9/28/09 Work Session.

Kirk Rother: Yes.

Mr. Bollenbach: We are keeping them on for every Work Session and meetings. This has been dragging on since early May.

Kirk Rother: Thank you.

Mr. Lipman: Thank you.

Other Considerations:

1. **Warwick Views Subdivision** – Planning Board to discuss “Revised” DEIS completeness.

Representing the applicant: Kirk Rother, Engineer. John Cappello from Jacobowitz & Gubits. Stewart Turner from The Turner Miller Group.

Mr. Fink: The Board may recall that this was a project where a Positive Declaration was issued. The applicant had provided us with a DEIS about a year ago. There was a review conducted by Tectonic as well as myself. We found that there were a number of areas that needed to be modified to comply with the Final adopted Scoping Document. The applicant had prepared a revised DEIS. They have submitted that document to us. We have been reviewing that. Tectonic has finished their comments. I had promised last week at the Work Session that I would have my comments ready for tonight.

Unfortunately, I had set aside Monday to do that. I had a power outage at my house. I was unable to do that. I have now set aside tomorrow to finish that. I have about 80% of it completed. A substantial progress has been made as far as completeness is concerned. But, just like Tectonic has found, I have found a number of things that need to be addressed in this revised DEIS. I spoke to Kristen O’Donell earlier this week. To make it easy and simple to do the review, they had provided us with a response and comments. The problem was when I started to look at the comments then I looked in the document, it wasn’t easy to find. Kristen then provided me with an electronic version of the document. I am using that now to be able to go back and cross check the location of information. That is where we stand. We have talked about this at the Work Session. I think the applicant was satisfied in getting the comments from Tectonic and myself. I do apologize that I wasn’t able to do it tonight.

Mr. Astorino: Would you have it finished tomorrow?

Mr. Fink: It will be finished by tomorrow at the latest.

Mr. Astorino: Would these gentlemen be able to get this from you tomorrow?

Mr. Fink: Yes.

John Cappello: I know that things can happen. I have known Ted long enough. I am not going to hold him against anything. What we are looking for is being able to respond to those comments. Whether we get them tomorrow or Friday is not as big as being able to have access to the consultants so we could discuss what exactly is a completeness copy versus a comment that may be more of a technical comment. We want to have the document accepted and move to the public comment period.

Mr. Astorino: If you want to see the comments, talk to our Professionals, Ted and Zen. Ted, once they receive the comments, could they contact you?

Mr. Fink: Yes. There were some things when I looked at the responses that were certainly compliant with the Final Scoping Document, which doesn’t mean it could appear as a technical comment. I just wanted to give you a heads up that there might be

some areas that might need some further analysis as we go through this process. It would not be enough to hold it up at this point from a completeness standpoint.

Stewart Turner: That is part of our objective. We want to try to get the document to a point where the Board feels that it is ready for public discussion.

Mr. Astorino: Ok.

Zen Wojcik: Mr. Chairman, we had discussed beforehand about the yield plan. The applicant had some serious issues with the yield plan. We were waiting for a report. I have received a soils report from Kirk. We have reviewed that. I have emailed out a copy of our response to the Board.

Mr. Astorino: We have it.

Zen Wojcik: Just to give you a summary, we have agreed that most of the lots that Kirk had addressed were credible reasons why they would not be in poor soils, but would be in acceptable soils.

Mr. Astorino: That would be done with our "Poor Soil Protocol".

Zen Wojcik: Yes. There were seven lots that we still had some issues with. Those lots are as follows; lots 5, 7, 10, 18, 35, 36, and 46. I believe that Kirk Rother is still trying to address that.

Mr. Bollenbach: Zen, was it 30 out of 50 lots?

Zen Wojcik: We had 31 lots out of 50 lots.

Mr. Bollenbach: Doesn't that give some indication that there may be some difficulties with the soils?

Mr. Astorino: Zen, what are you down to now?

Zen Wojcik: We are down to 7 lots. The truth lies somewhere in between the issue about some problems with the soil and perhaps the mapping is incorrect; it is the nature of some of the bad soils that are out there. It even says in the soil survey that there are small areas of inclusions that are too small to include in the scale of the mapping. That seems to be the case for a large portion of the site that is supposed to be developed under the cluster subdivision as well. That is a point. We are addressing that as part of our comments as well. That is a technical issue when it comes to the cluster. When it comes to the yield, we still want to prove that there are a number of lots the applicant has proposed for this site...so we could go forward with this. There are still 7 lots under the "Poor Soil Protocol" that still needs to be proved one way or the other. Comments #4 and #6 got to lots that are not acceptable as yield lots under the definitions within the Code. One of those lots is shown within the NYSDEC wetland buffer, which is lot #42. The other lot, lot #25, has a buildable area on slopes exceeding 15%. Those two lots also have to be addressed. There are 7 lots with poor soils plus 2 other lots, which makes it a total of 9 lots out of 49 lots that are still questionable.

Mr. Showalter: Zen, is there anybody on those 9 lots out of 49 lots gone out and taken soil samples from the lots?

Zen Wojcik: We have done that for every one of the lots. We had done joint soil testing three different times. We had done that back in December 2007, March 2008, and May 2008.

Mr. Astorino: That issue still has to be resolved yet.

Kirk Rother: The soil that affects those overwhelming number of those 31 lots is described as bedrock in the soil survey as 17". We had done deeps and pits with Tectonic on every lot. On the overwhelming majority of them, we had received in excess of 4', or 6', whatever the case might be. There are a few where we are less than 4' but greater than 17". Zen sees it one-way, I see it in another way. That is ok. I will work with Zen on what is left. I will either address them to the satisfaction of Zen or try some alternative locations.

Zen Wojcik: There are ways of working it out.

Mr. Astorino: Ok.

Mr. Singer: At the Work Session and again tonight, I am hearing a recurring theme from the Professionals that they seem to be having communication problems with Mr. Fink. I would like you to make yourself more available to communicate with them. This has been going on for quite awhile. They said that they haven't been able to talk to you. Is there any truth to this?

Mr. Fink: We talked at the Work Session last week. I have contacted the woman who is responsible for preparing the EIS this week. If they have questions, they could ask me.

Mr. Singer: They sound frustrated that they can't move on because you haven't finished your work on the EIS.

Mr. Fink: That is right. I admitted that I did not have it ready for tonight as I had promised. I had some circumstances come up. I wasn't able to complete it.

Mr. Astorino: The bottom line is that Ted will be accessible to the applicant. He is working on it.

Kirk Rother: Could we contact the Professionals with any comments on the DEIS or would the Planning Board like to be present?

Mr. Astorino: We have no problem with you contacting our Professionals about that.

Mr. Bollenbach: Connie, could you pencil Warwick Views for the 9/28/09 Work Session?

Connie Sardo: Yes.

Kirk Rother: Thank you.

2. **Wiles #2 Subdivision** – Letter from Vaughan Wiles, dated 8/25/09 addressed to the Planning Board in regards to the Wiles #2 Subdivision – requesting “**Re-Approval**” of Final Approval of a proposed 4-Lot Conservation Density Subdivision, situated on tax parcels S 26 B 1 L 1.225 and L 71; parcels located on the northern side of Amity Road, 230 feet west of Little York Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. Final Approval was granted on, 9/17/08. The 6-Month Extension was granted on, 2/18/09 became effective on, 3/17/09. *The applicant has since commencing the subdivision process, property prices have declined significantly, and it would entail substantial hardship for me to sell these lots under current economic circumstances.* “Re-Approval” of Final Approval becomes effective on, 9/17/09, subject to the conditions of final approval granted on, 9/17/08.

Mr. McConnell makes a motion on the Wiles #2 Subdivision application, granting “**Re-Approval**” of Final Approval of a proposed 4-Lot Conservation Density Subdivision, situated on tax parcels S 26 B 1 L 1.225 and L 71; parcels located on the northern side of Amity Road, 230 feet west of Little York Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on, 9/17/08. (See attached). The “Re-Approval” of Final Approval becomes effective on, 9/17/09.

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

3. **Planning Board Minutes of 8/5/09 & 8/19/09** – Planning Board Minutes of 8/5/09 & 8/19/09 for Planning Board Approval.

Mr. McConnell makes a motion to Approve the 8/5/09 and 8/19/09 Planning Board Minutes.

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

Correspondences:

1. Letter from Phyllis Briller, dated 8/25/09 addressed to Maximo & Linda Blake – in regards to the Brian Singer application.

Mr. Astorino: We have that letter in our packets.

Mr. Singer: I read that letter. I had seen a response from the Blakes saying that they are ok with the Brian Singer application if the Brian Singer improves the road all the way to Continental Road. Are we asking them to do that?

Mr. Astorino: No.

Zen Wojcik: If you read the date on that letter, it wasn't a response. That was a copy of their letter, dated 2/25/08 addressed to the ZBA.

Phyllis Briller: It was written to the ZBA.

Zen Wojcik: Yes. That was a letter written to the ZBA. I don't know what the status of that is as of right now.

Mr. Astorino: Ok.

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.

Nancy Owen: I am from the Dispatch. I have a question regarding the Castle Tavern. That was only one situation that we had a complaint for this violation to the Building Code and, etc... Are there any penalties if found guilty of this violation? Mr. McConnell and several other Board members get very upset when there are these complaints. An example of this would be the Jordan application.

Mr. Singer: I believe that in the process of this there is a penalty with all the costs involved in getting them to go forth.

Nancy Owen: To go through the application process, but I think there was something hanging over their heads in the first place that they might not start the project without doing it the right way.

Mr. Astorino: I think there is a penalty process.

Nancy Owen: There is no bond?

Mr. Astorino: If they refused to come before the Planning Board, then they would be taken to court. I am sure the Judge would deem an appropriate fine on a daily or weekly basis to comply.

Nancy Owen: But, that would cost the Town more money than if we imposed a fine.

Mr. Astorino: I am sure there is a method to this. I don't really know.

Nancy Owen: You have the Zoning Code. You have all of the codes that they are supposed to abide by.

Mr. Astorino: Exactly. But, if they don't abide by, I think there is a process, which you would see sometime that they don't even agree as you have heard earlier this evening about the complaints that they have. The Castle Tavern application is before the Planning Board now. They are in the process. They will comply.

Nancy Owen: I know it is something that you can't do anything about. I was just wondering if there was any kind of penalty.

Mr. Astorino: I think it is the nature of the beast. It is a process they have to go through. If the Building Department has to take them to court, I know it would cost the residents or the taxpayer's money. That would be their alternative.

Mr. McConnell: It seems it is used more as a pressure point to get them to put in their application to the Planning Board.

Nancy Owen: That would be in the right way.

Mr. Astorino: It is just like the Mountain Glen project. They actually refused. They did not want to do anything. They went to court. I actually went to court a few times and witnessed it. The Judge took care of them. She threatened them with serious penalties. What everybody wants is to have them conform. If you went up to Mountain Glen right now, you will see they now conform. However long it took, it all worked out in the end.

Mr. Bollenbach: Just to answer Mrs. Owen's question, there are penalties for offensives. There are fines. The Building Inspector and Planning Board cannot impose them neither does the Town Board. It is the court that imposes them. On August 1, 2006, the Town Board amended Chapter 150 of the Code dealing with excavation, topsoil removal, timber harvest without the benefit of an approval. Mountain Glen was subject to that. It was a \$250.00 a day fine.

Nancy Owen: Who gets that fine?

Mr. Bollenbach: It goes to the Town. The court also ordered the applicant to reimburse all professional costs that was incurred for the engineering, which I believe was in excess of \$20,000.00. That was just for this excavation. If you contact the Building Department and submit a FOIL request, I am sure they would be able to give you a list of the fines that had been collected. It is done on a regular basis. Annually, they are in the thousands of dollars.

Nancy Owen: Ok.

Mr. Bollenbach: What the Town is looking for is that the fines in court be the last resort. When the applicant does not appear before the Board, especially since May, it was getting to the point that the Town was going to take additional legal enforcement action. With that threat, the applicant did appear. He had several attorneys. He is before the Board. The Town is looking to fix the problem. They want to make sure the septic is adequate along with the health and safety of the neighboring community.

Mr. Astorino: There are numerous issues that Castle Tavern needs to address.

Mr. Bollenbach: That is what we would like to have...compliance. We are not looking to impose fines. We are looking for compliance.

Nancy Owen: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address any of the agenda items? Let the record show no further public comment.

Mr. McConnell makes a motion to adjourn the September 2, 2009 Planning Board meeting.

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