

TOWN OF WARWICK PLANNING BOARD

October 7, 2009

Members present: Chairman, Benjamin Astorino
Russell Kowal, Dennis McConnell
Roger Showalter, Carl Singer
Ed Butler, 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, October 7, 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 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 September 2, 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. 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. 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.
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, dated 10/7/09:

Brian & Melissa Singer - The CB's comments on the August 5, 2009 Agenda are repeated here for convenience:

This project is in the Ridgeline Overlay. The CB has noted (in similar developments in this region) that rattlesnakes may be present. There is also a question of wetlands in this area. The CB recommends the disturbance be carefully monitored to avoid impact on any wetlands and protected species.

The CB's comments on the August 19, 2009 Agenda are also repeated here for convenience.

In addition, the CB understands that the applicant is conducting a habitat survey and will delineate the wetlands, extent of tree cover, etc. The CB would appreciate receiving a copy of that study when it becomes available. Finally, to the extent possible the CB urges the PB to examine the full build out potential of adjacent properties and the impacts such potential build out will have on the environment and existing residents.

The following comment submitted by the ARB, dated 10/7/09:

Brian and Melissa Singer – No further comment.

Comment #1: Board to discuss SEQR.

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

Mr. Fink: The Planning Board has been reviewing the application with the short EAF. It is an Unlisted Action. It is a proposed 2-lot subdivision. There were several issues reviewed under SEQR. It included wetlands and the potential for endangered species on the property. Those were the two primary issues under SEQR. The project is also located within the Ridgeline Overlay District. We asked the applicant to provide us with a Visual EAF Addendum as well as Line-Of-Sight Profiles. Based upon the information that was provided and some additional assessment, the proposed subdivision won't be visible from any areas that were identified in the Visual EAF as being sensitive. As far as the habitat analysis, there was a habitat assessment conducted on the property by ERS Consultants. They reviewed the potential for Indiana Bats as well as for Timber Rattlesnakes. They did find that there was a potential habitat for the Indiana Bats. None of it was in the area of the proposed residences where there would be physical alteration. As far as the rattlesnakes, there were no dens found on the site or in the immediate area. But, there are some potential basking locations from the rock out crops on the property that could be used by transient rattlesnakes. This has all been field verified by the Town's Biological Consultant Karen Schneller-McDonald. The applicant has proposed to conserve a majority of the property, which is approximately 76% of the property in conservation easement to insure that any sensitive areas are protected in the future. As far as the wetlands are concerned, there are 3 wetlands on the property. They are all Federal jurisdictional wetlands. Only one of those wetlands would be altered. It would be a very small area of that wetland that would be filled. It would be about 341 square feet. It is well below the Nationwide Permit threshold which is 1/10th of an acre, which would be about 4300 square feet. Based upon the Nationwide Permit, there is a requirement that the applicant provide a pre-construction notification to the ACOE. Beyond that, there is no other obligation at this point. That would be the only mitigation that would be necessary. Today, I received a copy of a letter from the DEC regarding the stream. The letter from the DEC is dated 9/24/09. We did discuss protective streams on the property. We had two Biologists, Dave Griggs, and Karen Schneller-McDonald go out to the site. They were unable to

identify any stream on the property itself. The DEC letter stated that they provided a couple of maps. One map was the USGS map and the other map was the GIS map. The DEC said to use the GIS map. What the DEC had said was if disturbance of the bed or banks of either stream is proposed, then a permit from the DEC would be necessary. But, if there is no stream on the property, then no permit would be necessary. At this point, as far as SEQR is concerned, all of the issues that we had asked the applicant to investigate they have done so.

Mr. Astorino: Thank you.

Comment #2: Applicant to discuss project.

Kirk Rother: There has been no change since the last time.

Comment #3: A swale is indicated on the northerly-side of the common driveway between Briller Road and 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.

Kirk Rother: Will do.

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

Mr. Astorino: Ted, did you go out to the site today?

Mr. Fink: Yes. I made a field visit today. I met with Mrs. Briller, Mrs. McQuade, and Brian Singer. We reviewed the area where Mrs. McQuade desired the screening. We settled on Evergreen plantings of something like a spruce that would provide a dense screen. I need to figure out the numbers, size, and specifications of those plantings at this point.

Mr. Astorino: Do you have the location?

Mr. Fink: Yes. I have the general location. What we could do is specify in the subdivision plan for the location. Mrs. McQuade wants to be involved in where they would actually be planted.

Mr. Astorino: Would these be in the R.O.W.?

Mr. Fink: Yes.

Mr. Bollenbach: Let's add to comment #4, locate and bond plantings.

Mr. Fink: Bonding of the plantings was one of the things that we talked about today regarding the 3-years.

Mr. Astorino: Yes. That would be a standard note. Comments 5 through 8 are the same comments from the last time. We will list 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 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.

Theresa McQuade: I live on Continental Road. First, we came out and looked at where the road is supposed to be. From the last meeting, I thought this was going to be flagged ahead of time so I would have more time to prepare where everything was going to be. It wasn't done until Brian Singer came out and did it himself. The other thing that we didn't discuss was where the utility poles would go.

Mr. Astorino: It would be where O&R deems them to be. We can't tell the power company where to put the poles. It would have to be regulated by them.

Mr. Bollenbach: They will be located within the R.O.W.

Theresa McQuade: Ok. It will be in the R.O.W.

Mr. Astorino: It would not be on your property.

Theresa McQuade: Ok.

Mr. Bollenbach: Unless O&R deems that there is a pole that would be necessary to service the property. That would be O&R's call.

Mr. Astorino: That would be O&R's business. That would not be our business. We cannot speak for O&R.

Theresa McQuade: Ok. Thank you.

Mr. Astorino: Is there any else wishing to address the Brian Singer application?

Phyllis Briller: When the two Town Engineers were out to the site about a week ago, they stood on the iron pin that is the property line of Theresa's property and my property. It was measured at 16 feet. That was what Brian had indicated that he was going to put in. They determined where the end of the 16 feet would be. From that, they ascertained where they felt the end of Theresa's absorption field was. From the end of where Brian's road would be to the end of the absorption field was 15 feet. When we had seen the area where it was sprayed tonight, by my measurement, it is 3 feet in from the property line. We now lost 3 feet. It would bring 16 feet further into Theresa's property. That would be 12 feet between the end of the road and where the Engineer's feel the end of the absorption field is. That doesn't allow any room for ditches or trenches on either side. The only reason that road runs well now is because in 2006, I had a 3-foot ditch installed to take care of the significant runoff that was eroding the existing roadway that the Blakes had always used. In that 12 feet where we now have to accommodate either one

ditch or possibly two, we now have to accommodate a row of trees. I am a little puzzled on how we would fit all of that in within the area that the applicant is suggesting.

Mr. Astorino: Ed, as far as the swale, have you seen the engineering plans?

Ed Butler: I had seen the plans out at the site.

Mr. Astorino: Does it fit in the R.O.W.?

Ed Butler: Yes.

Phyllis Briller: What would fit in the R.O.W.? Do you mean the swale?

Ed Butler: It would be the road, swale, and some sort of plantings as a buffer.

Phyllis Briller: Would there also be the ditch?

Mr. Astorino: It would be a swale. A swale is proposed on the plan.

Phyllis Briller: Do you feel that you could get all of that within the approximately 16 feet, he measured 14 feet or 15 feet? We are talking about approximately 30 feet here.

Ed Butler: Yes.

Phyllis Briller: Will there be a ditch or trench on my side?

Mr. Astorino: There will be a swale. Ed, is that proposed or not?

Kirk Rother: We only have it on the McQuade's side.

Ed Butler: Right. It would be on just the one side. It would be on the upland side, which is McQuade's side.

Phyllis Briller: What would we do about all of the runoff that goes onto my property?

Ed Butler: The water would be diverting from above the road. The only runoff that would be shedding onto your property would be the water from the ground surface of the roadway. The watershed area would be minimal. There is no change in the rate of flow, the area, or the concentrated discharge. It would be a sheet flow.

Phyllis Briller: There is a change in the elevation. There is currently about a 4-foot difference in elevation between the existing roadway now and where the applicant proposes to put it. When I asked Mr. Rother about that at a previous meeting, he had said there is 4-feet, so we would cut 2 feet and fill 2 feet. That would mean the elevation of the new road would be at least 2 feet higher than it is on my side. It would be 2 feet lower on Theresa's side. You would need a trench on Theresa's side. That is the uphill side. I believe you will need a trench on my side because my road would be lower.

Mr. Astorino: Ed, are you comfortable with the plans as they are drawn?

Ed Butler: I would like to hear from Mr. Rother on that.

Kirk Rother: Right now, Mrs. McQuade's side is higher than your side.

Phyllis Briller: It is higher by 4 feet.

Kirk Rother: Her water runs off towards your house.

Phyllis Briller: Except, it is caught in that 3-foot trench that I had installed back in 2006.

Mr. Astorino: Is that on your side?

Phyllis Briller: It is actually on her side.

Kirk Rother: We will be putting a road in between your property and Mrs. McQuade's property. On the McQuade's side of the road, there would be a swale. Now, any water that was coming from McQuade's property towards your house, it would be caught by the swale. It will run down the road, then down to Brian Singer's property. When you look at the grand scheme of things, there will be less water being discharged towards your property.

Phyllis Briller: Except right now, we have a pervious surface. What you are going to be looking at is a paved surface. If it is pitched crowned, I would end up with water on my property.

Kirk Rother: You would end up with water on your property that would be running off half of the paved surface.

Phyllis Briller: That is right. That would be about 4 feet more than what I would have liked.

Mr. Bollenbach: Kirk, according to your calculations, it would not be an increased runoff. Is that correct?

Kirk Rother: The net effect would be much less.

Mr. Astorino: Ed, do you concur with that?

Ed Butler: Yes.

Phyllis Briller: Right now, there is a 3-foot ditch that runs from the top of the paved portion all the way down to Brian Singer's property. It is 3 feet deep. It is 3 feet wide. I had spent \$16,000.00 back in the year 2006 by having that installed. It works beautifully. It is filled with rock. It absorbs all of the drainage from the high side, which is Theresa's side. It does not run across. It does not erode the existing roadway. I would like that to continue. I had invested \$16,000.00 into this.

Mr. Astorino: This Board had just heard our Engineer concur that there would be less runoff onto your property. This is not the applicant's Engineer. This is our Engineer. I poised the question to him especially for that reason.

Kirk Rother: I could propose a simpler solution. Rather than crown the road, we could pitch the road so that it goes toward the McQuade property.

Phyllis Briller: Thank you. I like that. I have another question. In my opinion, we are very tight in terms of space between the property line and the 25 feet that the applicant says he has. He is proposing right now 16 feet. How do we insure that next year or in 3 years when the bonding of the trees are over, he doesn't decide that 18 feet would be a much more appropriate width to have.

Mr. Astorino: If he takes the trees out, he would be in violation of the site plan.

Phyllis Briller: Let us say that his Attorney had indicated that he has a buyer for his 2nd parcel...

Mr. Astorino: It would all be stated on the approved site plan.

Mr. Bollenbach: That would be an enforcement issue.

Mr. Astorino: They would have to go to the Building Department and say that the landscaping that was put in for screening for the McQuade's property was removed illegally.

Phyllis Briller: So, from what I am understanding, Brian Singer wouldn't be able to widen that road beyond the 16 feet.

Mr. Astorino: What I am saying is if someone takes out the landscaping that they could go to the Building Department and put in a complaint for that.

Phyllis Briller: If he is maintaining to you that he is putting in a 16-foot road, meanwhile he is telling the Supreme Court that he is putting in an 18-foot wide road to match Briller Road, how do we insure that he puts in the 16-foot wide road that you say?

Mr. Astorino: It would be stated on the plans. There will be a bond. It would have to be done to specs.

Phyllis Briller: Thank you.

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

Mr. Kowal 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: Singer 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 other involved agencies pursuant to SEQR, including the Town Zoning Board of Appeals and

Whereas, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 2/13/07, 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. Astorino: We have a comment from the Conservation Board, dated 10/7/09. There are no comments from the ARB.

Mr. Showalter makes a motion on the Brian and Melissa Singer application, granting final approval for 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. A SEQR Negative Declaration was adopted on October 7, 2009. Approval is granted subject to the following conditions:

1. A swale is indicated on the northerly-side of the common driveway between Briller Road and 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. Revise driveway grading to Town Engineer's specifications.
2. Provide screening plantings, as necessary, to the Town Planner's specification, locate and Bond plantings.
3. 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.
4. 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.
5. Pay Parkland Fees.

6. Pay Outstanding Review Fees, and Post Improvement Bond.

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

Kirk Rother: Thank you.

Brian Singer: Thank you.

Review of Submitted Maps:***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 9/2/09 Planning Board meeting.

Representing the applicant: Mr. Al Lipman, Attorney. Kirk Rother, Engineer. Mike Calandra, Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
 - A. Provide a landscaping plan for dumpster screening and year-round screening from adjacent residences.
2. Applicant to discuss project.
3. Applicant has been issued a series of Violations by the Building Department. Resolution of all these Violations is by application to the Planning Board. 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 provide letter report, per the Town’s Septic System Dye-Test Procedure.
5. The portable canopy is situated on a patio/deck alleged to have been built April 2006. A portion of the patio/deck is on the landside of the bulkhead, a portion is supported on piers in the lake. Patio/deck was constructed in the Designated Protection Area of Greenwood Lake without Planning Board approval. Provide structural and construction details for the Building Department record. Provide a copy of the current NYSDEC/USACOE permit for the patio/deck.
6. Provide a copy of the current NYSDEC/USACOE permit for the marina.
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. The size of the Proposed Free Standing Sign meets the requirements of the Code. Remove the spotlight from the detail and add the note: “Uplighting of signs is prohibited.” The existing sign is labeled “To be removed”. Show the location of the proposed sign, in conformance with the Code. Note that a permit is required from the Building Department for the erection of the sign.
9. Eating and drinking establishments are a permitted use in the Traditional Neighborhood Overlay District. Applicant to discuss conformance with The Town’s Design Guidelines, per §164-46J(53).

10. The Water Use Calculation placed on the plan shows a purported hydraulic load (septic discharge) of 3,822 gpd. The last SPDES permit for the property (January 1, 2004) limits the discharge to 2000 gpd. Applicant to discuss.
11. Provide a copy of the SPDES Transfer of Ownership form submitted to the NYSDEC.
12. Provide a copy of the current NYS Liquor Authority Permit and approved plan.

The following comment submitted by the Conservation Board, dated, 10/7/09:

Castle Tavern – The CB has no comments.

The following comment submitted by the ARB, dated 10/7/09:

Castle Tavern - : The ARB supports efforts to correct any outstanding issues/violations prior to moving forward. Once those issues have been addressed, the ARB would like to see plans for additions and renovations as well as signage prior to approval.

Mr. Bollenbach: I see that you have a Stenographer here tonight. Could the applicant provide us with a complimentary copy of the Stenographer's minutes when they are done?

Mr. Lipman: Yes. Could I ask a preliminary question before we go onto the comments?

Mr. Astorino: Yes.

Mr. Lipman: You mentioned tonight that this application is for site plan approval and special permit.

Mr. Astorino: It is for a special use permit.

Mr. Lipman: For what use?

Mr. Bollenbach: It is for expansion and change of use.

Mr. Lipman: It is for expansion and change of use. Is that what we applied for or is it what you expected?

Mr. Bollenbach: I will take a look at the application. I believe that is what the applicant is here for. We are discussing the expansion and the change of use. This has been the ongoing discussion.

Mr. Astorino: This has not changed since the last couple of meetings.

Mr. Lipman: I was here for the last meeting.

Mr. Astorino: Connie, is it the same since the last meeting?

Connie Sardo: Yes.

Mr. Astorino: Ok.

Mr. Lipman: Ok. I hear you.

Comment #1: Board to discuss SEQR.

Mr. Fink: This is an Unlisted Action. The applicant has provided the Planning Board with a short EAF. The Planning Board has already declared itself Lead Agency on this application. We are in the process of collecting information related to SEQR.

Mr. Astorino: Have any of these comments changed since the last time?

Kirk Rother: Yes.

- A. Provide a landscaping plan for dumpster screening and year-round screening from adjacent residences.

Mr. Lipman: I don't see that as a major issue. We will do it.

Comment #2: Applicant to discuss project.

Mike Calandra: What I wanted to do, I spoke to Bob Krahulik about it, I was going to move the dumpster closer to the building.

Mr. Astorino: Just show it on the plans.

Mike Calandra: Ok.

Mr. Astorino: Where are you going with this project? What have you done that has incurred these violations? What is there now? What do you intend to do?

Mr. Lipman: I will speak about it with what I know. There was a deck that was extended over the waters of Greenwood Lake. It is supported exclusively by structures within the lake. Nothing on the shore is supporting it. It butts up against a concrete deck that was there. There is no link or bolted together in any way fastened to each other. This whole structure is really not constructed within 100 feet of the waters of Greenwood Lake. It is within the waters of Greenwood Lake. It is up in the air over a small portion of land. There are no structures supporting it.

Mr. Bollenbach: Kirk, have you done a detail to verify that?

Kirk Rother: No.

Mr. Astorino: The bar area that protrudes out into that area is not part of it? There is a bar area that protrudes out into that enclosed area with a canopy and some plastic sheathing on the sides. That bar area is tied to that building. Is that correct?

Mr. Lipman: That bar area is further inland than the edge of the deck that I had spoke about. There had been a deck there for many years to which the new deck butts up against.

Mr. Astorino: Do we have a detail on that deck that is over Greenwood Lake?

Kirk Rother: No.

Mr. Astorino: What is the load capacity?

Mr. Lipman: It is my understanding that what goes on in Greenwood Lake itself, it is not within your purview. It is within the purview of the ACOE.

Mr. Astorino: Do you mean on the design?

Mr. Lipman: It is on everything. Your Building Inspector had stated to us that if it is in the lake, he would have no jurisdiction over it. That was what I was told.

Mr. Astorino: That seems odd to me. Now that you are in front of this Board, in my opinion, it calculates how many people you are serving. You do have tables. They are serving out there.

Mr. Bollenbach: I think that structure is intimately connected with the land. You are using it set back onto the land. There has to be some type of connection from that deck area to the main structure.

Mr. Astorino: I think you would have to walk into that building in order to get onto that deck.

Mr. Bollenbach: Absolutely.

Mike Calandra: You don't need to. You could walk from the side to it.

Mr. Lipman: I am not challenging you.

Mr. Astorino: We have seen this project numerous times. I just want to understand what is going on over there. We don't have a full set of plans that shows everything that we are asking for.

Mr. McConnell: Mr. Chairman, I have here some color photographs. The photographs show the deck that is in question. I am trying to understand what Mr. Lipman is saying. I see that part of the deck that is over the water and sits on 2 steel I-beams that seems to be resting on something. I don't know what that is. That part of the deck does seem to be connected to the other part of the deck. Mr. Lipman, I am not following with what you are saying. How is it not connected?

Mr. Astorino: What you are saying is that deck is not connected to that building on the land whatsoever?

Mr. McConnell: As a result, what Mr. Lipman's argument is, since it is not connected to the land or to the building on the land, we don't have any jurisdiction of it. I am looking at this photograph. To me, it looks like it is connected if nothing else, it is by the safety rail around it.

Mr. Lipman and Mr. McConnell look at the photographs together of the deck and discuss where and what it is connected to.

Mr. Astorino: There is a seamless transition from the inside of the restaurant to that deck.

Mr. Lipman: What I am saying is that the structure itself butts up against this deck.

Mr. McConnell: Is there no connection between this and this supporting it here?

Mr. Lipman: That was what I had been told.

Mr. McConnell: I find it hard to believe.

Mr. Bollenbach: We will need some verification on that.

Mr. Astorino: I think that could be verified easily.

Mr. Bollenbach: Is that deck and tented area being occupied?

Mr. Astorino: I believe so. Is that being occupied?

Mr. Lipman: Is it being occupied? I believe it is.

Mr. Bollenbach: Just for the Board's information, It was brought to the Building Department's attention that there had been plastic sides added to that tented area that is over the deck. Also, a wood pellet stove had been installed.

Mr. Astorino: Is that pellet stove in operation?

Mr. Bollenbach: That pellet stove was installed without the benefit of a permit. It was also installed contrary to State Fire Codes. There was a notice posted to discontinue occupancy. I believe that was done last week.

Mr. Lipman: Are you talking about the canopy being installed against some standard, or are you talking about the stove?

Mr. Bollenbach: The canopy being installed first without fire retardant. That would still have to be demonstrated in the Building Department that it is fire retardant material. There have also been plastic flaps added to the side of that. There has been no fire retardant certification concerning that. Also, the location in proximity to the stove for which there is no permit.

Mr. Lipman: How recent is your information about the canopy?

Mr. Astorino: I spoke to Mr. Batz today. He made a mention of the canopy. There was information on the canopy about the fire retardant.

Mr. Bollenbach: I don't have anything in the file.

Mr. Astorino: That was what he had mentioned. I didn't receive any inclination from the Building Inspector unless you brought something in after 2:00 p.m. this afternoon.

Mr. Lipman: No.

Mike Calandra: It was faxed to Larry. I called the manufacturer. They sent over the revisions to me.

Mr. Astorino: What is the clearance on that material?

Mike Calandra: The stove itself is a zero clearance.

Mr. Lipman: No. Talk about the canopy.

Mr. Astorino: The plastic sides that you put on there, how close could it be to the pellet stove?

Mike Calandra: It would have to be 18" away.

Mr. Astorino: Are you 18" away?

Mike Calandra: Yes.

Mr. Bollenbach: That would need to be verified.

Mike Calandra: The stove could be moved over if it needs to be. I could relocate it inside.

Mr. Lipman: The point is that the issues are not being ignored. They are being addressed. We are getting the information as we see the need from your end to the Building Inspector.

Mr. Astorino: I believe the Building Inspector made it clear to me today that those side panels are not 18" at this point.

Mr. Lipman: I don't know about that.

Mr. Astorino: If the wind was blowing today and those panels were touching that stove or even close to that stove, you could have a serious issue. I think you are all aware of that. I don't think anyone wants that to happen. If the restaurant was full of people out on that deck, that would not be a good thing. That is one issue.

Mike Calandra: I could easily move the stove.

Mr. Astorino: That would be something you would have to work out. What about the apartment/detached dwelling?

Mike Calandra: Do you mean the cottage?

Mr. Lipman: Which cottage?

Mr. Astorino: The one that is detached right next to the restaurant. What is going on with that?

Mike Calandra: The cottage, I had been living in it. I had my chef living in it. He was paying rent. After he left, I went to live in it. I ripped out the carpet and put new carpet down.

Mr. Lipman: Is there anybody in it now?

Mike Calandra: Not for the last two months. I will be living in it again.

Mr. Astorino: You are going to be redoing it. You can't live in it at this point now. Our Engineer had told us that there were some broken windows and it wasn't in living condition.

Mike Calandra: When I shut it down in December, somebody broke the windows. I am now having the windows replaced.

Mr. Lipman: He is fixing it up. Maybe, he might live in it himself.

Mr. Astorino: Another issue that the Building Inspector brought up to me was the issue of the lean to. It is the one off to the side when you first go down into the parking lot.

Mr. Bollenbach: It is a lean to or a storage shed which is attached to the Castle Tavern building.

Mr. Astorino: Was that just for storage?

Mike Calandra: That was just for storage. I am very limited on storage. I wanted to clean up the place. I didn't want the neighbors or anybody that drives by to see a constant mess.

Mr. Lipman: Was that the construction that was complained about?

Kirk Rother: Yes.

Mr. Astorino: Is there a kitchen in there?

Mike Calandra: No.

Kirk Rother: No.

Mr. Astorino: Where is the kitchen?

Kirk Rother: The kitchen is in the part that was existing. Looking at the plan, the hatch that was built, the kitchen is located over here. This part is just for storage.

Mr. Astorino: Looking at the plan, you said that this is the existing kitchen.

Kirk Rother: Correct.

Mr. Astorino: This is what was built without a permit.

Kirk Rother: Correct.

Mr. Astorino: It was just the storage.

Kirk Rother: Right.

Mr. Astorino: The information that I received from the Building Inspector was that it wasn't approved.

Mr. Bollenbach: There were additional kitchen exhaust fans installed.

Mike Calandra: The kitchen was already existing. The reason that I built this section was because neighbors use to complain about beer cans and clutter.

Mr. Lipman: There are all kinds of storage of junk and garbage. His object was to get it behind the wall. That was the only reason for that construction.

Mr. Astorino: We understand that. But, I am receiving conflicting stories saying that one end of that was built without Building Department approval and without a permit. The kitchen wasn't approved.

Mr. Bollenbach: I have a letter here from John Batz the Building Inspector, dated 10/5/09 addressed to Calandra Associates. The letter is stated as follow:

Dear Owner/Manager/Agent:

This letter along with stop work order placard serves as an immediate stop work notice on the construction of the new kitchen addition and decking on former lot 35.

Sincerely,

*M. John Batz, Sr.
Building Inspector*

Mr. Bollenbach: Originally, the Castle Tavern itself was just on the former lot 34. That additional storage area and now the expansion of that storage area, which appears to have kitchen exhaust fans mounted on it which is the subject of the stop work order. There has been additional decking added with additional seating, which is also on lot 35.

Mr. Lipman: Mr. Chairman, I don't think you would want to become an enforcer. But, I would like you to visit the site and see with your own eyes with what they are saying.

Mr. Astorino: I would recommend that to the Board. I think a site visit out there would be well warranted at this point. Get together with Connie on that. Before we go too much further, let us get everyone out there.

Connie Sardo: You could discuss scheduling that site visit at the workshop on Monday night.

Mr. Astorino: We could discuss it at the workshop. It would be a good idea to get the Board out there to see what is going on.

Connie Sardo: Do you want to do it before the workshop?

Mr. Astorino: Yes. We could do that Monday before the workshop. Dennis, would that be good for you. We could set it up now.

Mr. McConnell: What time does it start getting dark out?

Mr. Kowal: It starts getting dark around 6:00 p.m. or 6:30 p.m.

Mr. Astorino: We could do the site visit at 5:30 p.m. The site visit is scheduled for Monday, 10/12/09 @ 5:30 p.m. Ed, are there any other comments that stand out that you want to discuss? Do you want to wait until we do the site visit?

Ed Butler: We will wait to see what is out there.

Connie Sardo: Ok. The Castle Tavern site visit is scheduled for Monday, 10/12/09 @ 5:30 p.m. You will meet at the Castle Tavern.

Mr. Bollenbach: Connie, maybe we could get some color photos that the Building Department has been generating. This way the Board could verify where they are on the property. Also, there was one additional stop work order from John Batz, the Building Inspector, dated 10/5/09, addressed to Calandra Associates. It is stated as follow:

Dear Owner/Manager/Agent:

This letter along with stop work order placard serves as an immediate stop work notice on the grading and storage including boats on former lot 101 in area of septic field.

Sincerely,

*M. John Batz, Sr.
Building Inspector*

Mr. Bollenbach: I have also included for the Board's consideration a lawsuit from 1998, which indicated which uses were preexisting on the property at that time. If the Board takes a look at that, this particular parcel was originally comprised of 4 separate lots which since have been merged. If you look at the maps, the dash lines indicate where the former lots were.

Mr. Lipman: I would like to discuss comment #7.

Mr. Astorino: Ok. We will list comments 3 through 6 for the record.

Comment #3: Applicant has been issued a series of Violations by the Building Department. Resolution of all these Violations is by application to the Planning Board. 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

Comment #4: A septic dye test was performed at the parcel. Engineer to provide letter report, per the Town's Septic System Dye-Test Procedure.

Comment #5: The portable canopy is situated on a patio/deck alleged to have been built April 2006. A portion of the patio/deck is on the landside of the bulkhead, a portion is supported on piers in the lake. Patio/deck was constructed in the Designated Protection Area of Greenwood Lake without Planning Board approval. Provide structural and construction details for the Building Department record. Provide a copy of the current NYSDEC/USACOE permit for the patio/deck.

Comment #6: Provide a copy of the current NYSDEC/USACOE permit for the marina.

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.

Mr. Lipman: We have a non-conforming use regarding the restaurant. We also have parking. It is also non-conforming in respect to area, pavement, etc... We are not intending to change the capacity of this facility. We are not intending to change the parking. Why should we be required to give you the calculations when we have a right to have what we have where we have it?

Mr. Bollenbach: That is not necessarily true. That is something that is still to be discussed. I believe the Castle Tavern had been expanded from lot 34 onto lot 35 with the addition of the structure which is alleged storage. It has kitchen exhaust fans. It was also expanded with additional decking, not just the cantilever portion over the lake. In the seating area, if you look at the pictures, there are about 40 to 50 seats that are directly on lot 35. That is an expansion onto lot 35, which was previously not used for restaurant purposes.

Mr. Lipman: John, there is nothing in that decision that says that. That decision was about a marina. It wasn't about the restaurant. I didn't handle that case. But, I represent Mrs. Pledging before the litigation was brought. I know what the issues were. The decision was quite clear that it was about the marina. There is nothing inconsistent with the use of areas of those lots for the marina and/or the restaurant. That is not an expansion. We are not expanding it. In fact to the extent that we had added seating there, we reduced the seating elsewhere.

Mr. Bollenbach: There are provisions within the code for expansion, or change of use, or relocations to other portions of the property. That is why you are before the Board. It is for the Board to evaluate whether or not there was a permissible expansion, alteration, or change in use.

Mr. Lipman: If you have a position with respect to expansion, just let us know specifically what your position is. What expansion do you refer to? The addition of the storage area rather than having it exposed to the public is not an expansion. That is not in my view.

Mr. Bollenbach: That is to be determined by the Board.

Mr. Lipman: We added a wall around it with an opening to allow us to move the materials out so that it would be concealed from the neighbors. If you don't like that, we will tear it down.

Mike Calandra: I was only trying to clean up the place.

Mr. Bollenbach: The Board will be doing a site visit to verify everything.

Mr. Astorino: We need to see everything out there.

Mr. Bollenbach: I am just going from what the Building Inspector is stating. He states that the construction appears to be a new kitchen type facility.

Mr. Astorino: That will be something we will see when we go out for the site visit.

Mr. Lipman: What is the change of use that you have mentioned?

Mr. Bollenbach: It is change of use. Expanding the use and changing the use of a marina parcel to a restaurant parcel. That portion of the parcel which was used for marina purposes is now being used for restaurant purposes.

Mr. Lipman: Do you think customers of the marina were not customers of the restaurant as well? They are. That is not an expansion. We did not add seating. We moved it to another part of the non-conforming area.

Mr. Bollenbach: That is precisely in the code. It states, relocation of a non-conforming use to another location on the property.

Mr. Lipman: To another location not occupied by the non-conforming use. If I take a chair and move it from this part to another part, that would not be expanding. That is not change in use. They are both non-conforming uses.

Mr. Bollenbach: I think it will become clearer to the Board once we do the site visit.

Mr. Lipman: Assuming that I am correct, what is the reason to require the parking calculations?

Mr. Bollenbach: If there is an expansion of use, then there has to be a corresponding expansion in the parking area and expansion in the septic capacity. That is all interrelated.

Mr. Astorino: That is another issue. Regarding the septic, Kirk have you done any other calculations on that?

Kirk Rother: No. I contacted the DEC to try to get a copy of the plan for that SPDES permit.

Mr. Astorino: With your own calculations, it seems you are over now.

Mr. Lipman: That pertains to comment #10. We will need modifications of that permit.

Mr. Astorino: You will prove that your septic could handle that amount of discharging.

Mr. Lipman: It is already handling it. The problem is the permit doesn't cover that it is already being handled.

Mr. Bollenbach: That triggers some red lights. Perhaps there was a lesser seating capacity when that permit was issued. That is to be determined.

Mr. Astorino: Correct me if I am wrong, but wasn't there some complaints about orders from the septic system? Would that be the extra discharge?

Mr. Bollenbach: There were complaints.

Mike Calandra: There was a cover that rotted away on the side of the building. We have replaced the cover.

Mr. Astorino: Do any Board members have any further comments before we go out to the site?

Comment #8: The size of the Proposed Free Standing Sign meets the requirements of the Code. Remove the spotlight from the detail and add the note: "Uplighting of signs is prohibited." The existing sign is labeled "To be removed". Show the location of the proposed sign, in conformance with the Code. Note that a permit is required from the Building Department for the erection of the sign.

Comment #9: Eating and drinking establishments are a permitted use in the Traditional Neighborhood Overlay District. Applicant to discuss conformance with The Town's Design Guidelines, per §164-46J(53).

Mr. Lipman: Is it clear that this is in the TN-O Zoning District? I ask that because I did not have the benefit of a large map of the Overlay Districts.

Mr. Bollenbach: We will have to verify that.

Ed Butler: We will have to verify that. We would have to come down to the actual definition of the District. I can't tell you at this time.

Mr. Lipman: What is shown on the map, it is very difficult to see what the map shows.

Mr. Astorino: We will check on that.

Mr. Lipman: I like to get a handle on where we are going here. Is the name of this process to ultimately resolve these issues and the issue of a site plan approval? Are we just throwing issue after issue out so that there could be a possibility of the business being shut down?

Mr. Astorino: I could speak on behalf of myself. I don't believe that would be the case at all to put anybody out of business. I believe there are some issues out there. I don't think anyone including yourself could deny that. The Board will be making a site visit out there. We will get a firsthand look at what issues keep going back and forth with the Building Department. We will iron out whatever issues we deem necessary. I know you are working on the SPDES permit. We will find out about the parking. We will keep moving on this. This Board has been moving on this application at every meeting.

Mr. Lipman: I don't see any reason for that. We can't keep up with the need to redraw plans. I don't see any reason to draw up plans.

Mr. Astorino: Let us get the Board out to the site.

Mr. Lipman: I don't want to be in the frying pan all during the process. There is no reason to be.

Mr. Bollenbach: There is reason for it. The Town is very concerned with the health and safety of that property.

Mr. Lipman: This is our application. We have a right to present the application at our own pace. I don't see why this application had been singled out for this kind of pressure. I am not going to stand for that. It is not fair.

Mr. Bollenbach: In April, the Building Department contacted Mr. Calandra. Mr. Calandra came into the Building Department. It was explained to him at that time that there would be a necessity to evaluate the project to see if there was an expansion or change in his proposed use. Mr. Calandra made assertions that the premises would not be opened without the benefit of a Certificate of Occupancy. That was on Memorial Day. It did open without the benefit of a permit. It has been continuing. This is what Mr. Batz has indicated to me. I was there personally with Mr. Calandra and explained it to him in the company of Zen Wojcik.

Mr. Lipman: I am doing my best to stay with this application. I just want you to know that it is my professional opinion that if the jurisdiction of this Board is based upon §164-46B(4), I do not believe that justification. That is the designated protection area language. I don't believe you have jurisdiction. I reserve the right to object to your jurisdiction. I am not withdrawing. I want to go forward. I want to get the whole thing straightened out.

Mr. Bollenbach: I just want to reference a letter to Mr. Lipman that was from myself, dated 10/2/09. In part, it specifically refers to §164-46B(5), which is the subsequent section. It relates to expansion and change of use. That is subject to Planning Board review. One is the designated protection area. The other is for the expansion and change of use, which still has to be evaluated.

Mr. Lipman: You have a separate Order To Remedy a Notice of Violation dealing with the designated protection area. I don't see what deals with the issue that you are talking about. I don't see any violation for expansion.

Mr. Bollenbach: There were stop work orders. If you would like Orders to Remedy, I believe that could be accommodated.

Mr. Lipman: I am not looking for new ones. I am saying that I don't know about any old ones. My file is already getting thick. I don't need any new ones.

Mr. Astorino: The best thing would be is to have the Board do the site visit. Let us see exactly what is there. Kirk, you will be at the site visit. Let us go through it at that time. We will get the ball rolling in a positive direction.

Mr. Lipman: The stenographer might be there. He doesn't know that yet.

Mike Calandra: Since this has been going on, I haven't been able to continue to work. I have been robbed twice. I am not allowed to put doors on.

Mr. Astorino: If you go to the Building Department and ask them if you could screw a piece of plywood to the building for security reasons, I am sure they would be accommodating.

Mr. Lipman: I would like the inquiries to focus on the issues that you believe are the reason that we are here.

Mr. Astorino: That is why we will be doing the site visit.

Mr. Lipman: Our parking lot is not one of those reasons.

Mr. Astorino: That is yet to be determined. We will go out to the site and make that determination.

Mr. Lipman: It is not the subject to any violations yet.

Mr. Astorino: Ok. We have a site visit scheduled for Monday, 10/12/09 @ 5:30 p.m. We will list comments 10 through 12 for the record.

Comment #10: The Water Use Calculation placed on the plan shows a purported hydraulic load (septic discharge) of 3,822 gpd. The last SPDES permit for the property (January 1, 2004) limits the discharge to 2000 gpd. Applicant to discuss.

Comment #11: Provide a copy of the SPDES Transfer of Ownership form submitted to the NYSDEC.

Comment #12: Provide a copy of the current NYS Liquor Authority Permit and approved plan.

Mr. Lipman: Thank you.

Kirk Rother: Thank you.

Other Considerations:

1. **Watchtower/World Headquarters** – Planning Board to consider issuance of a Positive Declaration.

Representing the applicant: Robert Pollock, applicant.

The following comment submitted by the Conservation Board, dated 10/7/09:

Watchtower/World Headquarters - CB supports issuance of a Positive Declaration. The size of the property and the proposed development is more than sufficient to support, if not require, a Positive Declaration under SEQRA.

The following comment submitted by the ARB, dated 10/7/09:

Watchtower/World Headquarters - The ARB would like to see conceptual drawings for the new construction during the early phases of the application process, particularly since the plans we had reviewed indicated some potential reuse of buildings on the site.

Mr. Astorino: Do any Board members have any issues with the Positive Declaration for the Watchtower application? I think we are all on the same page. Ted, do you have one prepared?

Mr. Fink: Yes. This is the next step in the process. The Board declared its Intent To Be Lead Agency. We have no competition for the Planning Board to act as Lead Agency. What that is, it is a Positive Declaration of the notice of intent to prepare the Draft Environmental Impact Statement (DEIS). The Positive Declaration describes the action. It is classified as a Type 1 Action. It provides reasons supporting the determination to issue the Positive Declaration. There are agencies on page 2 of the Positive Declaration. We have quite a bit of environmental documentation that had been done previously first for the Blue Lake Project and secondly for the Kings College project. There has been quite an undertaking already. Much of this information does need to be updated. There is one issue that appears to be relatively a new issue. I don't believe it was identified in the Kings College project. That was the presence of an archaeological site within the vicinity of the property. I went back and looked at the DEIS on the Kings College project. There was no archaeological investigation conducted. But, the applicant had submitted documentation from the State indicating that there is one site within the area. These are being discovered as different development projects happen within a mile of any site that has been identified. Then, it goes into the State's data base of what they consider as sensitive areas for archeological sites. That was where the letter came from. That was the only real issue that was new. Other than that, the issues are basically issues of construction, land disturbance, the presence of Federal wetlands, and the use of water and sewer. There is a long list of plant and animal species as well as ecological communities that has been identified within the New York Natural Heritage Program. It is also close to the State of New Jersey's Natural Heritage Program because of the proximity of the site to New Jersey. We have a lot of information on that already. There are issues of traffic and archeology. It is within the Ridgeline Overlay District. Esthetics are one of the areas of concern. The site is also in close proximity of Sterling Forest State Park. There will be issues of lighting, building height, etc... Then, there are the community service providers. Those are the reasons supporting the determination. The next step

would be for the applicant to prepare a Draft Scoping Document that would outline the issues that I have stated and any other issues that the Board might identify. The applicant would go through and analyze issues as they prepare their site plans to include in the Draft Scoping Document. Once the Draft Scoping Document is submitted to the Planning Board, the next step would be to schedule a Public Scoping Session. We would need to get this out to all of the involved and interested agencies. I have made a preliminary list of the involved and interested agencies on page 3 of the Positive Declaration. If anybody sees anything else on there that I might have missed, please chime in. We have a list about 15 involved and interested agencies. If the Board does decide to adopt the Positive Declaration tonight, then that would have to be published in the NYS Environmental Notice Bulletin. I could take care of that to make sure it is properly noticed.

Mr. Astorino: Would the Village of Greenwood Lake be one? I know there was interest from the Mayor about this project.

Mr. Fink: Ok. There is nothing special that if there was an interested agency that has been designated that it confers any special status on them. What it does, they would receive a copy of the Positive Declaration. They may receive copies of the DEIS if they ask for it. There is nothing unusual that it confers any specifics. They should be included. They should be added to the list as well.

Mr. Singer: Ted, is this in the Tuxedo School District or the Warwick School District?

Mr. Fink: It was my understanding is that the project does not include any school age children. I believe it would be the Tuxedo District. From the information that the applicant has provided, the youngest person would be 19 years old in terms of volunteers and residents that would live there. The impacts on the schools was not included in this. We do have impacts on community services. I have include Fire, Ambulance, and Police.

Mr. Singer: I think the Tuxedo School District should be part of this.

Mr. Astorino: For what reason?

Mr. Bollenbach: They have jurisdiction. If they have children or not, it might be something, they might be concerned with. They might be interested.

Mr. Astorino: I don't have a problem with notifying the schools.

Mr. Fink: It doesn't confer any special status.

Mr. Astorino: We will add the Tuxedo School District and the Village of Greenwood Lake.

Mr. Fink: Ok.

Mr. Astorino: Does the Board have anything further? We need a motion for the Positive Declaration.

Mr. McConnell makes a motion for the Positive Declaration.

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

617.7 and 617.12

State Environmental Quality Review (SEQR)

Positive Declaration

Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) Determination of Significance

Date: _____

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Warwick Planning Board, as Lead Agency, has determined that the proposed action described below may have a significant effect on the environment and that a Draft Environmental Impact Statement will be prepared.

Name of Action: World Headquarters for Jehovah's Witnesses

SEQR Status: **Type I**
 Unlisted

Description of Action: The proposed action involves redevelopment of the former International Nickel Company site on Blue Lake (aka Sterling Forest Lake) for a religious administrative campus. The Watchtower Bible and Tract Society of New York has proposed relocation of their World Headquarters from Brooklyn, NY to the 257 acre site. The redevelopment involves 12 buildings on a 30 acre portion of the site as follows: an approximately 195,000 square foot three- to four-story office building/place of worship; four five-story residential structures totaling approximately 400,000 square feet; and approximately 137,000 square foot three- to four-story service building including kitchen, laundry and support functions; a two-story 100,000 square foot maintenance shop; and additional smaller buildings including an additional maintenance shop, vehicle repair shop (for on-site vehicles), heating/cooling and generator house, and a recreation services building. The campus structures would be built to the three Green Globes standard promulgated by the Green Building Initiative (comparable to LEED Gold Standard). The majority of the 750 parking spaces would be accommodated in subsurface parking with approximately 100 surface parking spaces provided for convenience. The site consists predominantly of ±195.4 acres of forested land (76 % of the site), ± 11.3 acres of meadow or brushland (4.3 % of the site), ± 36.7 acres of surface waters including wetlands (14.2 % of the site) and ± 13.6 acres of roads, buildings and landscaping (5.3 % of the site). The applicant has proposed that the development will be largely contained within the area previously developed for the

International Nickel Company, leaving almost 90 percent of the site in its natural condition.

Location: Long Meadow Road, Town of Warwick, Orange County New York
Land Conservation (LC) and Ridgeline Overlay (RL-O) Zoning districts
Section 85, Block 1, Lots 2.22, 2.3, 6

Reasons Supporting This Determination:

1. The proposed action would require construction activities on slopes of 15 percent or greater and in areas where bedrock is at or near the surface. This has the potential to cause soil erosion and subsequent sedimentation of protected surface waters. Blasting may be necessary to establish proposed grades.
2. The proposed action includes construction activities adjacent to Federal Jurisdictional wetlands and Blue Lake. The discharge of stormwater runoff from developed areas on the site has the potential to impact such surface waters.
3. The proposed action would require the use of approximately 70,000 gallons of water per day from United Water to supply the potable needs of the future residents of the campus. Approximately 64,000 gallons of sanitary sewage per day would be discharged, after treatment in the Blue Lake Sewage Treatment Plant, into a tributary to the Ringwood River.
4. The site and/or surrounding areas may contain plant and animal species identified as endangered or threatened as well as rare species and ecological communities.
5. The proposed action has the potential to impact traffic on local and county roads as well as pedestrian movements in the area.
6. The proposed action occurs in an area identified by the State of New York as sensitive for archaeological resources.
7. The proposed action is located within the Town's Ridgeline Overlay District and has the potential to affect scenic views known to be important to the community and the State.
8. The proposed action has the potential to affect community service providers including fire, ambulance, and police from the additional residents generated by the project.

Public Scoping of the Draft GEIS will occur as follows:

Scoping of the Draft EIS will be conducted. The applicant will first submit a Draft Scoping Document. Such Document will then be forwarded to all Involved and Interested agencies, through publication of a "Notice of Project Scoping" in the official Town newspaper, and through availability of the Draft Scoping Document on the Internet for viewing or downloading at <http://www.townofwarwick.org>. The Draft Scoping Document, once submitted, will also be available for public review at the Town of Warwick Planning Board offices. A Public Scoping Session will be scheduled to discuss the Scoping Document and additional written comments will be accepted afterwards. Following the public Scoping Session, the Planning Board will prepare and distribute a Final Scoping Document.

For Further Information:

Contact Person: Connie Sardo, Planning Board Secretary
Address: Town of Warwick Planning Board
132 Kings Highway
Warwick, NY 10990
Telephone: 845-986-1120

A Copy of this Notice Filed With:

Watchtower Bible and Tract Society of New York Inc.
Supervisor Michael Sweeton
Town Board of the Town of Warwick
Town of Warwick Planning Board
Town of Warwick Zoning Board of Appeals
Town of Warwick Conservation Advisory Board
Town of Warwick Architectural Review Board
Orange County Department of Health
Orange County Department of Planning
Orange County Department of Public Works
New York State Department of Environmental Conservation
Palisades Interstate Park Commission
United States Army Corps of Engineers
Town Board of the Town of Tuxedo
Village of Greenwood Lake Board of Trustees
Borough of Ringwood Council
Tuxedo Union Free School District
Environmental Notice Bulletin
enb@gw.dec.state.ny.us

Robert Pollock: I have one question on the outline for the Scoping Document. Would it be the Board's pleasure if we submit that directly to the Board or to review it with Mr. Fink first?

Mr. Astorino: You would review it with Ted first.

Mr. Fink: Usually the way it is presented, it is provided to the Board. I will take a look at it. I will make any recommendations to the Board. Typically, we involve the other agencies and the public. If any other comments that come in, we would add that to the Scoping Document. Usually that comes into the Board. We would get that out right away.

Mr. Astorino: Ok.

Robert Pollock: Ok. Thank you.

2. **Warwick Views Subdivision** – Planning Board to accept “Revised” DEIS for review.

Mr. Fink: This begins the 30 day clock for review of the Revised DEIS.

Mr. McConnell makes a motion on the Warwick Views application to accept the “Revised” DEIS for review.

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

3. **Kenneth Luft Subdivision** – Letter from Kirk Rother, dated 9/17/09 addressed to the Planning Board in regards to the Kenneth Luft Subdivision – requesting a 6-Month Extension on “Re-Approval” of Final Approval of a proposed 22-Lot cluster subdivision + 2-Affordable Homes subdivision and Special Use Permit for the affordable homes, situated on tax parcel S 26 B 1 L 110; parcel located on the northern side of Newport Bridge Road and at the intersection with Blooms Corners Road, in the RU zone, of the Town of Warwick. Final Approval was granted on 4/16/08. “Re-Approval” of Final Approval was granted on 4/1/09 became effective on 4/16/09. *The applicant has had difficulty in obtaining the necessary financing to satisfy the conditions of final approval.* The 6-Month Extension on “Re-Approval” of Final Approval becomes effective on, 10/16/09.

Mr. McConnell makes a motion on the Kenneth Luft application, granting a 6-Month Extension on “Re-Approval of Final Approval for a proposed 22-Lot cluster subdivision + 2-Affordable Homes subdivision and Special Use Permit for the Affordable Homes, SBL # 26-1-110. Re-Approval of Final Approval was granted on 4/1/09 became effective on 4/16/09. The 6-Month Extension on “Re-Approval” of Final Approval becomes effective on, 10/16/09.

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

4. **Ludmerer / Masker Fruit Farm** – Letter from Kirk Rother, dated 9/18/09 addressed to the Planning Board in regards to the Ludmerer/Masker Fruit Farm Subdivision – requesting a 6-Month Extension on “Amended” Final Approval of a proposed 6-Lot cluster subdivision, situated on tax parcels S 53 B 1 L 20 & L 35; parcels located on the eastern side of Brady Road, closest intersection with Cascade Road, in the MT/CO zones, of the Town of Warwick. *The applicant is still in the process of satisfying the conditions of “Amended” Final Approval.* “Amended” Final Approval was granted on 4/15/09. The 6-Month Extension becomes effective on, 10/15/09.

Mr. McConnell makes a motion on the Ludmerer/Masker Fruit Farm application, granting a 6-Month Extension on “Amended” Final Approval of a proposed 6-Lot cluster subdivision, SBL # 53-1-20 & 35. “Amended” Final Approval was granted on 4/15/09. The 6th Month Extension becomes effective on, 10/15/09.

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

5. **Round Hill Subdivision** – Letter from Steven Spiegel, Attorney, dated 9/25/09 addressed to the Planning Board in regards to the Round Hill Subdivision – requesting “**3rd Re-Approval**” of Final Approval of a proposed 19-Lot + 1-Ag Lot Cluster subdivision, entitled, “**Round Hill Subdivision**”, formerly Wheeler Estates, located on tax parcel S 7 B 2 L 51.1; parcel located along the northerly side of Wheeler Road between Meadow Road and Hunt Drive, in the RU zone, of the Town of Warwick. Final Approval was granted on 10/18/06. 2nd Re-Approval of Final Approval was granted on 10/1/08 became effective on, 10/17/08. *The 3rd Re-Approval is needed because the condition for final approval requiring construction of roads and significant infrastructure, which real estate market and financial conditions do not permit at this time.* The 3rd Re-Approval of Final Approval becomes effective on, 10/17/09, subject to the conditions of Final Approval granted on, 10/18/06.

Mr. McConnell makes a motion on the Round Hill application, granting “**3rd Re-Approval**” of Final Approval of a proposed 19-Lot + 1-Ag Lot cluster subdivision, entitled, “**Round Hill Subdivision**”, formerly Wheeler Estates, located on tax parcel S 7 B 2 L 51.1; parcel located along the northerly side of Wheeler Road between Meadow Road and Hunt Drive, 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, 10/18/06. The 3rd Re-Approval of Final Approval becomes effective on, 10/17/09, subject to the conditions of Final Approval granted on, 10/18/06.

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

6. **Planning Board Minutes of 9/2/09** – Planning Board to Approve the 9/2/09 Planning Board Minutes.

Mr. McConnell makes a motion to Approve the 9/2/09 Planning Board Minutes.

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

Correspondences:

Mr. Astorino: Connie, do we have any correspondences?

Connie Sardo: No.

Privilege Of The Floor For Agenda Items!!

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

Mr. Showalter makes a motion to adjourn the October 7, 2009 Planning Board meeting.

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