

TOWN OF WARWICK PLANNING BOARD

October 17, 2007

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

The regular meeting of the Town of Warwick Planning Board was held Wednesday, October 17, 2007, 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 Wilfred E. and Catherine C. Maynard

Application for final approval of a proposed 4-Lot cluster subdivision, situated on tax parcel S 64 B 3 L 23.1; parcel located on the eastern side of Cascade Lake Road 1900± feet south of Cascade Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York.

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

Connie Sardo: Mr. Chairman, we have received the certified mailings for the Maynard public hearing from Lehman & Getz Engineering. It shows on the certified mailings that they were stamped by the Post Office on 10/10/07 and they went out on that day. Yesterday, I received a few phone calls from the neighbors stating that they have not received a letter. I have the proof right here.

Mr. Chairman: Ok.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
 - A. Provide an Existing Resources Plan per the Town Planner's specifications.
 - B. Revise Site Context Map to show federal wetlands (i.d. jurisdiction).
 - C. Planner's review of Habitat Site Investigation and Report.
2. Applicant to discuss project.

YIELD PLAN (DATED 6/15/07):

3. No further comment. Board to consider.

CLUSTER PLAN (DATED 10/11/06, REVISED 6/15/07)

4. Identify Seminole Drive on Vicinity Map and plans.
5. Applicant proposes three cluster lots when the allowable Yield Plan density is four lots. Applicant proposes a possible future subdivision of Lot #2 into two lots, subject to the review and approval of the Planning Board (note 17). Board to discuss.
 - o Refer to General Note #17.
6. Applicant proposes two alternate locations for the dwelling on Lot #2, both conforming to the 100 foot setback required by §164-41.1H(2)(a). The dwelling is proposed to be located within the Ridgeline Overlay District where "constructed structures shall not differ more than 20 feet in any direction from building site locations shown on the approved (plan)". Site "A"

- encroaches on a secondary conservation area (slopes 15% to 25%), as noted on the revised 4-Step Plan. Applicant seeks approval for both locations. Board to discuss.
- o §164-47.1 Ridgeline Overlay District does not preclude alternative structure siting.
 - o Refer to General Note #19.
7. Provide notes for construction, compaction and stabilization of 2:1 slopes, per the note on sheet 4. Provide a detail for installation of an appropriate rolled erosion control product.
 8. Provide erosion control measures on plans consistent with the current “NYS Standards and Specifications for Erosion & Sediment Control” for all driveway embankment slopes, and include details.
 9. Provide supplemental plantings on Lot #3 to provide additional screening for SBL 64-3-22.12.
 10. Detail the proposed timber guiderail for Lot 2 Alternate B.
 11. Add note stating: “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.”

BEFORE FINAL APPROVAL:

12. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Radon Reduction Notes.
13. Applicant to provide 9-1-1 addressing.
14. 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.
15. Pay parkland fees.
16. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 10/16/07:

Wilfred E. and Catherine C. Maynard - The CB has no further comments. Here are the CB's comments on this property submitted on the August 1, 2007 PB Agenda.

Zen also briefed the CB on the Habitat Site Investigation & Report. This property appears to be very special from a habitat perspective including significant forest resources (inland Atlantic white cedars, chestnut oak, and several other tree species). However, it does not appear to be suitable habitat for bog turtles of Indiana bats. Zen assured the CB that the sensitive habit areas would be conserved to the maximum extent in the final plan.

The CB notes that one of the lots is in the Ridgeline overlay and encroaches on a secondary conservation area with slopes greater than 15%. The CB notes that Longhouse Creek is federally protected and great care should be taken during construction to minimize erosion impacts on that creek. In addition, it should be made clear that future property owners are responsible to maintain property with suitable ground cover to avoid erosion.

Is there anyway to nail down lot #4 now with a no further development restriction rather than wait for some time in the indeterminate future since it is better to handle the whole parcel now when everybody is focused especially since this is such a special property. Perhaps the Park Service would want to purchase or take a permanent easement to protect the AT. That may be beneficial to the owners by way of cash or tax credits.

The following comment submitted by the ARB, dated 10/15/07:

Wilfred E. and Catherine C. Maynard – The ARB had no comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has been acting as Lead Agency on the application. There are a couple of conditions relative to SEQR. It is located within an area identified in the Southern Wallkill Bio-Diversity Plan as an area of concern from a habitat standpoint. It has also been identified by the New York Natural Heritage Program as being within or adjacent to at least 6 different habitat areas. Evidently, there are documented endangered species habitats close by or on the site. There are rare high ecological community types within this area. As a result of that, the applicant commissioned Robert Torgeson to conduct a habitat site investigation and report. We talked about this at a prior work session. We had Karen Schneller-McDonald take a look at the habitat investigation report. She had a number of questions and comments that she felt needed to be further studied within the report. From a SEQR standpoint, we are asking that Mr. Torgeson look further at this. She had raised a couple of issues relative to locations of wetlands that were discussed, but not shown on the plan. She had some questions about some of the impacts on the Bio-Diversity Plan and some of the species that was mentioned in the report. Karen Schneller-McDonald prepared a memo regarding all of these issues. The Memo is dated 10/16/07. I will email a copy of the memo to Robert Torgeson.

Mr. Singer: I am concerned about why tonight when we are on for a public hearing that we get this report. Why didn't we get this memo from Karen sooner? Why are we just getting it now?

Mr. Fink: Unfortunately, I was not at the work session. Because of the Holiday, I was out of town that day.

Mr. Astorino: I think that was one of the caveats that we had at the work session. Carl, we said that we would put it on, even though we didn't have comments from Ted.

Mr. Bollenbach: We put it on as a courtesy. In the event that everything was addressed, then the project could be moved forward. In the event that it was not all addressed, we would have to adjourn the public hearing.

Mr. Astorino: That was the caveat. Apparently, that is where we are. We will have to review it. None of us had seen this until tonight.

Mr. Fink: I only received it at the end of the day yesterday.

A. Provide an Existing Resources Plan per the Town Planner's specifications.

Mr. Bollenbach: Ted, has that been revised?

Dave Getz: I think we have addressed A&B.

Mr. Fink: Regarding the existing resources plan, there is one additional area that I thought needed to be corrected. There is a call out that identifies California Road that actually points to Longhouse Creek. That should be corrected. Other than that, I had looked at this. It looks acceptable.

Mr. Astorino: Is that the same with the site context map?

Mr. Fink: Yes.

B. Revise Site Context Map to show federal wetlands (i.d. jurisdiction).

C. Planner's review of Habitat Site Investigation and Report.

Mr. Fink: Yes.

Mr. Astorino: We will have to review that.

Comment #2: Applicant to discuss project.

Dave Getz: The property is about 48 acres. There is an existing house on it. What we have done was propose a 3-lot subdivision with (2) new homes with driveways from Cascade Lake Road. We had done a yield plan for 4 lots. In later comments, you will see the issue of the potential of coming back for a future 2-lot subdivision. That was something that we included in the plan. We have done a site walk. Many of you were there for that. We feel that it is a cluster that takes good advantage of keeping the development area small in comparison to the size of the property.

YIELD PLAN (DATED 6/15/07):

Comment #3: No further comment. Board to consider.

Mr. Astorino: Zen, is this ready for a consensus?

Zen Wojcik: Yes.

Mr. Astorino: Is the Board all in favor of a consensus on the yield plan?

Mr. McConnell: Yes.

Mr. Kowal: Yes.

Mr. Showalter: Yes.

Mr. Astorino: We have a consensus on the yield plan.

CLUSTER PLAN (DATED 10/11/06, REVISED 6/15/07)

Comment #4: Identify Seminole Drive on Vicinity Map and plans.

Dave Getz: Yes.

Comment #5: Applicant proposes three cluster lots when the allowable Yield Plan density is four lots. Applicant proposes a possible future subdivision of Lot #2 into two lots, subject to the review and approval of the Planning Board (note 17). Board to discuss.

- o Refer to General Note #17.

Mr. Astorino: Dave, the bottom line is that you would have this lot, but it would have to come back to the Planning Board to be approved.

Dave Getz: Right. It is about 40 acres in size. It appears the access to that would have to be from California Road. As we have discussed before, the applicant is trying to hurry this along and simplify it. His In-Laws, who own the property, are elderly and ill. We did not want to get into the issues and the delay that it might involve.

Mr. Bollenbach: What does note #17 say?

Mr. Astorino: Note #17, is stated as follow: *“There shall be no further subdivision of lot 1 and lot 3. Lot 2 may be divided into two lots in the future, subject to the review and approval of the Town of Warwick Planning Board.”*

Mr. Bollenbach: We would have to revise this. Maybe, subdivideable into no more than or up to (2) lots. There is no guarantee that you are going to get an additional lot.

Dave Getz: Right.

Mr. Bollenbach: It is the potential or the possibility to further subdivide. It would still have to be demonstrated. Also, I would like to have a liber and page. This could be incorporated into the Declaration.

Dave Getz: Ok.

Mr. Bollenbach: That would give the future purchasers actual knowledge of the potential for up to one additional lot on lot #2.

Dave Getz: Would that go into a deed with each of the lots?

Mr. Bollenbach: Yes. That would go into the Declarations. The Declarations follow the deeds. Add the Declaration. We will revise that.

Dave Getz: Ok.

Comment #6: Applicant proposes two alternate locations for the dwelling on Lot #2, both conforming to the 100 foot setback required by §164-41.1H(2)(a). The dwelling is proposed to be located within the Ridgeline Overlay District where “constructed structures shall not differ more than 20 feet in any direction from building site locations shown on the approved (plan)”. Site “A” encroaches on a secondary conservation area (slopes 15% to 25%), as noted on the revised 4-Step Plan. Applicant seeks approval for both locations. Board to discuss.

- §164-47.1 Ridgeline Overlay District does not preclude alternative structure siting.
- Refer to General Note #19.

Mr. Astorino: Are these the locations that we had seen at the site visit?

Dave Getz: Yes. One, is right up near the road at the minimum setback. The other would be back in the area where the septic systems are proposed in that lower plateau near the existing house.

Mr. Astorino: Did any Board members have any problems when we were out there?

Mr. Showalter: No.

Mr. McConnell: Do either of those sites require a waiver?

Dave Getz: No. Not that I am aware of.

Mr. Fink: No. The secondary conservation areas recommended in the code should be maintained as buffers, but it is not a "shall".

Mr. Astorino: Ok. When we were out there, we had done an extensive walk. We figured that these would probably be the best spots, if I remember correctly.

Mr. McConnell: Zen, how much of an encroachment is that site A on the secondary conservation areas?

Zen Wojcik: That is a good question.

Mr. Fink: Zen had thought there was a minimum distance. There is a minimum distance, but the minimum distance is called for as a recommendation. Whereas in the primary conservation area, there is a minimum distance required to be maintained.

Mr. Astorino: What are we looking at?

Dave Getz: Site A, is the one closer to the road. The footprint of the house is within some areas steeper than 15%. We meet the code that says at least 50% of the footprint must be flatter. In either case, we put a similar driveway up to that area. The other house site back here is in a flatter area.

Mr. McConnell: By how much does it encroach on the secondary?

Zen Wojcik: It is right next to the steep slope. That is the point that I am having here with Ted.

Mr. Bollenbach: That is less than 50% of the footprint of the house.

Zen Wojcik: It is not the footprint of the house. The fact is that it is in the Ridgeline Overlay. We are right up against the slope. We had another application that the Board was looking at that we had a setback from the secondary resource. That is what I am a little confused about.

Mr. McConnell: I am also a little confused. I am asking, how much does this Site A encroach upon the secondary? You are saying that it is next to. Next to is not the same thing as encroaching. I want to know by how much it encroaches.

Zen Wojcik: Ok.

Mr. McConnell: Or, is it just next to?

Mr. Astorino: It is not set back from it. That is the question that you are asking.

Zen Wojcik: It is only slightly encroaching.

Mr. Astorino: Dennis, I know your question, but does anyone from the Board have a problem?

Mr. McConnell: From what I had seen out there, I am ok with it.

Mr. Astorino: Ok. We are good with that.

Comment #7: Provide notes for construction, compaction and stabilization of 2:1 slopes, per the note on sheet 4. Provide a detail for installation of an appropriate rolled erosion control product.

Dave Getz: Ok.

Comment #8: Provide erosion control measures on plans consistent with the current "NYS Standards and Specifications for Erosion & Sediment Control" for all driveway embankment slopes, and include details.

Dave Getz: Ok.

Comment #9: Provide supplemental plantings on Lot #3 to provide additional screening for SBL 64-3-22.12.

Dave Getz: Ok. No problem.

Comment #10: Detail the proposed timber guiderail for Lot 2 Alternate B.

Dave Getz: Ok.

Comment #11: Add note stating: "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."

Dave Getz: We will add note.

BEFORE FINAL APPROVAL:

Comment #12: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Radon Reduction Notes.

Dave Getz: Fine. I am fine with the rest of the comments.

Mr. Astorino: We will list comments 12 through 16 for the record. Do any Board members or professionals have any comments?

Comment #13: Applicant to provide 9-1-1 addressing.

Comment #14: 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 #15: Pay parkland fees.

Comment #16: Pay outstanding review fees.

Mr. Bollenbach: Regarding comment #9, provide supplemental plantings, Dave are you going to provide a detail for the Board and Ted to review?

Dave Getz: Yes. That is a new comment. I wasn't familiar with it.

Mr. Bollenbach: Supplemental plantings, that is what is generally required with subdivisions that is in close proximity to neighboring structures, traffic, etc... We are looking for visual mitigation.

Dave Getz: Ok. We will work that out with Ted.

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

Peppy Freijo: I live on Cascade Lakes Road. I am a neighbor to this project. I think the driveway is about 50 feet from my line. There is going to be a parking area which would be on the left hand side of my house which would be facing the front of my house. I would like to know how much land would be disturbed.

Mr. Astorino: Where are you?

Mr. Bollenbach: It is on the left hand side of lot #3.

Mr. Astorino: You are concerned about this driveway coming into here.

Peppy Freijo: Yes. Is that a parking area?

Mr. Astorino: Dave, is this the parking area?

Dave Getz: Yes.

Peppy Freijo: The lights will be shooting into my house.

Mr. Astorino: We were just talking about doing some screening. We will get a plan from them for some screening and mitigation. We don't have it yet.

Mr. Bollenbach: Perhaps the driveway or the parking could be reoriented. There could be other options.

Mr. Astorino: Maybe, you could turn the house.

Mr. Showalter: There could be parking under the house or something like that. Maybe, you could put a walkout basement..

Mr. Astorino: It is something that could be looked into.

Dave Getz: Ok.

Peppy Freijo: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Maynard application? Let the record show no further public comment. We will need to get new information. It will need to be reviewed. We will need to adjourn this public hearing.

Mr. Showalter makes a motion to adjourn the Maynard Public Hearing to the November 21, 2007 Planning Board meeting.

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

Mr. Bollenbach: There will be no further notice regarding the Maynard Public Hearing. This is your notice. This public hearing has been adjourned to November 21, 2007.

Dave Getz: Thank you.

Review of Submitted Maps:***Country Fairgrounds***

Application for final site plan approval, final special use permit approval, and final 2-Lot subdivision approval for the construction and use of 82,750 square feet of commercial/retail facilities, situated on tax parcel S 51 B 1 L 40; property located on the northern side of NYS Route 94 approximately 1000 feet east of O.C. Route 21, in the DS/OI zones, of the Town of Warwick, County of Orange, State of New York. A public hearing was held on 2/16/05 with the SEQRA public hearing being closed and the preliminary site plan, special use, and subdivision public hearings were closed at the 3/21/07 Planning Board meeting. Planning Board adopted Findings Statement on 11/15/06. Preliminary Site Plan Approval and Special Use Permit was granted on 5/2/07. Letter from Fairgrounds, LLC., addressed to Planning Board, dated 10/5/07 requesting a 6-Month Extension on Preliminary site plan approval, special use permit, and 2-lot subdivision approval. Preliminary Approval was granted on 5/2/07. 6-Month Extension becomes effective on, 11/2/07.

Representing the applicant: Dave Getz from Lehman & Getz. Trieste Savona, Price Chopper. Adrian Goddard from Goddard & Associates.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project. Status of approvals:
 - A. NYSDOT
 - B. NYSDEC – Discuss sanitary waste disposal, effluent discharge to stream.
 - C. OCHD – additional well tests being reviewed; discuss other comments.
3. Applicant has provided a plan showing an alternate means of disposing of the effluent from the sewage treatment plant. Applicant to discuss.
 - A. The plan shows 100% expansion area, limiting the possible expansion of the plant. Applicant to discuss how this is consistent with the approved FEIS.
 - B. Percs and deeps at the proposed absorption field were not witnessed by the Town Engineer. Applicant to discuss.
 - C. Applicant proposes a 900 sf absorption field in the Town's Aquifer Protection Overlay District. Applicant to discuss consistency with overlay district regulations.

THE FOLLOWING COMMENTS REMAIN FROM THE REVIEW OF PRELIMINARY PLANS. NO NEWLY REVISED PLANS WERE SUBMITTED.

SITE PLANS (LAST REVISED 4/2/07):

4. Applicant and Board to discuss April 17, 2007 comments from Orange County Dept. of Planning.
5. Temporary construction trailers will be utilized. Per §164-43D, Board to discuss allowable period of time for trailer use and amount of bond. Provide notes on plans specifying same.

Sheet 5 – Layout & Signage Plan

6. Provide a geometric design for all road improvements. Show reference ties for boulevard entrance, limits of road improvement, etc.

7. Show stations on NYS Rt. 94 and state the limits of proposed widening/improvements (BEGIN & END stations). Provide an equality station with Sta. 0+00 of the applicant's project. Show and identify any existing or proposed NYSDOT bench marks or monuments and provide baseline tie information for the project and highway widening.
8. Widening of the highway will affect the existing headwalls of the Class D tributary streams and possibly require extending the culverts. Call-out new headwalls, culvert extensions and refer to details for both on sheet ____.

Sheet 8 – Construction Staging Plan

9. Construction Staging Key shows 3 stages, yet there are notes for 4 stages. Clarify on Key that buildings, water and sewer plants, and Rt. 94 widening will occur in Stage 4.

Sheet 9 – Sediment & Erosion Control

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

Sheet 10 – Landscaping Plan

11. Define landscaping of Infiltration Swale.

Sheet 11 – Lighting Plan

12. Lighting Plan by Pyramid Lighting Group, 8/2/04, LAST REVISED 4/2/07
 - A. Note the hours of operation for lighting of car dealership and pad site parking areas.

Sheet 12 – Site Operation Plan

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

BEFORE FINAL APPROVAL:

14. Provide the declaration and the recording information on the plan for Agricultural Protection Notes and Aquifer Protection Overlay Notes.
15. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
16. Pay performance bond, landscape maintenance bond (3-years) and construction inspection fees for stormwater management, erosion control, water and wastewater treatment, and site landscaping.
17. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 10/16/07:

Country Fairgrounds – CB has no further comments.

The following comment submitted by the ARB, dated 10/15/07:

Country Fairgrounds - The Architectural Review Board would like to meet with the applicant and his architect to discuss this application and the buildings proposed before this applicant proceeds to detailed specifications. The drawings submitted are inconsistent in scale and size with one another. They seem to be computer generated generic forms instead of real drawings, and they do not compliment one another or the overall neighborhood. Further, the siting of the buildings seems to have varied from previous submitted plans. And, the proposed Price Chopper building is not consistent with the size of the building previously designated for the supermarket on the site.

The Fairgrounds development, along with the Homarc development will create a significant impact on the Route 94 S corridor, and will determine the character of this gateway route. It is important to guarantee the quality and level of design of these buildings, and to coordinate the

two developments (using the same engineer) and bringing some sense of local place and continuity to the corridor.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has acted as Lead Agency on this application. Following a multi-year EIS review process, the Planning Board adopted a Findings Statement on 11/15/06. The FEIS was filed on 11/26/06. The most recent submission that was provided to the Planning Board does include a project change. In circumstances like this, once SEQR has been fully complied with and you have a change in circumstances or a change in the proposed project, it means that you need to investigate whether or not this change was addressed through the SEQR review process, whether or not the change may rise to the level of causing significant adverse affects and so forth. The SEQR Regulations direct that when a circumstance occurs, which this is, it is a change from a surface water discharge to the sewage treatment plant to a sub-surface discharge for the sewage. I took a look at the Findings Statement to see whether or not there was specific discussion in there. At least in (7) or (8) different places within the Findings Statement, it talks specifically about discharge of tertiary treatment of the sewage treatment plant through a surface discharge through a vegetated swale to a point outside of the eastern wetland buffers. It did specifically, through the SEQR review process, examine the environmental effects of the surface water discharge. They did not examine the impacts of a sub-surface discharge. The only other incidence that I have found that would pertain to this is that this area is within the Aquifer Protection Overlay District. There was an Aquifer Impact Assessment that was prepared by the applicant and reviewed by Tectonic. That Aquifer Impact Assessment did not address the potential effects of a discharge to the ground. At this point, I don't know if we have enough information before us to be able to say whether or not a supplemental EIS is called for. It is not always called for. We need to find out whether or not the threshold of this change would result in a significant adverse affect. Did the DEC actually call for the sub-surface discharge? Concerning the effect of the sub-surface discharge, I think we need to find out more about it. At a minimum, there may be some modifications made to the Aquifer Impact Assessment. If so, it could possibly be treated through an Amended Findings Statement. We might not even have to rise to that level. We at least need to get a little bit more information about it to see how this change of circumstances affects the prior SEQR review process.

Mr. Bollenbach: Ted, I am a little confused. I thought about 1-1/2 years ago we had meetings with the DEC and that the proposed surface discharge into that swale in the wetlands was a done deal. Could you enlighten the Board on the reason for this change?

Mr. Fink: John, I thought it was to. The first inkling that we received was that we have a letter addressed to the applicant, dated 4/11/07 from Alex Ciesluk of the DEC. In the letter, it is a Notice of Incomplete Application on their application for a wastewater treatment plant and a SPDES permit that is required for it. In the Notice, it is stated as follow: *"The proposed out fall is to a dry swale to be constructed. This swale appears to eventually end with the discharge effluent flowing overland, onto another property. This proposed discharge is not acceptable. Treated sanitary discharges must be to a defined receiving stream. There is a stream on the property which appears to meet this requirement. Other receiving stream alternatives may also be available to you. Please provide revised plans identifying an appropriate receiving stream for the wastewater discharge."* This letter was the first inkling. I don't know why the DEC didn't provide this comment to us through the SEQR review process, but they don't mention anything in here about sub-surface discharge.

Mr. Astorino: Do you have something from the DEC?

Adrian Goddard: We had a meeting with the DEC. Dave attended that meeting.

Mr. Astorino: Dave, do you have minutes of that meeting that could be provided to the Planning Board?

Dave Getz: Yes.

Adrian Goddard: Alex Ciesluk suggested the solution.

Dave Getz: At the meeting, we went over the topography of the area where the plant and the discharge is proposed. As a result of our discussion and looking at the map, he agreed that we had never showed anything that was going to discharge and head right off onto someone else's property. That was a misconception. But they did tell us that the dry swale, because it would empty out onto the surface of the ground at a location that is not a defined stream, would not be approved.

Mr. Astorino: Could you get a pipe from the plant to a defined stream?

Dave Getz: Not without a wetlands permit. They told us that they would not grant us that.

Mr. McConnell: Because it would have to cross wetlands.

Mr. Astorino: They would not grant you a wetlands permit?

Dave Getz: Right. We would have to cross at least the buffer. They said that their preference was to discharge subsurface.

Adrian Goddard: I think the Board needs the context for this.

Mr. Astorino: Please start from the beginning.

Adrian Goddard: Tertiary treatment is essentially drinking water quality that is coming out of the side of an associated plant. The suggestion of putting it into an infiltration bed was made by DEC. Essentially, it is a septic system which is receiving clean water. The water is already treated to the level of drinking water. The idea that there is some sort of adverse impact is inconceivable to me.

Dave Getz: There is no reduction in the quality of the treatment that is proposed. Originally, the plant was proposed on the western part of the site without any kind of treatment after tertiary. The Fish & Wildlife told us based upon habitat reasons that they preferred the plant to the eastern side of the site. That was when we said, we have a dry swale that is designed for stormwater, but it would help filter whatever might be left. We said; let us show it going there. The DEC had those plans for 6 months before they wrote that letter.

Mr. Bollenbach: Ted, correct me if I am wrong. I thought that Mr. Klemens indicated that the discharge would be beneficial into that wetland area.

Mr. Fink: John, that sounds familiar because it would have been a perpetual source of water.

Adrian Goddard: It is clean water which eventually finds its way.

Mr. Bollenbach: Ted, maybe you could look into this. Get in touch with the DEC and Dave. Maybe, we could get some more information on this to see where we are going. It seems like the Board has been kept out of the loop especially with the ongoing discussions with the DEC.

Mr. Fink: If you would like, I will call Alex Ciesluk and go right to him.

Mr. Astorino: I think that would be the wisest move.

Adrian Goddard: I think that would be a good idea.

Mr. Fink: Ok.

Mr. Astorino: As it states now, the expandability would be limited with these "leachfields".

Adrian Goddard: Right. We never undertook to provide unlimited expansion to this treatment plant. The evidence that we have is that it could be doubled in size under this scenario.

Mr. Astorino: Have you done any testing?

Dave Getz: We have scheduled it. It was originally going to be at the end of this week. We received a call today from Tectonic saying that we would have to push it off. We are prepared to do that.

Mr. Astorino: If there was a pipe feeding directly to a stream that would give the capability of pretty much unlimited expandability.

Adrian Goddard: As far as I understand it, that would be correct.

Mr. Astorino: Ted and Zen, am I correct?

Mr. Bollenbach: Is that possible?

Mr. Astorino: That is my question. Is it somehow possible? That would solve everybody's issue.

Mr. Bollenbach: That is what was indicated in that letter from Alex Ciesluk, to seek stream discharge.

Mr. Astorino: You will supply us with the minutes and all the correspondences that you have from the DEC to this Board.

Adrian Goddard: Yes. You might already have 90% of it.

Mr. Astorino: We will need at the very least all of that ASAP. Ted, will you give them a call?

Mr. Fink: Yes. I will give Alex Ciesluk a call.

Mr. Astorino: Do any Board members have any further questions?

Mr. Singer: Why wouldn't the DEC allow the pipe to go through the buffer?

Dave Getz: They regulate. As you apply for a permit, the first priority is to avoid. They say if we could go sub-surface, we are avoiding the buffer.

Adrian Goddard: Right. They suggested this as a way to avoid the wetland disturbance.

Dave Getz: In reality, we would have to go into the wetland also. If it became a huge regional plant to serve other properties and whatever, there might be a way that it be directed towards Wawayanda Creek.

Adrian Goddard: Sure, but that is not within the scope of this.

Dave Getz: Right. I am just thinking about in the future.

Mr. Kowal: The current size of the field that you have is what 15'x60'?

Dave Getz: Yes.

Mr. Kowal: Would that accept 5,000 gallons of water a day?

Dave Getz: Yes. If it was a typical septic system, you would need a bigger bed. Again, this is clean water.

Mr. Kowal: Yes. Clean or not, that much water, wouldn't it soften the soil or come to the surface?

Dave Getz: No. We have a safety factor of roughly 10 based upon the perc rating and the square footage.

Adrian Goddard: It is a factor of 10. It works. It is a solution that the DEC suggested.

Mr. Astorino: The bottom line is that we are going to make a few calls. You will submit us some documentation.

Dave Getz: Yes.

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

A. NYSDOT

Adrian Goddard: The NYSDOT is complete. We will get you the finished engineering.

B. NYSDEC – Discuss sanitary waste disposal, effluent discharge to stream.

Mr. Astorino: We just discussed that. We will be contacting them.

C. OCHD – additional well tests being reviewed; discuss other comments.

Dave Getz: We have some other technical comments that we are addressing. The well testing was done last week. We are waiting for those results.

Mr. Astorino: Does Tectonic have anything further?

Zen Wojcik: No.

Comment #3. : Applicant has provided a plan showing an alternate means of disposing of the effluent from the sewage treatment plant. Applicant to discuss.

- a. The plan shows 100% expansion area, limiting the possible expansion of the plant. Applicant to discuss how this is consistent with the approved FEIS.
- b. Percs and deeps at the proposed absorption field were not witnessed by the Town Engineer. Applicant to discuss.
- c. Applicant proposes a 900 sf absorption field in the Town's Aquifer Protection Overlay District. Applicant to discuss consistency with overlay district regulations.

Mr. Astorino: We just did that. We will get further information on A, B, and C. We will go from there. We will list comments 4 through 13 for the record.

THE FOLLOWING COMMENTS REMAIN FROM THE REVIEW OF PRELIMINARY PLANS. NO NEWLY REVISED PLANS WERE SUBMITTED.

SITE PLANS (LAST REVISED 4/2/07):

Comment #4: Applicant and Board to discuss April 17, 2007 comments from Orange County Dept. of Planning.

Comment #5: Temporary construction trailers will be utilized. Per §164-43D, Board to discuss allowable period of time for trailer use and amount of bond. Provide notes on plans specifying same.

Sheet 5 – Layout & Signage Plan

Comment #6: Provide a geometric design for all road improvements. Show reference ties for boulevard entrance, limits of road improvement, etc.

Comment #7: Show stations on NYS Rt. 94 and state the limits of proposed widening/improvements (BEGIN & END stations). Provide an equality station with Sta. 0+00 of the applicant's project. Show and identify any existing or proposed NYSDOT bench marks or monuments and provide baseline tie information for the project and highway widening.

Comment #8: Widening of the highway will affect the existing headwalls of the Class D tributary streams and possibly require extending the culverts. Call-out new headwalls, culvert extensions and refer to details for both on sheet ____.

Sheet 8 – Construction Staging Plan

Comment #9: Construction Staging Key shows 3 stages, yet there are notes for 4 stages. Clarify on Key that buildings, water and sewer plants, and Rt. 94 widening will occur in Stage 4.

Sheet 9 – Sediment & Erosion Control

Comment #10: Applicant to review maintenance access roads for all SWPPP facilities with the Planning Board Engineer.

Sheet 10 – Landscaping Plan

Comment #11: Define landscaping of Infiltration Swale.

Sheet 11 – Lighting Plan

Comment #12: Lighting Plan by Pyramid Lighting Group, 8/2/04, LAST REVISED 4/2/07

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

Sheet 12 – Site Operation Plan

Comment #13: Provide notes for operation and maintenance of the water and wastewater treatment facilities and/or reference the location of such notes and details within the plans.

Mr. Bollenbach: I just have one other comment. I was in touch with Larry Wolinsky this afternoon. At the work session, he had raised the possibility of moving forward with the subdivision independent of the site plan special use approval. He will be providing the Board and me with additional information. I have not received that. When it comes in, I will review it. I will advise the Board.

Mr. Astorino: Ok. We will list comments 14 through 17 for the record.

BEFORE FINAL APPROVAL:

Comment #14: Provide the declaration and the recording information on the plan for Agricultural Protection Notes and Aquifer Protection Overlay Notes.

Comment #15: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.

Comment #16: Pay performance bond, landscape maintenance bond (3-years) and construction inspection fees for stormwater management, erosion control, water and wastewater treatment, and site landscaping.

Comment #17: Pay outstanding review fees.

Dave Getz: We would like to discuss the architecture of this project.

Adrian Goddard: Trieste Savona is the Design Director of Price Chopper.

Trieste Savona: At first off, I would like to extend my appreciation for presenting this project to the Town of Warwick. Price Chopper is extremely excited to be in this community. We are a family run company. We employ over 25,000 people. Many of those people are family members themselves. Myself personally, I have a sister, brother, and several cousins that work for the company. We are an excellent structure within the company. We have profit sharing. We have 401K plans. I have been there 20 years. As a long term resident of the company, I can't even explain how beneficial it has been to be associated with this company. The project that we are presenting to you tonight is a takeoff from a project that we are currently doing in Saratoga County. I have here photographs of the store. These photographs are about a week old. This store is about to open in a couple of weeks. Saratoga is a very rural community. There are a lot of farms and horseracing. It is a nice quiet community. Looking at the photos, this is a departure from our typical store theme. We came out with a whole new concept for the front of the store.

Adrian Goddard: It is under construction. That hasn't been completed yet.

Trieste Savona: Right. We decided that we would like to explore the concept and idea of having a farmers market with fresh produce and fruit. It would all be done outside under the canopy on the sidewalk kind of thing. This is based on the season and what is available. People would

enter the store and shop. We would have our full complement of offers which we haven't resolved at this point. We intend to have a scratch bakery and a scratch bagel shop.

Mr. Singer: What does scratch mean?

Trieste Savona: It means made fresh. There are a few other special offers. I don't want to tell you now, until we get some plans. The interior of the store has changed. Looking at a rendering, this is what our store use to look like. The technology and the engineering that goes into one of these facilities far exceeds everything that I have ever seen. We are a green building. We just don't apply for the lead certification through USGEP. We intend not to because what we like to do is keep our competitor on edge by keeping this technology to ourselves. We don't like to share it with the rest of the community. We are not sure what the timeframe would be for this project. Green is the way of the future for Price Chopper. We have assessed all of the potential technologies that are available to us. We are really excited about this.

Mr. Bollenbach: I was looking at our notes. The Conservation Board doesn't have any further comments. The ARB does have some comments. I will give you a copy. It looks like they would like to meet with you. If you could, meet with the ARB at your convenience.

Adrian Goddard: I heard that there were some comments at the workshop meeting.

Mr. Bollenbach: The presentation is a lot different from what was submitted at the workshop.

Mr. Astorino: I think the store looks similar from what we had seen at the work session. I don't know how the rest of the Board feels. How flexible would Price Chopper be with their facades? To me, you are looking at glass, brick, and a box. I apologize, I was going to get picture to present to the Board. I forgot about it. Out in LaGrange, New York they have a competitor's supermarket. It has different elevations. It looks more like a village downtown type of setting.

Trieste Savona: I have heard of the project.

Mr. Astorino: Then, you know what it is. I am just speaking on myself.

Adrian Goddard: We got the idea that you were looking for more of a beaucolic look.

Mr. McConnell: It was probably a comment that I made particularly when I saw the elevations for the proposed dealership. I look at this drawing here and I don't see how it fits together.

Adrian Goddard: Trieste and I had some conversations.

Mr. McConnell: At the workshop, I mentioned the new commercial building across the street. It does a nice job in fitting aesthetically. I don't believe to my aesthetic sensibilities that this one would. Beaucolic, I don't recall using the word, but it is a good word. I like it.

Trieste Savona: We were at that site. Let us discuss flexibility. What are we looking for? A green roof would be hard pressed to have our senior executives accept a green roof. It is our competitor's color.

Mr. Showalter: What is Price Chopper's color? Is it a red roof?

Trieste Savona shows the Board different elevations and color samples for Price Chopper. The Planning Board and the applicant discusses the different color options for the supermarket. They were looking at some shades of a red for the building. Regarding the roof color, the applicant proposes a shade of a tan and shows the Board samples. Trieste goes on talking about the design of Price Chopper and he shows an architectural drawing that had samples on it of different texture block panels in 8 feet to 10 feet in width. He goes on talking about different types of building materials that could be possible. He goes on talking about the future Price Chopper that is being built in Saratoga, New York.

Mr. McConnell: You have a corporate protocol to meet. We have Design Guidelines to meet.

Mr. Astorino: Just off the cuff and I think the Board would concur, I think it is a little bland. It doesn't fit the way it is shown. This evening, you have shown us two different designs. Is that all you are showing us?

Trieste Savona: I am flexible to a point.

Mr. Bollenbach: You will need to meet with the Architectural Review Board. That is why we have one. Meet with the ARB and see what you can work out.

Trieste Savona: We will not address any green roof. We will not do it.

Adrian Goddard: If we go to the ARB, we will then come back here. You are driving the boat here to some degree.

Mr. Bollenbach: Go to the ARB. They have particular expertise.

Adrian Goddard: There is a clear direction here. There are two slightly conflicting views on what this building should look like.

Trieste Savona: We are flexible to a point.

Mr. Astorino: It seems like your competitor was very flexible in that design.

Trieste Savona: I could out flex them any day of the week.

Mr. Astorino: Now, we are talking.

Adrian Goddard: We have to end this process. We have to get an idea from the Board.

Mr. Astorino: The work session was the first that we have seen of the Price Chopper design.

Mr. Singer: Could I suggest that when he comes before the ARB that members of the Planning Board be there also?

Mr. Astorino: I agree. We could be in contact with the ARB. We will contact our members and our professionals. Maybe, some evening we could get together and have a presentation. We are hearing it firsthand. As a Planning Board, we could sit back and listen to the comments that the ARB warranted. We could take in their expertise.

Mr. Bollenbach: Let the ARB take a shot at it. This project has been going on for how long? They haven't seen the proposal yet.

Mr. Astorino: We have just seen this at the work session.

Mr. Bollenbach: Give the ARB a little chance. Then, we could get together.

Mr. Astorino: We might want to listen to what is going on.

Adrian Goddard: Do you think it is worth proactively making any changes to this?

Mr. Astorino: I wouldn't. Let's get some comments from them.

Mr. Singer: If it is possible, leave the drawings and pictures here for them to look at before the meeting.

Adrian Goddard: Sure.

Mr. Bollenbach: That would have to be part of their submission to the ARB. They would have to provide the elevations, details, textures, and colors.

Mr. McConnell: The other thing I would like to see whether it would be at this stage or later on is something that shows all of the proposed buildings for this site. We could then get a better idea on how they could fit together.

Adrian Goddard: There is one issue with that. The use and the tenancy of the pad building in the front is unknown right now. When there is a user for this building, they will have some changes.

Trieste Savona: He has explicit needs for his structure.

Mr. McConnell: If they are incongruous, then my vote will be no. If they clash, then the fact that they are different uses, they are different uses, yes, that is a given. It is what it is. I would like to see them together.

Mr. Singer: We are coming on this applicant pretty hard. We are also flexible.

Mr. Astorino: I agree.

Mr. Singer: We would like to have what is best for the town. We want to work with you. We don't want to lose you.

Trieste Savona: We don't want to leave Warwick either.

Mr. Singer: Ok. We all have the same goal.

Mr. Astorino: It is out of the gate. We want to get together with the ARB. We want them to take a crack at this.

Trieste Savona: My concern with that is, we have been tasked by our senior executive management team to go green and lead. I am half way there. What frightens me about the ARB is to have them impose something upon me that would take that away.

Mr. Singer: The ARB is an Advisory Board to this Board. We want to hear what they have to say.

Mr. Astorino: They don't make the decision on this. They just advise.

Mr. Singer: I particularly like to be there since I have spent 5 years on the ARB. I know what it is all about.

Trieste Savona: How quickly could we schedule that?

Mr. Astorino: Connie, could you make some calls?

Mr. Bollenbach: I gave you the letter. The ARB has extended an invitation. You will need to contact them and set it up.

Connie Sardo: contact them, set a date, and let me know. Then, I will tell the Board members.

Mr. Showalter: I have a question for Frank. Is GM going to make you conform to any special guidelines on their end as far as the white façade and the blue chevy sign?

Frank Petrucci: That is a great question. I have been through (3) review processes with GM over the last 8 years with this project. Each time, they came up with a different rendering for each one of them. This is what I have come up with. It is not up to them. This is what I would like to build. I could also be flexible.

Mr. Showalter: I know that they want a universal look.

Trieste Savona: Price Chopper is no different. It is called brand imaging. We would like to see it carried right on through to all of our products that we sell.

Adrian Goddard: We need to try to tie in the colors better.

Mr. Singer: We have the picture clear that you do not want a green roof.

Mr. Astorino: The bottom line is that you will submit stuff to the ARB. You will need to set up a meeting. We will go from there. This is your first submittal of this. We will get some comments.

Mr. Singer: Don't be afraid. We will work with you.

Trieste Savona: I am not afraid.

Mr. Singer: Ben and I were in Saratoga Springs this past week. We were looking at your building there. How does that compare to this?

Trieste Savona: This is completely different. This one was a former Grand Union. They left the site. We moved in and expanded it.

Mr. Astorino: Going back to the project, we will get the DEC correspondences and minutes. Ted, will you make a call?

Mr. Fink: Yes.

Mr. Astorino: As far as the ARB, we will get a meeting set up.

Mr. Singer: When do you want to have the meeting?

Mr. Bollenbach: Contact the ARB. That is what they requested.

Mr. Astorino: The way to get a hold of the ARB is going through the Town Clerk or our secretary.

Mr. Bollenbach: Connie gets in touch with them on a regular basis by email.

Connie Sardo: I will send the ARB an email. I will have them get back to me.

Mr. Astorino: We will go through Connie.

Adrian Goddard: Whoever from your Board wants to be there will be fine.

Mr. Astorino: That was a consensus. The Planning Board would like to sit back and hear what is going on.

Connie Sardo: I believe they meet on Tuesdays.

Mr. Singer: Frank Petrucci should be there also. We want these buildings to look similar.

Mr. Bollenbach: He is the applicant. The applicant should be at this meeting.

Adrian Goddard: We will figure it out. Thank you.

Salvatore and Linda Mongelluzzo

Application for final approval of a proposed 2-Lot cluster subdivision, situated on tax parcel S 31 B 2 L 44.32; parcel located on the southeasterly side of Ackerman Road, 1200± feet off of the intersection of Kings Highway (County Highway 13), in the RU zone, of the Town of Warwick, County of Orange, State of New York. Previously discussed and public hearing was adjourned without date at the 5/16/07 Planning Board meeting. ZBA granted 280a variance, granted on 9/24/07.

Representing the applicant: Jay Myrow, Attorney.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
 - A. Culvert and driveway crossing of stream.
2. Applicant to discuss project.

YIELD PLAN (LAST REVISED 1/17/07) :

3. No further comment. Board accepted Yield Plan by consensus on February 21, 2007.

CLUSTER PLAN (LAST REVISED 9/24/07) :

4. Provide full text of ZBA decision on plans.
 - A. Board and applicant to discuss extension of Entin Terrace.
 - B. Applicant to provide proof of right-of-way extension from SBL 31-2-49.
 - C. Applicant to provide a copy of the Entin Terrace Maintenance and Use Agreement for the Planning Board Attorney's review.
5. The culvert at the driveway is shown as both a 3'x5' CMP and a 36" HDPE. Provide supporting calculations for hydraulic opening and clarify culvert size.
6. Show a schematic view of the culvert crossing, including headwall.
7. Revise or remove General Note #9. Plan is no longer conceptual.
8. Driveway Detail on sheet 2 shows a 2:1 slope with a swale at the top of cut. Slope Stabilization note on sheet 1 refers to a 4:1 slope. Revise for consistency.
9. Place the following note on the plans; "Embankment and cut slopes at the driveway shall not be constructed steeper than 4:1, 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, seeded and stabilized with a rolled erosion control product installed in conformance with the detail contained herein. The stabilized slope shall be periodically watered until vegetation is established (a root mass adequate to provide continued erosion control has formed). The individual property owners are responsible for maintaining the continued stability of the slope."
10. Parent subdivision of parcel (1984) shows that a 25' strip of Ackerman Road was dedicated to the Town. Applicant to research and report if dedication was filed and/or accepted.

BEFORE FINAL APPROVAL:

11. 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.
12. Applicant to provide 9-1-1 addressing.
13. Pay parkland fees.
14. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 10/16/07:

Salvatore and Linda Mongelluzzo – Hopefully the newly appointed Comprehensive Planning Board will address the inappropriateness of a two lot “cluster” subdivision.

The following comment submitted by the ARB, dated 10/15/07:

Salvatore and Linda Mongelluzzo – Please submit architectural designs to ARB before obtaining building permit.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has been acting as Lead Agency on this application. We have reviewed a couple of different SEQR issues. There is an intermittent and protected stream on the property. In order to gain access, it will require a NYSDEC Protection of Waters permit. Other than that, that was the primary SEQR issue. There are no wetlands on the property. We don't have any adverse letters from any of the community service providers. It is a cluster subdivision. They are proposing 64% of the site as permanent open space.

a. Culvert and driveway crossing of stream.

Zen Wojcik: They require a permit for that.

Jay Myrow: The permit is not received yet. I checked with Kirk today. We are waiting for the permit.

Mr. Bollenbach: How do they get a permit before we grant preliminary approval?

Zen Wojcik: I don't think they can.

Mr. Astorino: We can't.

Mr. Bollenbach: That one thing will have to be resolved. Jay, if you could, resolve that with Kirk. Since they require preliminary approval before they will grant a permit you would have to make an application for preliminary approval.

Jay Myrow: We have an open public hearing. That has to be re-noticed. The question is whether the preliminary approval is required.

Mr. Bollenbach: That was my understanding.

Jay Myrow: I don't know.

Connie Sardo: You will have to make a preliminary application to the Planning Board and pay the fees for that.

Jay Myrow: We have an application.

Connie Sardo: That was for final, not for preliminary. You don't have an application for preliminary before the Board for a preliminary public hearing.

Mr. Bollenbach: I believe that is in fact the case.

Jay Myrow: When we re-notice that hearing, it will be on an application that we submit for preliminary.

Mr. Bollenbach: Yes. I believe that is the case. If different, I will let you know.

Jay Myrow: Ok.

Comment #2: Applicant to discuss project.

Jay Myrow: This is a 2-lot cluster subdivision. One of the lots has an existing house. It fronts on Ackerman Road. The second lot is to front off Entin Terrace. That is a private road. Since the last meeting, we went to the ZBA for a 280a variance. The variance was granted. Comment #4 references some of the requirements from the ZBA. Regarding Entin Terrace, it is to be built to the specifications of the Planning Board. We have to submit proof that we have the right to use Entin Terrace. I just gave that to John. The applicant is to join the Entin Terrace Maintenance Association, if any. I am not aware of any existing agreement. I will find out. I will get back to John on that. I haven't run title on that yet.

YIELD PLAN (LAST REVISED 1/17/07) :

Comment #3: No further comment. Board accepted Yield Plan by consensus on February 21, 2007.

CLUSTER PLAN (LAST REVISED 9/24/07) :

Comment #4: Provide full text of ZBA decision on plans.

A. Board and applicant to discuss extension of Entin Terrace.

Jay Myrow: I haven't seen Kirk's latest submittal. He did say that the last submission had changes since the last meeting.

Mr. Bollenbach: Whatever it was, it was an extension on a private road. If it is a common driveway, the road specifications require paving.

Mr. Astorino: Zen, is that what we have here?

Zen Wojcik: The plan shows the same road as it did previously. It was clarified that the ZBA has given them a 280a. This Board had a discussion the last time this was up regarding the fact that Entin Terrace was a dirt road. Since the ZBA has asked the Planning Board to make the determination, it would be proper for the Board to consider what type of a road surface that we would want to have here. There are some restrictions because it was my understanding that Columbia Gas pipeline runs directly underneath of Entin Terrace. They might have some Federal regulations or other regulations that prohibit a pavement. The applicant would have to clarify this for the Board.

Mr. Bollenbach: The Right-Of-Way Agreement, is it precluded? I don't know.

Mr. Astorino: For the condition of the road also.

Mr. Bollenbach: Yes. That is something the applicant will have to provide.

Jay Myrow: In the spring, we submitted plans showing the road as it currently exists to emergency services. We resubmitted to emergency services. I believe there are letters in the file from Fire and Ambulance showing the road as it sits is acceptable for them. It is acceptable for them. I submitted to Fire. I went down and spoke to the Chief. I was told that I would not get a letter from them. He said, I would only get a letter if it was not sufficient. I was verbally told that it was sufficient for their emergency vehicles as it sits. Based on that, the ZBA was fine with that. That was the criteria that we had to give.

Mr. Bollenbach: There are two things. Has it been required for some type of a turnaround area there? Is there some type of means for emergency turnaround? If the Fire Department is not going to provide it to us, it is up to the Board to provide it. The other thing is the surface treatment.

Mr. Astorino: Are we extending Entin Terrace? Are we putting in a driveway off of it? Are we coming to the end of it and adding?

Mr. Bollenbach: It is up to the Board to make a determination.

Zen Wojcik: The property that Entin Terrace is on is owned by the Sapanaros. It is similar to the layout that was for the Colburn application that was before the Board about a year ago. They had a strip of land that was owned by a property owner that was behind the applicant at that time. This Board decided that road needed widening. The Board used the regulations that we have for a common driveway. The Board made modifications to it to satisfy the residents over there. That was what I meant when I said the Board might choose to do something different. The applicant needs to clarify what restrictions there are because of the presence of the gas pipeline.

Jay Myrow: Quite honestly, the emergency vehicles had said the way it is now it is sufficient up to where it is built. If that is the case, I don't see any reason with messing with it especially if there is a problem with Columbia Gas. In terms of extending it beyond currently where it is, it is not that far of a distance. We don't have to improve that much more to get to the property. Entin Terrace goes pretty far back. Sapanaro's house goes farther back than where we would have to extend this road. The emergency vehicles are satisfied with getting to Sapanaro's house. We only have to extend the undeveloped portion of that a short distance. I don't have the exact measurement. I could find it. In terms of recreating the wheel here, we have an existing drive that everyone seems to be happy with.

Mr. McConnell: With all due respect, maybe we are not happy with it.

Jay Myrow: I understand that. We brought this up with the ZBA. We met the criteria for that.

Mr. Bollenbach: The ZBA threw it back to the Planning Board. It is for the Planning Board to make the determination.

Mr. Astorino: We could run out and take a look at the condition of the road and go from there.

B. Applicant to provide proof of right-of-way extension from SBL 31-2-49.

Mr. Bollenbach: Jay just gave to me a right-of-way agreement. We will also make this a condition of the approval for that document to be recorded.

Jay Myrow: If there is no existing agreement, we will just do a declaration that is binding on the owner of this lot that they always maintain it.

Mr. Singer: Is there an existing agreement with Columbia Gas?

Mr. Astorino: I am sure there is.

Mr. Bollenbach: There is a R.O.W. agreement? I haven't seen that yet.

Mr. Singer: We have to see that.

Mr. Bollenbach: Yes.

Jay Myrow: I will search title on that. I haven't searched title yet.

Mr. Astorino: I think in the springtime they are planning to run that Millennium Pipeline through.

C. Applicant to provide a copy of the Entin Terrace Maintenance and Use Agreement for the Planning Board Attorney's review.

Comment #5: The culvert at the driveway is shown as both a 3'x5' CMP and a 36" HDPE. Provide supporting calculations for hydraulic opening and clarify culvert size.

Jay Myrow: Ok.

Comment #6: Show a schematic view of the culvert crossing, including headwall.

Jay Myrow: Ok.

Comment #7: Revise or remove General Note #9. Plan is no longer conceptual.

Jay Myrow: Ok.

Comment #8: Driveway Detail on sheet 2 shows a 2:1 slope with a swale at the top of cut. Slope Stabilization note on sheet 1 refers to a 4:1 slope. Revise for consistency.

Jay Myrow: No Problem.

Comment #9: Place the following note on the plans; "Embankment and cut slopes at the driveway shall not be constructed steeper than 4:1, 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, seeded and stabilized with a rolled erosion control product installed in conformance with the detail contained herein. The stabilized slope shall be periodically watered until vegetation is established (a root mass adequate to provide continued erosion control has formed). The individual property owners are responsible for maintaining the continued stability of the slope.”

Jay Myrow: Ok.

Comment #10: Parent subdivision of parcel (1984) shows that a 25’ strip of Ackerman Road was dedicated to the Town. Applicant to research and report if dedication was filed and/or accepted.

Jay Myrow: That will show when I run title.

BEFORE FINAL APPROVAL:

Comment #11: 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.

Jay Myrow: Fine.

Comment #12: Applicant to provide 9-1-1 addressing.

Jay Myrow: Fine.

Comment #13: Pay parkland fees.

Jay Myrow: Ok.

Comment #14: Pay outstanding review fees.

Jay Myrow: Ok. I have to clarify one thing. Regarding Entin Terrace, the ZBA decision expressively says that Entin Terrace be extended in accordance with the specifications that are required by the Planning Board. I remember having discussions that they were satisfied with the condition of the existing Entin Terrace now. The extension or whatever we had to do to improve it beyond the existing Entin Terrace, that was supposed to be subject to the Planning Board’s discretion.

Mr. McConnell: Are you suggesting that only the extension?

Jay Myrow: I have read it. Entin Terrace is to be extended in accordance with the specifications that are required by the Planning Board.

Mr. McConnell: I am sorry if I am offending you.

Jay Myrow: You are not offending me.

Mr. Bollenbach: It is always up to the Planning Board’s discretion to review the suitability of the entire driveway to see what condition it is in.

Jay Myrow: That was why we went to the ZBA. That is their authority. They are the ones that give the authority in rendering the conditions. 280a is 280a. The ZBA has the authority to review that.

Mr. Astorino: We will go from there.

Mr. Bollenbach: Zen, we have to add another item. We will need to add declarations. It might need a dedication strip if that is applicable. That still needs to be determined. We do need declarations.

Zen Wojcik: There are no declarations.

Mr. Bollenbach: There will be declarations regarding a road Use and Maintenance Agreement or a common driveway Use and Maintenance Agreement or a R.O.W. agreement. I don't know which other ones, but there will be declarations. There might be open space or sight triangle clearings.

Mr. Astorino: Get us some more information. We will research the road issue.

Jay Myrow: When do you want us back on?

Mr. Astorino: You are going to let us know about preliminary. It wouldn't make sense to put you on for a public hearing. You will have to re-notice.

Mr. Bollenbach: We could set it for preliminary. We will schedule it for the next available agenda for preliminary.

Jay Myrow: John, I will get the answers in a day or two. We will put the application in.

Mr. Singer makes a motion to set the Salvatore and Linda Mongelluzzo application for a preliminary public hearing at the next available agenda.

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

Jay Myrow: Once I resolve the issues, I will contact Connie. She will get us on.

Mr. Astorino: It would have to go through a work session.

Mr. Singer: I think that the Columbia Gas document is the key here.

Jay Myrow: I will search it tomorrow.

Mr. Singer: If they say that it can't be paved, then you would be good.

Mr. Bollenbach: Next available agenda means that once we get all of that information, we review it, and if the issues are resolved, we would have the public hearing.

Connie Sardo: Just send me a letter to what agenda you want to be on.

Jay Myrow: All right. I have a lot of stuff to send. Thank you.

Richard Guarneri

Application for site plan approval for the construction and use of a single-family home located within "A Sensitive Area" of Greenwood Lake, situated on tax parcel S 75 B 1 L 10.3; project located on the western side of Jersey Avenue (85 Jersey Ave.), in the SM zone, of the Town of Warwick.

Mr. Astorino: The applicant, Richard Guarneri called Connie today. They asked to be taken off the agenda this evening. A letter will be forth coming tomorrow morning to that effect. We will put them on the November 21, 2007 Planning Board meeting.

Other Considerations:

1. **Round Hill Subdivision** – Letter from Spiegel Legal, dated 9/27/07 addressed to the Planning Board – in regards to the Round Hill Subdivision requesting Re-Approval of Final Approval on a proposed 19-Lot + 1-Ag Lot subdivision, SBL # 7-2-51.1. Final Approval was granted on 10/18/06.

Representing the applicant: James Mezzetti, applicant.

James Mezzetti: The market has done wonders on us as you could imagine. We are trying to make headway with the attorneys. We are working on trying to get road quotes. We are trying to get the price down. With their market conditions, things should come around.

Mr. Astorino: What do we need here?

Mr. Singer: Are you ok with the Board of Health?

James Mezzetti: Yes.

Mr. Astorino: You already have received final approval.

James Mezzetti: Yes.

Mr. Bollenbach: The applicant is requesting a motion for re-approval of the subdivision, subject to the prior conditions imposed. If the Board so chooses, you could waive the public hearing. There are no changes since the prior approval. It is up to the Board's discretion.

Mr. Astorino: I agree with that. There is no need for that.

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

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

Mr. McConnell makes a motion on the Round Hill Subdivision to grant **Re-Approval** of Final Approval for 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. (See attached).

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

James Mezzetti: Thank you.

- 2. Luft Subdivision** – Letter from Kirk Rother, P.E. dated 10/11/07 addressed to the Planning Board – in regards to requesting a 3rd 6-Month Extension on Preliminary Approval of a proposed 22-Lot + 2-Affordable Homes Subdivision (SBL # 26-1-110), granted on 5/17/06. *The applicant is in final stages of obtaining OCHD approval.* 3rd 6-Month Extension becomes effective on, 11/17/07.

Mr. Kowal makes a motion on the Luft Subdivision, granting a 3rd 6-Month Extension on Preliminary Approval of a proposed 22-Lot + 2-Affordable Homes Subdivision (SBL # 26-1-110), granted on 5/17/06. The 3rd 6-Month Extension becomes effective on, 11/17/07.

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

- 3.** Planning Board minutes of September 19, 2007 & October 3, 2007 for Planning Board Approval.

Mr. McConnell makes a motion to approve the September 19, 2007 and the October 3, 2007 Planning Board minutes.

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

- 4. The Fairgrounds** – Letter from Fairgrounds, LLC., addressed to the Planning Board, dated 10/5/07, requesting a 6-Month Extension on Preliminary site plan approval, special use permit, and 2-lot subdivision approval. Preliminary Approval was granted on 5/2/07. 6-Month Extension becomes effective on, 11/2/07.

Mr. Kowal makes a motion on the Fairgrounds application, granting a 6-Month Extension on Preliminary site plan approval, special use permit, and 2-lot subdivision approval. Preliminary Approval was granted on 5/2/07. The 6-Month Extension becomes effective on, 11/2/07.

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

Correspondences:

- 1.** Letter from Barbara and Joseph DeGennaro addressed to the Planning Board, dated 10/1/07 – in regards to the Tavolacci Subdivision in Points of View.
- 2.** Letter from Craig DiBona addressed to Lehman & Getz Engineering, dated 10/12/07 – in regards to Tavolacci Property.
- 3.** Letter from Town of Wawayanda Planning Board & ZBA, dated 10/5/07 – in regards to (2) Evening Seminars to be held on 10/22/07 & 10/30/07 at the Town of Wawayanda Town Hall regarding NYSDEC Hudson River Estuary Program and Lucy Joyce from Cornell Cooperative Extension regarding SEQRA.

Mr. Astorino: Correspondences 1 through 3 are in our packets.

Privilege Of The Floor For Agenda Items!!

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

Mr. McConnell makes a motion to adjourn the October 17, 2007 Planning Board meeting.

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

