TOWN OF WARWICK PLANNING BOARD
November 5, 2008

Members present: Chairman, Benjamin Astorino
Russell Kowal, Roger Showalter,
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, November 5, 2008 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

PUBLIC HEARING OF R Land, LLC., c/o Robert Schreibeis, Jr.

Application for Site Plan Approval and Special Use Permit for the construction and use of a proposed 5,000 square foot Mixed Use/Retail Space, entitled, ***"Webster Plaza",*** situated on tax parcel S 13 B 2 L 2 ; project located on the western side of Pulaski Highway, in the LB zone, of the Town of Warwick, County of Orange, State of New York. Continued Public Hearing from the October 1, 2008 Planning Board meeting.

Representing the applicant: Kirk Rother, Engineer. Robert Schreibeis, Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Special Condition 122 restricts parking from the front yard in this zoning district. Applicant shows parking within the front yard and requests a waiver. Board to discuss.
4. On the architectural drawing's exterior elevations include the building height as defined by the Town Code.
5. FOR THE RECORD – A letter report of the Phase I and II Environmental Site Assessment conducted by William L. Going & Associates (February 16, 2007) was provided. The assessment reports that there are no underground chemical storage tanks on the site and that, after investigation, the consultant concluded that there was no likelihood of significant environmental impairment due to hazardous chemical release. An empty, rusty 500 gallon aboveground storage tank was noted and recommended to be removed.
6. FOR THE RECORD – A note has been added to the plan requiring sealing all existing wells on the site in a manner consistent with the requirements of the OCHD. Locations of existing wells are unknown.
7. FOR THE RECORD – A note has been added to the plan requiring testing of the well for nitrates prior to issuance of a C of O. If the results indicate high nitrate levels, a treatment method for managing nitrates in well water acceptable to OCHD will be installed at the building.
8. Revise the screening landscaping plan to the Town Planner's specifications.
9. The drainage plan for the site has been revised. Provide calculations for the proposed stormwater management measure (rain garden) to verify it is adequate. Revise the landscaping plan for the rain garden per *NYS Stormwater Management Design Manual,*

Section 9.5.1, or other suitable plantings. Provide a detail for the construction of the rain garden – include a weed-free mulch layer.

10. At the "Window Sign Detail" note, insert the word "sign" after the first use of the word "window".
11. Place the following notes on the plans:
    a. The site contractor shall contact Dig Safely New York for an underground utility mark-out before commencing any work.
    b. The owner of this property is responsible for the development of the parcel and the continued maintenance of stormwater management facilities, as approved by the Town of Warwick Planning Board. The Town Engineer may monitor the progress of construction, but the owner's representative is responsible for the progress of the work and ensuring that construction complies with the notes and details shown on these plans.

BEFORE FINAL APPROVAL:

12. Provide the declaration and the recording information on the plan for Aquifer Protection Overlay Notes.
13. Applicant to provide 9-1-1 address.
14. Pay a 3-year term landscape bond and inspection fee for screening and rain garden plantings. Pay a performance bond and inspection fee for erosion control and drainage construction.
15. Pay outstanding review fees.

WAIVERS & EXEMPTIONS

CODE	***ACTIVITY***
§164-46J.(122)	Parking restricted from front yard in the LB zone. Waiver requested to permit parking.

The following comment submitted by the Conservation Board, dated 11/5/08:

Webster Plaza – CB has no comments.

The following comment submitted by the ARB, dated 11/5/08:

Webster Plaza – We would like to see a palette of materials as this project comes closer to actually breaking ground.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has been acting as Lead Agency on this application. We have been using the Full EAF to review potential impacts. There were a couple issues that we looked at in greater detail. One had to do with a concern that the OCHD had with regards to potential nitrates in the area ground water. The applicant will be managing nitrates in the water supply. If they are discovered upon the drilling of wells, they would do that in accordance with the OCHD requirements. There was also a concern that there were some existing wells on the site. If any existing wells are discovered on the site during excavation, the applicant has agreed to seal these wells in accordance to the OCHD requirements. We also had a couple other issues. One issue had to do with a Phase 1 and Phase 2 environmental site assessment that was conducted in the year 2007 regarding potential for any underground chemical storage tanks on the site. The investigation concluded that there

was no significant environmental impairment. They did not discover any underground storage tanks on the site. As far as storm water management, the applicant has prepared a drainage plan. They propose to put in rain gardens and a number of other measures to mitigate storm water runoff. Finally, we looked at the Town's Design Guidelines. Any time a commercial development is proposed, the Design Guideline conformity is something that is examined. We have examined that in relation to the landscaping plan, lighting, the location of the parking, and so forth. At this point, those were the issues under SEQR that have been examined. Those issues have been incorporated into a Draft Negative Declaration that has been prepared.

Comment #2: Applicant to discuss project.

Kirk Rother: We are proposing a 5,000 square-foot commercial structure on approximately .95 acres of land. It is located in the LB zone. There have been no significant changes to the plan since the last public hearing.

Comment #3: Special Condition 122 restricts parking from the front yard in this zoning district. Applicant shows parking within the front yard and requests a waiver. Board to discuss.

Mr. Astorino: Do any Board members have any questions about that?

Mr. Bollenbach: It is due to the configuration of the lot. There is additional mitigation. The Board has taken it into consideration. The Board feels that this is a feasible alternative.

Mr. Astorino: Is the Board ok on this?

Mr. Fink: Due to the odd shape of the lot, it was difficult to conform to that particular requirement.

Comment #4: On the architectural drawing's exterior elevations include the building height as defined by the Town Code.

Kirk Rother: Right. We did provide new elevations with the total building height. Do you want a dimension to the mid-point of the roof?

Zen Wojcik: Yes.

Kirk Rother: No problem.

Comment #5: FOR THE RECORD – A letter report of the Phase I and II Environmental Site Assessment conducted by William L. Going & Associates (February 16, 2007) was provided. The assessment reports that there are no underground chemical storage tanks on the site and that, after investigation, the consultant concluded that there was no likelihood of significant environmental impairment due to hazardous chemical release. An empty, rusty 500 gallon aboveground storage tank was noted and recommended to be removed.

Mr. Astorino: You had pointed out that it was a molasses tank.

Kirk Rother: Correct.

Comment #6: FOR THE RECORD – A note has been added to the plan requiring sealing all existing wells on the site in a manner consistent with the requirements of the OCHD. Locations of existing wells are unknown.

Comment #7; FOR THE RECORD – A note has been added to the plan requiring testing of the well for nitrates prior to issuance of a C of O. If the results indicate high nitrate levels, a treatment method for managing nitrates in well water acceptable to OCHD will be installed at the building.

Zen Wojcik: Kirk, do you know what that method would be?

Kirk Rother: There are two alternatives. The one we would use would be a water-softening device using an ion exchange. It is a simple treatment measure.

Comment #8: Revise the screening landscaping plan to the Town Planner's specifications.

Kirk Rother: Will do. We have assessed to do screening around the dumpster area.

Mr. Fink: Correct: I also think on one of the plans that was proposed is on the Spiraea. It is on the invasive species list in the Town's Design Guidelines.

Kirk Rother: We have already changed that on this plan.

Mr. Bollenbach: We could let that comment stand as is.

Comment #9: The drainage plan for the site has been revised. Provide calculations for the proposed stormwater management measure (rain garden) to verify it is adequate. Revise the landscaping plan for the rain garden per *NYS Stormwater Management Design Manual*, Section 9.5.1, or other suitable plantings. Provide a detail for the construction of the rain garden – include a weed-free mulch layer.

Kirk Rother: Ok.

Comment #10: At the "Window Sign Detail" note, insert the word "sign" after the first use of the word "window".

Kirk Rother: Ok.

Comment #11: Place the following notes on the plans:

a. The site contractor shall contact Dig Safely New York for an underground utility mark-out before commencing any work.
b. The owner of this property is responsible for the development of the parcel and the continued maintenance of stormwater management facilities, as approved by the Town of Warwick Planning Board. The Town Engineer may monitor the progress of construction, but the owner's representative is responsible for the progress of the work and ensuring that construction complies with the notes and details shown on these plans.

Kirk Rother: Will do.

BEFORE FINAL APPROVAL:

Comment #12: Provide the declaration and the recording information on the plan for Aquifer Protection Overlay Notes.

Kirk Rother: Yes.

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

Kirk Rother: Yes.

Comment #14: Pay a 3-year term landscape bond and inspection fee for screening and rain garden plantings. Pay a performance bond and inspection fee for erosion control and drainage construction.

Kirk Rother: Ok.

Comment #15: Pay outstanding review fees.

Kirk Rother: Ok.

WAIVERS & EXEMPTIONS

CODE	***ACTIVITY***
§164-46J.(122)	Parking restricted from front yard in the LB zone. Waiver requested to permit parking.

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

Mr. Kowal: Is there any anticipated underground utilities? Would that be a standard note?

Zen Wojcik: We had a problem recently in the Town where someone had done work and did not call for a mark out. We had a gas line problem.

Mr. Astorino: Any contractor should do it. It is better to have it on there.

Zen Wojcik: I think that it is required.

Mr. Astorino: It is required. You would get a big fine if you did not.

Mr. Showalter: Is there a gas line on Pulaski Highway?

Mr. Astorino: No.

Mr. Bollenbach: The ARB had a comment, dated 11/5/08. They would like to see a palette of materials in color prior to construction.

Robert Schreibeis: Do they want a single sample?

Mr. Bollenbach: They want a single sample and color. The CB had no comments, dated 11/5/08.

Kirk Rother: If the Board recalls, we had brought in color samples to show you. We will give them to the ARB. Those colors have also been added to the architectural plan.

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

Mr. Bollenbach: Ben, before we open it up to the public, there was one other comment. Zen, have you been in touch with the County? There were some questions regarding the drainage.

Zen Wojcik: Yes. At the last public hearing, some of the residents came and told us that there was a local drainage problem out on County Route 1. I had called and emailed the County's Engineer. I received a phone call from the Assistant County Engineer. He had a foreman from one of their work crews with him. They told me that the inlets have been cleared. They weren't sure about the pipes. I asked them to put the inlets on their list for clearing out. They will jet out the pipes. That probably won't happen until spring. They said that they have an issue with the leaves coming down off Schoolhouse Lane. They are clogging up the inlets. I don't know personally what the problem is out there. But, if any of the residents see that there are leaves on the inlets, it helps them out just by brushing them away. That would take away that possibility of the problem. That was the result of that adventure.

Mr. Astorino: Is there anyone wishing to address the Webster Plaza application? Let the record show no public comment.

Mr. Showalter makes a motion for the Negative Declaration.

Seconded by Mr. Kowal. The following Resolution was carried 3-Ayes.

617.12(b)

State Environmental Quality Review (SEQR)

Resolution Authorizing Filing of Negative Declaration

Name of Action: Webster Plaza Site Plan

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed 5,000 square foot mixed-use building in the Hamlet of Pine Island, Town of Warwick, Orange County, New York, and

Whereas, there are other involved agencies pursuant to SEQR, including the Orange County Departments of Health and Public Works, which will make their own determinations of significance and

Whereas, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 4/30/08, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

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

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

Seconded by Mr. Kowal. Motion carried; 3-Ayes.

Mr. Showalter makes a motion to grant waiver on §164-46J.(122) – Parking restricted from front yard in the LB zone. Waiver requested to permit parking.

Seconded by Mr. Kowal. Motion carried; 3-Ayes.

Mr. Showalter makes a motion on the R Land, LLC c/o Robert Schreibeis, Jr., application, granting Site Plan Approval and Special Use Permit for the construction and use of a proposed 5,000 square foot Mixed Use/Retail Space, entitled, ***"Webster Plaza",*** situated on tax parcel S 13 B 2 L 2; project located on the western side of Pulaski Highway, in the LB zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration adopted on, 11/5/08, subject to the following conditions:

1. On the architectural drawing's exterior elevations include the building height as defined by the Town Code.
2. FOR THE RECORD – A note has been added to the plan requiring sealing all existing wells on the site in a manner consistent with the requirements of the OCHD. Locations of existing wells are unknown.
3. FOR THE RECORD – A note has been added to the plan requiring testing of the well for nitrates prior to issuance of a C of O. If the results indicate high nitrate levels, a treatment method for managing nitrates in well water acceptable to OCHD will be installed at the building.
4. Revise the screening landscaping plan to the Town Planner's specifications.
5. The drainage plan for the site has been revised. Provide calculations for the proposed stormwater management measure (rain garden) to verify it is adequate. Revise the landscaping plan for the rain garden per *NYS Stormwater Management Design Manual,* Section 9.5.1, or other suitable plantings. Provide a detail for the construction of the rain garden – include a weed-free mulch layer.
6. At the "Window Sign Detail" note, insert the word "sign" after the first use of the word "window".
7. Place the following notes on the plans:

a. The site contractor shall contact Dig Safely New York for an underground utility mark-out before commencing any work.
b. The owner of this property is responsible for the development of the parcel and the continued maintenance of stormwater management facilities, as approved by the Town of Warwick Planning Board. The Town Engineer may monitor the progress of construction, but the owner's representative is responsible for the progress of the work and ensuring that construction complies with the notes and details shown on these plans.

8. Provide the Declaration and the Recording Information on the plan for Aquifer Protection Overlay Notes.
9. Applicant to provide 9-1-1 address.
10. Pay a 3-year term Landscape Bond and Inspection Fee for screening and rain garden plantings. Pay a Performance Bond and Inspection Fee for Erosion Control and Drainage Construction.
11. Pay Outstanding Review Fees.

Seconded by Mr. Kowal. Motion carried; 3-Ayes.

Kirk Rother: Thank you.

Robert Schreibeis: Thank you.

PUBLIC HEARING OF Michael J. Petersen

Application for Site Plan Approval for the construction and use of house renovation located within "A Designated Protection Area" of Greenwood Lake, situated on tax parcel S 74 B 5 L 52; project located on the southern side of Woodland Terrace 130± feet south of Jersey Avenue (12 Woodland Terrace), in the SM zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering. Michael Petersen applicant.

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the Petersen public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
   A. Board to consider Lead Agency.
2. Applicant to discuss project.
3. FOR THE RECORD – Applicant has obtained variances from the ZBA. Full text of variances shall be placed on plans.
4. Revise General Note #5 – connection to municipal water supply.
5. The municipal inventory for this property shows that at least part of the existing "basement" is a crawlspace. A full basement (rec room, utility room and shop) are shown on the architectural plans. Along with the proposed new foundation, this project will require excavation in rock or rocky soil. In addition, significantly sized excavations will be required to install the new septic components (aerobic treatment unit & pump tank). Show a location on the property where excavated material can be stockpiled before it is removed from the site and include adequate erosion control measures. Note on the plans that excavation and construction activities using heavy machinery is allowed between 8am and 5pm Monday through Friday. No excavation or construction is allowed on holidays and weekends.
6. A proposed aerobic system is shown, details provided and maintenance and operation notes are included on the plans. Applicant to discuss.
7. Applicant proposes a gravel driveway. Board and applicant to discuss.
8. Place a Lighting Note on the plans: "All outdoor lights shall be designed, located, installed, and directed in such manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The prohibitions and requirements listed in Section 164-43.4 of the Town Code shall apply to all proposed and existing outdoor lighting fixtures."
9. Note the 9-1-1 address of the parcel on the plan.
10. Pay outstanding review fees.

WAIVERS & EXEMPTIONS

CODE	***ACTIVITY***
§A168-19C.	Driveway pavement shall extend 25 ft. from edge of roadway.

The following comment submitted by the Conservation Board, dated 11/5/08:

Michael J. Petersen – CB has no comments.

The following comment submitted by the ARB, dated 11/5/08:

Michael J. Petersen – None submitted.

Comment #1: Board to discuss SEQR.
A. Board to consider Lead Agency.

Mr. Fink: The first thing we need to take care of under SEQR is designation as Lead Agency because this application went to the ZBA first for variances. The Planning Board has not yet declared itself Lead Agency. I have a Resolution for the Board to declare Lead Agency.

Mr. Kowal makes a motion for Lead Agency.

Seconded by Mr. Showalter. The following Resolution was carried 3-Ayes.

617.6
State Environmental Quality Review (SEQR)
Resolution Establishing Lead Agency
Unlisted Action Undergoing Uncoordinated Review

Name of Action: Petersen Residence Renovation

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan application by Michael J. Petersen for a ± 0.5 acre parcel of land located at 12 Woodland Terrace, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 7/29/08 was submitted at the time of application, and

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

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

Whereas, after examining the EAF, the Planning Board has determined that there are no other involved and/or federal agencies on this matter.

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

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

Comment #2: Applicant to discuss project.

Karen Emmerich: We have 0.174 acre lot on Greenwood Lake. That lot has an existing dwelling on it. The applicant is proposing to replace that dwelling and construct a garage along Woodland Terrace. We have received several variances for the property for the new house and garage. We are here for the public hearing.

Comment #3: FOR THE RECORD – Applicant has obtained variances from the ZBA. Full text of variances shall be placed on plans.

Karen Emmerich: Will do.

Comment #4: Revise General Note #5 – connection to <u>municipal</u> water supply.

Karen Emmerich: Ok.

Comment #5: The municipal inventory for this property shows that at least part of the existing "basement" is a crawlspace. A full basement (rec room, utility room and shop) are shown on the architectural plans. Along with the proposed new foundation, this project will require excavation in rock or rocky soil. In addition, significantly sized excavations will be required to install the new septic components (aerobic treatment unit & pump tank). Show a location on the property where excavated material can be stockpiled before it is removed from the site and include adequate erosion control measures. Note on the plans that excavation and construction activities using heavy machinery is allowed between 8am and 5pm Monday through Friday. No excavation or construction is allowed on holidays and weekends.

Karen Emmerich: Ok. We have an area towards the front of the house between the house and Woodland Terrace near the vicinity of the existing shed.

Mr. Astorino: Are you going to stockpile it? Or, are you going to load it up and get it out of there?

Karen Emmerich: We are going to stockpile it. I don't know all the specifics yet.

Michael Petersen: As to the specifics of the demolition, we will be taking bids from various contractors that would do the demolition work. We will get rid of it as quickly as it comes out. There is a place to put it. We could keep it there for a short period of time using appropriate erosion control fencing. I don't see the need to keep it around very long.

Mr. Astorino: It might be wise to remove it.

Karen Emmerich: But, we do have somewhere to stockpile it.

Zen Wojcik: Is the characterization of the construction the excavation for the basement, is that correct? I couldn't get a hold of your Architect. I tried calling them several times.

Michael Petersen: Yes. It reads correctly.

Zen Wojcik: There will be additional excavation to make a full basement.

Michael Petersen: Yes. At the present time there is a crawlspace. Its deepest is probably less than 6 feet. At its shallowest, it is probably only 3 feet.

Zen Wojcik: The houses on either side are close by. You all share the same rock. Has there been any thought about indemnification if any of these people should have cracks in their foundation and things of that sort? Have you had a Geotechnical Engineer look at this to see if you would have potential problems?

Michael Petersen: No. This is the first that this particular point has been raised. The various people that I had looked at the site, which are the demolition contractors. They seem to indicate that it would be fairly easy to dig into that type of shale. It seems to be very brittle. We are not moving the whole slab. We would be picking it away.

Zen Wojcik: Right.

Michael Petersen: They would hammer the pieces and take it away. They didn't seem to indicate that they would have any issues with neighboring properties.

Zen Wojcik: Mr. Chairman, the hours of operation that I have listed in this comment, I don't know if there are any other notes the Planning Board would like to add.

Mr. Astorino: We have been down there hammering.

Mr. Bollenbach: I think that is adequate.

Mr. Astorino: The rock does seem to break very easily.

Zen Wojcik: Ok.

Mr. Bollenbach: You are so close to your neighbors. We just want to be considerate to the neighbors.

Michael Petersen: Ok.

Comment #6: A proposed aerobic system is shown, details provided and maintenance and operation notes are included on the plans. Applicant to discuss.

Karen Emmerich: We have an existing septic system field that has been dye tested on the property successfully. Since we are within 100 feet of Greenwood Lake, Mr. Petersen has agreed to do an aerobic unit.

Mr. Astorino: That would be a wise move.

Zen Wojcik: Is it accessible for maintenance?

Michael Petersen: Yes.

Comment #7: Applicant proposes a gravel driveway. Board and applicant to discuss.

Karen Emmerich: The applicant will be paving the driveway or possibly concrete.

Michael Petersen: We are thinking about going with a stamped concrete. It will be nice.

Mr. Astorino: It will not be gravel.

Michael Petersen: Right.

Mr. Bollenbach: Let us go back to comment #6. I want to add to comment #6, applicant to provide a copy of the annual maintenance contract to the Building Department. These aerobic systems have to be maintained. It would be your obligation to provide this annual contract to the Building Department to insure that it has been adequately maintained.

Michael Petersen: No problem.

Comment #8: Place a Lighting Note on the plans: "All outdoor lights shall be designed, located, installed, and directed in such manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The prohibitions and requirements listed in Section 164-43.4 of the Town Code shall apply to all proposed and existing outdoor lighting fixtures."

Karen Emmerich: Ok.

Comment #9: Note the 9-1-1 address of the parcel on the plan.

Karen Emmerich: Will do.

Comment #10: Pay outstanding review fees.

Karen Emmerich: The applicant is aware of that.

WAIVERS & EXEMPTIONS

CODE	***ACTIVITY***
§A168-19C.	Driveway pavement shall extend 25 ft. from edge of roadway.

Mr. Astorino: This waiver does not apply. You will be doing paving or some type of an impervious surface.

Mr. Bollenbach: Could you add a map note stating driveway to be paved?

Karen Emmerich: Yes.

Mr. Bollenbach: We will make that comment #11; driveway to be paved.

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

Mr. Showalter makes a motion for the Negative Declaration.

Seconded by Mr. Kowal. The following Resolution was carried 3-Ayes.

617.12(b)

State Environmental Quality Review (SEQR)

Resolution Authorizing Filing of Negative Declaration

Name of Action: Petersen Residence Renovation

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed Site PLan application, Town of Warwick, Orange County, New York, and

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

Whereas, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 7/29/08, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

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

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

Seconded by Mr. Showalter. Motion carried; 3-Ayes.

Mr. Kowal makes a motion on the Michael J. Petersen application, granting Site Plan Approval (for the construction and use of house renovation located within "A Designated Protection Area" of Greenwood Lake, situated on tax parcel S 74 B 5 L 52; project located on the southern side of Woodland Terrace 130± feet south of Jersey Avenue (12 Woodland Terrace), in the SM zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration adopted on, 11/5/08, subject to the following conditions:

1. FOR THE RECORD – Applicant has obtained variances from the ZBA. Full text of variances shall be placed on plans.
2. Revise General Note #5 – connection to municipal water supply.
3. The municipal inventory for this property shows that at least part of the existing "basement" is a crawlspace. A full basement (rec room, utility room and shop) are shown on the architectural plans. Along with the proposed new foundation, this project will require excavation in rock or rocky soil. In addition, significantly sized excavations will be required to install the new septic components (aerobic treatment unit & pump tank). Show a location on the property where excavated material can be stockpiled before it is removed from the site and include adequate erosion control measures. Note on the plans that excavation and construction activities using heavy machinery is allowed between 8am and 5pm Monday through Friday. No excavation or construction is allowed on holidays and weekends.
4. A proposed aerobic system is shown, details provided and maintenance and operation notes are included on the plans. Applicant to provide a copy of Annual Maintenance Contract to the Building Inspector.
5. Applicant proposes a gravel driveway. Board and applicant to discuss.
6. Place a Lighting Note on the plans: "All outdoor lights shall be designed, located, installed, and directed in such manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The prohibitions and requirements listed in Section 164-43.4 of the Town Code shall apply to all proposed and existing outdoor lighting fixtures."
7. Note the 9-1-1 address of the parcel on the plan.
8. Driveway to be paved.
9. Pay Outstanding Review Fees.

Seconded by Mr. Showalter. Motion carried; 3-Ayes.

Karen Emmerich: Thank you.

Michael Petersen: Thank you.

Review of Submitted Maps:

Warwick Views, LLC.

Application for Sketch Plat Review of a proposed 49-Lot + 4-Affordable Homes subdivision, situated on tax parcels S 27 B 1 L 41.131, L 47, and L 48.1; parcels located on the northern side of Blooms Corner Road 2000 feet west of County Route #1, in the RU zone, of the Town of Warwick. Planning Board adopted Final Scoping Document on 12/6/06. Previously discussed at the 9/17/08 Planning Board meeting. *Planning Board to discuss DEIS completeness.*

Representing the applicant: Kristen O'Donnell from Turner Miller Group.

The following comment submitted by the Conservation Board, dated 11/5/08:

Warwick Views, LLC. – CB has no further comments.

The following comment submitted by the ARB, dated 11/5/08:

Warwick Views, LLC. - The DEIS is far from consistent or complete.

1) The proposed subdivision is predicated upon a yield plan that is questionable at best. The conventional yield plan shows a non-clustered development, spread across the entire lot with no respect for DEC setbacks from wetlands or for infrastructure ROW. It is also predicated upon using a 3 acre/lot spec which is reserved for clustered subdivisions. If the conventional yield plan were based upon the 4 acres/lot for conventional subdivisions in the RU zone, and respected the infrastructure ROW and DEC setbacks, the yield would be significantly fewer lots. The subsequent cluster yield would also be somewhat lower. The conventional yield should be recalculated, taking into account the DEC setbacks and infrastructure requirements, as the DEC's interest in protecting designated wetlands is not predicated upon conventional or "clustered" designations

2) The entrance road is an excessive expanse of impermeable surface. The entrance road should be along the edge of the existing homes, next to the Luft subdivision line. There is an already designed ROW to accommodate this entry. Additionally, it would trade off approximately 2000 ft of roadway for approximately 600 foot of direct access. Lots 3 and 5 could be relocated, using those lots to replace open space. Lot 4 could be refigured to have a direct access from Blooms Corners Road. The roadway then would not intrude on the existing homes along Blooms Corners and would be easier to access and maintain.

The private roadway should be dedicated to the Town for consistent maintenance.

3) Soils analysis. RMC, RMD and BnB soils are not defined in the text as to their suitability for residences and septics. Despite extensive discussion, the majority of the construction and septic systems will be in RMC and RMD soils. Need to complete.

4) Agriculture. Please describe the current agricultural activity being conducted by the owner. Please describe how agricultural activity is being supported by the groundwater and how the wells will impact said agricultural activity.

5) Chart comparing impacts of No Development, Conventional Development and Proposed Development is incomplete as it does not outline impacts of the proposed development.

6) Cultural Resources. Need to compare Tracker Archeological's Phase I with Gray and Pape's study for the Millenium Pipeline (federally funded project so report should be available).

7) Purpose and public benefit of the proposed project is questionable at best. It does not reflect the current economic conditions, despite being submitted to the Board during one of the worst economic downturns to affect the Region and the construction industry in the past 30 years. The need and demand for 53 dwelling units is less obvious than presumed by the DEIS and there are certainly a fair number of lots either still to be bought or homes to be purchased in the Town and Region.

8) Consistency with Town and County Goals.

Proposed development does not enhance the rural quality of life. It does not concentrate density around the existing villages or hamlets, but instead creates a greater density particularly in conjunction with the Luft subdivision outside and removed from the Hamlet of Edenville and removed from the Hamlet of Amity or the Village of Warwick.

The project does not create a diverse community (we cannot speak about the proposed architecture as it is not submitted) or provide for mixed use, even with the four "Affordable" units.

Project is located where residents will not be able to use county-wide intra-modal transportations systems (an objective of the County Plan) and add a minimum of 159 cars to the area, meaning a minimum of 3 car trips/day/vehicle.

Project will not advance business or job creation outside the building/construction trade. It does not, based upon past development, support the "old economy" or "stimulate new economy," as directed in the County Plan.

9) Visual impacts. Please show potential impacts superimposed over the sightlines from Blooms Corners Road, from Almond Tree, and please identify all photos. We question the use of the photos from County Road 1 (Jorgensen's horsefarm with brown fence)as the proposed development will sit completely across the property from the Jorgensen farm and may not be seen through his treeline.

10) Fiscal Impacts. The ratable/revenue projections demonstrate no benefit to the community, and by their own admission demonstrate a $101,000 shortfall to the community in school taxes alone (note that in the initial summary pages, the figures is a shortfall of $90K, a significant 10% difference). The applicant treats this shortfall as though it is a net benefit to the Town, while in fact, it places the burden on existing properties. If this project is to be of real benefit to the community, it must support the cost of educating the children it will add to the school district. It is difficult to believe that only .87 children/household will be added to the school system.

The financial analysis are based on "per capita" expenditures, but are the function of added service demand, supported by the total property tax base in the taxing district. Population figures used for analysis are based upon 2005 population of the Town and budget figures are based upon 2006 budget figures, despite having in hand 2008 operational and budget figures. We also have

a more accurate population figure and school population figures to use. Service demand is increased by creating a dense population center removed from existing hamlet and village infrastructure.

Additionally, there is a 4.4 acre hexagonal lot shown on all the development/site plan maps. It is listed with the Town and County as belonging to the applicant, but with an address on County Road 1. Please explain why it is being shown as an independent lot in the midst of muckland soils and how it is being used and how it will be used to the benefit of the residents and the greater community. Will lot lines be changed to merge it into the open space (it sits in the middle of it)? Will it become a building lot because it is a pre-existing lot?

Please provide a plan to maintain the treeline behind the proposed entrance road and screen the development from the road and the existing homes. Please provide a landscaping plan to mitigate the impacts of vegetation and tree loss and provide buffer.

Mr. Astorino: We received a letter from Kirk Rother, dated 11/5/08. The letter is stated as follow:

Ted,

We received your review of the DEIS for Warwick Views today. After speaking briefly with Stew Turners office, and John Cappello, Attorney for the project, we are thinking that it may be appropriate to ask that the Planning Board postpone taking action on the matter this evening so that we can have an opportunity to review the 100+ comments you have prepared against the document that was submitted. It would probably also be appropriate to schedule a meeting between you and Tectonic to go over any questions we have on the review so that we can all get on the same page as far as what, specifically, is being requested.

We understand that the Planning Boards 45 day review period to determine completeness is near, however, John Cappello suggested that we grant the Board an extension, until the December Planning Board meeting, for the completeness determination to allow time for us to go over the comments. Just wanted to send this email before tonight's meeting in the hopes of initiating some dialog ahead of time.

Kirk Rother, P.E.

Mr. Astorino: Kristen, is there anything you want to add to this?

Kristen O'Donnell: Regarding that email, you have just made my job easier.

Mr. Astorino: Ted, the applicant is requesting an extension of the time period. Do you need a motion from the Board?

Mr. Bollenbach: Lets backup a minute. That 45-day is just directory. It is not mandatory. The Planning Board has reviewed this application within the 45 days. Just from the looks of it, I believe it would be appropriate for the Board to deem it incomplete. At such time that it is resubmitted, it could be reevaluated, then there would be a new 45-day timeframe that would start. Ted, what is your take on that?

Mr. Fink: There is a process within the SEQR regulations for give and take on these DEIS on just the terms of the reviews for completeness. It was envisioned when the State inacted the regulations that there be a formal process where the DEIS would be submitted in a draft form. It would be reused against the Scoping Document that was adopted by the Board and the determination was to be made as to whether or not the document is completed based upon how well they were able to incorporate all of the Scoping requirements. We have comments from Tectonic and comments from what I had prepared on the completeness of the document. There might be other comments that Planning Board members might have upon review of the document, which would be included in this. At this point, I would be happy to sit down with the applicant to go over and explain any of these comments. I am not sure what the delay would produce. There is a laundry list of comments to go through.

Mr. Astorino: We still have to review it ourselves. We are still going through it.

Mr. Fink: Ok.

Mr. Bollenbach: We also received some comments from the ARB, dated 11/5/08 on the DEIS. They did somewhat go beyond the scope of architectural review. Those concerns will also be addressed and taken into consideration.

Mr. Fink: Zen, I think your comments were preliminary. I am not sure if you have finalized all of the comments at this point.

Zen Wojcik: Tectonic will definitely have more comments. It is a lot to wade through.

Mr. Astorino: What is the game plan now? Ted, do you want to deem it incomplete or extend it to another meeting?

Mr. Fink: If you are going to deem it incomplete, the regulations are explicit that it would have to be based on written record that is provided to the applicant. If we don't have a complete record at this point, then perhaps the applicant is saying that is fine to give the Planning Board more time if they need it.

Mr. Astorino: They are asking to be adjourned to a December Planning Board meeting in their email. What are the prognoses as far as getting this to a December meeting? It would give the applicant some time to address these items. Would that be ok?

Mr. Bollenbach: Do you want to bring them back on the second meeting in December?

Mr. Astorino: That would be fine.

Mr. Fink: Would that be enough time for Tectonic to get their comments together?

Zen Wojcik: Yes.

Mr. Fink: Ok.

Mr. Astorino: We will adjourn the Warwick Views, LLC., application to the December 17, 2008 Planning Board meeting.

Mr. Bollenbach: Would that be ok with the applicant?

Kristen O'Donnell: Yes.

Mr. Showalter makes a motion to adjourn the Warwick Views, LLC., application to the December 17, 2008 Planning Board meeting.

Seconded by Mr. Kowal. Motion carried; 3-Ayes.

Ingimunder Kjarval

Application for Sketch Plat Review of a proposed 20-Lot cluster subdivision + 2-Affordable Homes; to be situated on tax parcel S 33 B 1 L 62, and located along the eastern side of Belcher Road, 5,700 feet east of NYS Route 17A, in the RU zone, of the Town of Warwick.

Representing the applicant: Dave Higgins from Lanc & Tully Engineering.
Ingimunder Kjarval, applicant.

The following review comments submitted by Tectonic:

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

YIELD PLAN [1/21/03, LAST REV. WITHDRAWN]

3. 1/21/03 Yield Plan shows 20 lots, using the Environmental Control Formula. 9/26/08 revised 4-Step Plans are consistent with the accepted Yield Plan.

CLUSTER PLAN [3/26/04, LAST REV. 5/22/08*]

4. Update 4-step process plans.

a. Planner to discuss.

5. Provide a completed application and fee for a Special Use Permit approval for affordable housing.

THE FOLLOWING ARE COMMENTS FROM THE REVIEW OF THE LAST REVISION, NOT RESUBMITTED AT THIS TIME:

6. Provide details for proposed sanitary sewage disposal system.

a. Provide design calculations and details for proposed sanitary sewer pump station.
b. Size septic tank(s) and provide details.
c. Provide draft ownership and maintenance agreement for the Planning Board Attorney's review.

7. Applicant and Board to discuss waiver for excessive length cul-de-sac (1500' allowable < ±1700' proposed).
8. Indicate buildable area for proposed lots as per §137-21 of the subdivision regulations.
9. Indicate limit of disturbance and calculate area.
10. Building setback lines shall be dimensioned.
11. Indicate if private roads are proposed or if the roads will be offered for dedication to the Town.
12. Provide sight distance triangles at road intersections (ref. NYSDOT Highway Design Manual §5.9.5). Include a note that the area of the triangles shall be kept free from visual obstructions.
13. Provide road profiles, driveway profiles (10% or greater slope) and typical sections.
14. Provide SWPPP.
15. Revise the Ridgeline Overlay Notes per the 2007 Application Package.
16. Provide erosion control measures on plans consistent with the current *"NYS Standards & Specifications for Erosion and Sediment Control."*

WAIVERS & EXEMPTIONS

CODE	***ACTIVITY***

§137-19K	Street Design; dead-end streets – length of cul-de-sac exceeds six times the minimum lot width.

The following comment submitted by the Conservation Board, dated 11/5/08:

Ingimunder Kjarval - Why has the applicant not submitted a full build out potential scenario since it appears that a substantial amount of "potential development area" is not included in the four step plan?

The following comment submitted by the ARB, dated 11/5/08:

Ingimunder Kjarval - Submitted maps indicate that the applicant and his engineer can follow the conservation subdivision guidelines, but is incomplete as there are large areas of the property indicating "future development". Without having details as to what is proposed for those areas, we have no ability to review, critique or make any suggestions concerning this application. From our perspective, this application is very incomplete.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board has been reviewing this application using the Full EAF. At this time, we have been looking at a number of different alternative plans. SEQR has been suspended at this point while we go over a number of different alternative layouts for the subdivision.

Comment #2: Applicant to discuss project.

Dave Higgins: Where we are with the project right now, we have gone through the process of doing a yield plan. I believe the Planning Board has a consensus on it. We demonstrated to have 20 lots + 2-affordable homes. We are looking at the project to have a total of 22 units. We are working with Mr. Fink in terms of trying to provide a development that we could be happy with as well as the applicant would be happy with in terms of the development. We are also hoping the Planning Board would be happy with it. We have worked out some sketches. Ted had suggested at that point in time, we do a 4-Step Design Process Plan. We would submit that to the Board. Tonight, I have brought a color version of the 4-Step Plan. It was difficult to make out some of the different hatches that are on there. The 4-Step Plan involves going through designating the primary conservation areas on the site.

Mr. Bollenbach: Is that in Figure 1A on the plan?

Dave Higgins: Yes. Figure 1A, is the primary conservation areas. Those consist of Federal regulated wetlands. We have highlighted that in yellow. We also have areas of steep slopes, which are areas over 25%. We highlighted the steep slopes in blue with patch patterns. Some of these are a big swath. Some are more isolated areas through the site. The 2nd step is Figure 1B, secondary conservation areas. There might be some objectivity to those from the Planning Board. I think the forested areas, tree lines, stonewalls, and things of that nature. There are other things that I think the Planning Board finds significant value. We have

identified forested areas. There are significant forested areas on the northern side of the site. There are also some isolated areas on the southern side. In addition to that, we have identified the Ridge tops. It was our presumption from discussions with the Board that these Ridge tops were what you would consider as your secondary conservation area.

Mr. Bollenbach: It is also located in the Ridgeline Overlay Protection area.

Dave Higgins: Yes. I believe the whole property is located in the Ridgeline Overlay area. The next step is on Figure 1C. Essentially, that is the establishment of the potential development areas on the site are based on what the primary and secondary areas are. What is left is your potential development areas. We have designated those areas in Figure 1C. The next step is Figure 2, which is essentially picking the house sites for the project. We have 21 house sites located on the southern portion of the project. A Central Hudson gas and electric power line run east/west through the site. It is our intention to keep the entire development to save one building on the southern side of that power line. We have 21 units located on the southern side of that power line. Then, we have 1-unit, which we are envisioning it to be one large piece. It could be used for a number of purposes. But, potentially we are looking at it to be a horse farm or something along those lines. We might work that into the final approval.

Zen Wojcik: What is the voltage of the power line?

Dave Higgins: Someone from my office had contacted Central Hudson Gas & Electric. They had advised us that it was 115 volts.

Zen Wojcik: Is that 115 volts or kilovolts?

Dave Higgins: I asked the same question. They told me 115 volts.

Zen Wojcik: Please double-check that.

Dave Higgins: We will double-check that. The next step if Figure 3, which are the street and trees. We show a road accessing off Belcher Road to provide circulation of vehicular traffic through the proposed development. The last step of the 4-Step Plan is Figure 4, which is to establish the property lines to work with that road and the individual buildings.

Mr. Bollenbach: While we are on the 4-Step Plan, we have a comment from the Conservation Board, dated 11/5/08 and a comment from the ARB, dated 11/5/08. First of all, there was the yield plan. The Planning Board had looked at that and agreed upon the 22 lots. That was how the 22 lots were developed and the entire parcel is being fully developed. That is the maximum that could be on this parcel. As far as the Conservation Board comment, dated on 11/5/08 on why a full buildout plan hasn't been submitted, it has been already submitted. They also state that it appears that a substantial amount of potential development area is not included in the 4-Step Plan. That is precisely Figure 1C. Those are the potential development areas. It sort of dovetails the ARB comments, dated 11/5/08. Just to let them know that the submitted maps had the 4-Step Plan in it. This is a cluster subdivision with a total of 22 lots. The ARB had identified something as future development. I don't see anything of future development on the map. It is called a proposed development. Again, that is Figure 1C.

Dave Higgins: Yes. We call it potential development areas.

Mr. Astorino: That is in the 4-Step Plan.

Mr. Bollenbach: That is the terminology that is required by the code.

Dave Higgins: Yes.

Mr. Astorino: Basically, we are up to speed on the yield plan. Zen, are the rest of these comments based upon the last submittal?

Zen Wojcik: Yes. We haven't received any new plans.

Mr. Astorino: We could list comments 3 through 16 for the record. Do any Board members or Professionals have any other comments?

YIELD PLAN [1/21/03, LAST REV. WITHDRAWN]

Comment #3: 1/21/03 Yield Plan shows 20 lots, using the Environmental Control Formula. 9/26/08 revised 4-Step Plans are consistent with the accepted Yield Plan.

CLUSTER PLAN [3/26/04, LAST REV. 5/22/08*]

Comment #4: Update 4-step process plans.

a. Planner to discuss.

Comment #5: Provide a completed application and fee for a Special Use Permit approval for affordable housing.

THE FOLLOWING ARE COMMENTS FROM THE REVIEW OF THE LAST REVISION, NOT RESUBMITTED AT THIS TIME:

Comment #6: Provide details for proposed sanitary sewage disposal system.

a. Provide design calculations and details for proposed sanitary sewer pump station.
b. Size septic tank(s) and provide details.
c. Provide draft ownership and maintenance agreement for the Planning Board Attorney's review.

Comment #7: Applicant and Board to discuss waiver for excessive length cul-de-sac (1500' allowable < ±1700' proposed).

Comment #8: Indicate buildable area for proposed lots as per §137-21 of the subdivision regulations.

Comment #9: Indicate limit of disturbance and calculate area.

Comment #10: Building setback lines shall be dimensioned.

Comment #11: Indicate if private roads are proposed or if the roads will be offered for dedication to the Town.

Comment #12: Provide sight distance triangles at road intersections (ref. NYSDOT Highway Design Manual §5.9.5). Include a note that the area of the triangles shall be kept free from visual obstructions.

Comment #13: Provide road profiles, driveway profiles (10% or greater slope) and typical sections.

Comment #14: Provide SWPPP.

Comment #15: Revise the Ridgeline Overlay Notes per the 2007 Application Package.

Comment #16: Provide erosion control measures on plans consistent with the current *"NYS Standards & Specifications for Erosion and Sediment Control."*

WAIVERS & EXEMPTIONS

CODE	***ACTIVITY***

§137-19K	Street Design; dead-end streets – length of cul-de-sac exceeds six times the minimum lot width.

Zen Wojcik: Regarding comment #5, our secretary worries about that comment a lot. Please provide a completed application and fee for a special use permit approval for the affordable housing.

Dave Higgins: Ok.

Mr. Astorino: As far as your septic system, where are you on that?

Dave Higgins: We have done all the soil tests with the DEC. Tectonic has witnessed the perc and deep tests. This was essentially done for the whole area that we would be using for the community sewer system. The DEC has provided us a letter based upon the information that we have provided. It looks like it would be an approvable design.

Zen Wojcik: I think we are waiting for details.

Dave Higgins: The comments that you have on here in addition to the sanitary sewer system also your erosion control measures, drainage design, grading & utility plans, etc… What we needed to get on paper before the Board was the layout itself of the houses and the roads. If we could agree on those, we would be more than happy to move forward with the design of the septic system and the drainage system. We would provide all of that information to the Board. That is what we would like to be able to do.

Mr. Bollenbach: We need that additional information to determine that the current layout is feasible.

Mr. Astorino: We have all done a site visit out there. The layout hasn't changed as far as where the houses were proposed from day one. I think we are all familiar with where they would be.

Mr. Bollenbach: I think there was a consensus on that.

Mr. Astorino: Yes. But, the issue was if it was feasible for this community septic system to handle that. I think that is where we are at now.

Mr. Bollenbach: There are all of these SWPPP related comments that needs to be addressed, comment #6 in particular, since this would be the first community septic. I would like to see more detail on that including draft ownership documents. Let us explore that early on to make sure all is in order.

Dave Higgins: Yes.

Mr. Astorino: Ok. At least we are up to speed. The applicant has some work to do. Re-submit, then we will go from there.

Dave Higgins: Ok. Thank you.

Sprint/Nextel #2

Application for Site Plan Approval for the construction and use of Modification of an existing wireless Telecommunications Facility, situated on tax parcel S 85 B 1 L 1.1; project located on the western side of Long Meadow Road (299 Long Meadow Road) at the IBM facility, in the LC zone, of the Town of Warwick.

Representing the applicant: Doug Warden from Snyder & Snyder.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Correct the typographical error in date at the bottom of page 3 in Pinnacle Telecom Group's *Antenna Site FCC RF Compliance Assessment and Report*.
4. Provide a report showing that the proposed installation will comply with the Town's performance standard for noise (§164-78C.)
5. Place the following note on the plan:

"Reports including the following information are required to be submitted to the Town of Warwick Building Inspector within 90 days of the facility described herein becoming operational, and annually thereafter:

- Measurement of RFR from the facility,
- Measurement of noise from the facility (signed by an acoustical engineer attesting to the accuracy of the measurement and comparing them to the Town's performance standard (§164-78C.))

The facility shall be structurally inspected annually and certified by a professional engineer. A report shall be submitted to the Town of Warwick Building Inspector."

The following comment submitted by the Conservation Board, dated 11/5/08:

<u>Sprint/Nextel #2</u> – CB has no comments.

The following comment submitted by the ARB, dated 11/5/08:

<u>Sprint/Nextel #2</u> – ARB has no comments.

Comment #1: Board to discuss SEQR.

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

Mr. Showalter makes a motion for Lead Agency.

Seconded by Mr. Kowal. The following Resolution was carried 3-Ayes.

617.6

State Environmental Quality Review (SEQR)

Resolution Establishing Lead Agency

Unlisted Action Undergoing Uncoordinated Review

Name of Action: Sprint Nextel Wireless Facility Modification

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan application by Sprint Nextel Corp. for a ± 68.9 acre parcel of land located at the IBM Facility in Sterling Forest, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 10/14/08 was submitted at the time of application, and

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

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

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

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

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

Comment #2: Applicant to discuss project.

Doug Warden: Sprint has an existing wireless facility on the rooftop of IBM building located at 299 Long Meadow Road. That was originally approved by this Board back on 8/4/04. It consisted of 12 antennas amounted on the northwest and south façade of the existing penthouse on that building. We are here tonight to request a modification of that facility. The modification that we are requesting is an additional 5 antennas which would be piped and poll mounted in precisely the way the existing antennas are affixed to the façade, which would be below the top of the existing penthouse. It would be on the westerly façade of the existing penthouse. We would not be increasing the existing height of the penthouse. The reason why we are requesting this modification is because IBM has indicated that they don't have the coverage that they need for their business applications. These additional antennas would help with coverage for their wireless applications. There isn't anything more to the application than that.

Mr. Bollenbach: I was looking at the agenda blurb for site plan approval and special use permit. Delete special use permit.

Mr. Astorino: Is it not a special use permit?

Mr. Bollenbach: A special use permit was previously issued. That is why this is just a modification. When we do have a public hearing, it would be just on the site plan. The location has already been approved for telecommunication cell facilities. It is just a modification to the site plan.

Comment #3: Correct the typographical error in date at the bottom of page 3 in Pinnacle Telecom Group's *Antenna Site FCC RF Compliance Assessment and Report*.

Doug Warden: Ok.

Comment #4: Provide a report showing that the proposed installation will comply with the Town's performance standard for noise (§164-78C.).

Doug Warden: Ok.

Comment #5: Place the following note on the plan:
"Reports including the following information are required to be submitted to the Town of Warwick Building Inspector within 90 days of the facility described herein becoming operational, and annually thereafter:

- Measurement of RFR from the facility,
- Measurement of noise from the facility (signed by an acoustical engineer attesting to the accuracy of the measurement and comparing them to the Town's performance standard (§164-78C.))

The facility shall be structurally inspected annually and certified by a professional engineer. A report shall be submitted to the Town of Warwick Building Inspector."

Doug Warden: We agree. Yes.

Mr. Bollenbach: Zen, have they been current on their reporting for the prior facility?

Zen Wojcik: Yes. I spoke to the Building Inspector, he stated that they are exemplary.

Mr. Bollenbach: Thank you.

Mr. Astorino: Sounds good. Does someone care to make a motion to set this application for a public hearing?

Mr. Kowal makes a motion to set the Sprint/Nextel #2 application for a public hearing at the next available agenda.

Seconded by Mr. Showalter. Motion carried; 3-Ayes.

Doug Warden: Thank you.

Gerry Terry Subdivision

Application for Sketch Plat Review of a proposed 2-Lot **(Major)** subdivision, situated on tax parcel S 22 B 1 L 9.1; parcel located on the northerly side of Upper Hillman Road 400± feet southerly of Lower Hillman Road, in the RU zone, of the Town of Warwick.

Representing the applicant: John McGloin, PLS.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Minimum Lot Area in the RU zone is 4 acres. Subdivision proposes to create two lots; 0.265 acres and 0.199 acres. Board to consider referral to ZBA for variances.
4. Parcel is in the drainage shed of a potable water supply (Glenmere Lake). Perform septic dye tests on both existing septic systems, witnessed by the Town Engineer's representative.

The following comment submitted by the Conservation Board, dated 11/5/08:

Gerry Terry Subdivision - CB has no comments other than to observe that the two lots that would be created by this subdivision would represent respectively a mere 6.6% (11,550 sq. ft.) and 4.5% (8,707 sq. ft.) of the minimum lot size of 174,340 sq. ft. Or said another way, the existing undivided lot is only a bit more than 1/10 of the minimum lot size required by the applicable zoning. As stated by the CB in the past, there appears little to commend the creation of further non-conformity with zoning as is the case here.

The following comment submitted by the ARB, dated 11/5/08:

Gerry Terry Subdivision – ARB has no comments.

Comment #1: Board to discuss SEQR.

Mr. Fink: The applicant has submitted a short EAF. It is an Unlisted Action. The application does not meet the minimum bulk requirements of the Zoning Law. They will have to go to the ZBA to receive a variance. Once they receive the variance, they could come back to the Planning Board and we would deal with SEQR at that time.

Mr. Bollenbach: We have a comment from the Conservation Board, dated 11/5/08 related to that specific issue. The CB states that the existing undivided lot is only a bit more than 1/10 of the minimum lot size required by the applicable zoning. That is why they have to go to the ZBA. I just want to bring to everyone's attention that these 2 dwellings are already existing. The septics and wells already exists. There is no construction proposed.

Zen Wojcik: Mr. Chairman, while we are on that point, I was discussing this with the Town Engineer today. A point came up that there is already something built on the site. What would happen to these lots after they get subdivided is that they wouldn't qualify under existing small lots because they were not in existence in 1989 as individual lots. They would

be non-complying lots. Part of the comment from the CB which caused the discussion to come up was that there was the possibility that the buildings that are there right now could sometime in the future be demolished. Someone could come before the Town and say they want to build a larger building on this small lot. John, what would the regulations going to be here? How do we know what the setbacks would be?

Mr. Bollenbach: That is why they are going to the ZBA. The buildings were in existence prior to 1989.

Zen Wojcik: But, it was not as 2 individual lots.

Mr. Bollenbach: The buildings are already there. We already have existing lots.

Mr. Astorino: That would be the ZBA call. They are going to be individual lots.

Zen Wojcik: Maybe I missed the point here. The point that I am asking is if this Board does subdivide these 2 lots…

Mr. Astorino: First, they would have to get a variance from the ZBA.

Zen Wojcik: Right.

Mr. Astorino: You are going a step ahead.

Zen Wojcik: Ok. We will address it when they come back to us.

Comment #2: Applicant to discuss project.

John McGloin: It is 2 existing houses. It use to be 2 separate tax lots. They got merged together. That should have not happened. Now, they are looking to separate them again into 2 lots.

Comment #3: Minimum Lot Area in the RU zone is 4 acres. Subdivision proposes to create two lots; 0.265 acres and 0.199 acres. Board to consider referral to ZBA for variances.

Mr. Bollenbach: What is the Board's pleasure? Do you want to go with a favorable or unfavorable recommendation?

Mr. Astorino: Let us send them to the ZBA without recommendation. Is the Board ok with that?

Mr. Kowal: Yes.

Mr. Showalter: Yes.

Mr. Bollenbach: Ok. We will send the application to the ZBA without recommendation. We will do a letter to the ZBA to that effect.

Comment #4: Parcel is in the drainage shed of a potable water supply (Glenmere Lake). Perform septic dye tests on both existing septic systems, witnessed by the Town Engineer's representative.

John McGloin: Ok. We will do that. Do you want that done after the variance?

Mr. Astorino: That would be up to you. You are off to the ZBA. We will see you after that.

John McGloin: Ok. Thank you.

Other Considerations:

1. **BCM Development –** Letter from Alan Lipman, Esq., dated 9/12/08 and Letter from Lanc & Tully Engineering, dated 10/7/08 addressed to the Planning Board in regards to BCM Subdivision requesting ***"Re-Approval"*** of Final Approval of a proposed 40-Lot + 1-Lot for well and 1-Lot of open space, SBL # 44-1-133. Final Approval was granted on 11/21/07. The 6-Month Extension was granted on 5/7/08 effective on 5/21/08. Re-Approval of Final Approval becomes effective on, 11/21/08, subject to the conditions of final approval granted on, 11/21/07.

   Representing the applicant: Mr. Lipman, Attorney. Dave Higgins from Lanc & Tully Engineering.

   The following comment submitted by the Conservation Board, dated 11/5/08:

BCM Development – The CB is confused as to what the applicant is requesting at the present time. The note under "Other Considerations" on the Tentative Planning Board Agenda seems to describe a "Re-Approval" of the Final Approval. The letters from Lanc and Tully and Alan Lipman are also in support of a re-approval subject to the conditions that were imposed by the Planning Board a year ago. However, reports from the PBWS of October 27th suggest that the developer is exploring a more limited 8 lot subdivision or roughly 1/5 of the plan that was given final approval. The CB is of the opinion that this constitutes a completely new application and should be treated as such. The CB also has observed that the developer has not exactly been receptive to the numerous conditions imposed by the PB as a condition of final approval. Those conditions must be re-examined to ensure that they are not evaded by a smaller project that cannot meet those financial requirements. The CB has further concerns that the current financial conditions will create pressure to throw up any old structure in order to recoup investment in the subdivision process. BCM is a gateway project to Warwick and should be treated as such.

Mr. Lipman: It is a rather simple proposition. The approval may no longer be extended by virtue of the statue §276 of the Town Law. The only option is to seek a new approval to bring new life into the approval. I notice under Other Considerations you have an item #4 for an applicant asking for Re-approval a second time for an identical problem of the statue. It is very common particularly in this day and age when development is being slowed down by economic problems. It is a very common problem.

Mr. Astorino: This is not the first one that we have seen. Do any Board members or Professionals have any questions?

Mr. Bollenbach: We received a comment from the Conservation Board, dated 11/5/08. For some reason they are mistaken that this is only an 8-lot subdivision or somehow it changed. That is not the case. This is the exact same application that was previously approved.

Mr. Lipman: I think they confused some dialogue that related to phasing.

Mr. Bollenbach: That was regarding subdivision in sections. That application is not before the Planning Board at this time.

Mr. Astorino: Does the Board or Professionals have anything further?

Mr. Showalter makes a motion on the BCM application, granting ***"Re-Approval"*** of Final Approval for a proposed 40-Lot subdivision plus 1-Lot for the well and 1-Lot of open space, entitled **"BCM Development",** situated on tax parcel S 44 B 1 L 133 formerly part of S 44 B 1 L 50.224; parcel located along the northerly side of NYS Route 17A at the intersections of Ketchum Road and Pumpkin Hill Road, in the SL zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on, 11/21/07. (See attached)

Re-Approval of Final Approval becomes effective on, 11/21/08.

Seconded by Mr. Kowal. Motion carried; 3-Ayes.

Dave Higgins: Thank you.

2. **Lands of Schenk Lot Line Change –** Letter from Kirk Rother, dated 10/10/08 addressed to the Planning Board – in regards to Schenk Lot Line Change requesting a 6-Month Extension on Final Approval of a proposed Lot line Change, SBL # 54-1-11.1 & 11.2. Final Approval was granted on 4/16/08. *The applicant is nearly finished satisfying the conditions of approval with the final maps expected to be submitted for signature next week.* 6-Month Extension becomes effective on, 10/16/08.

Connie Sardo: The final maps were signed by Chairman, Benjamin Astorino the other day. But, they still need the extension.

Mr. Astorino: Yes.

Mr. Showalter makes a motion on the Schenk application, granting a 6-Month Extension on final approval of a proposed Lot Line Change, SBL # 54-1—11.1 & 11.2. Final Approval was granted on 4/16/08.

The 6-Month Extension becomes effective on, 10/16/08.

Seconded by Mr. Kowal. Motion carried; 3-Ayes.

3. **Luft Subdivision –** Letter from Kirk Rother, dated 10/10/08 addressed to the Planning Board – in regards to the Luft Subdivision requesting a 6-Month Extension on Final Approval of a proposed 22-Lot + 2-Affordable Homes Subdivision, SBL #26-1-110. Final Approval was granted on 4/16/08. *The applicant is currently in the process of satisfying the conditions of Final Approval.* 6-Month Extension becomes effective on, 10/16/08.

Mr. Kowal makes a motion on the Luft application, granting a 6-Month Extension on Final Approval of a proposed 22-Lot + 2-Affordable Homes Subdivision, SBL # 26-1-110. Final Approval was granted on 4/16/08.

The 6-Month Extension becomes effective on, 10/16/08.

Seconded by Mr. Showalter. Motion carried; 3-Ayes.

4. **<u>Vieldhouse #2</u> –** Letter from Pietrzak & Pfau Engineering, dated 10/10/08 addressed to the Planning Board – in regards to Vieldhouse #2 Subdivision – requesting a ***2nd Re-Approval*** on Final Approval of a proposed 2-Lot Subdivision. SBL # 53-1-39. Final Approval granted on 11/1/06. 1st Re-Approval Granted on 11/7/07. 6-Month Extension on 1st Re-Approval granted on 5/21/08 effective on 5/7/08. *The applicant is currently working on Legal issues and their final approval for this project is due to expire, and the applicant is requesting that the Board grant a 2nd Re-Approval of final approval.* The 2nd Re-Approval becomes effective on, 11/7/08, subject to the conditions of final approval granted on 11/1/06.

   The following comment submitted by the Conservation Board, dated 11/5/08:

   <u>Vieldhouse #2</u> - The CB questions the appropriateness of 1st and 2nd re-approvals in general and the 2nd re-approval request here. There are reasons that subdivision approvals have time limits. At the very least it would seem that the Planning Board should create some rules on when re-approvals are appropriate after determining if the PB has the authority to issue such "re-approvals" in the first place.

   Mr. Astorino: We spoke to the applicant's attorney at the work session. He has been diligently working on this. John, I don't know if he has contacted you in the meantime to keep this project moving.

   Mr. Bollenbach: Yes. It has been renewed efforts.

Mr. Showalter makes a motion on the Vieldhouse #2 application, granting a ***2nd Re-Approval*** on Final Approval (Vote 3-0-0) for a proposed 2-Lot subdivision, situated on tax parcel S 53 B 1 L 39; property located on the northwestern side of Brady Road 2,200 feet northeast of Black Rock Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York. A SEQR Negative Declaration adopted on, 11/1/06, subject to the conditions of Final Approval granted on, 11/1/06. (See attached)

The 2nd Re-Approval of Final Approval becomes effective on, 11/7/08.

Seconded by Mr. Kowal. Motion carried; 3-Ayes.

Mr. Bollenbach: This is the 2nd Re-Approval for the Vieldhouse #2 application. I just want to let the Board know that the same zoning is in affect now as it was when we granted the original approval. Nothing has changed.

5. **<u>Adele Grill Subdivision</u> –** Letter from Chris Guddemi from LAN Associates, dated 10/20/08 addressed to the Planning Board - in regards to Adele Grill Subdivision – requesting a 6-Month Extension on Re-Approval of Final Approval for a proposed 4-Lot cluster subdivision, SBL # 29-1-71 & 72. Final Approval was granted on 5/16/07. 6th Month Extension granted on 11/7/07, effective on 11/16/07. Re-Approval of Final Approval Granted on 5/7/08, subject to the conditions of final approval granted on 5/16/07. *The applicant is requesting more time to address the conditions for final approval, granted on 5/16/07. Also, the applicant wishes to extend the use of the accessory structure as a temporary residence for the duration of the Re-approval*

extension. The applicant continues to encounter construction delays during the renovation of the principal structure. The applicant would also like the Re-approval extension and temporary residential use to run concurrent. The 6-Month Extension on Re-Approval of Final Approval becomes effective on, 11/7/08.

Representing the applicant: Adele Grill, applicant.

Mr. Astorino: Do any Board members have any questions? Mrs. Grill, where are you as far as construction or as far as this temporary residence? What are we looking at here? Is this going to be a continuous ongoing matter?

Adele Grill: No.

Mr. Astorino: It seems to me that it is an ongoing process.

Adele Grill: I understand that. I want to address those concerns. I didn't expect it to go on this long either. The situation is that I had some major issues with the other contractor. I am now in the process of getting the design modified. Mr. Batz might have told you about that. He has been in touch with the architect and the new contractor.

Mr. Astorino: Do you have a new contractor hired?

Adele Grill: Yes.

Mr. Astorino: Would he be starting to commence work?

Adele Grill: Hopefully. They want to get the foundation walls in before the weather becomes a consideration. Hopefully, they will get it closed in. They are ready to go as soon as the plan is done. Mr. Batz is on board with this so that we could expedite it. As far as the other residence goes, I would like the option to use it.

Mr. Astorino: Are you looking at this to be your last 6-month extension?

Adele Grill: I understand that. Yes.

Mr. Bollenbach: Do you have some of the foundation poured already?

Adele Grill: We had only the footings done. Regarding the modifications to the plans, we might need an extra footing or two. Then, we could go straight into the foundation walls and the rest of the structure.

Mr. Bollenbach: I have discussed this with John Batz. Yes, a building permit has been issued. Yes, there were footing inspections done.

Mr. Astorino: So, they are progressing.

Mr. Showalter: They are doing something.

Mr. Bollenbach: They are moving along. They did have some difficulties. I just want to remind Mrs. Grill that the building permit is good for only 1-year. Make sure you make arrangements to have it renewed.

Adele Grill: Yes.

Zen Wojcik: Mr. Chairman, I am not clear about the use of the small house. We had a specific note on there that had a specific date. It said a small house could be used as a residence while the other house was being renovated until a specific date. After that, I think there was a 3-month potential extension if needed.

Mr. Astorino: I think we first said 9 months. Then, we granted another extension. That is where we are at now.

Zen Wojcik: The date that we had that Mrs. Grill is asking for is that the applicant would also like the Re-approval extension and temporary residential use to run concurrent. Do you want to have the use of the house extended for another 6 months?

Mr. Bollenbach: Yes. That is the idea.

Mr. Showalter: She needs it while the construction is going on.

Mr. Bollenbach: It would go to 5/17/09.

Zen Wojcik: Is it 5/17/09?

Mr. Bollenbach: Correct.

Mr. Astorino: I think the Board is in position now that we know she is moving along. This should be the last Re-approval.

Zen Wojcik: I just wanted to get the date on record because it has been changed so many times. Is it 5/17/09 or 5/7/09?

Mr. Astorino: The 6-month extension becomes effective on 11/7/08. The expiration date should be 5/7/09.

Mr. Bollenbach: Correct. It is 5/7/09 not 5/17/09.

Mr. Astorino: That would be for residence/temporary residence. It expires on 5/7/09.

Mr. Showalter makes a motion on the Adele Grill application, granting a 6-Month Extension on Re-Approval of Final Approval for a proposed 4-Lot cluster subdivision, SBL # 29-1-71 and 72. Final Approval was granted on 5/16/07. Re-Approval was granted on 5/7/08.

The 6-Month Extension on Re-Approval of Final Approval becomes effective on, 11/7/08 and temporary residential use to run concurrent expires on, 5/7/09.

Seconded by Mr. Kowal. Motion carried; 3-Ayes.

6. **Planning Board Minutes of 10/15/08 –** Planning Board Minutes of 10/15/08 for PB Approval.

   Mr. Kowal makes a motion to Approve the 10/15/08 Planning Board minutes.

   Seconded by Mr. Showalter. Motion carried; 3-Ayes.

Correspondences:

1. **Hudson River Watershed Alliance –** Conference regarding climate changes to be held on Friday, 11/21/08 at the Mohonk Mountain House 8:15 a.m. – 4:30 p.m. If PB members or Professionals interested need to register by Friday, 11/14/08.

Mr. Astorino: That is in our packets. If any Board members are interested, please see Connie before 11/14/08.

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 November 5, 2008 Planning Board meeting.

Seconded by Mr. Kowal. Motion carried; 3-Ayes.