

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

DRURY HEIGHTS
(1994-41)

Drury Lane
Section 89; Block 1; Lot 6
R-3 Zone

----- X

100-LOT SUBDIVISION

Date: March 5, 2009
Time: 7:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
PATRICK HINES
KAREN ARENT
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: BRIAN BROOKER

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DRURY HEIGHTS

MS. HAINES: Good evening, ladies and gentlemen. I'd like to welcome you to the Town of Newburgh Planning Board meeting of March 5, 2009. At this time we'll call the meeting to order with a roll call vote starting with Frank Galli.

MR. GALLI: Present.

MR. BROWNE: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MS. HAINES: The Planning Board has experts that will provide input and advice to the Planning Board in reaching various SEQRA determinations. I ask that they introduce themselves at this time.

MR. DONNELLY: Michael Donnelly, Planning Board Attorney.

MS. CONERO: Michelle Conero, Stenographer.

MR. CANFIELD: Jerry Canfield, Town of Newburgh.

MR. HINES: Pat Hines with McGoey, Hauser & Edsall, Consulting Engineers.

MR. COCKS: Bryant Cocks, Garling

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DRURY HEIGHTS

3

Associates.

MS. ARENT: Karen Arent, Landscape
Architectural Consultant.

MS. HAINES: Thank you. At this time
I'll turn the meeting over to Cliff Browne.

(Pledge of Allegiance.)

MR. BROWNE: Would you turn off your
cell phones, please.

MS. HAINES: The first thing we have on
the agenda tonight is Drury Heights. It is a
100-lot subdivision located on Drury Lane, it's
in an R-3 zone and being represented by Brian
Brooker.

MR. BROOKER: Good evening. Brian
Brooker, Brooker Engineering, engineer for the
applicant.

I know that we have this scheduled
tonight for a -- to be scheduled for a public
hearing I understand. Do you want a presentation
of where we stand on it or is that necessary?

CHAIRMAN EWASUTYN: Does anyone want
to --

MR. GALLI: If anybody is in the public
you might want to ask them if they do. I see

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DRURY HEIGHTS

4

somebody from Coldenham here.

CHAIRMAN EWASUTYN: Does anybody want to hear about the project?

MR. PRESUTTI: Sure.

CHAIRMAN EWASUTYN: For the record you are?

MR. PRESUTTI: I'm Jim Presutti, 19 Winwood Drive, Colden Park.

MR. BROOKER: Okay. Let me put it that way. Can everybody see the plan?

CHAIRMAN EWASUTYN: Yes.

MR. BROOKER: This is a subdivision of Drury Heights. It's located on Drury Lane which was recently terminated with a cul-de-sac at this location coming off of Route 17 to the north. The plan had previously appeared before the Board over the last several years primarily as a 140-lot subdivision, and it gained preliminary approval. There was a hearing for that plan. Subsequent to that plan there was a zone change which went from R -- I believe R-3 to R-1, and then subsequently that zone change was a change back I guess to R-3. Is that the current status? In the meantime an agreement, a stipulation was

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

worked out between the Town and the developer as far as the development whereby an agreement was made to reduce the number of lots from 140 lots down to 100 lots. The plan before you tonight represents that 100-lot plan.

Principally the plan is the same in general layout but some of the roads have been made shorter. This road, which used to come through here, has been terminated in a cul-de-sac. A lot of the open space is now proposed to be dedicated to the Town of Ramapo -- the Town of Newburgh. I'm sorry, I appear a lot before the Town of Ramapo. So we have open space in this area, and in this area, and around the perimeters to dedicate to the Town. The plan is a density subdivision. The lots are approximately 10,000 to 12,000 square feet in size.

What we're here tonight to talk about is to have a public hearing on the redesigned lots, and also we wish to obtain final approval for section I.

The plan is broken up to be built in four sections, which means that not all the roads

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DRURY HEIGHTS

will be built at one time, they're built over time in small sections, section I being here, section II being here to here I believe, section III being here, and section IV being the last section here, to allow an orderly development in recognition that it will be probably several years or so before the plan is completed.

The water is taken off of Route 17K and comes down Drury Lane and is looped back through Town property to Colden Park and tied into the water main there.

The sewer is by gravity to a pump station located approximately here, and that is then pumped to the sewer mains in Colden Park which will be upgraded to handle the additional discharge. The pump station at Colden Park would also be upgraded to handle the additional sewage flows.

So what we would like to do is finalize and file creating 17 lots -- 12 lots I guess -- 15 lots. There's some extra lots that represent the remaining lands which we've now numbered 101, 102 and 103, this being dedicated to the Town, this being dedicated to the Town, and this area

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DRURY HEIGHTS

to be further subdivided as the next phase comes in. So that's how it is.

The next subdivision map that you'll see will be section II and then just that block will be shown, and that will be filed and this will be X'd out as already being completed, and then section III and then section IV. So you'll have four parking lots to approve over the development period of the project.

CHAIRMAN EWASUTYN: Mike, where are we now with the project?

MR. DONNELLY: The stipulation requires that within sixty days after the submission of both the preliminary -- amended preliminary plat as well as the final, that a public hearing be held. The most recent plans were submitted on February 19th. You need to hold a hearing within that time period. The stipulation also says that you must close the public hearing the same night and act on the application at that time. I've been working with Jim Osborne to finalize the resolution. I've given Bryant a copy in its current format. We'll continue to work on that language and hopefully have it to all the Members

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DRURY HEIGHTS

8

and the applicant in advance of the hearing.

I think the hearing should be limited to the changes in the plan, which is the reduction in the lot sizes, the clustering to a minimal degree of the lots themselves, and a slightly revamped roadway system. And to the extent possible, try to limit the comment to that because this matter had extensive SEQRA review, it did have a public hearing, and there are very few new issues that are presented here. It's a reduced project.

CHAIRMAN EWASUTYN: Any comments from Board Members?

MR. GALLI: I have no additional.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: Nothing.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

CHAIRMAN EWASUTYN: I'll move for a motion to set this up for a public hearing for the 2nd of April.

MR. MENNERICH: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DRURY HEIGHTS

9

Ken Mennerich. I have a second by Frank Galli.
Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a
roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Myself yes. So
carried.

Bryant, you'll work with Dina as far as
putting together the mailings for this.

MR. COCKS: Yes.

MR. BROOKER: Thank you very much.

CHAIRMAN EWASUTYN: Dina, you'll have
to also contact the assessor's office for a
mailing list.

MS. HAINES: Right.

(Time noted: 7:10 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: March 16, 2009

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

LANDS OF LEON A. ORZECOWSKI
(2005-59)

Patton Road & Lakeside Road
Section 47; Block 1; Lot 31.1
R-2 Zone

----- X

THREE-LOT SUBDIVISION

Date: March 5, 2009
Time: 7:10 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
PATRICK HINES
KAREN ARENT
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: GERALD FOTI

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. HAINES: The next item of business we have tonight is the lands of Leon Orzechowski. It is a three-lot subdivision, it's at the intersection of Patton Road and Lakeside Road in an R-2 zone. It's being represented by Gerald Zimmerman.

MR. FOTI: Gerald Foti.

MS. HAINES: Sorry.

MR. FOTI: That's okay.

It's been awhile since this Board has seen this plan. I can give you a brief overview if you'd like.

CHAIRMAN EWASUTYN: Please.

MR. FOTI: Okay. Well, it is a -- it's proposed to be a three-lot subdivision on two currently existing tax lots. One house does exist on the two lots right now. It fronts on Lakeside Road. Of the three lots, lot 1 is proposed to be .7 acres and it will contain the existing house; lot 2 is proposed to be .49 acres; and lot 3 is proposed to be .51 acres. Lots 2 and 3 will contain the proposed houses.

Variances were granted for -- let me see -- lot area on all the lots, a nonconforming

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

front yard setback on lot number 1 that was existing, lot width and side yard setbacks for both lots 2 and 3.

You granted this preliminary approval on September 21st of 2006. It's been granted several extensions. The current one -- the current extension expires on March 16th.

Lot number 1 is currently served by a well and existing septic system. The well will be abandoned at the point and it will be served by Town water. Lots 2 and 3 are proposed to be served by Town water and septic systems.

The Orange County Health Department has granted it realty subdivision approval for the septic systems at your request.

I had a look at McGoey, Hauser & Edsall's letter of February 27th, and the changes that would be required we feel would be relatively minor, something we could accomplish without a problem.

We're hoping tonight to possibly get a conditional final approval based on the comments from McGoey, Hauser & Edsall once we've addressed them.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: Pat, the outstanding comments that would need to be conditions for final approval are?

MR. HINES: The only outstanding comments we have are regarding the installation of a pipe in the stream, or the water course that's identified as an intermittent stream on the plans which was required by the Health Department as a separation distance. It's tied into the Town's existing culvert. So that's going to need approval from the highway superintendent. It's also tied in at an angle, so that connection would require a catch basin to -- in order to make that connection.

We had previously commented on the septic systems and the Board sent it to the Health Department because of the presence of the stream. There's some ponding on the site that was observed and the evidence of fill in the deep tests.

They have obtained their Orange County Health Department approval which was a condition of preliminary approval.

Also we had commented that the water

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF LEON A. ORZECOWSKI

15

system notes needed to be added to the plans.
Those have been provided to the applicant's
representative and are on the current plans.

The only issue is the catch basin
connection, and I believe that that can be a
condition of approval which the applicant's
representative can work out with the highway
superintendent and then I would sign off on.

CHAIRMAN EWASUTYN: Okay. Bryant
Cocks, Planning Consultant?

MR. COCKS: We have nothing further.
The applicant addressed all of our issues
previously.

CHAIRMAN EWASUTYN: Jerry Canfield?

MR. CANFIELD: I have nothing at all.
Thank you.

CHAIRMAN EWASUTYN: Karen, I don't
believe you --

MS. ARENT: No.

CHAIRMAN EWASUTYN: Comments from Board
Members. Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I'm good.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: Just a quick question. On lot 3 by the proposed swale there's a single there with a bunch of little circles. What's that supposed to represent?

MR. FOTI: That's actually a planter Mr. Orzechowski had built. It's going to be removed.

MR. MENNERICH: Okay.

CHAIRMAN EWASUTYN: Mike Donnelly, Planning Board Attorney, can you give us the conditions in the final resolution?

MR. DONNELLY: We'll need a sign-off letter from Pat Hines as he just outlined, the highway superintendent's approval. We will carry a condition referring to the Zoning Board of Appeals' variance. The final condition is the payment of fees in lieu of parkland.

CHAIRMAN EWASUTYN: Having heard conditions for final approval for the three-lot subdivision for the lands of Orzechowski presented by Mike Donnelly, I'll move for a motion to grant final approval.

MR. GALLI: So moved.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF LEON A. ORZECOWSKI

17

MR. BROWNE: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Cliff Browne. Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Mr. Foti, thank you.

MR. FOTI: Thank you.

(Time noted: 7:15 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: March 16, 2009

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

LANDS OF CHARLES PELELLA & WILLIAM BELL
(2007-29)

End of Lockwood Lane, South Side of Colvin Lane
Section 8; Block 1; Lot 8.12
AR Zone

----- X

FIVE-LOT SUBDIVISION

Date: March 5, 2009
Time: 7:15 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
PATRICK HINES
KAREN ARENT
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: JAMES RAAB

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

1
2 MS. HAINES: The next item on our
3 agenda tonight is the lands of Charles Pelella
4 and William Bell. It is a five-lot subdivision
5 at the end of Lockwood Lane on the south side of
6 Colvin Lane. It's in an AR zone and being
7 represented by Jim Raab.

8 MR. RAAB: Happy New Year.

9 CHAIRMAN EWASUTYN: It's been that
10 long?

11 MR. RAAB: It's been a couple months.

12 Tectonic took all the comments from the
13 last time we were here, which was right after we
14 got approval from the Town Board on the road
15 extension. I believe they've addressed most of
16 the comments. I've gotten both Bryant's and
17 Pat's comments today and Charlie had addressed
18 them as far as he didn't believe anything was
19 anything that was -- you know, would take this
20 off the hook or something.

21 Basically where we are is that we've
22 massaged a lot of the things that were requested
23 the last time we were here which had to do a lot
24 with the -- with lot number 5 and making it a
25 little bit more reasonable as far as backyard

1 space. Charlie reconfigured the detention area
2 around it. We also took a very long outfall and
3 reduced it down to here with an agreement with
4 the Boushort Orchard which is kind of funny that
5 they did that. They wouldn't let us have the
6 turnaround. It was conflicting with the fact
7 they gave us the easement for the drainage but
8 wouldn't give us the turnaround for the Town.
9 Luckily for us that's all being worked out, and
10 of course that has to be submitted to Mike for
11 his final review.

12 I think we're closing in on conceptual.
13 I think we're probably there. We've got a couple
14 things to tweak, like I said, from the list of
15 items that Bryant and Pat had. Nothing that's
16 off the hook.

17
18 CHAIRMAN EWASUTYN: Okay. Bryant, is
19 there anything that you have outstanding?

20 MR. COCKS: There's nothing
21 outstanding. We are going to need a letter from
22 Daryl Benedict just with his approval.

23 They're going to have to go to the Town
24 Board for the road name issue.

25 MR. RAAB: We have to clarify that with

1 Jim Osborne. I spoke with him about that today.
2 The Town Board believes it's an extension, not a
3 new road.
4

5 MR. COCKS: Okay. And just all the
6 easements need to be submitted to Mike Donnelly
7 for his review.

8 We did get a letter from the Orange
9 County Planning Department with a local
10 determination, so that's been addressed.

11 Other than that, we have no further
12 comments.

13 CHAIRMAN EWASUTYN: Pat Hines?

14 MR. HINES: As Jim Raab said, I have
15 comments on the drainage which need to be
16 addressed. They're more technical in nature.

17 The only one that is an issue is the
18 operation, ownership and maintenance of the
19 stormwater pond. Typically the Town requires
20 those that receive water from a proposed Town
21 roadway to be dedicated to the Town in a drainage
22 district. This one is located wholly on that one
23 lot, which if it was dedicated I don't believe
24 that lot would be able to exist. I think you
25 need to visit with the Town Board on that issue

1 also, and Jim Osborne, to determine how ownership
2 of that -- it receives runoff from the Town
3 roadway and it's the Town policy that those be
4 dedicated. You may need some relief from that
5 requirement.
6

7 MR. RAAB: Okay.

8 MR. HINES: The other issue is the
9 roadway design. If you can get with Ken Wersted,
10 there's that initial K value change from the ten
11 to one percent. That will need a waiver from the
12 Town Board also if that's to remain.

13 It's a dead-end road, I'm sure speed
14 limits aren't an issue, but that's something the
15 Town Board has to do.

16 The drainage comments need to be
17 addressed.

18 I think as far as the environmental
19 issues are concerned, that it would be fine if
20 the Board felt to issue a neg dec and we could
21 move it towards preliminary approval after that.

22 CHAIRMAN EWASUTYN: Comments from Board
23 Members. Frank Galli?

24 MR. GALLI: No additional.

25 CHAIRMAN EWASUTYN: Cliff Browne?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. BROWNE: Is it -- if you can't resolve that drainage pond thing then it all changes?

MR. RAAB: We may lose a lot. That's about it. I think what Pat is saying is that normally a detention area of this nature, because it's catching runoff from a Town road, would have to be dedicated to the Town. If it's dedicated to the Town then this lot becomes too small.

Is that what you meant, Pat?

MR. HINES: Yes.

MR. BROWNE: If we go ahead and go forward with it and do a preliminary and that changes --

MR. HINES: It will just lose a lot.

MR. BROWNE: Okay. Fine.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. HINES: A public hearing and then preliminary.

MR. MENNERICH: I have no questions.

CHAIRMAN EWASUTYN: Jim, I have that on September 4, '08 we did grant conceptual approval.

MR. DONNELLY: That's what I have.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. RAAB: Okay. I didn't know that.

CHAIRMAN EWASUTYN: That's been accomplished.

Having heard from our consultants, I'll move for a motion to declare a negative declaration and to set the 16th of April for a public hearing for the lands of Pelella and Bell.

MR. MENNERICH: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich, and a second by Frank Galli?

MR. GALLI: Yes.

CHAIRMAN EWASUTYN: Second by Frank Galli. Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll move for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

Thank you.

(Time noted: 7:22 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: March 16, 2009

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X
In the Matter of

NINE ROCK CUT ROAD, LLC

Rock Cut Road
Section 86; Block 1; Lot 16
IB Zone

----- X

CONCEPTUAL SITE PLAN

Date: March 5, 2009
Time: 7:23 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
PATRICK HINES
KAREN ARENT
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: GREGORY J. SHAW

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. HAINES: The last item of business we have tonight is Nine Rock Cut Road. It's a conceptual site plan located on Rock Cut Road, it's in an IB zone and being represented by Greg Shaw.

MR. SHAW: Good evening. It's been a while. This is my first time with this tonight regarding this application. It's probably one of the few applications that the Board knows more about the project than I do. If I get confused with the history at all, please jump in and straighten me out.

This project I believe has been before you for two, three, maybe even four years. It's a two-acre parcel on Rock Cut Road just a little bit north of 17K. I think two lots north of 17K. It's two acres in a B-I zone which butts up against an R-1 zone to the rear which contains New York State DEC wetlands.

This application was before you many times, and I guess there was some issues that were debated with this project that had been resolved. Again, please correct me, one of which is the location of the building. I'm of the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

understanding that the Board had spent some time in years past rustling with the proper placement of the building on this lot. It's going to be an office building, 17,280 square feet with 87 parking spaces. The placement of the building on that lot I believe was acceptable for this Board.

We had -- not only in addition to our front yard setback we have an additional setback of 80 feet from the center line of Rock Cut Road in accordance with your zoning regulations.

What we're proposing is to develop the site in this fashion. We're going to be putting in a water quality basin to treat the stormwater, and then we're going to have a discharge of the stormwater overland into the DEC wetlands which we are using to attenuate the peak flows. So there will be no detention but there will be stormwater treatment on the parcel.

With respect to utilities, there's presently a low-pressure sewer system in Rock Cut Road. We'll have to install a pump station on our property and tie into that force main accordingly.

Rock Cut Road is an Orange County

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

highway, Orange County road, so we are going to have to get approval from the Orange County DPW for the highway entrance that we're proposing. In going over the correspondence of years past I understand that they approved the location of the entrance. Maybe not the physical parameters of the entrance but at least its location.

Finally, with respect to the water that's going to be serving this building, it will be sprinklered. With that we are going to have to bring a water main across Route 17K on Rock Cut Road and tie it into the water system of our site. That's going to require approval from the Orange County Department of Health for a water main extension. That's going to be dedicated over to the Town when we're done.

And of course we're going to need a permit from the Orange County DPW for the main installation and New York State DOT for the crossing of Route 17K.

What we tried to provide on this plan tonight is there's a snapshot of the building, the parking, the landscaping areas, although the landscaping is not shown, it's too premature.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NINE ROCK CUT ROAD, LLC

31

The grading, the location of the pond and the storm drainage system, and also the water and the sanitary sewer system.

Again, it's a quick snapshot but I think it pretty well defines what my client is proposing on this site.

Tonight we are looking for a conceptual site plan approval to allow us to go into the detailed design of the drawings and work our way towards site plan approval and the other supplemental approvals that I mentioned.

Thank you.

CHAIRMAN EWASUTYN: I think that's a good history. We reviewed the project during the work session. I think we'll start with -- we'll start with the clarification and interpretation as far as the buffer setback. I'll turn to Mike Donnelly at this time who is working with Bryant Cocks, our Planning Consultant, to give us a definition and opinion on it.

Mike.

MR. DONNELLY: We talked about the issue at the work session. There's some very confusing language in Section 185-21 D2, A2 that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NINE ROCK CUT ROAD, LLC

32

provides exceptions to the buffer law requirement. In essence, without trying to read the words that we spent time looking at during the work session, the intent of it is this, that if a property that is subject to the buffer law, such as this one, is adjacent to a residential property, and if -- which is the case here, and if there are wetlands in that intervening area, either on this property or the other, but that because of the wetlands you could not build a house on that residential property closer than the combined total of the buffer of 75 feet plus the applicable setback, then there's no need to create a buffer under the law, and that is granted an exception. The situation and the arithmetic works out here. I think Pat told us at the work session that any house would be built far longer or far further from this property than the combination of the buffer plus the setback, therefore I will include in a resolution of approval language that shows that this meets that exception and therefore the buffer need not be created.

CHAIRMAN EWASUTYN: The height of the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NINE ROCK CUT ROAD, LLC

33

proposed building?

MR. SHAW: The architectural drawings have not been developed. In looking over the comments we received from Mr. Canfield, he mentioned a thirty-foot threshold. I've got to believe with a two-story building we're going to keep it under thirty feet. I'll work under that assumption. I don't see any reason why we would not. It's only two stories.

CHAIRMAN EWASUTYN: All right. Karen, you had some thoughts on saving some money and some design. Do you want to take a moment to discuss that?

MS. ARENT: We discussed the idea of eliminating some of the parking spaces. In reading the regulations, you're not allowed to eliminate spaces. I think you can still find the space for the nine parking spaces by where the aisle is going over. You can put four or five of them there.

MR. SHAW: You're speaking in this area?

MS. ARENT: Yes. And then a couple near the entrance. Eliminate the one island a

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NINE ROCK CUT ROAD, LLC

34

little bit to the north. No, no. Go up. The island in the middle of the parking area.

MR. SHAW: This?

MS. ARENT: No. I'm sorry.

MR. SHAW: Please come up.

MR. HINES: The far left.

MR. SHAW: I think there's going to be more. I'd rather have her come up only because there's more changes, not that she has a lot of comments.

MS. ARENT: I think you can eliminate this space here because you'll be able to put a tree here. You can add some parking spaces here. You can add spaces here. If you need to put another space there. I think you can find a home for all nine of them -- all seven, I'm sorry.

MR. SHAW: You're looking to eliminate this completely?

MS. ARENT: Yes.

The garbage dumpster, just perhaps make a bigger enclosure in the back. Then if you do this you could just wrap this wall around like this.

MR. SHAW: I plan on it.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NINE ROCK CUT ROAD, LLC

35

MS. ARENT: Okay.

MR. SHAW: There's no need for it.

MS. ARENT: Right. Then you'd have green space in front of the building.

MR. SHAW: We'll do a nice job with the landscaping in that area.

MS. ARENT: That would be great.

MR. HINES: I know it may have been done in the past. I don't know if someone has that delineation. Because you're at the buffer with the grading there, just to confirm that. I think DEC may be able to confirm their previous delineation there.

MR. SHAW: The bottom line, I spoke to my client about that a couple weeks back. He's going to have to give me a copy of the drawing with the DEC stamp or we're going to have to go through the motions again.

MR. HINES: With the height of the building we were able to discuss at work session the wheel base in Jerry's comments will be significantly reduced because of that aerial access issue. I think the curbing shown with Karen's changes may well function there.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NINE ROCK CUT ROAD, LLC

36

MR. SHAW: Okay.

MR. HINES: We requested a note, because grading is very close to the property lines, that a note be added to the plans delineating the property lines prior to that. Just noting a retaining wall design will be required.

Overall I think the concept works on the site. The drainage seems to work with the wetlands and the retaining wall.

CHAIRMAN EWASUTYN: Jerry, do you feel satisfied with the concept of the plan right now?

MR. CANFIELD: Yes. As Mr. Shaw has explained, we talked about the water requirement for the sprinkler, which is a Town code. I'm fine with that.

The drive aisle will work itself out, the turning radiuses.

My comments, as Pat said, will be greatly reduced if we're not over thirty feet. We're not planning for an aerial device.

One additional thing. If we could have a note added because of the proximity of the building to the building envelop line. When we

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NINE ROCK CUT ROAD, LLC

37

see the scenario we usually ask for a standard note to be somewhat of an acknowledgement on the plan that the foundation be staked out by a licensed professional prior to digging so the buildings don't end up over that line.

MR. SHAW: That's a good point. No problem.

CHAIRMAN EWASUTYN: Bryant, any outstanding planning comments at this time?

MR. COCKS: Yeah. We had in our file a request from Jim Osborn for the City of Newburgh sewage flow. Was that ever approved?

MR. SHAW: I do not have that in my file. Maybe Jim received that.

MR. COCKS: It was from April 9, 2007 and we never had anything else.

MR. SHAW: If we don't have it it may be awhile. Without having a city engineer or city manager in the city I don't know who would sign it. Maybe Pat would.

MR. HINES: Absolutely not. I can't even help expedite them anymore. It had a septic system for years. The first two or three years it was before you it was designed with an on-site

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NINE ROCK CUT ROAD, LLC

38

septic system.

CHAIRMAN EWASUTYN: How would the city manage that right now without a city manager?

MR. HINES: I don't know the answer to that.

MR. SHAW: The corporation counsel is hanging on by a string.

CHAIRMAN EWASUTYN: Bryant?

MR. COCKS: We also got a letter from Orange County Planning Department in October of 2005. That's been addressed.

MR. DONNELLY: Local determination?

MR. COCKS: Yes, it was a local determination.

CHAIRMAN EWASUTYN: We have some other agency approvals; correct?

MR. COCKS: Greg mentioned them before. It was the County DPW and the Health Department, and then eventually the DEC just for a SPDES permit. Greg previously mentioned those.

Other than that, I think between Karen's comments and Jerry's comments and the corrections -- the revisions to the plan, I think pretty much everything has been addressed from my

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

other comments.

CHAIRMAN EWASUTYN: Comments from the Board Members. Frank Galli?

MR. GALLI: No additional.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: I'm good.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: This is at the point where we could do a negative dec on it. Is that what I'm hearing?

MR. HINES: Concept.

CHAIRMAN EWASUTYN: We have to approach a conceptual -- we have to have conceptual approval. I don't think we're ready for a SEQRA determination.

MR. HINES: I don't have any of the supporting reports that should be generated.

CHAIRMAN EWASUTYN: I'll move for a motion to grant conceptual approval for the Nine Rock Cut Road site plan.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ken Mennerich.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NINE ROCK CUT ROAD, LLC

40

Any discussion of the motion?

(No response.)

CHAIRMAN EWASUTYN: I'll have a roll
call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Myself. So
carried. Thank you.

MR. SHAW: Good evening.

(Time noted: 7:35 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: March 16, 2009

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X
In the Matter of

MINARD SUBDIVISION
(2008-26)

Set for Public Hearing on March 19, 2009

----- X

BOARD BUSINESS

Date: March 5, 2009
Time: 7:35 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
PATRICK HINES
KAREN ARENT
GERALD CANFIELD

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MINARD SUBDIVISION

CHAIRMAN EWASUTYN: Dina, would you take the opportunity to review Board Business?

MS. HAINES: The first thing we have on Board Business is the Minard Subdivision. We need to set it for a public hearing on March 19, '09.

CHAIRMAN EWASUTYN: I'll move for a motion to set the public hearing for Minard, as Dina mentioned, on the 19th of March.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Frank Galli. I have a second by Ken Mennerich. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Myself yes. So carried.

(Time noted: 7:36 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: March 16, 2009

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X
In the Matter of

LANDS OF POST
(2008-03)

Set for Public Hearing on April 2, 2009

----- X

BOARD BUSINESS

Date: March 5, 2009
Time: 7:36 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
PATRICK HINES
KAREN ARENT
GERALD CANFIELD

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LANDS OF POST

MS. HAINES: The next one is the Lands of Post. We need to set that for a public hearing on April 2, 2009.

CHAIRMAN EWASUTYN: I'll move for a motion to set the public hearing for April 2nd.

MR. MENNERICH: So moved.

MR. BROWNE: Second.

CHAIRMAN EWASUTYN: I have a motion by Ken Mennerich. I have a second by Cliff Browne. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: Myself. So carried.

(Time noted: 7:37 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: March 16, 2009

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

THE PONDS AT BRITAIN WOODS
(2003-20)

- Memorandum from Frederick Wells dated 2/23/09
- Comment Letter from Patrick Hines dated 2/12/09

----- X

BOARD BUSINESS

Date: March 5, 2009
 Time: 7:37 p.m.
 Place: Town of Newburgh
 Town Hall
 1496 Route 300
 Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
 FRANK S. GALLI
 CLIFFORD C. BROWNE
 KENNETH MENNERICH

ALSO PRESENT: DINA HAINES
 MICHAEL H. DONNELLY, ESQ.
 BRYANT COCKS
 PATRICK HINES
 KAREN ARENT
 GERALD CANFIELD

----- X

MICHELLE L. CONERO
 10 Westview Drive
 Wallkill, New York 12589
 (845)895-3018

MS. HAINES: The third item of Board

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE PONDS AT BRITAIN WOODS

Business is the Ponds at Britain Woods. We received a memo from Frederick Wells dated February 23, 2009 in regard to some outstanding issues he wanted to discuss at the consultants' work session the next day, and there were a few things on the memo that are really items that the Board needs to discuss.

The first one is does the Planning Board object to a gated community as proposed for this project?

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: I don't.

CHAIRMAN EWASUTYN: Cliff Browne?

MR. BROWNE: No.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: I guess the only question I had relative to that is when we visited the site out in Middletown it looked like it was set up for a gated community but there was nobody in the gate and it was wide open.

MR. DONNELLY: I think Phil Evans said they weren't going to put up a gate until construction was done and the residents wanted it.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. HINES: It's similar to here. They would make provision for it and it would be up to the homeowner's association to determine whether they wanted to take that or not.

MR. GALLI: Like Stony Brook probably.

MR. MENNERICH: Okay.

MR. BROWNE: Would that be something that would have to be in the prospectus that you would have to look at?

MR. DONNELLY: I would think so. That's really for the Attorney General. I would think that's the type of information that an offering plan should include.

CHAIRMAN EWASUTYN: I think I'm not in favor of them proposing a gated community. That was an outstanding question as far as addressing it in the DEIS and the amended DEIS. That's what we're responding to here. The consensus of the Planning Board is we're okay with that.

Dina, next.

MS. HAINES: The next issue was does the T&E species survey meet the applicable protocols and is that acceptable to the Planning Board?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE PONDS AT BRITAIN WOODS

CHAIRMAN EWASUTYN: I'm not quite sure what the T&E --

MR. HINES: Threatened or endangered species.

MR. COCKS: I think they not only said with the DEC but they had some of their consultants walk the site. I think they're going to provide a narrative saying who did it and when.

MR. HINES: That was lacking.

MR. DONNELLY: That's what we told them we needed, we could not just rely upon the DEC.

CHAIRMAN EWASUTYN: So do our consultants recommend to the Planning Board that the procedure that they're following is acceptable as far as reaching a SEQRA determination, giving it a hard look?

MR. HINES: As long as they provide us with the additional information. The document just said surveys had been done. They're going to provide us with the surveys and who did them and such so it's documented in the DEIS.

MR. BROWNE: So this resolution should also include those comments of what's supposed to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

be included?

CHAIRMAN EWASUTYN: I think the DEIS --
the protocol is fine. There needs to be
documentation to support the protocol is what
everyone is saying. That's how they would have
to address it in the revised DEIS.

MR. BROWNE: Okay. That will cover it.

CHAIRMAN EWASUTYN: Bryant Cocks will
prepare a summary to send to Fred Wells in
reference to these outstanding questions.

MR. COCKS: Okay.

MS. HAINES: The third one is regarding
fair share contributions for traffic mitigation
and does the Town have plans for future
intersection upgrades that these funds could go
toward?

MR. HINES: That one has to do with in
several portions of the narrative portion of the
traffic they said that they would be willing to
put up their fair share to mitigate the impacts
of their traffic. That goes back to if you put a
fair share up then those improvements may never
get built.

One of the other things that's more

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

complicated is one of the intersections is the Wisner Avenue/Little Britain Road intersection which is located in the adjoining municipality. I don't even know how that would work.

I have a concern that they're going to put up money for mitigation measures but that the mitigation may never come forward. I don't know how we address that.

MR. DONNELLY: I think we'll need Ken Wersted to tell us what is the break point at which the roadway system can't handle this traffic, and in addition to them putting the money in the fair share they can not get another CO beyond that unit count number until the improvements are made by whomever.

MR. HINES: I think that's a good way to address it.

CHAIRMAN EWASUTYN: Will that be addressed at all in the DEIS?

MR. DONNELLY: The DEIS, I think, will study the need and calculate when the roadway system will fail. I assume it's going to an F. At what point is it a completely unsatisfactory F. And then the Findings should limit

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

development beyond that number of units until the improvements are made.

MR. BROWNE: We have degrees of F?

MR. HINES: No. There are no degrees of F. You can determine that, though. There are worst failures. It's a matter of level of service times.

MR. DONNELLY: There may be some F movements out there already.

MR. HINES: I believe there is.

CHAIRMAN EWASUTYN: I think the one on 207 and Little Britain Road is operating on level of service F.

MR. GALLI: That's definitely the road they're going to use, the shortcut over to the Thruway, if anybody lives there.

MR. HINES: Old Little Britain and Little Britain is the intersection of concern, and then Wisner and Little Britain.

MR. GALLI: Most people will be heading toward the Thruway.

MR. BROWNE: I guess my concern is, from a technical/legal standpoint, how do you draw a line someplace and say okay here, not okay

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

here?

MR. DONNELLY: You're going to have to ask Ken. If the answer is that if you build a single unit and it's unsatisfactory, then the project can be approved but they can't build or they can't get a CO until the needed traffic improvements are made.

MR. BROWNE: Okay.

MR. DONNELLY: If we can handle ten units but not fifty, then fifty becomes the number. You're right, it isn't an absolute science, but I think you need to have Ken Wersted tell you completely what is unacceptable from a safety point of view.

MR. GALLI: Once this project is up and being constructed and gets like -- it's going to be phased, so like phase I, phase II. They do a traffic study to see if there's increased traffic between 207 and 17K. Are they going to take D'Alphonso Road there for a short cut?

MR. DONNELLY: One of the things they did offer in one of the discussions was they would do a follow-up study that the Town could

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE PONDS AT BRITAIN WOODS

then use with the DOT to see if improvements could be advanced, but I don't know if there's any State highways involved.

MR. GALLI: Improvements seem to be done on 17K because there's already a traffic light. The traffic increase on a Town road.

MR. DONNELLY: The problem is what does the study do for us if it's just a study that can't be used for any other purpose.

MR. GALLI: Well they might need to put another stop sign up at D'Alphonso Road.

MR. DONNELLY: It's very difficult to structure a way, after your Planning Board has given approval, that says but if this happens in the future then you have to come back and get something else. If you know it's a possibility you can impose the mitigation measure and then have a study that says that if that doesn't occur and the traffic is less, then you won't have to build that stop sign, traffic light, whatever it is. You don't really have the jurisdiction to make somebody come back. In the few cases where we've had follow-up studies, it's usually been to tweak the traffic lights, or lane geometry, or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

something of the kind, or so that the study can be used by the Town in order to approach the DOT. In some cases we've also gotten design drawings as a contribution so that we could get the thing more ready for the DOT to look at. I'm a little leery of saying you've got to do a follow-up study and if X then you have to do more. I don't really know how we do that unless there's some certainty that it's going to happen. If there's certainty it's going to happen we shouldn't require it but give them a chance after six months or a year, whatever it is, to see if it's proved unnecessary.

CHAIRMAN EWASUTYN: As far as a potential adverse impact, I think what Mike is saying is you can plan for it, you can write it in the Findings Statement as a proposed mitigation measure, and if the impact does arise within that course of time then you plan for it and implement it, but you can't plan for something after you've already gone through it. So we can keep that thought in mind as far as writing it in the Findings Statement.

MR. BROWNE: Is D'Alphonso in the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE PONDS AT BRITAIN WOODS

traffic study?

CHAIRMAN EWASUTYN: Yeah. Yeah.

MR. BROWNE: Okay. We'll take it up when we need to.

CHAIRMAN EWASUTYN: Ken?

MR. MENNERICH: I guess my concern is are we getting into a catch 22? Route 207 is a State road and the DOT is going to determine when something needs to be done there. It's not -- the DOT is not going to make their decision based on one more house in this development or one more unit. To me it's almost like how does the developer plan, you know, when this improvement might be made and how it affects his project?

MR. DONNELLY: You've hit the nub of the problem in New York that doesn't have meaningful impact. The courts have told us that we can not require a developer to make an off-site improvement, however we can delay a developer's construction of his project if needed infrastructure isn't in place. Where the problem really comes to a head is here, the improvements are on a State highway we can't control, part of it might be in another municipality which we

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE PONDS AT BRITAIN WOODS

couldn't even fund the improvement if the Town wanted to, and the developer can't necessarily make those improvements without those municipalities consenting. We have two choices, one -- this is the cyanic's view -- the only way we can get needed traffic improvements is to pile the straw on the camel's back until it breaks because government only reacts to the problem and then they'll fix it. That might be, in a strange way, the best way to get improvements done because if you don't put the straw on the camel's back then nobody makes the improvement. I'm not so sure that's the responsible thing. I recommend to you that what you say is where you can determine that those improvements are necessary at some juncture is that the project can't go beyond that point until the improvements are made. Might that lead at some point to the developer, if he is unable to get government to make the improvements, to claim that you have taken his property in some fashion. Logic would say that might be a good argument. Thus far the courts have not, at least where you've let him build something and you haven't denied him

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

construction, you've only said it is delayed. The old Ramapo case, Cowen against Ramapo, said you can hold up a developer in that case for thirty years without him being able to build anything. I must admit the Town of Ramapo plan had in place a capital improvement, a thirty-year capital improvement plan that would bring all of the infrastructure that was needed up to snuff. It's complicated when you have a State highway or roadway systems in other municipalities.

I think, taking the cyanic's approach, we're going to keep approving development to a level that our own studies tell us is unsafe because that's the only way to get traffic improvements made. I can't endorse it from a practical point of view. Maybe it works but I don't think it's responsible planning.

MR. BROWNE: Our master plan does not include that level of detail; correct?

MR. DONNELLY: The needed roadway improvements to meet -- I don't think it does. I think -- my own view is that that's exactly one of the things the comprehensive plan needs to do. If you allow this level of density, let's make it

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE PONDS AT BRITAIN WOODS

subject to build outs in five, ten, fifteen-year intervals and do we have the needed infrastructure, water, sewer and roadways, to support it. If not --

MR. BROWNE: The only reason I brought that up again is from my understanding from previous comments I believe you made is that if we don't have that substantiating documentation, then we really can't hold it up because of that because we have nothing in place that says this is the plan.

MR. DONNELLY: That would -- I'm very comfortable when there is a plan in place because Cowen v. Ramapo told us it's safe. What happens when there is no plan, and maybe we'll find some point where we decide that the cyanic's view is the way to go. We have had some degree of luck, it seems to me, in saying developer, you make your fair share contribution. We haven't really had a project where I think the traffic study, and we don't really have it here yet, tells us that we're creating a completely unsafe roadway. There I think you simply have to delay the developer even though there is no plan in place,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE PONDS AT BRITAIN WOODS

and the Town I suppose, if that lawsuit is brought, can always give in and order its Planning Board to allow the development to move forward but I don't think it's responsible for you to do so. I think first we need to see the traffic study, and mere inconvenience for less than wonderful levels of service might not justify it. If we're talking about a roadway system that really fails and creates a major public safety issue, then I don't know how responsibly you can allow the development to go forward to that level.

MR. BROWNE: Thank you.

CHAIRMAN EWASUTYN: The only thing I'd like to add to that, and you did get a copy from Fred Wells, they're working in a direction that the monies that are going to be filtered down through the plan that's in place for road improvements and highway improvements, they're looking to have the work of the Town Board to solicit Federal monies to make the kind of improvements that we're talking about now, the traffic light on Wisner Avenue, you know, a traffic light on 207. They feel that with the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE PONDS AT BRITAIN WOODS

engineering work that's been done to date with Britain Ponds and the studies that they have, which one of the requirements I think was now increased from ninety days to a hundred and eighty days, but they have a written plan to say here, here's our plan, here's what we want to do, let's have the money and we could do this.

MR. DONNELLY: See how they fair in the Albany hallways.

CHAIRMAN EWASUTYN: We do have something to that effect.

The only outstanding question Frank Galli has -- before we go on, we answered that one, there's one other one.

Dina.

MS. HAINES: The stormwater management report is on CD with the intentions of not wasting paper, and is that okay for the Planning Board, to just keep it on CD?

CHAIRMAN EWASUTYN: I think, Mike Donnelly, we discussed that last time and I think it was the agreement that the Planning Board should have a written copy in the office.

MR. DONNELLY: I think we need to have

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE PONDS AT BRITAIN WOODS

one so the public can examine it.

MR. HINES: It's 800 pages on the CD.

MR. DONNELLY: I know. I don't know if you've made meaningful opportunity for the public to examine --

MR. HINES: I asked the question.

CHAIRMAN EWASUTYN: Do you think --

MR. DONNELLY: I think as long as we have one copy it's acceptable. Frankly in this day and age --

CHAIRMAN EWASUTYN: In our office or the one that Pat Hines has?

MR. DONNELLY: I think it should be here.

MR. HINES: Either there or provide me one.

CHAIRMAN EWASUTYN: So then we'll need two copies.

Bryant, do you want to get back to them on that?

MR. COCKS: Absolutely.

MR. HINES: They have revisions to make to it.

CHAIRMAN EWASUTYN: I think Frank Galli

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE PONDS AT BRITAIN WOODS

just had a question when he came in as far as reading the review I think at work session. He didn't find that in the review and he would like to bring it up now.

On the concern that the fire district had about the water and the pressure and all that, was that going to be discussed?

MR. HINES: They acknowledged it was completely lacking and it was required by the scope. They're going to provide that.

MR. GALLI: I didn't see anything.

MR. BROWNE: Can I raise another issue, too?

CHAIRMAN EWASUTYN: Sure.

MR. BROWNE: With putting material on CD, do we have anything in the Town or whatever that makes it secure as far as -- I don't know. It seems like electronic documentation like that is always subject to things happening to it.

MR. HINES: They're delivering it in PDF. I have limited knowledge of that but I don't think they can be altered.

MR. BROWNE: Should we have some kind of a standardized form, something that so when we

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE PONDS AT BRITAIN WOODS

go in this direction we know what we're talking about, they're always going to be the same format, the same whatever?

MR. DONNELLY: There's several things they need to do. They must make the EIS available on a publicly accessible website. I think that is becoming the method of choice of most citizens these days to examine those documents. For the other people, what we did with The Marketplace is people that asked for them were given their own CD. They produced a number of copies. CDs are cheap. Once you've made one, you know, for \$0.80 you can make another one.

MR. BROWNE: That's the official copy if you will.

MR. DONNELLY: I think there's going to be a hard copy, or most of it, here. I think the idea of CDs was the back-up studies if somebody needed to look at it. They need one copy here.

MR. BROWNE: We're going to maintain a paper, the official or whatever it is?

MR. DONNELLY: Yes.

MR. BROWNE: I was just concerned we're

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE PONDS AT BRITAIN WOODS

going to go in this direction and there's not a fixed method if you will.

MR. GALLI: It's really 800 pages?

CHAIRMAN EWASUTYN: Long-term storage would be good to get away with keeping all these documents because we don't have the storage facility.

MR. BROWNE: Maybe the Town already has it, I don't know. I'm just raising the question.

MR. DONNELLY: The 800 pages is just the calculations on the drainage study.

MR. HINES: It's supporting documentation.

MR. MENNERICH: I can't imagine anybody other than Pat looking at that stuff.

MR. CANFIELD: John, if I may just go back to Frank's question. I think it's fair for everyone, especially for Frank and the fire districts concerned, and we talked at the work session about providing the hydraulic analysis and the modeling. It was with this thought process that we had originally talked about interconnecting on 207 to the city. If I'm understanding this correctly -- that's why I'm

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE PONDS AT BRITAIN WOODS

putting this out there, so we're all on the same page. If I'm understanding correctly, what they're modeling and they hope to display to us is interconnecting into Pat Road and Stony Brook will provide us with adequate, if not better, pressure than if they went the other way.

MR. GALLI: And if it does they don't have a problem with that.

MR. CANFIELD: Exactly. Ultimately that's what we're looking for. The bottom line is it doesn't matter to us where they loop it. Show us hydraulically the calculation you're getting the optimum flow and pressure. That's what we're looking for.

CHAIRMAN EWASUTYN: Thank you.

(Time noted: 8:00 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: March 16, 2009

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF NEW YORK : COUNTY OF ORANGE
TOWN OF NEWBURGH PLANNING BOARD

----- X
In the Matter of

- MICHAEL DONNELLY'S SUCCESS ON THE MARKETPLACE LITIGATION
- COMPARISON OF NEW APPLICATIONS FEBRUARY 2007, 2008 & 2009

----- X

BOARD BUSINESS

Date: March 5, 2009
Time: 8:00 p.m.
Place: Town of Newburgh
Town Hall
1496 Route 300
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman
FRANK S. GALLI
CLIFFORD C. BROWNE
KENNETH MENNERICH

ALSO PRESENT: DINA HAINES
MICHAEL H. DONNELLY, ESQ.
BRYANT COCKS
PATRICK HINES
KAREN ARENT
GERALD CANFIELD

----- X

MICHELLE L. CONERO
10 Westview Drive
Wallkill, New York 12589
(845)895-3018

MS. HAINES: Second to last is

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

congratulations to Mike on the success of The
Marketplace litigation.

MR. DONNELLY: Congratulations to you.

MS. HAINES: And the last thing is just
the comparison of applications from `07 to `08
and `09. Now for February anyway. It's
definitely lagging this year. We're at zero.

CHAIRMAN EWASUTYN: I'll move for a
motion to close the Planning Board meeting of the
5th of March.

MR. GALLI: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by
Frank Galli. I have a second by Ken Mennerich.
I'll ask for a roll call vote starting with Frank
Galli.

MR. GALLI: Aye.

MR. BROWNE: Aye.

MR. MENNERICH: Aye.

CHAIRMAN EWASUTYN: And myself. So
carried.

(Time noted: 8:02 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T I O N

I, Michelle Conero, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that I recorded stenographically the proceedings herein at the time and place noted in the heading hereof, and that the foregoing is an accurate and complete transcript of same to the best of my knowledge and belief.

DATED: March 16, 2009