

TOWN OF WARWICK PLANNING BOARD

December 5, 2007

Members present: Chairman, Benjamin Astorino  
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, December 5, 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 The Gables At Warwick, Inc.**

Application for final approval of a proposed 15-Lot cluster subdivision, situated on tax parcel S 44 B 1 L 132; formerly part of S 44 B 1 L 50.224, parcel located along the southern side of NYS Route 17A at the intersection of the east end of Ketchum Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. Preliminary Approval was granted on June 1, 2005.

Representing the applicant: Dave Getz from Lehman & Getz Engineering. Mr. Lipman, Attorney. Bruce Zaretsky, Applicant.

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

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
  - A. Board to discuss Note 27.
2. Applicant to discuss project.
  - A) Status of approvals
    - Orange County Health Department
    - NYS Department of Health
    - NYS Department of Transportation
    - NYS Department of Environmental Conservation
  - B. Water District

**YIELD PLAN (Dated 03/05/2002 Last revised 02/27/2005)**

3. No further comments. Board arrived at consensus on 4/20/05.

**CLUSTER PLAN (Dated 07/02/2002 Last revised 10/29/2007)**

4. Yield Plan indicates that this parcel may be subdivided a maximum of 18 lots. Applicant proposes 15 lots at this time, reserving three lots (maximum) to be added at some future date. Board and applicant to discuss Notes 27 & 12.

5. On sheet 1, 42 acres of open space is listed in Note 19. On sheet 2, the Dimensional Requirements lists 41.7 acres of proposed open space while the Open Space Requirements and Restrictions Notes list 48 acres of open space. Revise for actual area. On sheet 4A, area of open space in Lot 7 is obscured.
6. Insert the following note as Note 1 of the Construction Notes (sheet 2) and the Sequence of Major Activities (sheet 7): "Attend a pre-construction meeting with the Town Engineer's representative and provide a schedule for construction. Schedule must be regularly updated as construction progresses."
7. Show eight trees to be planted on each lot for screening, per §164-47.1F(3)(c)[1], on the Typical Lot Layout, sheet 16.
8. Identify significant trees on Landscape Plan. Reference details and notes for the preservation of significant trees on site.
9. Show temporary and permanent erosion control measures on the Erosion Control Plans for all stormwater management facilities and disturbed areas.
10. Revise Lot Layout Plan so that the metes and bounds are consistent with the final lot layout. Eliminate overlapping text.
11. Double silt fence is not standard. Using methods listed in the *NYS Standards* revise erosion control measures along Road "B" Sta. 14+25.
12. Board to discuss waiver of maximum road slope requirement.
13. Per §A168-10D, testing of the road subgrade and design of the pavement is required.
14. Revise the Road Cross-Section (sheet 17) per §A168-11 & 21A, B, D, & E and pavement design. Revise the Driveway Cross-Section per §A168-19.

**SWPPP:**

15. At stormwater management ponds, indicate a pond buffer extending out 25 feet from the maximum water surface elevation.
16. At the Detention Basin D-1 Detail (sheet 10), provide elevations of the pond bottom, outlet structure invert, top of drop inlet, and top of embankment, consistent with the SWPPP.

**BEFORE FINAL APPROVAL:**

17. Provide Model Home and Water District Notes per the Planning Board Attorney's specifications.
18. Town Board to approve Water District and offer of dedication for water facilities.
19. Applicant to provide signed and sealed copy of the final revised SWPPP and copy of submitted NOI.
20. Provide the declaration and the recording information on the plan for current Ridgeline Overlay Notes, current Aquifer Protection Overlay Notes, Open Space Conservation, and Homeowner's Association to the PB Attorney's specifications.
21. Provide the declaration and the recording information on the plan for HOA ownership and maintenance of drainage and stormwater management facilities. Provide easement descriptions for the PB Attorney's review and approval.
22. List all dedicated areas and easements, their locations in the plan set, and recording information (date, liber and page) on sheet 2.
23. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns at corners of open space.
24. Provide an acceptable name for the road and 9-1-1 addressing.
25. Pay parkland fees.
26. Pay performance bond and construction inspection fee for Town road, stormwater management facilities, and erosion control.
27. Pay landscape maintenance bond (three-year term) for screening plantings and hydric plantings at stormwater management facilities.

28. Pay outstanding review fees.

### WAIVERS & EXEMPTIONS

<i>CODE</i>	<i>ACTIVITY</i>
§137-19F	Street design; Town road grade exceeding 10% maximum, but less than 14%., due to topography.

The following comment submitted by the Conservation Board, dated 12/5/07:

The Gables At Warwick - Here are the CB's comments from its August 14th Memo to the Planning Board.

*As indicated in prior comments, this project is one of the best examples of how not to preserve open space by designating little slivers of open space on virtually every lot. As a result enforcement of the open space restrictions will be extremely difficult. The CCB recommends that cairns or other visible but not visually insensitive markers be used to delineate the open space. Also the CB recommends that limited access be granted by way of the deed restrictions so that the open space can be monitored. Unless there is some access to monitor, the preservation of open space is likely to be substantially compromised and disrespected, especially when property owners know there are no consequences because no one is monitoring.*

The CB has no further comments.

The following comment submitted by the ARB, dated 12/5/07:

The Gables At Warwick - Elevations submitted show only one (1) model of home for this subdivision, and only two sides. We would like to see complete elevations for all models being offered in this subdivision (one model is certainly not the norm for a subdivision). Additionally, this plan is for a subdivision located in Glenwood, NJ. We are unclear as to whether or not the applicant would like to “repurpose” these plans for the Gables, in which case they appear to be too large for the footprint of the houses provided on the site plan.

It might be in the better interest of the subdivision for the applicant to consider

- a fenestration pattern that gives a cohesive appearance to all sides of the homes
- using one siding instead of creating an upgraded front façade and three sides with siding that bears no resemblance to the front.
- given the current interest in “green” building, we would make the suggestion that he may also want to incorporate more “green” features in this design, including more natural materials and passive solar. This is presented as a suggestion

We would also like to see the elevation for the “affordable” home/s for this subdivision.

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board issued a Negative Declaration on this application. As far as SEQR is concerned, SEQR has been fully complied with.

## A. Board to discuss Note 27.

Mr. Astorino: Zen, what was that?

Zen Wojcik: Note #27 is about the future subdivision of the extra 3 lots.

Mr. Astorino: So that note is about the 3 extra lots that they would have to come back before the Planning Board for.

Zen Wojcik: Yes. The note is sort of ambiguous. At the Workshops, I believe the Board had discussed that. The decision was to have a discussion on the record for what the note should be.

Mr. Astorino: John, is there any way that you want that note to read?

Zen Wojcik: The note reads as follow: *“The future subdivision of the property shall be limited to a maximum of three additional lots, based on the 18-lot yield plan prepared for the project.”* There is an additional note, note #12 that states the following: *“No lots is to be further subdivided without Orange County Department of Health review and approval.”* The Board might want to consider both of those notes.

Mr. Bollenbach: That could be a condition of the approval. It doesn't mean that the applicant has the right for 3 additional lots. It means that the applicant has the right to the potential of 3 additional lots, if it meets the criteria. It would be limited to specific lots. It would say no further subdivision of any lot except for lot numbers... What lots are those that you have merged right now?

Dave Getz: That would be lot # 3, 6, and 7.

Mr. Bollenbach: That would be lots 3, 6, and 7. Those would be the lots that would have the potential for additional subdivision.

Mr. Lipman: The note is not inconsistent with that.

Mr. Bollenbach: It will need just a little clarification.

Mr. Astorino: John, why don't you just tweak that a little bit?

Mr. Bollenbach: Yes. That could be a condition. We will also have some type of a reference based on the yield plan regarding the maximum that was allowed.

Mr. Lipman: It is in the note.

Comment #2: Applicant to discuss project.

A. Status of approvals

- Orange County Health Department
- NYS Department of Health
- NYS Department of Transportation
- NYS Department of Environmental Conservation

## B. Water District

Dave Getz: You have granted preliminary approval on 18 lots. Since that time, we have gone through the Health Department's review process for both the realty subdivision and the water system extension. You are aware that ties in with the BCM project and Bellvale Park. The DOT has issued a letter that we have submitted in the past. They have approved the proposed entrance to Route 17A. There were no approvals necessary from the NYSDEC.

Mr. Astorino: Ok. What about the Water District? We do know that is a Town Board issue.

Mr. Lipman: That is coming up next week.

Mr. Singer: You submitted an application for 18 lots. Did you tell them that you did not want to build that many so you told them to take 15 lots instead? Is that what happened?

Dave Getz: In a around about way.

Mr. Astorino: There were issues on those lots.

Dave Getz: Yes. The soils were the issue with the Health Department.

**YIELD PLAN (Dated 03/05/2002 Last revised 02/27/2005)**

Comment #3: No further comments. Board arrived at consensus on 4/20/05.

**CLUSTER PLAN (Dated 07/02/2002 Last revised 10/29/2007)**

Comment #4: Yield Plan indicates that this parcel may be subdivided a maximum of 18 lots. Applicant proposes 15 lots at this time, reserving three lots (maximum) to be added at some future date. Board and applicant to discuss Notes 27 & 12.

Mr. Astorino: We just discussed that. It will be to the Town Attorney's specifications as far as to the writing of those notes.

Mr. Bollenbach: Dave, what were those lot numbers again?

Dave Getz: I might have to double check this. But, it is certainly lot 3. I believe it is also lot 7. We will clarify that.

Zen Wojcik: It was also lot 11.

Dave Getz: Yes. Zen, you are right.

Mr. Bollenbach: So, it would be lots 3, 7, and 11.

Dave Getz: Yes.

Mr. Bollenbach: Just double check that.

Comment #5: On sheet 1, 42 acres of open space is listed in Note 19. On sheet 2, the Dimensional Requirements lists 41.7 acres of proposed open space while the Open Space Requirements and Restrictions Notes list 48 acres of open space. Revise for actual area. On sheet 4A, area of open space in Lot 7 is obscured.

Dave Getz: We will correct that. The correct acreage is 41.7. We will make sure that is consistent in all places.

Comment #6: Insert the following note as Note 1 of the Construction Notes (sheet 2) and the Sequence of Major Activities (sheet 7): "Attend a pre-construction meeting with the Town Engineer's representative and provide a schedule for construction. Schedule must be regularly updated as construction progresses."

Dave Getz : Ok. We will add that note.

Comment #7: Show eight trees to be planted on each lot for screening, per §164-47.1F(3)(c)[1], on the Typical Lot Layout, sheet 16.

Dave Getz: Ok.

Comment #8: Identify significant trees on Landscape Plan. Reference details and notes for the preservation of significant trees on site.

Dave Getz: Will do.

Comment #9: Show temporary and permanent erosion control measures on the Erosion Control Plans for all stormwater management facilities and disturbed areas.

Dave Getz: Ok.

Comment #10: Revise Lot Layout Plan so that the metes and bounds are consistent with the final lot layout. Eliminate overlapping text.

Dave Getz: Ok.

Comment #11: Double silt fence is not standard. Using methods listed in the *NYS Standards* revise erosion control measures along Road "B" Sta. 14+25.

Dave Getz: We will revise that.

Comment #12: Board to discuss waiver of maximum road slope requirement.

Mr. Astorino: We have discussed this at the work session. Do any Board members have any issues with that? Zen, do you want to give us a quick breakdown on that?

Zen Wojcik: The principal road on the site, the loop road closest to Route 17A, because of the topography on the site the applicant is proposing a grade of 11-1/2%, which is in excess of 10%. The Board has to grant a waiver for that if it exceeds 10%. It could go up to 14%, but they are not proposing that. It is 11.5%. It is good within the topography.

Mr. Astorino: Do any Board members have any concerns?

Mr. Bollenbach: The applicant has also demonstrated that it could comply with the 10%, but it would cause additional cuts and fills. This would be less of an environmental impact and less site disturbance.

Mr. Astorino: Also, coming onto a State road, it is also a negative grade.

Dave Getz: Correct.

Mr. McConnell: If the negative grade wasn't required, do you think you would be closer to the 10%?

Dave Getz: Yes.

Mr. McConnell: Ok. It is one of those things that are beyond your control.

Mr. Astorino: Is the Board ok?

Mr. McConnell: Yes.

Mr. Showalter: Yes.

Comment #13: Per §A168-10D, testing of the road subgrade and design of the pavement is required.

Mr. Lipman: Do you want to rethink that?

Mr. Astorino: No.

Mr. Lipman: When are you talking about doing this?

Mr. Astorino: It will be before you build the road.

Mr. Lipman: It would be prior to construction.

Mr. Bollenbach: Yes.

Mr. Lipman: Good.

Mr. Bollenbach: We will have a map note that will reference that.

Mr. Lipman: Yes.

Mr. Bollenbach: Zen, do we have some samples of that map note?

Zen Wojcik: Yes.

Mr. Bollenbach: Ok. We will incorporate that into some type of a map note.

Comment #14: Revise the Road Cross-Section (sheet 17) per §A168-11 & 21A, B, D, & E and pavement design. Revise the Driveway Cross-Section per §A168-19.

Dave Getz: Ok.

**SWPPP:**

Comment #15: At stormwater management ponds, indicate a pond buffer extending out 25 feet from the maximum water surface elevation.

Dave Getz: Ok.

Comment #16: At the Detention Basin D-1 Detail (sheet 10), provide elevations of the pond bottom, outlet structure invert, top of drop inlet, and top of embankment, consistent with the SWPPP.

Dave Getz: We will provide that.

**BEFORE FINAL APPROVAL:**

Comment #17: Provide Model Home and Water District Notes per the Planning Board Attorney's specifications.

Mr. Lipman: In terms of that note, I went over this the last time with BCM. It is inconsistent with some of your other requirements. Rather than find myself in the same predicament that I do now with Pelton Crossing, I would like the note revised to clarify issues with bonding and timing of dedication.

Mr. Astorino: John, is that something you could work out?

Mr. Bollenbach: Yes. Alan, give me a proposal.

Mr. Lipman: You got it.

Comment #18: Town Board to approve Water District and offer of dedication for water facilities.

Mr. Astorino: That is a Town Board issue.

Mr. Bollenbach: Let us revise comment #18 to state; Town Board to approve Water and Drainage Districts and offers of dedication for related facilities and roads.

Mr. Lipman: Is the offer of dedication for the Drainage facility an easement or a title?

Mr. Bollenbach: It will probably be an easement. We will take a look at it.

Comment #19: Applicant to provide signed and sealed copy of the final revised SWPPP and copy of submitted NOI.

Dave Getz: Ok.

Comment #20: Provide the declaration and the recording information on the plan for current Ridgeline Overlay Notes, current Aquifer Protection Overlay Notes, Open Space Conservation, and Homeowner's Association to the PB Attorney's specifications.

Mr. Lipman: I have noticed that the word "current" is in there twice. Have they been amended?

Zen Wojcik: They were amended at the beginning of this year. This project has been around for quite awhile. There have been a lot of updates.

Mr. Lipman: Where does one insure that they tangle?

Zen Wojcik: In the Planning Department every year we have a current package.

Mr. Lipman: Ok. Would you get those for me?

Mr. Astorino: I am sure that you can.

Comment #21: Provide the declaration and the recording information on the plan for HOA ownership and maintenance of drainage and stormwater management facilities. Provide easement descriptions for the PB Attorney's review and approval.

Dave Getz: Will do.

Comment #22: List all dedicated areas and easements, their locations in the plan set, and recording information (date, liber and page) on sheet 2.

Mr. Lipman: This is before final approval.

Mr. Bollenbach: It will be a condition of final. The offers will be recorded.

Dave Getz: Ok.

Comment #23: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns at corners of open space.

Dave Getz: Ok.

Comment #24: Provide an acceptable name for the road and 9-1-1 addressing.

Dave Getz: Ok.

Comment #25: Pay parkland fees.

Dave Getz: Ok.

Comment #26: Pay performance bond and construction inspection fee for Town road, stormwater management facilities, and erosion control.

Dave Getz: Ok.

Comment #27: Pay landscape maintenance bond (three-year term) for screening plantings and hydric plantings at stormwater management facilities.

Dave Getz: Ok.

Comment #28: Pay outstanding review fees.

Dave Getz: Ok.

**WAIVERS & EXEMPTIONS**

<i>CODE</i>	<i>ACTIVITY</i>
§137-19F	Street design; Town road grade exceeding 10% maximum, but less than 14%., due to topography.

Mr. Bollenbach: Ted, regarding comment #27, did you still have some questions in the planting landscaping details?

Ted Fink: Yes. What I was going to suggest in addition to that in comment #7, show eight trees to be planted on each lot for screening, we should add to that to show additional landscaping along Route 17A to screen views from that highway on the landscape plan as well. That was part of the Negative Declaration. The way that it was worded in the Negative Declaration that was adopted by the Board, it stated that views along Route 17A would be screened by landscape plans that would be subject to Planning Board's review and approval. There are some mature deciduous trees that are proposed along Route 17A. But, in terms of screening, some of the recommendations from the zoning are also to integrate some evergreens so that there is year round screening. I suggest on comment #7, we add that as well regarding additional plantings.

Dave Getz: Yes.

Mr. Astorino: Ok. We will revise that comment.

Mr. Fink: Ok.

Mr. Astorino: We have some ARB comments, dated 12/5/07. They have only seen one model for the renderings. Do you propose more than one model?

Bruce Zaretsky: Yes.

Mr. Astorino: If you could, give a copy of the different renderings and the elevations to the ARB. They are looking to see what other type of models that you are proposing in this subdivision.

Bruce Zaretsky: Ok.

Mr. Astorino: There was a comment about the Affordable Home. This subdivision doesn't have an affordable home. It was before its time. We also have a comment from the Conservation Board, dated 12/5/07. They had concerns about the stone cairns at the corners of open space. That has been taken care of. Do any Board members have any comments? This is a public hearing. If there is anyone in the audience wishing to address the Gables subdivision, please rise and state your name for the record?

Phyllis Briller: I have no more than about (3) or (4) items to discuss. If we go back to the yield plan, the yield plan is predicated amongst other things regarding two sources of input that is egress to the property. One of which was around the neighbor's home through her septic system and down through her front yard. When this was brought to the Board's attention, it was suggested that there was a contractual agreement that provided control for the developer on this particular parcel. I also note that the kind of an access road that would allow access through a septic system and down the driveway of a magnificent lovely brick home is probably not economically feasible. With respect to the yield plan, is there a contractual agreement that has been produced by the developer?

Mr. Astorino: Do you mean as far as the other home?

Phyllis Briller: With respect to their ability to actually construct a road around that neighbor's property.

Mr. Astorino: Mr. Lipman, could you please answer that?

Mr. Lipman: Yes. The applicant owns the other house and lot at this time.

Phyllis Briller: Really?

Bruce Zaretsky: Yes.

Phyllis Briller: Thank you. It is probably not economically feasible to do this. Perhaps the Board should have considered this in approving the yield plan. I guess the ability to look at something that is economically feasible might not be part of the Board's game plan right now in at looking at yield plans.

Mr. Astorino: If it was economically feasible, it would be to the applicant, if they felt that was the way to go. If they have to buy a property and they felt that was their reason to do it, so be it.

Phyllis Briller: They did not own the property at the time.

Mr. Astorino: Apparently, now they do. It is a moot point at this point.

Phyllis Briller: I don't think it was a moot point at the point that you were approving the yield plan.

Mr. Bollenbach: The Board did consider it at that time. The Court has also reviewed it. It has been deemed to be acceptable.

Phyllis Briller: What did the Court approve? They did not look at the fact that there was or was not a contractual obligation to buy the property.

Mr. Lipman: That was an issue that was raised in the litigation during preliminary approval. It was discarded by the Court because it was not an element of the decision that said you are entitled to the approval. Apart from that, you had spoken about a septic system and a road through a front yard. That is not the case. The road was supposed to go through the back behind the house where the septic system is not.

Phyllis Briller: It went around the back of the house around the eastside of that home through the existing septic system. According to the plan, it was in the front yard and went down the applicant's driveway.

Mr. Lipman: Wherever it was, it was from our point of view economically feasible.

Phyllis Briller: Thank you. I will go onto my next point. You have slopes that are greater than 5% on this property. I will remind you again that this parcel as well as the one across the road that in both cases if you intend to approve this, you are approving public roads that individuals who are in wheelchairs or otherwise unable to manage more than a 5% grade.

Mr. Astorino: As I have pointed in other subdivisions in this community, it is in the Town's Code that we could go to a certain maximum grade. 5% is not that limit in this Town.

Phyllis Briller: I am not suggesting...

Mr. Astorino: What I am suggesting that this Board has to follow the Code that is before us. The Code before us states that it is above 5% to approve. I understand your point. You had made it very clear at the last public hearing about wheelchair accessibility. If the Town Board deems at some point in the future to change that, then this Board will follow that.

Phyllis Briller: You need to bear in mind that you have not required pathways, ramps, or any other method for individuals to use anything that approximates feasibility to access public roads. When this application came before the Planning Board originally, it was a private road. In my opinion only, if it is a private road and the developer wishes to have any degree of steepness of slope that the Board would approve that is probably his or her business. When it is a public road that is being approved, then the Planning Board needs to have a different standard. That standard ought to be that anyone in the Town who pays taxes should also be able to access that road if possible. My third item is regarding the access to Mountain Glen. Those individuals who have grown up in the area, played in the area, and walked the land, have in every case said to me that there would be no difficulty in their opinion accessing the property that was known from the application as Mountain Glen, which is behind Bellvale Park accessing the property behind via the Gables. Since the applicant is coming before you, and saying we would like to have so and so and waivers so that we could have 15 homes possibly 18 homes when technology changes, what is it in that application that would preclude the developer from in fact not only developing this parcel but also developing other parcels that he is not presenting to you just like the properties in Mountain Glen?

Mr. Astorino: We have not seen the Mountain Glen application in a long while. I don't know where they are with that as far as their access issues with that project. I don't see any access proposed from the Gables project to the Mountain Glen property.

Phyllis Briller: That is true. It has not been proposed. It is best to my knowledge that the developer does not own that parcel.

Mr. Astorino: Then, it is a moot point. This Board cannot force them for hypothetical's.

Mr. Bollenbach: Mr. Chairman, on that particular, it is deemed to be stub streets. Stub streets were definitely discussed and addressed by the Board prior to the granting of preliminary approval. Within the Subdivision Regulations, it is required that some type of a stub or interconnection be provided to adjoining properties to allow future subdivisions unless the Board finds that it is not practical. That was the finding of this Board. It was upheld by the Court.

Phyllis Briller: Then, am I hearing you say that because a stub street had not been provided by the developer that it would be unrealistic to expect the development would continue onto the Mountain Glen property?

Mr. Bollenbach: That is not proposed.

Mr. Astorino: It is not proposed. It would be very difficult with the open space configuration coming off that road to cut through there. You can't go through the open space.

Phyllis Briller: If you sacrificed one building parcel, I believe that the access could be there.

Mr. McConnell: It seems like it is reading tealeaves.

Mr. Astorino: It seems like you are asking us to comment on something that is hypothetical. I can't do that.

Phyllis Briller: What I am trying to make you aware of is that it is the feeling within the Bellvale Community and I am not just speaking from myself here, is that once this application is granted, that it is truly a hop, skip, and jump to then add Mountain Glen into the mix.

Mr. Astorino: This Board is fully aware that if that situation arises that I believe that the Board members know fully of the situation. We will take action at that time when we see an application or "try to take a lot away to make an access road." An access road is surely different. That is another action that would affect this subdivision. I am sure that this Board would not look favorably upon that. If you want a definite answer on a hypothetical, you will not get it. We don't know at this point.

Phyllis Briller: I understand. I am raising the point.

Mr. Astorino: It is duly noted. I believe the Board members are fully aware of it.

Phyllis Briller: My last question is that the fact that they are requesting a waiver for excessive grade.

Mr. Astorino: Yes.

Phyllis Briller: Am I mistaken that waivers are not granted in cluster subdivisions?

Mr. Astorino: They are not permitted on a yield plan.

Phyllis Briller: Oh.

Mr. Astorino: They have proved on a yield plan that they could cut that road. It was the Board's decision. I think that Carl was the only one that went out there when we went out there the first time about 6 years ago regarding that the extra cuts and fills was not the way to go to cut that hillside down. It would make more environmental sense to allow a waiver of a little steeper grade than do all of the ripping and tearing on a hillside.

Phyllis Briller: Thank you.

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

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

Seconded by Mr. Singer. Motion carried; 4-Ayes.

Mr. McConnell makes a motion to grant a waiver of §137-19F Street design; Town road grade exceeding 10% maximum, but less than 14%, due to topography.

Seconded by Mr. Singer. Motion carried; 4-Ayes.

Mr. Singer: Mr. Chairman, could I ask the applicant a question?

Mr. Astorino: Yes.

Mr. Singer: I was surprised to hear that you own the brick house. Do you have any interest in Mountain Glen?

Bruce Zaretsky: None whatsoever.

Mr. Singer: At this time, there is no intent to get involved in that.

Bruce Zaretsky: We have no intent at all.

Mr. Singer: Ok. Thank you.

Mr. Astorino: That would have dramatically altered coming off this road. It would have been a tough sell.

Mr. Showalter makes a motion on the Gables At Warwick application, granting final approval for a proposed 15-Lot cluster subdivision, situated on tax parcel S 44 B 1 L 132; formerly part of S 44 B 1 L 50.224, parcel located along the southern side of NYS Route 17A at the intersection of the east end of Ketchum Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York, subject to the following conditions:

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8. Double silt fence is not standard. Using methods listed in the *NYS Standards* revise erosion control measures along Road "B" Sta. 14+25.
9. Per §A168-10D, testing of the road subgrade and design of the pavement is required. Provide map note to Town Engineer's specifications.
10. Revise the Road Cross-Section (sheet 17) per §A168-11 & 21A, B, D, & E and pavement design. Revise the Driveway Cross-Section per §A168-19.
11. At stormwater management ponds, indicate a pond buffer extending out 25 feet from the maximum water surface elevation.
12. At the Detention Basin D-1 Detail (sheet 10), provide elevations of the pond bottom, outlet structure invert, top of drop inlet, and top of embankment, consistent with the SWPPP.
13. Provide Model Home and Water District Notes per the Planning Board Attorney's specifications.
14. Town Board to approve Water and Drainage Districts and Offers of Dedication for related facilities and roads.
15. Applicant to provide signed and sealed copy of the final revised SWPPP and copy of submitted NOI.
16. Provide the declaration and the recording information on the plan for current Ridgeline Overlay Notes, current Aquifer Protection Overlay Notes, Open Space Conservation, and Homeowner's Association to the PB Attorney's specifications.

17. Provide the declaration and the recording information on the plan for HOA ownership and maintenance of drainage and stormwater management facilities. Provide easement descriptions for the PB Attorney's review and approval.
18. List all dedicated areas and easements, their locations in the plan set, and recording information (date, liber and page) on sheet 2.
19. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns at corners of open space.
20. Provide an acceptable name for the road and 9-1-1 addressing.
21. Pay Parkland Fees.
22. Pay Performance Bond and Construction Inspection Fee for Town road, Stormwater Management Facilities, and Erosion Control.
23. Pay Landscape Maintenance Bond (three-year term) for screening plantings and hydric plantings at stormwater management facilities.
24. Pay Outstanding Review Fees.

Seconded by Mr. Singer. Motion carried; 4-Ayes.

Dave Getz: Thank you.

**PUBLIC HEARING of Victor J. Ludmerer and George Vurno**

Application for preliminary approval of a proposed 6-Lot cluster subdivision entitled, "**Masker Fruit Farms, Inc.**", situated on tax parcel S 53 B 1 L 20; parcel located on the eastern side of Brady Road, closest intersection with Cascade Road, in the MT/CO zones, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Kirk Rother, Engineer.

Connie Sardo: Mr. Chairman, we have received the certified mailings for the Masker Fruit Farms public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

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

**YIELD PLAN (LAST REVISED 11/15/06) [NOT SUBMITTED AT THIS TIME]**

3. Place the following note on the Yield and Cluster Subdivision Plans: "As per Section 164-45.1F of the Town Code, lots in the AP-O district that were in existence on 1/1/2002 may be subdivided for one additional residential lot in accordance with 1989 zoning standards. Town Board resolution #RXXXX-XX authorized AP-O participation."
4. Board to consider special approval of proposed 14% grade for private road (not a waiver).

**CLUSTER PLAN (LAST REVISED 10/15/07)**

5. Freshwater wetlands have been delineated on Lot #2 (Torgersen, April 2007) and confirmed by the Town Planner's representative. The separation distance between the proposed absorption field and the wetland is less than the required 100 feet (Table 2, NYSHD Design Handbook). Relocate and have percs & deeps witnessed by the Town Engineer.
6. Applicant has provided a stability analysis for the dam above the proposed roadway. Refer to *Tectonic* 11/14/07 memo.

**SWPPP COMMENTS (DATED, SEPTEMBER 2007)**

7. For stormwater management reasons, the applicant is proposing a modification to the grade of a portion of "Road A". Include a cross-section view typical to each portion of the road..
8. Include a worksheet in the report showing how the WQv permanent pool volume was obtained.
9. Provide swale sizing calculations for "Swale A", "Swale B" and "Swale" (running from intersection with Brady Road to proposed wet pond).
10. Provide Rip Rap sizing calculations.
11. Show the limits of disturbance on the "Drainage Basin Calculations Plan" attached to the SWPPP report.

**BEFORE FINAL APPROVAL**

12. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, Private Road Notes, Private Road and Drainage Facility Use and Maintenance Agreement Notes, and Open Space Note.

13. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at corners of open space (per the Town Engineer's specification).
14. Propose an acceptable name for the road and provide 9-1-1 addressing.
15. Pay parkland fees.
16. Pay performance bond and construction inspection fees for private road, stormwater management and erosion control.
17. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 12/5/07:

Masker Fruit Farm, Inc. – CB has no further comments.

The following comment submitted by the ARB, dated 12/5/07:

Masker Fruit Farm, Inc. - With regard to the other applications before the Board, we would request to see elevations and materials specifications for each as early as possible in the planning process. We feel that this could be a more productive process if we could begin at this point in time with the newer subdivisions such as Sunset Ridge, Cardiac Care, Fusco, and Ludmerer/Maskers

Comment #1: Board to discuss SEQR.

Mr. Fink: The Planning Board declared itself Lead Agency on this application some time ago. It is an Unlisted Action. There were (2) principal areas that were investigated. The (2) areas are the Ridgeline Protection Overlay District and Federal Jurisdictional wetlands were found on the site. There is a review comment that relates to the Federal wetland on this property in the proximity of the proposed leachfield for the septic system on lot #2. Other than that, the wetland has been delineated. The delineation has been verified by the Town's wetland delineator.

Comment #2: Applicant to discuss project.

Kirk Rother: This application is for a proposed 6-lot cluster subdivision. It is situated on approximately 49 acres of land. The property is situated on the eastern side of Brady Road in the Town's MT/CO zoning districts. When this was first presented to the Planning Board, it was presented as a 9-Lot cluster subdivision which sought to take advantage of the density bonus allowed for cluster development. Given the subdivision criteria associated with the square rule and the size of the parent parcel that we had to work with regarding the shape, we were unable to accommodate that square rule requirement. As the Board knows, a waiver could not be granted for the purposes of the yield plan seeking the cluster benefit. We have mutually agreed with the Planning Board that given the parcel, terrain, and some protective water bodies on the property in the proximity of Masker's Orchard, we would still process this as a cluster development which does not take advantage of the density bonus resulting into a 6-lot plan that is before the Planning Board tonight.

**YIELD PLAN (LAST REVISED 11/15/06) [NOT SUBMITTED AT THIS TIME]**

Comment #3: Place the following note on the Yield and Cluster Subdivision Plans: "As per Section 164-45.1F of the Town Code, lots in the AP-O district that were in existence on 1/1/2002 may be subdivided for one additional residential lot in accordance with 1989 zoning standards. Town Board resolution #RXXXX-XX authorized AP-O participation."

Kirk Rother: Ok.

Comment #4: Board to consider special approval of proposed 14% grade for private road (not a waiver).

Mr. Astorino: Zen, is that allowed on a private road?

Zen Wojcik: Yes.

**CLUSTER PLAN (LAST REVISED 10/15/07)**

Comment #5: Freshwater wetlands have been delineated on Lot #2 (Torgersen, April 2007) and confirmed by the Town Planner's representative. The separation distance between the proposed absorption field and the wetland is less than the required 100 feet (Table 2, NYSHD Design Handbook). Relocate and have percs & deeps witnessed by the Town Engineer.

Kirk Rother: I had some discussions with Zen about this today. I think that you would agree with me that there is not 100-foot requirement for Appendix 75A from Federal wetlands. It is intended to coincide with State protective wetlands and their associated 100-foot buffer.

Zen Wojcik: Mr. Chairman, I had a conversation with the OCHD today to verify this. The County Health enacts the rules that were set forth by the State Health Department. They honor the 100-foot buffer that is required for State wetlands. These are not State wetlands. By definition, they are Federal wetlands because they were delineated on a site that does not appear on a State map. Mr. Rother is correct that we don't need to have the 100-foot buffer. However, we do have a septic field that is shown close to a wetland area. A wetland is still a wetland. The ACOE ordinance of the Federal side to has no buffer, we like to call it a gentlemen's agreement where they ask municipalities to honor a 40-foot buffer around wetlands. Wetlands do vary in time, expand, and contract. We are looking at what Mr. Rother had designed over here the expansion area which is as close as 15-feet to the wetland area. Perhaps on a SEQR and environmental basis the Board would like to have some of this moved further away from the wetland.

Kirk Rother: I am sure that I could accommodate the 40 feet. As I had said to Zen earlier today, I would most likely put the expansion area on the uphill side of the septic. That should get me close.

Zen Wojcik: That should do it.

Mr. McConnell: Would you be able to redesign it to get 100 feet?

Kirk Rother: No.

Mr. McConnell: So, if this were State delineated wetlands you would be out of luck.

Kirk Rother: I know that the requirement is 100 feet on the State wetlands. We would not have put it there.

Mr. McConnell: I understand that.

Kirk Rother: But, yes, we would be out of luck.

Comment #6: Applicant has provided a stability analysis for the dam above the proposed roadway. Refer to *Tectonic* 11/14/07 memo.

Mr. Astorino: Zen, is there anything on that? We have discussed it at the work session.

Zen Wojcik: We have a memo from Tectonic, dated 11/14/07 that is included in the comments tonight. We had our Geo-technical group take a look at the dam report that was provided by Mr. Rother. I will summarize the memo. There is a dam on this manmade pond. There is an outlet from that. It is above the road. If the dam was to be pushed, then the road would be in jeopardy. The recommendations from the report are essentially to do a hydrological assessment of the dam to convert the discharge. Right now, it goes into a spillway that doesn't have any lining to line that spillway shoot into a proposed culvert. That is fairly simple for the preservation of the dam. The dam is in pretty good shape.

Mr. Astorino: Ok. Thank you.

#### **SWPPP COMMENTS (DATED, SEPTEMBER 2007)**

Comment #7: For stormwater management reasons, the applicant is proposing a modification to the grade of a portion of "Road A". Include a cross-section view typical to each portion of the road.

Kirk Rother: Ok.

Comment #8: Include a worksheet in the report showing how the WQv permanent pool volume was obtained.

Kirk Rother: Will do.

Comment #9: Provide swale sizing calculations for "Swale A", "Swale B" and "Swale" (running from intersection with Brady Road to proposed wet pond).

Kirk Rother: Zen, I think that I have pointed out that these are on that drainage. I will clarify it.

Comment #10: Provide Rip Rap sizing calculations.

Kirk Rother: Yes.

Comment #11: Show the limits of disturbance on the "Drainage Basin Calculations Plan" attached to the SWPPP report.

Kirk Rother: Will do.

#### **BEFORE FINAL APPROVAL**

Comment #12: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, Private Road Notes, Private Road and Drainage Facility Use and Maintenance Agreement Notes, and Open Space Note.

Kirk Rother: Yes.

Comment #13: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and stone cairns have been set at corners of open space (per the Town Engineer's specification).

Kirk Rother: Ok.

Comment #14: Propose an acceptable name for the road and provide 9-1-1 addressing.

Kirk Rother: Yes.

Comment #15: Pay parkland fees.

Kirk Rother: Will do.

Comment #16: Pay performance bond and construction inspection fees for private road, stormwater management and erosion control.

Kirk Rother: Yes.

Comment #17: Pay outstanding review fees.

Kirk Rother: Ok.

Mr. Bollenbach: We need to add a comment, comment #18; applicant to provide dedication strip on Brady Road.

Mr. Astorino: Do any Board members have any comments? This is a public hearing. If there is anyone in the audience wishing to address the Masker Fruit Farm application, please rise and state your name for the record.

Ciprino Neves: My property adjoins the proposed development by about 700 feet. I have (2) major concerns. Concern #1, my well is only 180 feet deep. The proposed (5) new wells are down slope from my existing well. I don't want to wake up one morning and find out that I have no water. Concern #2, on lot #5 the driveway is about 20 feet from my property. The house is about 50 feet or less from my property. You have more than 5 acres of property to locate the driveway and the house. I understand that there are some problems with the slope. However, I know that the slope by my driveway swings around. It is the same slope as it is for the driveway. It is 50 feet into the property. On top of the property, there is a plateau. That house could be moved 50, 60, or 100 feet in towards the property.

Mr. Astorino: Kirk, is there any reason specifically for that? Is there any way to shift some issues on that lot?

Kirk Rother: On lot 5, if the Board would recall, I had the driveway over here on the map. I will react right off the bat and say that we would have no problem in relocating the house. We had a prior submittal where we had the driveway in a different location. It resulted in the grading plan having to grade the whole side of the hill. I don't know if the Board remembers, but we got into a discussion of the clearing of more than ¼ acre in the Ridgeline Overlay District. Zen, brought to my attention that if we did the driveway that is shown in

the location on this plan, it results in a lesser grading plan. That is why the driveway is where it is shown.

Mr. Astorino: How far is it from the property line?

Kirk Rother: It is about 10 or 15 feet.

Zen Wojcik: It could be pulled back a little bit. Mr. Rother is correct. We are trying to avoid cutting into the slope.

Ciprino Neves: Could I suggest something? The driveway as it stands is very long. If you shorten the driveway, you would have less trees there.

Zen Wojcik: It is a steep roadway.

Mr. Astorino: You would be doing more cutting than fills.

Ciprino Neves: If you go about 60 or 70 feet into the property the grading would be best.

Zen Wojcik: That is not what the topography that has been presented to us shows.

Mr. Astorino: What if we shift that driveway over some and add some mitigation of screening and plantings along your property line?

Ciprino Neves: That would help some.

Mr. Astorino: The object of this Board is try to do the least impact possible. We understand that we could mitigate the concerns for your property. He pointed out that he could move the house. That should not be an issue. As far as the roadway, we will try to pull it over to the great extent practical. We would have the applicant throw in some landscape screening.

Ciprino Neves: That might help. I live outside. My wife and I are outside a lot. We moved to this Town to look at trees and deer. We did not move here to look at other people's houses. It will impact me immensely. I have a small orchard outside. I live outside.

Mr. Astorino: Keep in mind that this Board has to look at the Code that we have before us.

Ciprino Neves: Correct.

Mr. Astorino: We understand your position. Zen, our Engineer had pointed out that if we pull the driveway over too much with the topography, you would be doing a lot of ripping and tearing as far as the environment to mitigate that. Far out ways by sliding the driveway over some which could be accomplished. Ted, if we put a good stand of landscape buffering or what have you to your specifications, we could accomplish your goal.

Mr. Fink: Yes.

Ciprino Neves: That is very nice for you to say that, but where I came from Bergen County, they developed something in the back of my house. They did the same thing. They put one shrub up here and there.

Mr. Astorino: These would have to go through certain requirements. They would have to be bonded for a minimum of 3 years. It would have to be inspected and proved that they would have the survivability. The house could be shifted.

Ciprino Neves: How much could you shift the house? I want it shifted as much as possible.

Zen Wojcik: I would like to remind the Board that this is located within the Ridgeline Overlay.

Mr. Astorino: This is preliminary. If he could shift that house, the house would stay in that location within 20 feet. Then, they would look into the ¼ acre of disturbance.

Zen Wojcik: That was a different issue. We will talk about that.

Kirk Rother: I could move the house probably another 30 feet in from the property line. We don't want to have to redesign the septic system.

Ciprino Neves: That is not going to be... Like I have said, I live out there. People will be out there with kids and dogs. I am constantly outside. I don't think it would be fair to them or me.

Mr. Astorino: Don't forget that there is a Code in this Town that allows the applicant to develop his property within certain restrictions.

Ciprino Neves: My wife and I are retired. We chose to retire in the Town of Warwick. We could choose to sell. We have no course to this Town. Do you want people to get out I will get out.

Mr. Astorino: Our Board is here to make sure that the applicant follows the Code. The public hearing is here to hear your concerns. To the greatest extent possible, we are trying to mitigate your concerns.

Ciprino Neves: This is the beginning process. There is no great thing to shift the house as much as possible. There are no monetary laws to shift the driveways as much as physical.

Mr. Astorino: That is what we are talking about here.

Ciprino Neves: It would make me happy. It would make the new homeowner of the new house happy. Everybody would be happy.

Mr. Astorino: That is what we are discussing here.

Ciprino Neves: That driveway is about 10 feet from my property. It is not acceptable.

Zen Wojcik: It is honest to say that no matter where a house is located on proposed lot #5, there is no house there right now. There will be some impact because there will be a house. There is no house there right now. If the owner of lot 5 chooses to have a house there, it is their property. If another owner of that lot was to have a different opinion, they might not build a house there. We have certain rules. This is not Bergen County. This is Warwick. We try to maintain the environment that makes it attractive for people to move here. That is what the engineers are working on. I don't know how we could make you any happier than what we are trying to do.

Ciprino Neves: I will tell you what. I have a lot of property. I have a private road. I will sell them the driveway to access that property.

Mr. Astorino: That would be something between the applicant and yourself. We don't make deals at the Planning Board. The bottom line is that you have brought your concerns to the Board. We are bringing the concerns to the applicant. We are well aware. We will see if we could shift the house and shift the driveway. We will add some screening for buffering between your property and the applicant's lot.

Ciprino Neves: I want to make a point about the well. If my well runs dry, it has not run dry for 5 years, it never ran dry. It is 180 feet. If it goes dry, who will be responsible?

Mr. Astorino: What are the sizes of these lots?

Kirk Rother: The average lot size is 5 to 6 acres. I like the Board to know that right behind this gentleman's property is what we are proposing as open space.

Mr. Astorino: Exactly.

Ciprino Neves: I do have a surface well with a spring in the back of my property. I use it for irrigation. I use it for my garden. I use it for the house when the electric is out. I use it for the house. It is a house well. Who will be responsible if that gets polluted?

Mr. Astorino: Getting polluted by whom? If it is on your property that would be a criminal act if someone comes onto your property. Again, that is hypothetical. I can't answer 10 years from now.

Ciprino Neves: What about leaching fields?

Mr. Astorino: Leaching fields are approved. The percs and deeps are witnessed by the Town Engineer that they would function properly. It is the same as your leaching field on your property.

Ciprino Neves: Correct. My leachfields are in front of the house. My well is in the back.

Mr. Astorino: That is the same thing on these lots.

Mr. Neves continues to talk about the concerns of his well. Mr. Astorino explains to Mr. Neves that they are designed to function properly. Mr. Neves understands, but he is just voicing his concerns.

Mr. Astorino: Is the Board in agreement that if we could shift the house, shift the road, and add some mitigation screening, we could give Kirk some direction that way?

Mr. McConnell: Yes. If this gentleman is truly talking about offering an access...

Ciprino Neves: I will offer the private road to the Town.

Mr. Astorino: The Town doesn't want it. If you want to discuss with the applicant's engineer about your offer or options, you could do that.

Mr. McConnell: It seems like a generous offer if it works.

Mr. Singer: He used the word sell.

Mr. Astorino: That is not our business. Discuss that with the applicant. Is there anyone else wishing to address the Masker Fruit Farms application?

Rosanne Sharpe: I live on Brady Road. I wanted to see where the entrance is on the map.

Kirk Rother shows the map to Rosanne and shows her where the entrance to the subdivision is located. Planning Board member, Mr. Showalter explains to Rosanne that the entrance is across from Walt and Betty's house where they park their cars.

Rosanne Sharpe: I just wanted to make sure that it was not in front of my house.

Mr. Showalter: You should be ok.

Rosanne Sharpe: They would have the headlights going into their house.

Mr. Showalter: No. The headlights would actually go into the hills. It is just up from Walt's shed. It is more towards Cascade Road.

Kirk Rother: We are hitting between the shed and George Vurno's driveway. There is nothing across the street.

Rosanne Sharpe: Is this towards Cascade Road?

Mr. Astorino: Yes.

Mr. Showalter: Yes.

Rosanne Sharpe: Ok. That is further away from my house. You mentioned that the lot sizes were between 5 and 6 acres.

Mr. Astorino: No. That was the average lot sizes in the zone. This is a cluster that is not even taking advantage of the cluster benefits that the Town Zoning offers. Kirk, what are these lot sizes?

Kirk Rother: The smallest lot is 1.5 acres. The other lots are 2 acres, 2.4 acres, almost 4 acres, 27 acres, and 10 acres. We are at two different zones. One zone is 5 acres. The other zone is 6 acres. Our underlining density that tells us how many lots we are entitled to would average between 5.5 and 6 acres.

Rosanne Sharpe: Is one lot 27 acres?

Kirk Rother: Yes.

Rosanne Sharpe: Could they further subdivide that?

Mr. Astorino: No. There would be no further subdivision.

Kirk Rother: The whole hillside behind the gentleman that was here before you is proposed as open space. That would be restricted from any development.

Rosanne Sharpe: Ok. I am also concerned about water. We also have a well. The whole area has wells.

Mr. Astorino: The whole Town has wells.

Mr. McConnell: Have you had problems with your well?

Rosanne Sharpe: Not in the last 5 to 7 years.

Mr. McConnell: But, before those years, have you had problems?

Rosanne Sharpe: Yes. It was during a very hot summer.

Mr. McConnell: How deep is your well?

Rosanne Sharpe: I don't know. We are a shared well.

Mr. McConnell: So, you have a shared well.

Rosanne Sharpe: Yes. I am concerned about that. Also, the drainage from Brady Road, you are aware that crosses under the road.

Mr. Astorino: Yes.

Rosanne Sharpe: So, there would be no change in that.

Mr. Astorino: No. There is a SWPPP that has to be designed accordance of that. It states that the subdivision would not create any further problems. No more water would leave the site than presently does now. It can't have an adverse impact. If you have a problem now, you might have the same problem. It will not correct it. But, it will not create a new one or add to it.

Rosanne Sharpe: Ok. Thank you.

Mr. Astorino: Is there anyone else wishing to address the Masker Fruit Farm application?

Mr. Sharkey: I am a neighbor of Mr. Neves. I have concerns about my well also. 3 or 4 years ago, I had it hydro-fractured. I don't want to lose it again. It is an expensive proposition. Would there be any blasting?

Mr. Astorino: No. None is proposed.

Mr. Sharkey: Could you show me where Walt lives and where Vurno's house is staying? Is Vurno's house staying?

Kirk Rother: Vurno's house is part of this application.

Mr. Sharkey: He is lot 1.

Kirk Rother: Yes.

Mr. Sharkey: Where is the road?

Kirk Rother: The road is at the northern part of the property just past where Walt parks his cars.

Mr. Sharkey: All right.

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

Mr. Singer: This is preliminary. Would you consider asking them to test the wells of this property and the neighbor's property at the same time to see if there is a water problem?

Mr. Bollenbach: What is Vurno's well? Do you have any logs on that?

Kirk Rother: I don't know.

Mr. Astorino: I don't think it is required by the Health Department.

Kirk Rother: This project is such a size and with an average density of 5.5 acres and no history of water problems...

Mr. McConnell: I am hearing (3) neighbors expressing concerns. That causes me to think that there may be some basis for concern. I don't know what the first level would be to disprove reason for concern.

Mr. Astorino: Was the applicant planning on digging any wells on the property?

Kirk Rother: No. That is an onerous task.

Mr. Astorino: I don't know what the applicant plans to do regarding the sale of these lots.

Mr. McConnell: I would hate to be put in a position.

Mr. Astorino: Dennis, don't forget that these are zoned in a 5 or 6 acre zone.

Mr. McConnell: I understand that.

Mr. Astorino: What is the total acreage on this property?

Kirk Rother: It is 48 acres.

Mr. Astorino: It is 48 acres for 5 lots and one lot is existing.

Kirk Rother: It is almost 49 acres. I don't think that you heard anybody's well actually run dry.

Mr. McConnell: I heard that within the last 5 to 7 years there were problems. I did not get a quantification on what those problems were.

Mr. Showalter: Lenny, did your well run dry?

Mr. Sharkey: It would go dry after showers and laundry. It would take awhile for it to build up again.

Mr. Showalter: Do you live right next door to Mr. Neves?

Mr. Sharkey: Yes.

Mr. Showalter: How deep is your well?

Mr. Sharkey: My well is also 180 feet deep.

Mr. Singer: Could I hear Zen's opinion on this?

Zen Wojcik: The Board of Health encourages local Municipalities to take responsibility for well problems. It is in SEQR responsibility of this Board, which has been done in the past to ask for well testing. If the Board wants to do it, the OCHD would be behind you in doing it.

Mr. McConnell: Ordinarily, we would do it in a larger development. But, when I have 3 out of 3 people speaking at a public hearing saying that they are concerned because in the last 5 to 7 years they had less than ideal wells. They seem to be a little shallow. I think we are on notice here that there could be a potential problem. Maybe, it deserves some first level of inquiry. Could you test the existing wells?

Mr. Astorino: Maybe, you could get us the information on Vurno's well. Maybe, we could get information from the neighbors. I don't think it is a water deficient area.

Mr. McConnell: 100% of the people talking at the public hearing have expressed a concern.

Mr. Astorino: Of course. We do get that.

Mr. Singer: Is the applicant able to pump Vurno's well and check the other wells at the same time?

Kirk Rother: If the Board would like us to demonstrate some tangible well result...

Mr. Astorino: How far is Vurno's well?

Kirk Rother: I don't know about Vurno's well. We would have to assume that he has a good well. What I would propose to the Board is that we would pump his well in lieu of drilling a new one. We would offer to monitor it.

Mr. McConnell: Yes. Why don't we see where that goes? It is very preliminary. Why don't we start from there?

Mr. Astorino: Kirk, check into that. Let us know. We will go from there.

Kirk Rother: Who do you want me to offer to monitor?

Mr. Singer: At least for the (3) people that were here today.

Mr. Astorino: Where are their wells?

Kirk Rother: Would it stop at those (3) people?

Mr. Bollenbach: What is our protocol?

Mr. Astorino: Our protocol is within 1000 feet.

Mr. Showalter: You should probably do the Deer Meadow neighbors, the Balls and the Sharpes.

Mr. Astorino: Let us see what happens with Vurno's well first. After that, we will make a decision.

Mr. Singer: As long this is preliminary, what is your thought about using this man's R.O.W. or driveway?

Mr. Bollenbach: Carl, that is a private matter.

Kirk Rother: We have to build our private road anyway to access the other lots. Why would this applicant want to complicate the process of entering into an agreement of another party?

Mr. Singer: Ok.

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

Mr. Bollenbach: We will need to adjourn this public hearing to a specific date. Ted, we cannot act on SEQR right now. Is that correct?

Mr. Fink: Right. These are SEQR issues that we have to address.

**Mr. Singer makes a motion to adjourn the Masker Fruit Farm public hearing to the February 6, 2008 Planning Board meeting.**

Seconded by Mr. McConnell. Motion carried; 4-Ayes.

Mr. Bollenbach: For the public, this is your notice for the next public hearing. The public hearing will be continued on February 6, 2008. You will not receive any further notices. This is your notice.

Kirk Rother: Thank you.

**PUBLIC HEARING OF Paul Miller, Jr., and Nancy Miller**

Application for preliminary approval of a proposed 16-Lot cluster + 1-Affordable Residential Lot + 1-Commercial Lot subdivision and application for special use permit for the 1-Affordable Home, entitled "*Millers Ridge*", situated on tax parcels S 51 B 1 L 7.41 and L 41, parcels located on the eastern side of Warwick Turnpike and 1500 feet south of NYS Route 94, in the RU zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Kirk Rother, Engineer.

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

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

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

**YIELD PLAN:**

3. No further comments. Board achieves consensus on accepting Yield Plan, 10/3/07.

**CLUSTER PLAN:**

4. Revise erosion control measures and include appropriate details per the *NYS Standards*.
5. Board and applicant to discuss street trees and a sample detail for Ridgeline Overlay mitigation plantings (8 trees) on lots.
6. SWPPP comment: Include a worksheet in the report showing how the WQv permanent pool volume was obtained.

**BEFORE FINAL APPROVAL:**

7. Provide a signed and sealed final SWPPP. Include a copy of the submitted NOI.
8. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, Aquifer Protection Overlay Notes, Stormwater Management Facility Use and Maintenance Agreement Notes, and Open Space Conservation Notes.
9. Applicant to propose an acceptable street name and provide 9-1-1 addressing.
10. 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.
11. Pay parkland fees.
12. Pay performance bond and construction inspection fee for Town road, stormwater management facilities, and erosion control.
13. Pay a 3-year term landscape bond and inspection fee for street trees, mitigation plantings, and hydric plantings at stormwater management facilities.
14. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 12/5/07:

Millers Ridge - Here are the CB's comments from the October 3 Memo to the Planning Board.

*This subdivision was initially filed in October 2003. It will be highly visible and the CB requests the applicant to ensure that all Ridgeline Overlay requirements are met without exception. All mature trees should be preserved and the setback from the stream should be 100 feet on either side to ensure protection.*

The CB has no further comments.

The following comment submitted by the ARB, dated 12/5/07:

Millers Ridge - With regard to the other applications before the Board, we would request to see elevations and materials specifications for each as early as possible in the planning process. We feel that this could be a more productive process if we could begin at this point in time with the newer subdivisions such as Sunset Ridge, Cardiac Care, Fusco, and Ludmerer/Maskers

Comment #1: Board to discuss SEQR.

Mr. Fink: This is a Type 1 Action. The Planning Board has done a coordinated review. The Planning Board had circulated for Lead Agency. There were a number of issues that came up as we went through the SEQR review process. Some of which was addressed through map notes. It has been addressed through mitigation that has been proposed through the various studies. The first one is that it is located within the Town's Agricultural Overlay zone. There are farming activities that are close by this site. The Board did look at the Agricultural Data Statement. The Ag Data Statement was sent out to farming operations within 500 feet of the site. We also looked at the Prime Agricultural Soils on the site. It is one of the issues that we deal with in the Conservation Subdivision Regulations. There is no development proposed in the area of Prime farmland soils. They have placed map notes on the plans that gives notice to the purchasers that there are agricultural operations in the area. The site is also located within the Town's Ridgeline Protection Overlay Zoning District. Portions of Route 94 have been identified in the Town comprehensive Plan as a scenic road. The proposed subdivision will be developed in accordance with the cluster requirements of the Zoning Law and almost 60% of the site will be conserved in perpetuity as open space. The proposed residential lots are located at a distance of approximately 1,800 feet for the closest one to route 94. Map notes have been placed on the plan. There are landscape obligations for screening each of the building lots that don't already contain screening. The site is also located in the Town's Aquifer Protection Overlay Zoning District. Map notes have been placed on the plan that give notice to future purchasers of the use restrictions imposed within this area including the following prohibition of pesticides and herbicides uses on this property. There is a NYS protected stream that flows through the site. Much of the stream in the developable portion of the site within the Residential Zoning District is proposed for the protected open space. The only development that would happen within 100 feet of the stream is the road crossing. That would be subject to issuance of a Protection of Waters Permit from the NYSDEC. That would have to be issued prior to any final approvals on this. We looked at the NY Natural Heritage Program about their concerns about species of conservation concerns like endangered and threatened species. There were a couple of concerns. There were some known Bog turtle habitats within the area. Robert Torgersen had done a habitat site investigation and prepared a report. He looked on the site for any

evidence of Bog turtle habitat and for the Indiana bats. He found only one wetland that was located in the area of New Milford Road/Route 94. Otherwise, in the area that is proposed for residential development there were no Federal wetlands in that area. The most SEQR issue was the issue of archeological resources. The site is divided into (2) different areas. The (2) areas are Design Shopping and the area proposed for residential subdivision. There were (2) different archeological studies that was completed. One study was done by Tracker Archeological Services and the other study was done by BTK Associates. The one that was done by BTK Associates, they looked at the residential portion of the site. They did not find any resources within that area that were significant of an archeological standpoint. We have a letter from NYS Office of Parks, Recreation, Historic Preservation indicating that any development on that portion of the site will have no adverse impact on cultural resources. However, the other portion of the site that was reviewed by Tracker Archeological Services found (2) areas that were potentially eligible for the National Registers of Historic Places. These were archeological sites. There is no development proposed on the DS portion of the site at this time. This leads me into the final SEQR issue which is the issue of potential segmentation. This subdivision would result in 17-residential lots and (1) large lot that would be in the DS center district and leads to the question of what will happen with that portion of the property. I don't think that it is any secret that there has been discussions about the possibility of moving St. Anthony's hospital from the Village to this area of the Town. I attended a meeting of the Village Board Trustees a couple years ago where they stated some intention of looking at this site as a potential source of moving the hospital in a time period of 8 to 10 years. The SEQR regulations do have certain provisions in place for when situations like this develops. It would be potentially a segmented environmental review. What I have done was an analysis that would agree to which this would represent segmentation because there actually no project plans that have been developed by the hospital. It is a wish at this point. There are many issues that would need to be addressed. One issue would be the zoning. The DS zone doesn't present permit a hospital at this time. There would have to be a zoning change to accommodate that sort of a use. It was to be contemplated there are issues such as water and sewer that would have to be dealt with. There would be a separate and detailed environmental review that would need to take place prior to any activity on the DS portion of this property in the future. The Draft Negative Declaration acknowledges that. The only use that would be able to continue on this site would be farming. Any other use on the property under the DS Zoning Regulations would be subject to site plan and special use permit approval by this Planning Board. Additional SEQR analysis would be required. So, issues like the significance of that archeological site, water, sewer, drainage, wetlands, and so forth would have to be investigated in detailed much further. I mentioned before about the Indiana bat and Bog turtle. In Mr. Torgersen's report, he found no evidence that there was any habitat in the residential portion of this on the site.

Mr. Astorino: Thank you.

Mr. Singer: This is 17 residential lots and 1 DS lot, should be looking for a marginal access road on the DS lot?

Mr. Bollenbach: There is no DS development proposed at this time.

Mr. Astorino: When and if we see an application for that lot, then we would have to look for the marginal access road.

Mr. Singer: We have an application on the entire parcel right now.

Mr. Astorino: Why would you put a marginal access road on a lot that would not be developed?

Mr. Singer: Ted, is that the way you see it?

Mr. Bollenbach: Yes. The thing is you would need more specificity as to where the road would be located and how it would be designed. Take a look at the Fairgrounds project. Where would you site it? Where would you locate it? There is no development proposed for that DS portion at this time. That is the way I see it.

Mr. Fink: Carl, I would agree with John. In every case when we have looked at the actual development that is subject to the area along Route 94, there had been modifications made in most cases for the actual location of that marginal access road based upon typography and the ability to connect with the adjoining properties and based upon the overall site layout. Since there are no plans to be developed for the DS portion of the property, it would be premature at this point. It would have to be a requirement for anything that comes in because it is within the code unless the applicant is able to make a case before the ZBA for relief from it. Otherwise, they have to comply with the Zoning Regulations.

Comment #2: Applicant to discuss project.

Kirk Rother: Ted had done a good job discussing the project.

**YIELD PLAN:**

Comment #3: No further comments. Board achieves consensus on accepting Yield Plan, 10/3/07.

**CLUSTER PLAN:**

Comment #4: Revise erosion control measures and include appropriate details per the *NYS Standards*.

Kirk Rother: Ok.

Comment #5: Board and applicant to discuss street trees and a sample detail for Ridgeline Overlay mitigation plantings (8 trees) on lots.

Mr. Astorino: There are street trees in the code. Ted, is that right?

Mr. Fink: Yes.

Mr. Astorino: As far as the Ridgeline Overlay trees, if they are wooded lots, we look at that as species on the lots. In the open areas, we would need to require that.

Mr. Fink: Correct. If there are existing trees on the lot, we would give credit for those.

Kirk Rother: We show a typical planting schematic on sheet 3. We would elaborate that with some more specific species.

Mr. Bollenbach: That would be prior to final.

Comment #6: SWPPP comment: Include a worksheet in the report showing how the WQv permanent pool volume was obtained.

Kirk Rother: Ok.

**BEFORE FINAL APPROVAL:**

Comment #7: Provide a signed and sealed final SWPPP. Include a copy of the submitted NOI.

Kirk Rother: Will do.

Comment #8: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, Aquifer Protection Overlay Notes, Stormwater Management Facility Use and Maintenance Agreement Notes, and Open Space Conservation Notes.

Kirk Rother: Ok.

Comment #9: Applicant to propose an acceptable street name and provide 9-1-1 addressing.

Kirk Rother: Will do.

Comment #10: 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.

Kirk Rother: Yes.

Comment #11: Pay parkland fees.

Kirk Rother: Ok.

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

Kirk Rother: Ok.

Comment #13: Pay a 3-year term landscape bond and inspection fee for street trees, mitigation plantings, and hydric plantings at stormwater management facilities.

Kirk Rother: Yes.

Comment #14: Pay outstanding review fees.

Kirk Rother: Ok.

Mr. Astorino: Do any Board members have any comments? This is a public hearing. If there is anyone in the audience wishing to address the Millers Ridge application, please rise and state your name for the record.

Ellen Sinski: Looking at the map, I own this that looks like a road. When we originally bought our property, I own this house right here...

Mr. Astorino: It is a stub road.

Ellen Sinski: Yes. My neighbor and I bought it about 10 years ago. We split it. It was recorded in the County. I don't know why it is showing.

Mr. Astorino: It is showing because it is there. It was a stub road. It is all grass now.

Ellen Sinski: It has been grass forever.

Mr. Astorino: It was on this old subdivision.

Mr. Bollenbach: I believe that it has been abandoned. It is just on the location map.

Ellen Sinski: Ok. So, I should not worry.

Mr. Astorino: No.

Ellen Sinski: On the open space, you said that this could never be developed.

Mr. Astorino: No.

Ellen Sinski: Is this correct? It says 23.26 acres and this one say 23.45 acres. Is that correct?

Kirk Rother: The total lot size is this area. The Planning Board will not allow us to take credit for that portion of the lot that is being used for the house. The open space area has to be less.

Ellen Sinski: The person that buys this lot would own the open space.

Kirk Rother: Yes. They would own the open space. There would be a declaration attached to their deed that prohibits them from doing anything with it other than agricultural uses.

Ellen Sinski: Ok. It is being farmed now.

Mr. McConnell: One of the reasons for the open space is that the Town tries to encourage the ability for the land to be continued to be used for farming.

Ellen Sinski: Ok. That would be the only thing. They would have to either farm it or let it go wild. You said that there were (2) archeological things on the DS property. What were they?

Mr. Fink: There were (2) areas where there were significant pre-historic artifacts that were discovered. On the DS portion site, the archeologist that conducted the investigation, in their estimation felt that it was eligible for the National Registers of Historic Places. That is not their decision to make. It is the decision of the NYS Historic Preservation officer. They would make a recommendation to the National Parks Service for designation as a property listed in the National Registers of Historic Places.

Ellen Sinski: Did they say specifically what it was that they found? There is a cemetery there. It is an old cemetery. The stones have gradually disappeared over the years. This is not for housing development. But as far as the future, there is a cemetery there.

Mr. Fink: Yes.

Ellen Sinski: Are they aware of that?

Mr. Fink: They are well aware of the cemetery. It is shown on the plans. The archeological sites are not in the cemetery. Generally, cemeteries do not qualify for places of the National Registers unless there is a nationally significant figure in that area. The cemetery is shown on the plans. It is described very well in the archeological studies.

Ellen Sinski: Is that something that they could potentially move?

Mr. Astorino: It would depend on how they would layout that DS site.

Mr. Fink: It is not easy to move a cemetery. It is possible. There are provisions in the law to allow reburial of remains. It is not an easy thing to accomplish.

Ellen Sinski: They would have to leave that portion intact.

Mr. Fink: They might. We don't know at this point.

Ellen Sinski: Regarding the affordable housing, who follows up on that?

Mr. Astorino: It would be the Building Department. They would make sure that it is built in the accordance of the way it is set forth.

Ellen Sinski: How do they determine who is qualified to buy?

Mr. Astorino: I think it is a lottery system that the Town has. There are provisions in the Code on how it is laid out. We had done this with another subdivision. You could stop in the Planning office and we could give you a copy of the Code on how it reads.

Ellen Sinski: Ok. I would be interested. There are so many rules.

Mr. McConnell: There is a higher thing of those people who are eligible to participate in the lottery. Then, there is a lottery for those people that determines who gets the opportunity to purchase, as I recall.

Mr. Bollenbach: You could check in with the Town Clerk's office. Foxwood subdivision was the first one that had the affordable housing provision. It is recorded in the deed. It has the criteria set forth. If you are interested in looking it up in the code, it is in the Zoning Code §164-46J special condition 100. That sets forth the criteria.

Mr. Showalter: You could go to our website. There is a PDF file of the whole thing.

Ellen Sinski: Yes. I looked for it. I didn't find anything. I had just done a word search "affordable homes". It did not explain about a lottery.

Mr. Showalter: If you go to that section of the Code that John just mentioned, it will tell you.

Mr. Astorino: Or, you could stop at the Town Clerk's office for it.

Ellen Sinski: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Millers Ridge application?

Thomas Jeffrey: I am new to Warwick. We bought our home about 6 or 7 months ago on Wilder Circle which is connected to this huge lot. I have about 1000 questions. One, I am hearing about the agricultural part that will stay agricultural. If a builder is purchasing the land, it seems to me that they would not want to farm on it. A builder is a builder, not a farmer.

Mr. Bollenbach: It is the prospective purchaser of that lot.

Kirk Rother: I will show you the map. This one lot 24± acres of land that has a little driveway access to the cul-de-sac is allowed to have one house on it. Everything that is hatched is restricted through the deed.

Mr. Astorino: That homeowner would own that lot. They could do what they want as far as agricultural use.

Thomas Jeffrey: It is for this lot here.

Mr. Astorino: No. They would own the whole thing.

Thomas Jeffrey: Ok. They would own the whole thing.

Kirk Rother: What we are doing is restricting their ability to build a house, pool, well, and septic to just this area.

Thomas Jeffrey: Ok. I understand.

Mr. McConnell: A farmer who is presently farming could continue to farm on that. Or, they could decide to do something themselves.

Thomas Jeffrey: Right. The other question is regarding a hospital that is to be built. I understand that is a wish. That is not part of this application.

Mr. Astorino: We don't know at this point. We have not received any application for that to date.

Thomas Jeffrey: If there were, it would truly be within the view of our home. Our yard would look out at a hospital.

Mr. Astorino: That would be something that we would have to address at that point. Without having a plan or an application before us to comment on it, it is very premature. We just don't know.

Thomas Jeffrey: Would there be other public meetings?

Mr. Astorino: Yes.

Kirk Rother: There would have to be a zoning change.

Mr. Astorino: There would be numerous public hearings.

Thomas Jeffrey: I have a question about the wells.

Mr. Astorino: They would be tested by the OCHD.

Kirk Rother: This subdivision is large enough that hits a trigger to send it to the OCHD for review. They are going to require that we drill and test at least 2 wells.

Mr. Astorino: It is in the Aquifer Protection Overlay District, which indicates that there is water there.

Thomas Jeffrey: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Millers Ridge application?

Joseph and Christine Rodriguez come before the Planning Board to speak their concerns.

Joseph Rodriguez: We live on Warwick Turnpike. The development is behind my home. How will this affect the aquifer? Have there been tests?

Mr. Astorino: There will be tests done.

Joseph Rodriguez: How will the ground be tested for septic?

Mr. Astorino: The percs and deeps were witnessed.

Joseph Rodriguez: Is it a conventional perc test?

Mr. Astorino: It is conventional.

Joseph Rodriguez: Does NY just have conventional perc tests?

Mr. Astorino: Yes.

Joseph Rodriguez: Ok. As far as the runoff is concerned, how would that be handled?

Mr. Astorino: There is a SWPPP in place. They would have to follow it.

Joseph Rodriguez: Would there be a retention pond?

Mr. Astorino: Yes.

Kirk Rother: I might be able to answer some of your questions. You are one of the lots that front on Warwick Turnpike that was subdivided off from this parcel 4 or 5 years ago.

Joseph Rodriguez: Yes.

Kirk Rother: We are aware of the concern of stormwater management from this road and off the lots that are downhill from us as well as the Warwick Drive-in and Shop-Rite that is on the bottom of the hill. This road has been designed to result in all of the stormwater management running towards the center of the site near the stream. There are ponds adjacent to the stream which will discharge into that stream and under Route 94. We capture everything uphill of this road and send it over to the stream.

Joseph Rodriguez: My next question is regarding the affordable home. Why did you put the affordable home here? Why didn't you put it in the back of the cluster?

Mr. Astorino: It has to be mixed in. It is up to the Planning Board.

Mr. Bollenbach: It would be up to the Planning Board. It is at a very preliminary stage right now.

Mr. Astorino: That is not set in stone. It would have to be mixed in.

Joseph Rodriguez keeps on telling the Planning Board about his concerns about the affordable home and the design of it. Mr. Astorino explains to Mr. Rodriguez that they would have to meet the criteria of the design requirements to fit in within the subdivision. He also explains that he doesn't see the difference between a regular home and an affordable home.

Christine Rodriguez: Could the affordable home be placed elsewhere?

Mr. Bollenbach: Yes. This is preliminary. Your concern has been noted. We could do a little shifting.

Christine Rodriguez: We definitely want that noted.

Joseph Rodriguez: We would definitely want that shifted.

Mr. McConnell: There is a little misunderstanding on what constitutes an affordable house.

Mr. Showalter: It would not be a shack.

Mr. McConnell: John, do you recall what the formula works out to be in terms of median incomes? It works out to be about \$250,000.00 house as I recall.

Mr. Bollenbach: Yes.

Mr. Astorino: If not, a little bit better than that.

Joseph Rodriguez: What is an average house? Right now, it is under \$300,000.00.

Mr. Bollenbach: Whatever it is, it has to meet that income requirement.

Mr. Astorino: It is 80% of the median.

Mr. Astorino: It would have to fit within the style of the subdivision.

Kirk Rother: There is no developer or builder behind this. Mr. Miller just wanted to do a subdivision application.

Joseph Rodriguez: Ok. I have noticed that you have .75 of an acre. How would you handle septic there?

Mr. Astorino: It has to meet the separation requirements.

Joseph Rodriguez: If you have homes on a small site, then they would not be large homes.

Mr. Astorino: We don't know that.  $\frac{3}{4}$ -acre is not a small lot. You could fit a decent size home on that lot.

Christine Rodriguez: What do you consider a decent size home?

Mr. Astorino: I think a 4-bedroom home is listed there.

Joseph Rodriguez: Could I subdivide my 2-1/2-acre parcel?

Mr. Astorino: No. You could not.

Kirk Rother: Before we arrived at this plan, we had a separate plan that showed 3-acre lots over the entire property. We had done soil tests. We designed roads for it. We proved to this Board that they were entitled to 16 lots. We throw that plan out. Once we have demonstrated that we could accommodate 16 lots, we then started with the cluster plan.

Mr. Astorino: The soils will dictate the size of the lots also.

Joseph Rodriguez: Have these tests been done?

Kirk Rother: They have been designed right there. The Town Engineer has witnessed them. There are fantastic soils on this property.

Joseph Rodriguez: Ok. Again, I want to go back to the well issue.

Mr. Astorino: We have pointed out that it has to go to the OCHD and get some testing done. It is within the Aquifer Protection Overlay District. It means there is some water that we want to protect there. That is a good indication that there is water out there.

Joseph Rodriguez: Would this be a Town Road?

Mr. Astorino: Yes.

Christine Rodriguez: Why do you have on this map (2) lots one of which is open space of 7.67 acres and it is actually appearing much larger than the home that is 8.3 acres. It looks like a small postage stamp here.

Kirk Rother shows the map to Christine and explains what is owned by lot 3. He goes on to explain that the owner could only build his house, well, septic, and driveway in that small area. The remainder which is 7.7 acres of an 8.3-acre parcel is restricted of any development.

Joseph Rodriguez: If they were to put horses on it, they would have to put up a barn.

Mr. Bollenbach: Agricultural uses are permitted in the open space.

Joseph Rodriguez: So, they could put up a barn.

Mr. Bollenbach: Yes.

Mr. Astorino: Yes. It would be by the code. They would have to follow the code.

Christine Rodriguez: I want to request the shifting around of the affordable house.

Kirk Rother: We have no problem with that.

Christine Rodriguez: Ok.

Joseph Rodriguez: There is a beautiful view of the cluster.

Mr. Astorino: Is there anyone else wishing to address the Millers Ridge application?

Renato Silvis, Michael and Mary McGuinness come before the Planning Board to express their concerns.

Renato Silvis: The whole RU zoning, what does that mean?

Mr. Astorino: It is residential.

Renato Silvis: Does it mean so many acres per house?

Mr. Astorino: Yes.

Renato Silvis: Does it mean 5 acres per house?

Mr. Astorino: The RU zone is 4 acres. If you go to a cluster subdivision, you get a density bonus, which drops to 3 acres. In the process, a yield plan was prepared for this site with the whole site at 3 acres zoning 3-acre lots all through it. They had to prove to us that they could build it. If they had done a conventional subdivision, then a yield plan is put aside and a cluster plan is developed to preserve as much of open space as possible. It is a minimum of 50%. Kirk, I think this one covers more than that.

Kirk Rother: It is about 60% of open space.

Renato Silvis: What is the minimum amount of land per house?

Mr. Astorino: They could go down to  $\frac{3}{4}$ -acre per house. They could go down to whatever they could fit a well and septic on and prove that they have soils to do that.

Mary McGuiness: But, if they have enough property, Why?

Mr. Astorino: To preserve open space. The Town had numerous meetings about 7 or 8 years ago that the community liked the concept of preserving open space indefinitely. This is what these subdivisions actually do.

Michael McGuiness: That is fine for the open space. How hard would it be to push these (2) houses back. When I bought this property it was zoned R2. I did not try to variance it. I did not try to do anything else but the usage that it was designed for. All I am seeing here is a big compromise that I am paying for on this. I am getting this shoved right up my backside on 1.13 acres. If it was zoned R4 and the Town reworked the Master Plan after year 2001 from R2 to R4, I don't see how it is being compromised at my expense. This open space doesn't benefit me at all. I cannot access it.

Mr. Astorino: It is not intended for you to access it. It would be owned by that lot and used primarily for agricultural purposes. You don't access it now.

Mr. McConnell: The idea behind the open space and wanting to preserve it was that when the Comprehensive Plan was done, the community at large felt that one of the attractions to Warwick was its rural character. If you take large pieces of property and divide them up to what they are often called McMansions from 4-acre lots, you start losing some of that rural character. It starts to divide up what is called the viewshed. The decision was made to allow cluster housing. That would allow you to take those units and put them a little closer together and preserve at least 50% of the lot so that you would still have some of the character of what brought us to Warwick in the first place, which is the rural character, which was the open space. That was the zoning decision that was made by the community 8 years ago. That is why it is done this way.

Renato Silvis: These houses will be right on top of me. I come from Queens. I came up here to get my kids out of the neighborhood.

Mr. McConnell: You can't compare this subdivision to Queens.

Michael McGuiness: I understood that there were going to be houses back here some day. It was R 2. It was turned to R4. That tells me one house on 4 acres.

Mr. Astorino: You have to read the Zoning Code. Clustering is encouraged, which they had done here. We have to look at topography. Over in the open space there are stormwater ponds there. You are not moving houses where stormwater ponds are.

Mr. Bollenbach: Maybe some buffering could be considered.

Kirk Rother: The two lots behind you, one of them on paper is 1.2 acres. Between the two lots and the open space, there are 9 acres of land that we are putting two houses on. On paper, you see a 1-acre lot. In reality, if you stand there and look at the field and woods, there is 9 acres of land that we are putting two houses on.

Michael McGuiness: My point is that I would like to see this house further away. I understand that there will be houses there. I have no problem with that. I just never expected it to be that close.

Renato Silvis: Is there going to be city water?

Mr. Astorino: No. There will be all wells and septic. There is no city water out here.

Renato Silvis: Will the taxes go up?

Mr. Astorino: Do you mean as far as you?

Renato Silvis: Yes.

Mr. Astorino: I would hope not. That is yet to be determined.

Renato Silvis: Thank you.

Mr. Astorino: Is there anyone else wishing to address the Millers Ridge application?

Thomas Jeffrey: I have mentioned before that I have a view of this property from my back yard. Where the houses look like they are being built, I believe is on a hill. I think it is not level land. This open space area is very level. It would seem at one point that someone would want to build on the open space.

Mr. Astorino: They cannot.

Thomas Jeffrey: Ever? But, what if they decide to subdivide sometime in the future?

Mr. Astorino: They cannot. It is impossible. It is deed restricted.

Mr. McConnell: It is deed restricted.

Thomas Jeffrey: Regarding the other side of it, where Leo Kaytes Ford place is, what does DS mean?

Mr. Astorino: It means Design Shopping.

Thomas Jeffrey: This could all wind up with stores and parking lots at some point in time.

Mr. Astorino: At some point, if they decide to put an application before this Board...

Thomas Jeffrey: But, that would be a zoning change.

Mr. Astorino: For the hospital, there would have to be a zoning change.

Thomas Jeffrey: Ok. I would like to say that as there are people here from Queens, most of us that live in this area think that at maybe some point in time did live somewhere else. I work in Rockland County. I have lived in Long Island. Long Island was extremely developed. We left Long Island because of the development. We came to Warwick because of that. I drive every day from Rockland County. I see the beauty of Warwick once I hit the Warwick Valley area. I don't want to see a change. The scenic byway of Route 94, which is currently a scenic byway, I would hope that would be considered in the future to remain that way.

Mr. Astorino: It is considered. Be noted that you did come up here, but things do change. I believe that the Zone of the Town of Warwick of their Code does reflect with these cluster subdivisions. I think this Board does a good job of trying to do to the greatest extent practical to insure that viewsheds are preserved and to preserve the rural character after these subdivisions are approved. That is one of our goals.

Thomas Jeffrey: Ok.

Mary McGuiness: If I understood correctly, the 23-acre farm which has the open space surround it, this 25.4-acre lot could never ever be subdivided. I am not referring to the open space. I am referring to the lot.

Mr. Astorino: Not even the lot. Every lot that you see there, the whole parcel could not be further subdivided.

Kirk Rother shows the map again to Mary McGuiness and explains to her again the acreage of the open space and the lots. He shows her on the map what cannot be further subdivided.

Mr. Astorino: Is there anyone else wishing to address the Millers Ridge application?

Joseph Rodriguez: I don't believe this is a good move for my area. I don't think that it is going to have a good impact.

Mr. Astorino: Your area is where they subdivided a piece off this parcel already. Is that correct?

Joseph Rodriguez: Yes. I have 2.5 acres of that. I understand what you are trying to do here, but I don't believe it is a good move.

Mr. McConnell: Just to let you understand, this is not necessarily what we are trying to do here. The Town Board has adopted a Zoning Code. What we do is to make sure that the applicants are living up to the Zoning Code. It is not what this Board is trying to do.

Joseph Rodriguez: As far as the Code, I understand that. If there were fewer houses with larger parcels, that would be good.

Mr. Astorino: They have a right to a certain number of homes within the code.

Mr. McConnell: That is the legitimate approach to the topic is to have bigger parcels sub-zone it and require 10-acre zone. I point out to you that if it was 10-acre zoning, you would not have your house. So that you understand, it is a policy decision that gets made. The community made the decision that this was appropriate.

Joseph Rodriguez: I understand that. You had made the comment about McMansions. Paramus is a perfect example of that. You have very small pieces of property with 5,000 square foot houses on them.

Mr. Astorino: I don't think this subdivision would even come close to that.

Joseph Rodriguez: For Warwick, these are McMansions.

Mr. Astorino: I understand that. But, the smallest lot on there is  $\frac{3}{4}$ -acre. That is not a small lot.

Mr. McConnell: Mr. Rodriguez, Paramus doesn't have any open space attached to around those 5,000 square foot homes on  $\frac{1}{4}$ -acre. I have lived for a number of years in Rochelle Park. I know exactly what you are talking about.

Joseph Rodriguez:  $\frac{3}{4}$ -acre is a very small piece of property in Warwick.

Mr. Astorino: Again, that afforded more open space to this project. It is a trade off. Don't forget, to get that  $\frac{3}{4}$ -acre the applicant had to prove that the soils were there for the septic and well and that the separations were there. It is not just thrown in haphazard there. It has to meet the requirements.

Joseph Rodriguez: Ok. I just wanted to express my concerns. Thank you.

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

Mr. Showalter makes a motion for the Negative Declaration.

Seconded by Mr. McConnell. The following Resolution was carried 4-Ayes.

617.12(b)

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

**Name of Action:** Millers Ridge Subdivision

**Whereas**, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed 18 lot subdivision, Town of Warwick, Orange County, New York, and

**Whereas**, there are other involved agencies pursuant to SEQR, the Planning Board was designated as Lead Agency to conduct the environmental review following a coordinated review for this proposed Type 1 Action, and

**Whereas**, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 10/10/03, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

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

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

Seconded by Mr. Singer. Motion carried; 4-Ayes.

Mr. Showalter makes a motion on the Paul Miller, Jr., and Nancy Miller application, granting preliminary approval for a proposed 16-Lot cluster + 1-Affordable Residential Lot + 1-Commercial Lot subdivision and an application for special use permit for the 1-Affordable Home, entitled "**Millers Ridge**", situated on tax parcels S 51 B 1 L 7.41 and L 41, parcels located on the eastern side of Warwick Turnpike and 1500 feet south of NYS Route 94, in the RU zone, of the Town of Warwick, County of Orange, State of New York.

Seconded by Mr. McConnell. Motion carried; 4-Ayes.

Kirk Rother: Thank you.

**PUBLIC HEARING OF Lewis B. and Yolanda W. Perry**

Application for final approval of a proposed 2-Lot subdivision, situated on tax parcel S 58 B 2 L 11.22; parcel located on the right side of Alexander Road 1500 feet north of Old Dutch Hollow Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Yolanda Perry, Applicant. Ed Gannon, Surveyor, Ed and Pat Mateo, Builders.

**Mr. Ted Fink leaves the Planning Board meeting.**

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

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Board to discuss site visit.
  - A. Board to discuss potential improvements to Riley Court.
4. Revise the note in the Bulk Table: the use group is "a".
5. Note on the plans that the limits of federal jurisdictional wetlands on this site are the bed and banks of the intermittent stream, as determined by Ecological Solutions, LLC, and that the proposed development will not disturb this wetland.
6. FOR THE RECORD – Applicant has been granted a variance from §164-46J(95) by the ZBA; buildable area of 7000 sf is permissible. Applicant exceeds 7000 sf buildable area.
7. Maximum 195 foot square may be inscribed in Lot 2. Applicant requests a waiver. Applicant and Board to discuss.

**BEFORE FINAL APPROVAL:**

8. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Private Road Use and Maintenance Agreement Notes.
9. Provide the declaration and the recording information on the plan for Private Road Notes, as shown in the application package.
10. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
11. Applicant to provide 9-1-1 addressing. Note on plan.

12. Pay performance bond and construction inspection fee for private road and erosion control.
13. Pay parkland fees.
14. Pay outstanding review fees.

#### WAIVERS & EXEMPTIONS

<i>CODE</i>	<i>ACTIVITY</i>
§137-21k(1)	Shape of lots. 350 foot inscribed square required in MT zone; 195 feet available.

The following comment submitted by the Conservation Board, dated 12/5/07:

Lewis B. and Yolanda W. Perry – The CB has no further comments, but supports a site visit.

The following comment submitted by the ARB, dated 12/5/07:

Lewis B. and Yolanda W. Perry - With regard to the other applications before the Board, we would request to see elevations and materials specifications for each as early as possible in the planning process. We feel that this could be a more productive process if we could begin at this point in time with the newer subdivisions such as Sunset Ridge, Cardiac Care, Fusco, Perry, and Ludmerer/Maskers.

Comment #1: Board to discuss SEQR.

Zen Wojcik: Ted and I have discussed this project. SEQR has been moving along. The Planning Board has established Lead Agency. There are no outstanding issues that are listed in the review comments tonight.

Comment #2: Applicant to discuss project.

Yolanda Perry: We have a piece of property that is about 4.263 acres in size. We want to subdivide it into 2 lots. It would result in one of the lots being 2.1 acres and the other at 2.06 acres. We were granted area variances on lot 1 and lot 2. Lot 2 would be the new lot. We were also granted a lot width and setback variance and 280a variance.

Comment #3: Board to discuss site visit.

A. Board to discuss potential improvements to Riley Court.

Mr. Astorino: Does anything stand out from anyone? What is the consensus of the Board on the improvements to Riley Court?

Mr. McConnell: I think they need improvements.

Mr. Astorino: Such as? Do you want to throw some out there?

Mr. Singer: We discussed it at the work session. I think Riley Court needs to be paved 16 feet wide. That would make us happy.

Mr. Astorino: Is that from the end of the gravel?

Mr. Singer: From the end of the gravel that is there now down to this new lot.

Mr. McConnell: Personally, I have concerns because I think that goes close to what looks like a stream bed that goes along.

Ed Gannon: It ends short of that by 100 feet. It runs perpendicular to the stream bed that you are referring to.

Mr. Astorino: Zen, how far is that on the map?

Zen Wojcik: It is in the vicinity of around 600 feet.

Mr. Showalter: I am in agreement with Carl and Dennis on what we had discussed at the work session. I think that 16 feet would be a good width for that driveway/private road.

Zen Wojcik: It is a private road right now.

Mr. Astorino: It is from the end of Riley Court to the new lot.

Mr. Singer: It is not just going to one lot; it would be touching 5 lots. That is why I am so concerned about it.

Yolanda Perry: Riley Court starts at Alexander Road. It is gravel. It then splits into Tees. There is one house to the left. The other properties, there is an existing property and a newer property where there is gravel up to the newest property, which he did gravel to that driveway.

Mr. Singer: We are talking from the existing gravel.

Mr. Showalter: It would be where that gravel stops. Where that new house is on the left, it would Y off to the right.

Ed Gannon: Could I make one appeal with regard to the condition of the road. The problem is that Perry's property is at the end of the road that you have seen. There is quite a length from the end of the existing stone road across the unimproved tree area to their property. Then, from that area back to the paved blacktop on Alexander Road there is about the same amount of space. Right now, there is about (3) improved properties on that road that haven't been required to meet that standard. Then, there is another (4) or (6) unimproved properties between the end of the gravel and the Perry's property that would also be getting a free ride.

Mr. Astorino: They were pre-approved lots that didn't come before us.

Ed Gannon: What we would like to offer is that we are trying to avoid a situation with one person having to shoulder the entire responsibility. It is a private road. The Perry's are president of the Road Association. What we would like to try to do is come up with some incremental division of the responsibility of that road along that way and get the Association to share the responsibility for paving the entire Riley Court from Alexander Road to all the way down. This would be for two reasons. One reason would be so that one person wouldn't have to shoulder the entire responsibility. The second reason would be so that we don't have a paved area going to an unpaved area going to a paved area.

Mr. Astorino: Is that something you are willing to work on?

Ed Gannon: Yes. I could guarantee that if I build the roadway from the last house to the new house, it would be better than anything that exists on Alexander Road or Riley Court presently. I will have it graded properly. I would make sure that it is more substantial with every respect other than the blacktopping, which would be expensive. It could run them between \$18,000. To \$25,000 and everybody else would get a free roadway.

Mr. Bollenbach: This could be a condition of the approval. We do have other provisions and other comments this evening to provide a declaration for the Road Use and Maintenance Agreement.

Ed Gannon: We already have a Maintenance Agreement.

Mr. Bollenbach: You said that you wanted to revise it or tweak it.

Ed Gannon: Yes.

Mr. Bollenbach: I am saying that we still have the flexibility. That could be a condition of the approval. As far as the Riley Court road improvements, I am suggesting that Riley Court be asphalt pavement. Do you want to include the 16 feet wide as asphalt pavement that is not tar and chip?

Mr. Astorino: Yes. It should be asphalt pavement.

Mr. Bollenbach: It would be 16 feet wide to the Town Engineer's specifications. That would give you the opportunity to come in and try to work something out. That would be done before the maps get filed. What would be the extent of the pavement? There could be some minimum standards. What are you proposing and what would the cost allocation be?

Ed Gannon: Could the approval be granted pursuant to that?

Mr. Bollenbach: Yes.

Mr. Astorino: It would be with conditions to that. Is the Board ok with that?

Mr. McConnell: Yes.

Mr. Singer: I think what John was saying is that we would still want that 16-foot wide road done before you get final approval.

Mr. Astorino: You will get final approval. It would be subject to conditions.

Ed Gannon: I would have to find out that I could not guarantee on how everyone would vote.

Mr. Singer: So, if they don't vote for it, you would have to do it. Otherwise, you would not get the approval.

Ed Gannon: We would have to do it per the specifications for a private driveway.

Zen Wojcik: What the Board wants to have is a common driveway. Those are the regulations that you would have to go by.

Mr. Astorino: That is what we discussed at the work session. We were all out there. There is no sense in blowing a huge road through there.

Zen Wojcik: John, do you want it before they get a C of O? At what stage do you want to see this thing come in?

Mr. Bollenbach: It would be done before the maps get filed. It would be a condition of the approval to have a declaration in place and to have the road specifications in place. It has to be on the filed map.

Zen Wojcik: They are looking for an agreement for building the road. I think that is immaterial for this Board.

Mr. Bollenbach: How much of the road will be paved? Who will pave it?

Zen Wojcik: He wants to have a road 16 feet wide paved to a certain point. It is really immaterial. That is what he wants.

Mr. Singer: I agree with Zen. We don't care who pays for it. It just has to be there.

Mr. Showalter: That is what we are asking for.

Pat Mateo: I think what we were saying is that there are (3) to (5) properties undeveloped between Harrison's new house and where the Perry's driveway would be. Those lots will be purchased. People will be building there. They would be getting a free road. What we are saying is what we would like to do as a Road Association is call a meeting and say if you buy this lot, you owe so much for the paving.

Mr. Astorino: That is fine.

Mr. Bollenbach: That would be the amended declaration. The declaration specifically spells out who pays for what to maintain the road. If they are looking to have some type of an amended declaration, I would be willing to accommodate them so that this would work. Perhaps, we could get the entire road paved.

Ed Mateo: It is necessary to point out on the contrary of what you are saying in all fairness is that we are saying, could we build a house and as a show of good faith, we would show that we have a declaration that has a provision established for the future completion of this road. We don't want to have to shoulder that.

Mr. Astorino: I don't see how we could allow construction of a home all the way back. That road has to be constructed.

Ed Mateo: We would bring the road up front as to the precedent of the area...

Mr. Singer: No way would I accept that.

Mr. McConnell: It becomes an enforcement nightmare.

Ed Mateo: No. When we built our home, at that time it was that you would have to bring it up to your property in like kind as it was at the last approved property on that route of travel. We are more than willing to do that. We have always understood that. We could do that as good or better than anything that exists now. We understand that the Board wants to encourage people to bring it up to a more substantial standard. We would like to do that to. There are practical challenges to that. We don't have the money. In principal, I don't think that it is fair to expect one person to do it for 12 people. What we are saying is could we meet halfway? Could we get a provision in place that provides for the eventual upgrade of that property, not before we get the approval?

Zen Wojcik: When is eventually?

Ed Mateo: I cannot answer that.

Mr. Astorino: That is the issue that we are having here.

Ed Mateo: What I could say with certainty is that we would upgrade it before we got our C of O to a point as good or better than anything that presently exists.

Mr. Singer: Are you talking about the road from the end of the gravel up to the new house?

Yolanda Perry: Yes.

Ed Mateo: We are actually referring to both parcels.

Mr. Astorino: Let us work on what we require first. From the end of the gravel to the property, how far is it?

Zen Wojcik: It is about 600 feet.

Mr. Astorino: It is about 600 feet. It would be 16 feet wide common driveway blacktopped. That is the issue that we are talking about right now. Whatever you could do with your Association, if you want, we could make it a condition as Mr. Bollenbach had pointed out. That would be a condition before the maps are signed.

Ed Mateo: It is hard to explain. There are (2) different issues. In one case, we have existing homes. In another case, we have perspective homes.

Mr. Astorino: We are looking at it that you are going to blow a road through there. The Board is looking at it that we have a right to make sure that these roads would hold up and be better than the gravel that is there now. That was our discussion at the work session and the site visit. Whatever agreements you have is beyond our purview.

Ed Mateo: If you are going to be hard and fast on that, then it would be preferable to just go ahead and pave from the end of the existing stone back to the property. The shame of that is that we are building a road to nowhere. We would be building a road that would come up to a piece of unimproved property/roadway.

Zen Wojcik: I disagree with that. This is not a road to nowhere. This is a road from a lot that is being subdivided.

Mr. Astorino: Exactly.

Ed Mateo: It would be from that lot to another piece of an unimproved road.

Zen Wojcik: It would be the access to that. If they had a different access, they would have shown it on the plans.

Mr. Astorino: It would be up to the Association if they deem that they want to fix another point of that section of the road at a given time. We cannot control that at this point.

Mr. Showalter: These new roads that are going in, the old private roads that are falling apart, they would be maintained by at least paving this new section of the road. It would be more substantial. It would last longer. Hopefully, all future new private roads and common driveways are built to the specifications and they would be a lot nicer. It would be easier for people to access it.

Mr. Astorino: It is basically 600 feet. This will be your call. If you want to make it a condition of the approval, we will do that. If not, we will move from there.

Ed Gannon: Would they have to put in the road before you sign the maps?

Mr. Astorino: No.

Mr. Bollenbach: We could time it prior to C of O.

Mr. Astorino: Exactly.

Comment #4: Revise the note in the Bulk Table: the use group is "a".

Ed Gannon: Yes.

Comment #5: Note on the plans that the limits of federal jurisdictional wetlands on this site are the bed and banks of the intermittent stream, as determined by Ecological Solutions, LLC, and that the proposed development will not disturb this wetland.

Ed Gannon: Yes.

Comment #6: FOR THE RECORD – Applicant has been granted a variance from §164-46J(95) by the ZBA; buildable area of 7000 sf is permissible. Applicant exceeds 7000 sf buildable area.

Comment #7: Maximum 195 foot square may be inscribed in Lot 2. Applicant requests a waiver. Applicant and Board to discuss.

Mr. Astorino: Zen, is that because of the size of the lot?

Zen Wojcik: Yes.

**BEFORE FINAL APPROVAL:**

Comment #8: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Private Road Use and Maintenance Agreement Notes.

Ed Gannon: Yes.

Comment #9: Provide the declaration and the recording information on the plan for Private Road Notes, as shown in the application package.

Ed Gannon: Ok.

Comment #10: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.

Ed Gannon: Do you want a letter?

Zen Wojcik: We have a standard form that we use.

Ed Gannon: Ok.

Comment #11: Applicant to provide 9-1-1 addressing. Note on plan.

Ed Gannon: Ok.

Comment #12: Pay performance bond and construction inspection fee for private road and erosion control.

Ed Gannon: Ok.

Comment #13: Pay parkland fees.

Ed Gannon: Yes.

Comment #14: Pay outstanding review fees.

Ed Gannon: Yes.

**WAIVERS & EXEMPTIONS**

<i>CODE</i>	<i>ACTIVITY</i>
§137-21k(1)	Shape of lots. 350 foot inscribed square required in MT zone; 195 feet available.

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 Perry subdivision application, please rise and state your name for the record. Let the record show no public comment.

**Planning Board member, Carl Singer leaves the Planning Board meeting.**



Mr. Showalter makes a motion on the Lewis B. and Yolanda W. Perry application, granting final approval for a proposed 2-Lot subdivision, situated on tax parcel S 58 B 2 L 11.22; parcel located on the right side of Alexander Road 1500 feet north of Old Dutch Hollow Road, in the MT zone, of the Town of Warwick, County of Orange, State of New York, subject to the following conditions:

1. Revise the note in the Bulk Table: the use group is "a".
2. Riley Court common driveway to be asphalt paved 16 feet wide to Town Engineer's specifications prior to the issuance of a C of O.
3. Note on the plans that the limits of federal jurisdictional wetlands on this site are the bed and banks of the intermittent stream, as determined by Ecological Solutions, LLC, and that the proposed development will not disturb this wetland.
4. Provide the Declaration and the Recording Information on the plan for Ridgeline Overlay Notes and Private Road Use and Maintenance Agreement Notes.
5. Provide the Declaration and the Recording Information on the plan for Private Road Notes, as shown in the application package.
6. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
7. Applicant to provide 9-1-1 addressing. Note on plan.
8. Pay Performance Bond and Construction Inspection Fee for private road and erosion control.
9. Pay Parkland Fees.
10. Pay Outstanding Review Fees.

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

Yolanda Perry: Thank you.

**PUBLIC HEARING of Ron Giglio**

Application for site plan approval for the renovation on an existing home located within “A Designated Protection Area” of Greenwood Lake, situated on tax parcel S 73 B 9 L 19; project located on the south side of 404 Jersey Avenue 5 feet south of existing structure, in the SM zone, of the Town of Warwick, County of Orange, State of New York.

Representing the Applicant: Bill Prol from Prol Development.

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

Mr. Astorino: Thank you.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
  - A. Planner to discuss Visual EAF Addendum and line-of-sight assessment.
2. Applicant to discuss project.
3. For Site Plan drawing SK-1:
  - a. Show on the plan an overlay district table (Traditional Neighborhood, Ridgeline, Aquifer and Agricultural). Indicate whether or not the project is within any of these districts.
  - b. Provide an approval block on the plan.
  - c. Show the limits of the sight triangle which shall be kept free from visual obstructions, as noted on the plan.
  - d. 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.”
4. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 12/5/07:

Ron Giglio - Visual impact should be minimized. Consider upgrading septic system as part of renovation to Elgin type.

The following comment submitted by the ARB, dated 12/5/07:

Ron Giglio - With regard to the other applications before the Board, we would request to see elevations and materials specifications for each as early as possible in the planning process. We feel that this could be a more productive process if we could begin at this point in time with the newer subdivisions such as Sunset Ridge, Cardiac Care, Fusco, and Ludmerer/Maskers, Giglio.

Comment #1: Board to discuss SEQR.

- A. Planner to discuss Visual EAF Addendum and line-of-sight assessment.

Zen Wojcik: We have the Visual EAF Addendum. Ted and I have discussed the project. There are no issues with that. I think his comment and I agree with it that LAN Engineering had done a wonderful job with the Visual Assessment. There is not going to be any detrimental effect because of the couple feet difference in the proposed roof height to the existing roof height. All of the other issues are covered in the comments.

Mr. Astorino: Thank you.

Comment #2: Applicant to discuss project.

Bill Prol: We are doing a renovation/makeover on an existing home located on 404 Jersey Avenue. It will match the new garage that was built about one year ago.

Comment #3: For Site Plan drawing SK-1:

- a. Show on the plan an overlay district table (Traditional Neighborhood, Ridgeline, Aquifer and Agricultural). Indicate whether or not the project is within any of these districts.

Bill Prol: Will do.

- b. Provide an approval block on the plan.

Bill Prol: Will do.

- c. Show the limits of the sight triangle which shall be kept free from visual obstructions, as noted on the plan.

Bill Prol: Yes.

- d. 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."

Bill Prol: Will do.

Comment #4: Pay outstanding review fees.

Bill Prol: Will do.

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 Ron Giglio 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. McConnell. Motion carried; 3-Ayes.

617.12(b)

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

**Name of Action:** Giglio Residence Renovation

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

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

**Whereas**, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 10/17/07, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

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

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

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

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

Mr. Showalter makes a motion on the Ron Giglio application, granting site plan approval for the renovation on an existing home located within "A Designated Protection Area" of Greenwood Lake, situated on tax parcel S 73 B 9 L 19; project located on the south side of 404 Jersey Avenue 5 feet south of existing structure, in the SM zone, of the Town of Warwick, County of Orange, State of New York, subject to the following conditions:

1. For Site Plan drawing SK-1:
  - a. Show on the plan an overlay district table (Traditional Neighborhood, Ridgeline, Aquifer and Agricultural). Indicate whether or not the project is within any of these districts.
  - b. Provide an approval block on the plan.

- c. Show the limits of the sight triangle which shall be kept free from visual obstructions, as noted on the plan.
  - d. 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."
2. Pay outstanding review fees.

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

Bill Prol: Thank you.

**Review of Submitted Maps:*****Paul Norris***

Application for Site Plan Approval and Special Use Permit for the use of fill placed on the property which is located within "An Environmentally Sensitive Area" of Greenwood Lake, situated on tax parcel S 73 B 4 L 46; project located on the southern side of Brook Trail 50 feet west of Brook Trail and U.S. Route 210, in the SM zone, of the Town of Warwick.

Representing the applicant: Dave Getz from Lehman & Getz Engineering. Paul Norris, Applicant.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
2. Applicant to discuss project.
3. Applicant has begun filling up to 0.2 acres along a slope in the Ridgeline Overlay District, within an environmentally sensitive area of Greenwood Lake. Provide the following:
  - a. Proposed finish contours in fill area.
  - b. Maximum depth of soil lift and method of compaction.
  - c. Check dams are proposed as an erosion control measure. Show that the drainage area for each check dam does not exceed 2 acres, per the design criteria in the *NY Standards*.
  - d. Temporary erosion control measures to be installed on the filled slope prior to stabilization.
  - e. Stabilized construction access on entrance and exit points of driveway.
  - f. A landscaping plan for stabilization showing the number of trees to be replanted in the fill area.
4. SBL is incorrectly shown on plan. Correct.
5. List property owners within 300 feet and if a farm is located within 500 feet, must provide copy of their notification, Ag Data statement, or maps.
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 Sections 164-43.4 and -47.1F(5) [if in RL-0] of the Town Code shall apply to all proposed and existing outdoor lighting fixtures."
7. Place the following note on the plans; "Embankment slopes shall not be constructed steeper than as shown on this approved plan. Certification signed and sealed by a NY licensed Professional Engineer shall be provided to the Building Department that the slope has been properly 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 owner is responsible for maintaining the continued stability of the slope."
8. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 12/5/07:

Paul Norris - The CB has concerns regarding the quality of the fill. Consider testing for pesticides or other toxic materials before allowing continued grading, etc.

The following comment submitted by the ARB, dated 12/5/07:

Paul Norris - With regard to the other applications before the Board, we would request to see elevations and materials specifications for each as early as possible in the planning process. We feel that this could be a more productive process if we could begin at this point in time with the newer subdivisions such as Sunset Ridge, Cardiac Care, Fusco, and Ludmerer/Maskers, Paul Norris.

Comment #1: Board to discuss SEQR.

Zen Wojcik: This is a new application that is before the Board. The applicant has submitted a short EAF. It is an Unlisted Action. Ted had prepared a Lead Agency Resolution for the Planning Board to go ahead and declared Lead Agency tonight.

Mr. McConnell 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: Paul Norris Site Plan

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan application by Paul Norris for a  $\pm$  2.31 acre parcel of land located at US Route 210 and Brook Trail, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated (undated) 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.

Dave Getz: Mr. Norris has been the owner of the property about 20 years. He has been bringing in some fill material for the purpose of improving his yard. He is covering some bedrock. He is flattening some slopes that are out there. It was done without a permit. He was issued a violation by the Building Department.

Mr. McConnell: Where did the fill come from?

Paul Norris: It comes from various places. They are building some houses on Jersey Avenue further down by the New Jersey boarder. They have local contractors that are doing excavation and foundations. They bring it by.

Mr. McConnell: Has any of the fill been tested?

Paul Norris: I don't believe so. It is just dirt.

Mr. McConnell: I come from New Jersey. There is no such thing as just dirt.

Comment #3: Applicant has begun filling up to 0.2 acres along a slope in the Ridgeline Overlay District, within an environmentally sensitive area of Greenwood Lake. Provide the following:

A. Proposed finish contours in fill area.

Dave Getz: Ok.

B. Maximum depth of soil lift and method of compaction.

Dave Getz: Are you referring to the soil that have been placed there already?

Zen Wojcik: Soil that has been placed and what is proposed to be placed.

Mr. Astorino: Are you proposing anymore?

Paul Norris: Yes. It was a driveway. I am making my angle a little more digestible so that it is not so steep. The guys come by with some fill. I add it in so I could make my driveway less steep.

Zen Wojcik: We need the quantification of that.

- C. Check dams are proposed as an erosion control measure. Show that the drainage area for each check dam does not exceed 2 acres, per the design criteria in the *NY Standards*.

Dave Getz: Ok.

- D. Temporary erosion control measures to be installed on the filled slope prior to stabilization.

Dave Getz: Ok. Based on what I have seen and what Mr. Norris reports, there hasn't been any erosion problems.

Mr. Astorino: We would still need erosion control.

Dave Getz: Yes. I understand that.

Zen Wojcik: According to NY Standards, if it is not stabilized, there has to be some erosion control. That is what we are looking for. At this point, there might not be a problem, but things could happen.

Dave Getz: Ok.

- E. Stabilized construction access on entrance and exit points of driveway.

Dave Getz: Ok.

- F. A landscaping plan for stabilization showing the number of trees to be replanted in the fill area.

Dave Getz: We will provide.

Comment #4: SBL is incorrectly shown on plan. Correct.

Dave Getz: Ok.

Comment #5: List property owners within 300 feet and if a farm is located within 500 feet, must provide copy of their notification, Ag Data statement, or maps.

Dave Getz: Ok.

Comment #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 Sections 164-43.4 and -47.1F(5) [if in RL-0] of the Town Code shall apply to all proposed and existing outdoor lighting fixtures."

Dave Getz: Ok.

Comment #7: Place the following note on the plans; "Embankment slopes shall not be constructed steeper than as shown on this approved plan. Certification signed and sealed by a NY licensed Professional Engineer shall be provided to the Building Department that the slope has been properly 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 owner is responsible for maintaining the continued stability of the slope."

Dave Getz: We will add.

Comment #8: Pay outstanding review fees.

Dave Getz: Ok.

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

Mr. McConnell: Since this is an environmentally sensitive area, I think that it would be appropriate to determine that we have some comfort that the fill that has been put there so far and the fill that will be put there is basically clean fill and not something that would have an environmental impact adverse to the area. John or Zen, I don't know how to structure it. Zen, is there some sort of testing that could be done?

Mr. Bollenbach: Testing could become quite onerous. We could have some type of a map note that it would be clean fill. You could have some specifications that it not be manmade. It would have to be virgin soils or what have you. We need to have some reasonable assurances.

Mr. McConnell: My point is that if he had brought this to us before he started doing this, we would have had the opportunity to get him to certify from the sources that the soils were proper for here. Since we did not get that opportunity, the burden is on the applicant because he didn't follow the proper procedure, I think we need to be sure in an environmentally sensitive area that the fill that has been used and will be used is appropriate for the area. If that requires testing, then great. Give us something that would assure us and give us a comfort level that doesn't require testing, then all the better.

Mr. Bollenbach: Perhaps, we could get some affidavits from the people who brought in the material.

Mr. McConnell: Yes. Do you understand where I am coming from?

Paul Norris: I have made some phone calls. I did contact (3) contractors. They have said that they would provide me with letters.

Mr. McConnell: I would add a note and make it to the Town Engineer's satisfaction.

Mr. Astorino: We will need to set this for a public hearing.

**Mr. McConnell makes a motion to set the Paul Norris application for a public hearing at the next available agenda.**

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

Mr. Bollenbach: Zen, I see that this application is for site plan and special use permit. I think it is just a site plan review. I will have to take a look at it.

Zen Wojcik: I think that it is special use permit because they need a permit for the amount of fill that is going in there. They need a permit under §150.

Mr. Bollenbach: I think it is just a site plan. I will have to take a look at it.

Zen Wojcik: I haven't really defined it yet as to what will happen.

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

Dave Getz: Thank you.

***Norma Jean Fusco Subdivision***

Application for Sketch Plat Review of a proposed 12-Lot + 1-Affordable Home cluster subdivision, situated on tax parcel S 18 B 1 L 31.2; parcel located on the southern side of Taylor Road, 920± feet east of the intersection of Taylor Road with Jessup Road, in the RU zone, of the Town of Warwick. Previously discussed at the 9/20/06 Planning Board meeting.

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

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
  - A. Accepted Yield Plan shows 12 lots. Under §164-46J(100), one additional affordable lot is required. Note which lot is affordable.
  - B. Planner and applicant to discuss revised Design Process Plan (revised 10/23/07).
2. Applicant to discuss project.

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

3. No further comments. Board accepted Yield Plan by consensus, November 16, 2005.

**CLUSTER PLAN (DATED 9/30/05, LAST REVISED 10/23/07)**

4. List property owners within 300 feet and if a farm is located within 500 feet, must provide copy of their notification, Ag Data statement, or maps. Complete the Agricultural Data Statement.
5. All symbols and linetypes shall be shown in the Legend.
6. Per §A168-10D, testing of the road subgrade and design of the pavement is required. Provide test results and pavement design calculations for Town Engineer's review and approval.
7. Revise the Road Cross-Section (sheet 6) per §A168-11 & 21A, B, D, & E and pavement design. Provide a Driveway Cross-Section per §A168-19 and a Common Driveway Cross-Section per §164-41.2K. Revise Common Driveway easement width to 50 feet.
8. Provide sight distance triangles at common driveway/road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Dimension sight triangles. Indicate that actual sight distance equals or exceeds minimum sight distance. Include a note that the area of the triangles shall be kept free from visual obstructions.
9. Signage Detail refers to the Town of Goshen. Revise.
10. Provide a SWPPP. Provide hydraulic calculations for proposed culverts at common driveway and individual lot driveways in areas of wetland disturbance.
11. Show locations of adjoining driveways on Taylor and Jessup Roads.
12. Consider a common driveway for Lots 2 & 3 to reduce wetland disturbance.
13. Town Engineer's representative to witness percs & deeps on each proposed lot.
14. The proposed building in Lot 3 is situated in ErB soils, Group VII. According to §137, Appendix A, homesites with basements are not to be installed in these soils. Board to consider deed restriction for Lot 3. Applicant to discuss.
15. Provide the following notes on the plans:
  - A. Consistent with the NYSDEC requirements for SPDES General Permit #GP-02-01 for Stormwater Discharges for Construction Activities, the applicant shall complete, sign and submit to the Town of Warwick Building Inspector copies of the "Monthly Summary of Site Inspection Activities" and "Quarterly Summary of Site Inspection Activities" reports regularly during construction of the project.

- B. Driveway Notes 1, 2, 6, and 7 from the 2007 revision of the Town's Standard Map Notes, as well as the note, "The first 25 feet of driveway shall be paved."
- C. The Lighting note.
- D. Open Space Note (referring to Lots 1 & 13).
- E. Insert the following note as Note 1 of the Construction Sequence Notes: "Attend a pre-construction meeting with the Town Engineer's representative and provide a schedule for construction. Schedule must be regularly updated as construction progresses."

**BEFORE FINAL APPROVAL:**

- 16. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, Open Space Conservation Notes, Stormwater Management Facility Ownership and Maintenance Notes and Common Driveway Use and Maintenance Notes.
- 17. Provide the recording information on the plan for the irrevocable offer of dedication of the proposed Town road and dedication of portions of Taylor and Jessup Roads.
- 18. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and corners of open space.
- 19. Applicant to provide 9-1-1 addressing.
- 20. Pay parkland fees.
- 21. Pay Landscape Maintenance Bond (street trees, SWPPP landscaping) for period of 3 years.
- 22. Pay Performance Bond and construction inspection fee for public improvements (road, stormwater management facilities, erosion control measures).
- 23. Pay outstanding review fees.

The following comment submitted by the Conservation Board, dated 12/5/07:

Norma Jean Fusco Subdivision - Here are the CB comments from its September memo to the Planning Board.

*CB is very concerned about the suitability of soils for this proposed 13 lot subdivision. According to SCS ErB -- Erie soils' "[s]easonal wetness and slow or very slow permeability in the fragipan are serious limitations for most urban and recreational uses." And the MdB soils, again according to SCS, due to the seasonal wetness and very slow permeability "are serious limitations for most urban and recreational uses." CB recommends that the applicant demonstrate that this property can be developed as proposed given its nature with a significant amount of both federal and state wetlands present on the property. Tying in the open space with Hampton Hills is an excellent design concept.*

CB has no further comments, except to support Tectonic's recommendation for a common driveway for lots 2 and 3 to reduce wetland disturbance.

The following comment submitted by the ARB, dated 12/5/07:

Norma Jean Fusco Subdivision - ) With regard to the other applications before the Board, we would request to see elevations and materials specifications for each as early as possible in the planning process. We feel that this could be a more productive process if we could begin at this point in time with the newer subdivisions such as Sunset Ridge, Cardiac Care, Fusco, and Ludmerer/Maskers

Comment #1: Board to discuss SEQR.

- A. Accepted Yield Plan shows 12 lots. Under §164-46J(100), one additional affordable lot is required. Note which lot is affordable.
- B. Planner and applicant to discuss revised Design Process Plan (revised 10/23/07).

Zen Wojcik: The Planning Board has declared itself Lead Agency. It has been before the Board before. It is a cluster subdivision. Since the last time that it was before the Board, the applicant has modified the design for the cluster. He has submitted a new design process plan, 4-Step plan. I don't have Ted's comments on the 4-Step plan, if he had any review for that. We are just continuing the review.

Mr. Bollenbach: I had a conversation with Ted on the 4-Step. I believe there has to be some revision to the 4-Step process and also the site context for the surrounding properties. The 4-Step: primarily in relationship to the relocation of two lots to the interior of the property. It is the relocation of two lots to the interior of the property; relocation of two lots away from the other lots. He doesn't believe that has been adequately addressed in the 4-Step process.

Zen Wojcik: Regarding the yield plan, in his transmittal letter the applicant mentions that the yield plan is 14 lots. I went back and checked the yield plan. It was accepted by the Planning Board. The yield plan showed 12 lots.

Mr. Astorino: Plus the affordable home?

Zen Wojcik: It just shows 12 lots. It doesn't show the affordable home. What the Board does is if you are over 10 lots, you have to have affordable lots. It allows you that one additional.

Mr. Astorino: Ok.

Zen Wojcik: There are 13 lots showing on this plan right now. You will need to designate the affordable one when it comes time. I just wanted to clarify the issue about the yield plan.

Comment #2: Applicant to discuss project.

Dave Higgins: We had made some changes on the layout of this subdivision. We wanted to come back to the Board with the revised layout. We wanted to make sure that we still had a layout that was acceptable so that we could continue with the project. Previously, there was one lot that we had off Jessup Road that was shown as part of the cluster plan. There were some difficulties that we would have had in getting that lot built. There was a steep area off Jessup Road to come down into this site. There were some well and septic separations to work out with that. It would have involved a pump station to get that to work out. What we look to do and we have spoken to the client about things, she had wanted to show 2 lots up on the hill as opposed to if we relocated that lot, where would we relocate it to. She said that we could put one up on the hill and put a second one up there to make the access worthwhile. Essentially, what we had done were move 2 units to get up to the top of the hill. The remainder of the units have a short cul-de-sac which are in a slightly relocated road location. The last time that I was here, I remember John mentioning something about shifting the road west to from where it was previously located. We have done all the soil and perc tests on the

lots. We understand that we would have to do deep tests and also perc tests for the Town Engineer to witness. That is where we look to go.

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

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

**CLUSTER PLAN (DATED 9/30/05, LAST REVISED 10/23/07)**

Comment #4: List property owners within 300 feet and if a farm is located within 500 feet, must provide copy of their notification, Ag Data statement, or maps. Complete the Agricultural Data Statement.

Mr. Astorino: Zen, comments 4 though 15, does anything stand out?

Zen Wojcik: Lot #13, I think John may have talked about this the other day whether it requires a 280a variance or not.

Mr. Bollenbach: It is the configuration. The way that lot is figured, we might have to do something if it is acceptable to have those lots in that particular area. Maybe, it might have to be a flag lot or it might need a waiver for the flag lot.

Dave Higgins: Lot 13 is the lot that would have frontage on Jessup Road.

Mr. Bollenbach: What is the other lot?

Dave Higgins: Lot 12 has frontage on Taylor Road.

Mr. Bollenbach: I did not see that on the plan.

Zen Wojcik: I did not see that on the plan either.

Dave Higgins: Looking at the map, lot 13 is the large lot.

Zen Wojcik: Ok. This is all lot 13.

Dave Higgins: Looking at the map it shows the limits of what is protected open space versus unrestricted.

Mr. Astorino: Ok. These comments seem pretty generic in nature.

Zen Wojcik: There is one other comment, comment #12. The way the private road goes there will be (3) driveways that crosses over a stream that has a wetland on it. Up where those (3) houses are located, if (2) of the driveways were combined to make a common driveway for them, we could reduce the amount of impact on the stream.

Mr. Astorino: That makes sense. Dave, take a look at that.

Dave Higgins: We could do that. But, I would prefer not to because it is an added easement that would have to be a shared driveway. They are relatively short driveways. The amount of disturbance is not significant. If the Board feels strongly about it, we could certainly do that. We could join them.

Mr. Astorino: I think it makes sense going through the wetland. You would have less disturbance. Anytime that you have less disturbance, you would be better off. Does the Board agree to that? We will list comments 4 through 23 for the record.

Mr. Bollenbach: How about the SWPPP? Zen, how far are we along with that?

Zen Wojcik: There isn't one at this point. This is not ready to be set for a public hearing yet.

Mr. Astorino: No. We are way off from that. We still need percs and deeps.

Mr. Bollenbach: Get in touch with Ted on that 4-Step.

Dave Higgins: Yes. I will talk to Ted. I wanted to mention one thing about comment #4. We have done an Ag Data Statement, maps, and mailings. We sent that to Connie. We have taken care of everything that is listed in comment #4.

Zen Wojcik: Maybe, I didn't receive a copy of it. I will have to check.

Mr. Astorino: Ok. Dave, do you have anything further? We got a generic of where you are headed.

Dave Higgins: Yes. I will talk to Ted about the site context and the 4-Step plans.

Mr. Astorino: Yes. Get it up to speed. We haven't seen you in a while.

Dave Higgins: Do you think the layout is acceptable?

Mr. Astorino: Yes.

Dave Higgins: We will work that out with Ted. We will do the soil tests with Tectonic. Hopefully, we will be back with a plan closer to approval.

Mr. Astorino: Yes.

Dave Higgins: Thank you.

Comment #5: All symbols and linetypes shall be shown in the Legend.

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

Comment #7: Revise the Road Cross-Section (sheet 6) per §A168-11 & 21A, B, D, & E and pavement design. Provide a Driveway Cross-Section per §A168-19 and a Common Driveway Cross-Section per §164-41.2K. Revise Common Driveway easement width to 50 feet.

Comment #8: Provide sight distance triangles at common driveway/road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Dimension sight triangles. Indicate that actual sight distance equals or exceeds minimum sight distance. Include a note that the area of the triangles shall be kept free from visual obstructions.

Comment #9: Signage Detail refers to the Town of Goshen. Revise.

Comment #10: Provide a SWPPP. Provide hydraulic calculations for proposed culverts at common driveway and individual lot driveways in areas of wetland disturbance.

Comment #11: Show locations of adjoining driveways on Taylor and Jessup Roads.

Comment #12: Consider a common driveway for Lots 2 & 3 to reduce wetland disturbance.

Comment #13: Town Engineer's representative to witness perc's & deeps on each proposed lot.

Comment #14: The proposed building in Lot 3 is situated in ErB soils, Group VII. According to §137, Appendix A, homesites with basements are not to be installed in these soils. Board to consider deed restriction for Lot 3. Applicant to discuss.

Comment #15: Provide the following notes on the plans:

- A. Consistent with the NYSDEC requirements for SPDES General Permit #GP-02-01 for Stormwater Discharges for Construction Activities, the applicant shall complete, sign and submit to the Town of Warwick Building Inspector copies of the "Monthly Summary of Site Inspection Activities" and "Quarterly Summary of Site Inspection Activities" reports regularly during construction of the project.
- B. Driveway Notes 1, 2, 6, and 7 from the 2007 revision of the Town's Standard Map Notes, as well as the note, "The first 25 feet of driveway shall be paved."
- C. The Lighting note.
- D. Open Space Note (referring to Lots 1 & 13).
- E. Insert the following note as Note 1 of the Construction Sequence Notes: "Attend a pre-construction meeting with the Town Engineer's representative and provide a schedule for construction. Schedule must be regularly updated as construction progresses."

**BEFORE FINAL APPROVAL:**

Comment #16: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes, Agricultural Protection Notes, Open Space Conservation Notes, Stormwater Management Facility Ownership and Maintenance Notes and Common Driveway Use and Maintenance Notes.

Comment #17: Provide the recording information on the plan for the irrevocable offer of dedication of the proposed Town road and dedication of portions of Taylor and Jessup Roads.

Comment #18: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners and corners of open space.

Comment #19: Applicant to provide 9-1-1 addressing.

Comment #20: Pay parkland fees.

Comment #21: Pay Landscape Maintenance Bond (street trees, SWPPP landscaping) for period of 3 years.

Comment #22: Pay Performance Bond and construction inspection fee for public improvements (road, stormwater management facilities, erosion control measures).

Comment #23: Pay outstanding review fees.

***Joseph Feely***

Application for Sketch Plat Review of a proposed 5-Lot Conservation Density (Major) subdivision, entitled, "***Sunset Ridge Estates***", situated on tax parcel S 47 B 1 L 63.22; parcel located on the easterly side of Bellvale Lakes Road 7,920 feet south of Gibson Hill Road, in the MT zone, of the Town of Warwick. Previously discussed at the 103/07 Planning Board meeting.

Representing the applicant: Michael Morgante from Arden Consulting Engineers.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
  - A. Provide a Visual EAF Addendum and line-of-sight assessment.
2. Applicant to discuss project.
3. A Conservation Density Subdivision requires that the average lot size shall be twice the minimum lot size for the zone; MT zone = 10 acres. Show a calculation on the plan.
4. Applicant proposes a 2400 foot long cul-de-sac where the maximum length should be 1800 feet. Alternative 1,800 LF Private Road schematic design was submitted by applicant. Applicant and Board to discuss.
5. The limits of SCS soil types are not mapped on the development plans. Site soils include SXC, ROF and ROD. Septic systems are not permitted in ROD and ROF soils, but can be sited in SXC soils. Show the limits of soil types on the plan showing proposed locations of absorption systems. Provide a septic system design for each location and note that the perc & deeps were witnessed by the Town Engineer's representative 7/28/06.
6. Provide details for proposed stormwater management facilities (outlet structures, emergency spillways conveyance channels, etc.)

**SWPPP REPORT REVIEW:**

7. Provide a narrative for the proposed SWPPP Report. Description shall include: Project Background (site location, existing site conditions, soils and surface cover, proposed site conditions); Stormwater Management (existing hydrology, proposed hydrology, water quality control, channel protection, water quantity control, conclusions); Drainage Analysis, Soil Erosion and Sediment Control and Ownership and Maintenance of Permanent Structures.
8. Applicant to include in the SWPPP report the analysis and results for the 1-year storm event.
9. Revise the mapped soils delineation on the drainage area plans. There appears to be two soil types within the same boundary (SxC and SxD). Note that, for infiltration practices, soils shall have a clay content of less than 20% and a silt/clay content of less than 40%.
10. Provide percolation test data for the proposed infiltration trench within Watershed Areas 1A, 1B, 2B and 2E.
11. Provide pretreatment for the proposed infiltration trenches per the *NYS Stormwater Management Design Manual*.
12. Combine the flow from Post Watershed 1A and Post Watershed 1B to just one design point. Compare to pre-development flow. Note that Post-development flow must be equal to or less than Pre-development flow at the design point DSP1 for pre-conditions and the combined flow of design points DSP1A and DSP1B being analyzed.
13. Provide flow capacity for the existing culvert at the proposed entrance. These calculations should be included in the HydroCAD model to verify that post-development peak flow will

safely pass the appropriate storm event. Applicant to provide a close-up view of the proposed entrance and culverts.

14. Applicant to consider using rain gardens for treating water quality at Post Watershed 3A, 2B and 2E, or other measures, instead of the proposed drywells.
15. Design point DP3B seems to discharge to an open space downstream. Identify if any receiving body of water exists at this point. Locate any receiving streams or ditches on the Drainage Plan. Note that Rip-Rap Outlet Protection shall be used whenever the post discharge point is not discharging to a receiving body of water. Provide rip-rap sizing calculations per the *NYS Standards and Specifications for Erosion and Sediment Control*.
16. Provide a standard detail and profile per the *Design Manual* for the proposed detention ponds. Place this note at the detail: "Woody vegetation may not be planted or allowed to grow within 15 feet of the toe of embankment and 25 feet from the principal spillway structure."
17. The profile view of the proposed detention pond should include extreme flood, overbank flood, channel protection, and water quality elevations corresponding to the SWPPP.
18. Prepare a Landscaping Plan for the stormwater pond and buffer area consistent with the design manual.
19. Complete an NOI form and attach to the report.

The following comment submitted by the Conservation Board, dated 12/5/07:

Joseph Feely / Sunset Ridge Estates - Here are the CB's comments from its October 3, 2007 Memo to the Planning Board

*The CB has concerns regarding the ability of this subdivision to locate soils suitable for septic systems. Due to the steep terrain, development will increase runoff and great care must be taken to protect Bellvale Lakes Road and the downhill properties, especially in winter when freezing conditions can render even the best SWPPP useless.*

The CB has no further comments.

The following comment submitted by the ARB, dated 12/5/07:

Joseph Feely / Sunset Ridge Estates - With regard to the other applications before the Board, we would request to see elevations and materials specifications for each as early as possible in the planning process. We feel that this could be a more productive process if we could begin at this point in time with the newer subdivisions such as Sunset Ridge, Cardiac Care, Fusco, and Ludmerer/Maskers

Comment #1: Board to discuss SEQR.

A. Provide a Visual EAF Addendum and line-of-sight assessment.

Zen Wojcik: The Planning Board has declared Lead Agency. We have not received a Visual EAF Addendum. John, have you spoken to Ted about this one? He didn't mention anything to me.

Mr. Bollenbach: He did not have any special concerns. Did we receive a line-of-sight profile?

Zen Wojcik: Yes.

Mr. Bollenbach: Ok.

Comment #2: Applicant to discuss project.

Mike Morgante: We are proposing a roughly 2400 l.f. private road to serve 4-residential lots. The 5<sup>th</sup> lot would be an open space or conservation lot in the back. They will be served by individual septic and wells. The soil tests and percs have been witnessed by Tectonic. I still have to put the information on the plans. It appears that we will be able to design septic systems and wells for each lot. We are in the process of working on the stormwater drainage.

Mr. Astorino: Is that what you have been concentrating on?

Mike Morgante: Yes. That is it at this point.

Comment #3: A Conservation Density Subdivision requires that the average lot size shall be twice the minimum lot size for the zone; MT zone = 10 acres. Show a calculation on the plan.

Mike Morgante: I thought we had done that at the last submittal.

Mr. Astorino: You will need to work that out with Zen.

Mike Morgante: It is a note on the first sheet. That is fine.

Comment #4: Applicant proposes a 2400 foot long cul-de-sac where the maximum length should be 1800 feet. Alternative 1,800 LF Private Road schematic design was submitted by applicant. Applicant and Board to discuss.

Mr. Astorino: We have seen this at the workshop. Does the Board have anything that they want to add?

Zen Wojcik: Mr. Morgante had some comments in his transmittal letter. They would rather have the 2400 l.f. road rather than the 1800 l.f. road. The key comment was that the grading across the cul-de-sac for an 1800-foot road, in order to obtain 60%± grade along the requirement for a long 10-foot driveway, it would overlap with the area of the currently proposed stormwater pond. It would need more excavation.

Mr. Astorino: If we have the K-turns and all the turnarounds on the road, it would make it safer.

Zen Wojcik: He is going to have that anyway. That would be a safer road.

Mr. Astorino: Is everybody ok with that?

Mr. Bollenbach: The applicant has demonstrated that they could comply.

Comment #5: The limits of SCS soil types are not mapped on the development plans. Site soils include SXC, ROF and ROD. Septic systems are not permitted in ROD and ROF soils, but can be sited in SXC soils. Show the limits of soil types on the plan showing proposed locations of absorption systems. Provide a septic system design for each location and note that the percs & deeps were witnessed by the Town Engineer's representative 7/28/06.

Mike Morgante: That is not a problem. We did get the soil line types on. There was a typo on how I labeled one particular area. It should be SXC on both notations. We will get it on the development plan.

Comment #6: Provide details for proposed stormwater management facilities (outlet structures, emergency spillways conveyance channels, etc.).

Mike Morgante: Yes. We will provide that.

Mr. Astorino: Zen, on the SWPPP Report review is there anything that stands out that you want to bring up tonight?

Zen Wojcik: A lot of them are just engineering comments. I just want to bring the Board up to speed on this. It is a difficult site. What Mr. Morgante is doing is that he is availing himself on what the State allows for a situation like this. We are not clear on what is going on by Bellvale Lakes Road. It seems like they may be proposing (2) culverts. I don't know if they are proposing 2" or 3". We are concerned what is going to happen across the street from that because there is not a well defined stream of that location. On the other side, there is a similar situation where the water is coming off the property. We are not clear as to what is happening there. The design is moving forward, but there are these issues which need to be resolved.

Mr. Astorino: There still needs to be more work done.

Mike Morgante: We would love to upgrade the drainage where the intersection of our proposed road is to be and Bellvale Lakes Road. I haven't gotten that far yet. My proposed road file we are showing (2) 12" HDP pipes there. It seems to fit nicely. It might be more than what we need. I am trying to be practical. It hasn't been designed yet.

Zen Wojcik: It has to be designed. Remember that the property that is next to the entrance they had a nice swale that was constructed in the front to take care of the stormwater. Your water will be coming down in greater volume and velocity than the water that is over there. We are concerned about them having a detrimental effect.

Mike Morgante: The goal of those infiltration trenches is to capture the difference between the predevelopment storm and the post development storm. If I am capturing 100-year, I am capturing easily everything beneath that. My goal is that there would not be more water coming down that hill. I am capturing it and infiltrating it. There should not be any additional water. I wouldn't say volume. Whatever does make it down, you could talk about velocity. Hopefully, the crown in the road would push that off to the side and be capturing it.

Zen Wojcik: That was why we were concerned on why there was an additional pipe.

Mike Morgante: I am looking to clean it up. I will provide that. No problem.

Mr. Astorino: We will list comments 7 through 19 for the record. You could get in touch with Zen on that.

Mike Morgante: Sure.

Mr. Bollenbach: Zen, are we close enough to set this for a public hearing?

Zen Wojcik: No. We need more stuff.

Mike Morgante: I would be the first one to tell you. We are not there yet.

Mr. Bollenbach: Have you done the percs and deeps?

Mike Morgante: We have done the percs and deeps. I wouldn't say that I have a full set of preliminary plans yet at this stage. We want to work to release the calculations.

Zen Wojcik: You need to concentrate on the stormwater.

Mike Morgante: Yes. Thank you.

#### **SWPPP REPORT REVIEW:**

Comment #7: Provide a narrative for the proposed SWPPP Report. Description shall include: Project Background (site location, existing site conditions, soils and surface cover, proposed site conditions); Stormwater Management (existing hydrology, proposed hydrology, water quality control, channel protection, water quantity control, conclusions); Drainage Analysis, Soil Erosion and Sediment Control and Ownership and Maintenance of Permanent Structures.

Comment #8: Applicant to include in the SWPPP report the analysis and results for the 1-year storm event.

Comment #9: Revise the mapped soils delineation on the drainage area plans. There appears to be two soil types within the same boundary (SxC and SxD). Note that, for infiltration practices, soils shall have a clay content of less than 20% and a silt/clay content of less than 40%.

Comment #10: Provide percolation test data for the proposed infiltration trench within Watershed Areas 1A, 1B, 2B and 2E.

Comment #11: Provide pretreatment for the proposed infiltration trenches per the *NYS Stormwater Management Design Manual*.

Comment #12: Combine the flow from Post Watershed 1A and Post Watershed 1B to just one design point. Compare to pre-development flow. Note that Post-development flow must be equal to or less than Pre-development flow at the design point DSP1 for pre-conditions and the combined flow of design points DSP1A and DSP1B being analyzed.

Comment #13: Provide flow capacity for the existing culvert at the proposed entrance. These calculations should be included in the HydroCAD model to verify that post-development peak flow will safely pass the appropriate storm event. Applicant to provide a close-up view of the proposed entrance and culverts.

Comment #14: Applicant to consider using rain gardens for treating water quality at Post Watershed 3A, 2B and 2E, or other measures, instead of the proposed drywells.

Comment #15: Design point DP3B seems to discharge to an open space downstream. Identify if any receiving body of water exists at this point. Locate any receiving streams or ditches on the Drainage Plan. Note that Rip-Rap Outlet Protection shall be used whenever the

post discharge point is not discharging to a receiving body of water. Provide rip-rap sizing calculations per the *NYS Standards and Specifications for Erosion and Sediment Control*.

Comment #16: Provide a standard detail and profile per the *Design Manual* for the proposed detention ponds. Place this note at the detail: "Woody vegetation may not be planted or allowed to grow within 15 feet of the toe of embankment and 25 feet from the principal spillway structure."

Comment #17: The profile view of the proposed detention pond should include extreme flood, overbank flood, channel protection, and water quality elevations corresponding to the SWPPP.

Comment #18: Prepare a Landscaping Plan for the stormwater pond and buffer area consistent with the design manual.

Comment #19: Complete an NOI form and attach to the report.

***Cardiac Care Systems, Inc.***

Application for Sketch Plat Review of a proposed 7-Lot (Major) plus 1-Lot of Open Space conservation Density subdivision, entitled, "***Cascade Road Subdivision***", situated on tax parcel S 53 B 1 L 8; parcel located on the northerly side of Cascade Road 710± feet east of Cascade Park Road, in the MT zone, of the Town of Warwick. Previously discussed at the 8/1/07 Planning Board meeting.

Representing the applicant: Jerry Zimmerman, Engineer. The Applicant of Cardiac Care Systems.

The following review comments submitted by Tectonic:

1. Board to discuss SEQR.
  - A. Habitat Site Investigation & Report
2. Applicant to discuss project.
3. Discuss potential ownership of Conservation Parcel, Lot 8.
4. For onsite freshwater wetlands, provide a copy of the Corps of Engineers' Jurisdictional Determination and signed verification of the delineation by NYSDEC.
5. Provide sight distance triangles at access road and driveway / Town road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Include a note that the area of the triangles shall be kept free from visual obstructions. Indicate that actual sight distance equals or exceeds minimum sight distance.
6. Show locations of all driveways on opposite side of Cascade Road.
7. Proposed septic system absorption fields are shown in mapped soils which have been classified as Group VIII (ROC), Group IX (AC) and Group XIII (ROF) by the Town Code. Septic systems are not permitted in these soils.
  - A. A particle size analysis was performed, indicating that the soils found were significantly different than the soils mapped in the *Soil Survey of Orange County*. The Soil Investigation does not correlate the particle size analyses to USDA classifications listed in the Code as suitable for septic. Revise.
  - B. In the revised report, state the reason for the submittal.
8. Percs and deeps are to be witnessed by the Town Engineer's representative.
9. Provide hydraulic calculations for proposed culverts at Common Driveways A & B. Identify by material, size, inverts in & out on the Plan View. Show the culverts on the Profile View. Include details for the culverts with either a headwall or flared-end section at each end. Provide calculations for rip-rap aprons per the *NYS Standards*.
10. Revise Typical Road Section to be consistent with §164-41.2.
11. Provide erosion control measures on plans consistent with the current "NYS Standards and Specifications for Erosion & Sediment Control" and include details.
12. Applicant proposes to disturb 9 acres. Consistent with NYSDEC requirements for SPDES General Permit #GP-02-01, provide a SWPPP.
13. 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."
14. Provide the following Driveway Notes:
  1. Driveways shall be designed and constructed in compliance with Section A168-19 of the Town Code.
  2. Driveway grade for the first 25 feet shall not exceed 8%.
  3. At Lots 1, 2, 6 & 7, the first 25 feet of driveway shall be paved.

4. At Lots 3, 4 & 5, the driveway shall be paved in its entirety.
15. Applicant to propose an acceptable road name and provide 9-1-1 addressing.
16. Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.
17. Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Radon Reduction Notes.
18. Provide the declaration and the recording information on the plan for maintenance of stormwater management facilities.

The following comment submitted by the Conservation Board, dated 12/5/07:

Cardiac Care Systems / Cascade Road Subdivision - Here are the CB's comments from its July 31, 2007 Memo to the Planning Board

*Zen attended the CB meeting to brief us on the Habitat and Site Investigation Report due to the sensitive nature of the information. He provided the CB with assurances that the sensitive habitat areas would be avoided as much as possible in the final plan. The CB supports the present plan which maximizes open space and would like to see a long-term solution to maintaining it that way. Are there any land trusts that are interested?*

*The CB would like to be informed of such Habitat Reports as they become available without burdening Zen to attend additional meetings. Any suggestions on how to accomplish this would be appreciated.*

*The CB hopes that the PB and the Applicant can arrive at a mutually agreeable set aside for a trail that would run through the open space enabling a connection with the AT and ultimately down to the Village.*

*The soils appear to be especially unsuited for septic systems. Apparently there is a uranium mine nearby and the CB recommends the PB consider requiring testing for uranium and radon or alternatively the placement of appropriate warning notes on the final subdivision approval.*

A site visit is recommended.

The following comment submitted by the ARB, dated 12/5/07:

Cardiac Care Systems / Cascade Road Subdivision - With regard to the other applications before the Board, we would request to see elevations and materials specifications for each as early as possible in the planning process. We feel that this could be a more productive process if we could begin at this point in time with the newer subdivisions such as Sunset Ridge, Cardiac Care, Fusco, and Ludmerer/Maskers.

Comment #1: Board to discuss SEQ. R.

Zen Wojcik: The Planning Board has declared Lead Agency on this application. We have seen this application a few times. The applicant has changed to a Conservation Density subdivision. The Town Board has requested that there would be some sort of a Right-Of-Way or at least a Right-Of-Access for a future trail. It seems like they have made modifications to keep that in mind. The other comments are listed in the review comments tonight.

### A. Habitat Site Investigation & Report

Mr. Astorino: Ted will discuss that. We have time to go through this.

Comment #2: Applicant to discuss project.

Jerry Zimmerman: We have been before the Board with a plan. We are hopeful now at this point that the configuration of the lots that we are proposing is satisfactory to the Board. That being the case, we would then move along with the other technical comments that are in your review comments tonight.

Comment #3: Discuss potential ownership of Conservation Parcel, Lot 8.

Jerry Zimmerman: The applicant has a letter from an agency that has expressed an interest in acquiring that property, lot 8. That is what we are intending to do to move along with that.

Connie Sardo: Could I have that letter for the record?

Jerry Zimmerman: Yes.

Connie Sardo: We have just received a letter from William P. O'Hearn, Conservation & Advocacy Director, from NY and NJ Trail Conference, addressed to the Planning Board, dated 8/1/07.

Mr. Astorino: Ok. We have that letter for the record.

Comment #4: For onsite freshwater wetlands, provide a copy of the Corps of Engineers' Jurisdictional Determination and signed verification of the delineation by NYSDEC.

Jerry Zimmerman: Ok. We have had the wetlands delineated by Bob Torgersen. The delineation has been submitted to ACOE and DEC.

Comment #5: Provide sight distance triangles at access road and driveway / Town road intersection (ref. NYSDOT Highway Design Manual §5.9.5). Include a note that the area of the triangles shall be kept free from visual obstructions. Indicate that actual sight distance equals or exceeds minimum sight distance.

Jerry Zimmerman: Ok.

Zen Wojcik: There is a discrepancy on the plan. One of the entrances that you have on Cascade Road, you have a sight distance required 344 feet, provided 300 feet. It seems like you don't have that sight distance.

Jerry Zimmerman: I will check that.

Comment #6: Show locations of all driveways on opposite side of Cascade Road.

Jerry Zimmerman: Yes.

Comment #7: Proposed septic system absorption fields are shown in mapped soils which have been classified as Group VIII (ROC), Group IX (AC) and Group XIII (ROF) by the Town Code. Septic systems are not permitted in these soils.

Mr. Astorino: Do we have to have that soil protocol?

Zen Wojcik: They have required a study to be done by a testing outfit. A and B are comments on that study.

Mr. Astorino: Ok.

A. A particle size analysis was performed, indicating that the soils found were significantly different than the soils mapped in the *Soil Survey of Orange County*. The Soil Investigation does not correlate the particle size analyses to USDA classifications listed in the Code as suitable for septic. Revise.

Jerry Zimmerman: Ok.

Zen Wojcik: You have found out what the soils are. We don't know if they are good or not. You will need to tell us.

Jerry Zimmerman: Ok.

B. In the revised report, state the reason for the submittal.

Jerry Zimmerman: Ok.

Comment #8: Percs and deeps are to be witnessed by the Town Engineer's representative.

Jerry Zimmerman: Ok.

Comment #9: Provide hydraulic calculations for proposed culverts at Common Driveways A & B. Identify by material, size, inverts in & out on the Plan View. Show the culverts on the Profile View. Include details for the culverts with either a headwall or flared-end section at each end. Provide calculations for rip-rap aprons per the *NYS Standards*.

Jerry Zimmerman: Ok.

Comment #10: Revise Typical Road Section to be consistent with §164-41.2.

Jerry Zimmerman: Ok.

Comment #11: Provide erosion control measures on plans consistent with the current "NYS Standards and Specifications for Erosion & Sediment Control" and include details.

Jerry Zimmerman: Ok.

Comment #12: Applicant proposes to disturb 9 acres. Consistent with NYSDEC requirements for SPDES General Permit #GP-02-01, provide a SWPPP.

Jerry Zimmerman: Ok.

Comment #13: 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."

Jerry Zimmerman: Ok.

Comment #14: Provide the following Driveway Notes:

1. Driveways shall be designed and constructed in compliance with Section A168-19 of the Town Code.
2. Driveway grade for the first 25 feet shall not exceed 8%.
3. At Lots 1, 2, 6 & 7, the first 25 feet of driveway shall be paved.
4. At Lots 3, 4 & 5, the driveway shall be paved in its entirety.

Jerry Zimmerman: Ok.

Comment #15: Applicant to propose an acceptable road name and provide 9-1-1 addressing.

Jerry Zimmerman: Ok.

Comment #16: Certify setting of iron pins. Surveyor to certify that iron rods have been set at all property corners.

Jerry Zimmerman: Ok.

Comment #17: Provide the declaration and the recording information on the plan for Ridgeline Overlay Notes and Radon Reduction Notes.

Jerry Zimmerman: Ok.

Comment #18: Provide the declaration and the recording information on the plan for maintenance of stormwater management facilities.

Connie Sardo: Jerry, are you ok with all these comments because I could not hear you for the record?

Jerry Zimmerman: Yes. I am ok with the comments.

Mr. Astorino: You have a laundry list of comments here, but you are on the right track.

Jerry Zimmerman: We will pursue the plan that is before the Board.

Mr. Astorino: I don't think anybody had any problems with it. Is that correct?

Zen Wojcik: They are fine.

Mr. Showalter: They look good.

Mr. McConnell: We have a conservation lot on this plan. When we have open space on a cluster, we require that the corners of open space be delineated with the stone cairns. I see that is not included here. I would like to suggest that we use those in this context also. Is that appropriate?

Mr. Bollenbach: Yes.

Mr. Astorino: I agree. We will add that to the comment.

Jerry Zimmerman: Ok. Thank you.

**Other Considerations:**

1. **Goldman-Rechtman** – Letter from Lehman & Getz, dated 11/14/07 addressed to the Planning Board – in regards to Goldman-Rechtman Subdivision requesting a 90-Day Extension on Final Approval of a proposed 2-Lot subdivision SBL # 19-1-24. Final Approval was granted on 6/20/07. *The applicant is close to submitting plans for final review prior to the Chairman's signature.* The 1<sup>st</sup> 90-Day Extension becomes effective on 12/20/07.

Mr. McConnell makes a motion on the Goldman-Rechtman application, granting a 90-Day Extension on Final Approval of a proposed 2-Lot subdivision, SBL # 19-1-24. Final Approval was granted on 6/20/07. The 1<sup>st</sup> 90-Day Extension becomes effective on 12/20/07.

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

2. **Lands of Greene** – Letter from Kirk Rother, dated 11/14/07 addressed to the Planning Board – in regards to Robert Greene Subdivision requesting a 2<sup>nd</sup> 90-Day Extension on Final Approval of a proposed 2-Lot subdivision SBL # 78-3-42.1. Final Approval was granted on 3/21/07. *The Applicant is still awaiting the legal documentation required to satisfy the conditions of final approval.* The 2<sup>nd</sup> 90-Day Extension becomes effective on 12/21/07.

Connie Sardo: I just want to inform the Board about Greene's deficient escrow account. I have emailed the Board about it. I have sent (6) letters to the applicant about their escrow account.

Mr. Bollenbach: I have a problem with that. The Greene application, regarding their escrow account, has been in arrears for quite some time.

Mr. Astorino: How much in arrears are we talking about?

Connie Sardo: A lot.

Mr. Bollenbach: I have sent the letters to the applicant's attorney, Mr. Lipman. They are not responding.

Mr. McConnell: In arrears on what?

Connie Sardo: The professional review fees.

Mr. Showalter: Mr. Greene has not shown up.

Mr. McConnell: We are waiting for Mr. Greene.

Mr. Bollenbach: Yes. I will send another letter.

Mr. McConnell: What is the significance of us not granting this extension? What happens?

Connie Sardo: His final approval will lapse.

Mr. Bollenbach: The approval could lapse. If they remedy this, you could still grant it even though it has lapsed.

Mr. McConnell: Ok.

Mr. Astorino: How do you want to work this?

Mr. Bollenbach: I would not grant the extension.

Mr. McConnell: I am hesitant on granting the extension if the Town's professionals are not getting paid.

Mr. Showalter: I agree with Dennis.

Mr. Astorino: Not a problem. We won't grant the extension at this time.

3. **Lands of Korwan** – Letter from Kirk Rother, dated 11/14/07 addressed to the Planning Board – in regards to Korwan Subdivision requesting a 6-Month Extension on Final Approval of a proposed 2-Lot subdivision SBL # 63-1-9. Final Approval was granted on 6/20/07. *The applicant is still in the process of satisfying conditions for final approval.* The 6-Month Extension becomes effective on 12/20/07.

Mr. McConnell makes a motion on the Korwan application, granting a 6-Month Extension on Final Approval of a proposed 2-Lot subdivision, SBL # 63-1-9. Final Approval was granted on 6/20/07. The 6-Month Extension becomes effective on 12/20/07.

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

4. **Lands of Warwick Isle** – Letter from Kirk Rother, dated 11/14/07 addressed to the Planning Board – in regards to Warwick Isle Subdivision requesting a 3<sup>rd</sup> 6-Month Extension on Preliminary Approval of a proposed 30-Lot + 3-Affordable Homes subdivision SBL # 3-1-6.21. Preliminary Approval was granted on 6/21/06. *The applicant is still currently under review with the OCHD.* The 3<sup>rd</sup> 6-Month Extension becomes effective on 12/21/07.

Mr. McConnell: Why is that only (2) Affordable Homes if it is a 30-Lot subdivision? Is this an error?

Mr. Showalter: It should be (3) Affordable Homes.

Mr. Astorino: We will have to take a look at that.

Mr. Bollenbach: I will take a look at that. It might be because one is an existing dwelling. It is for new dwellings for every 10. Good catch. I will confirm that.

Mr. McConnell makes a motion on the Warwick Isles application, granting a 3<sup>rd</sup> 6-Month Extension on Preliminary Approval of a proposed 30-Lot + 3-Affordable Homes subdivision, SBL # 3-1-6.21. Preliminary Approval was granted on 6/21/06. The 3<sup>rd</sup> 6-Month Extension becomes effective on, 12/21/07.

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

5. **The Gables At Warwick** – Letter from Lehman & Getz Engineering, dated 11/27/07 addressed to the Planning Board – in regards to Gables Subdivision requesting a 5<sup>th</sup> 6-Month Extension on Preliminary Approval of a proposed 15-Lot subdivision SBL # 44-1-132. Preliminary Approval was granted on 6/1/05. *The applicant is currently going through the final approval process with the Planning Board.* The 5<sup>th</sup> 6-Month Extension becomes effective on 12/1/07.

Zen Wojcik: They just received final approval tonight.

Mr. Astorino: It would be a moot point at this point.

Mr. Bollenbach: Hold on. The extension becomes effective on 12/1/07. I would go with the extension.

Mr. McConnell makes a motion on the Gables At Warwick application, granting a 5<sup>th</sup> 6-Month Extension on Preliminary Approval of a proposed 15-Lot subdivision, SBL # 44-1-132. Preliminary Approval was granted on 6/1/05. The 5<sup>th</sup> 6-Month Extension becomes effective on, 12/1/07.

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

6. **Wiles & Distelhorst Lot Line Change #1** – Letter from Lehman & Getz Engineering, dated 11/28/07 addressed to the Planning Board – in regards to Wiles & Distelhorst Lot Line Change requesting a 2<sup>nd</sup> 90-Day Extension on Final Approval of a proposed lot line change SBL # 26-1-1.225 & 2. Final approval was granted on 2/21/07. *The applicant is still finalizing the legal paperwork.* The 2<sup>nd</sup> 90-Day Extension becomes effective on, 11/21/07.

Connie Sardo: They just submitted final plans today for the Chairman's signature. Zen and John need to look them over first. If everything is ok, then they could be signed in a couple of days.

Mr. Astorino: Ok.

Mr. Bollenbach: Only if they have everything together.

Mr. McConnell makes a motion on the Wiles & Distelhorst Lot Line Change application, granting a 2<sup>nd</sup> 90-Day Extension on Final Approval of a proposed lot line change, SBL # 26-1-1.225 and 2. Final Approval was granted on 2/21/07. The 2<sup>nd</sup> 90-Day Extension becomes effective on, 11/21/07.

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

7. **Planning Board Minutes of 11/7/07** – Planning Board minutes of 11/7/07 for Planning Board approval.

Mr. McConnell makes a motion to Approve the 11/7/07 Planning Board minutes.

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

8. Planning Board to discuss cancelling the 12/24/07 Work Session and the 1/2/08 Planning Board meeting due to the Christmas & New Year Holidays.

Mr. Showalter makes a motion to cancel the 12/24/07 Work Session and the 1/2/08 Planning Board meeting due to the Christmas and New Year Holidays.

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

### **Correspondences:**

1. Letter from Robert Zisgen, Attorney addressed to the Planning Board, dated 12/3/07 in regards to the Riccardo Subdivision application.

Connie Sardo: You have that letter in your packets. Also, there is a training workshop that will be held on Saturday, 12/8/07 for all Boards and Commissions at the City of Newburgh. If Board members are interested, please call.

Mr. Astorino: We have that 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.

Nancy Owen: I have a question regarding all agenda items. You have things that have to be done before final approval works with the preliminary approval. Tonight, you did the Gables final approval and there are still things that need to be done before final approval.

Mr. Astorino: It is before the maps are signed.

Mr. Bollenbach: It is called conditional final approval.

Mr. Astorino: If they don't meet those conditions, they don't get their maps signed.

Nancy Owen: Who checks to make sure they meet them?

Mr. Astorino: The Town's professionals.

Nancy Owen: Ok.

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

**Mr. McConnell makes a motion to adjourn the December 5, 2007 Planning Board meeting.**

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