

CORNWALL PLANNING BOARD

CORNWALL, NEW YORK

DATE: August 4, 2008

TIME: 7:30 P.M.

BOARD MEMBERS PRESENT: KENN BRODMERKEL, ACTING
CHAIRMAN

WYNN GOLD
HELEN BUNT
WILLIAM GRABE
LED KLOSKY
JANE DEANS

BOARD MEMBERS NOT PRESENT: NEIL NOVESKY

TOWN ATTORNEY: DOMINIC CORDISCO

TOWN ENGINEER: MARK EDSALL

GARLING ASSOCIATES: LESLIE DOTSON

BUILDING INSPECTOR: GARY VINSON

MR. BRODMERKEL: It is 7:32. Open the meeting Cornwall Town Planning Board. We have a blether of correspondence, most of which was responses to the Cornwall Commons public hearing that occurred last month. Cornwall Commons is on the agenda later so we will assume that they will respond to them or we will bring those items up at that point.

MR. CORDISCO: Mr. Chairman, all those comments were part of the public comment on the Draft Supplemental Environmental Impact Statement. All of those comments, at least all of the substantive comments,

August 4, 2008

will have to be addressed in the final environmental impact statement. And the applicant will be providing the first draft of that for the board to review at some point in the future.

MR. BRODMERKEL: All right.

MR. KLOSKY: Is there a place where the public can view other comments made by members of the public?

MR. CORDISCO: The comments themselves? The letters that were received, the practice is actually to provide the comment and then the response in the Final Environmental Impact Statement and that document whence it's accepted by the board will be posted online by the applicant. And so at that point the members of the public will be able to review that, both the comments and the responses. If they want to do that quicker than that they can always make a F.O.I.L. request and come in and review them up in Gary's office.

MR. KLOSKY: Okay.

MR. BRODMERKEL: Any old business to be brought up? Approval of the minutes? Do I hear approval of the minutes from last month?

MR. GOLD: I move we approve the minutes from last month.

MR. GRABE: Second.

MR. BRODMERKEL: Second. All in favor?

MR. GOLD: Aye.

MS. BUNT: Aye.

MR. GRABE: Aye.

MR. KLOSKY: Aye.

MS. DEANS: Aye.

MR. BRODMERKEL: Aye.

MR. BRODMERKEL: The motion is carried.

August 4, 2008

FANNING MINOR SUBDIVISION - 2006-13

MR. BRODMERKEL: First item on our agenda is public hearing for lands of Fanning. Are they represented this evening?

MR. BRADY: Good evening, Mr. Chairman, members of the Board.

MR. BRODMERKEL: The public hearing will be opened at 7:35. The applicant will have a chance to make a short statement on the project.

MR. BRADY: We have a nice two lot subdivision for the Fanning property. The property is located on Willow Avenue on the southwest side. As I said it's a two lot subdivision. One of the lots will contain an existing dwelling and the second lot is a proposed building lot. The lots are served by public sewer and water. Provided plans for the new dwelling and lot two in the rear. The applicant or the owner of the property had received a variance from the Zoning Board for the width of the right-of-away. Typically the right-of-way for a private road is 50 feet. And here it's got approved at 30 feet. We had met with the town engineer and made some modifications with the private road. Typical detail, we had to make it a little narrow just to fit the 30-foot right-of-way. That's about it.

MR. BRODMERKEL: Okay. Is there someone or anyone from the public that wishes to make comment on the project? Seeing none I would accept a motion to close the public hearing?

MS. BUNT: So moved.

MR. GOLD: Second.

MR. BRODMERKEL: Moved and seconded. All in favor?

MR. GOLD: Aye.

MS. BUNT: Aye.

MR. GRABE: Aye.

MR. KLOSKY: Aye.

MS. DEANS: Aye.

MR. BRODMERKEL: Aye.

August 4, 2008

MR. BRODMERKEL: The motion is carried. The public hearing is closed. Does the board have any discussion points on this?

MR. KLOSKY: My only request would be that, Mark, how close is the entrance to Willow Woods to the exit -- to this entrance because I'd just like to see the entrance to Willow Woods shown in case it's like a 5-foot offset or something that would be not so preferable. I think it's close. I think it's close to here, isn't it, or am I off?

MR. EDSALL: I don't know the distance but it's in the immediate vicinity.

MR. KLOSKY: You know what I'm saying, if they are offset.

MR. EDSALL: Keep in mind it's a county road, that's one of the issues that the county will be reviewing. It's already been referred out to the county DPW.

MR. KLOSKY: I'm just thinking maybe it could be shown on the map.

MR. EDSALL: It could be added on. I can ask Mr. Brady when you get a copy of the approved Willow Woods plans --

MR. BRADY: We could add it to the vicinity map.

MR. KLOSKY: I think it might even show up on your blow-up. It might be that close, that's why if it's not, that's good.

MR. EDSALL: Yes.

MR. KLOSKY: I'm just concerned, that's all.

MR. BRADY: We are utilizing an existing curb cut. We are not creating any new ingress or egress through the property.

MS. DOTSON: And this would be a minor traffic generator in terms of being a distraction. The majority of the traffic would be heading towards Willow Woods.

MR. KLOSKY: If it's an existing curb cut then I withdraw the comment.

August 4, 2008

MS. DOTSON: Yes.

MR. EDSALL: Basically taking the existing curb cut and turn it into a dual use. I will in any case provide that because it can be added for information.

MR. BRADY: What was the name of the project?

MR. EDSALL: Stone Hollow Willow Woods.

MR. BRODMERKEL: What is it now?

MR. CORDISCO: It's Stone Hollow now.

MR. BRODMERKEL: Thank you.

MR. CORDISCO: But originally came in as Willow Woods.

MR. BRODMERKEL: Mark, do you have any additional comments that you wish to make?

MR. EDSALL: I provided Mr. Brady with some comments. Some of them are recommendations for storage on the wet well for the projector pump serving lot two. Because of the unfortunate frequent power failures in our community it helps sometimes to have some additional storage. I'd suggest you maybe look and see if you can up-size that as to the benefit of the homeowner. I have made a couple of other suggestions, one is a note that we require, I had not located that for Mr. Brady before I was able to get these comments together, so we could just add that on the final plan. Modification of the transfer detail, private road was forwarded on to the county. The detail looks acceptable. There seems to be two details that conflict with each other, I suspect that the one driveway cut-cross section may be eliminated or modified. One issue the board needs to do is to grant, I don't believe you have yet, the authorization for the alternate turnaround for the private road. The normal is a cul-de-sac. This is a T turnaround. Clearly it's not going to be extended and serve any additional lots. So I recommend that you grant the waiver to put an alternate turnaround as they show it. The only pending items are return comments from the Village water and Orange County Planning Board. Everything

August 4, 2008

else seems to be in good shape other than the minor corrections, and I do suggest that you grant that waiver.

MR. BRODMERKEL: Dom, do you have anything?

MR. CORDISCO: Not at this point.

MR. BRODMERKEL: Leslie?

MS. DOTSON: Just wanted to mention that this had been referred to the Orange County Planning Department. We actually did get a response from them issuing a local determination.

MR. CORDISCO: In which case I do have comments.

MR. BRODMERKEL: Go ahead.

MR. CORDISCO: At this point if the applicant is willing to address Mr. Edsall's comments and provide the revised maps for next month's meetings the board could authorize us to prepare a resolution for approval.

MR. BRODMERKEL: Okay. Do I hear a motion that the board do that?

MS. DEANS: I so move.

MR. GOLD: Second.

MR. BRODMERKEL: Seconded. Any discussion? No discussion. All in favor?

MR. GOLD: Aye.

MS. BUNT: Aye.

MR. GRABE: Aye.

MR. KLOSKY: Aye.

MS. DEANS: Aye.

MR. BRODMERKEL: Aye.

MR. BRODMERKEL: The motion is carried.

MR. KLOSKY: Mr. Chair, do we have to take a formal action to provide the waiver?

MR. BRODMERKEL: I was going to ask that.

August 4, 2008

MR. EDSALL: Mr. Cordisco will provide that in the resolution.

MR. CORDISCO: When you actually adopt the resolution that would be the granting.

MR. BRODMERKEL: The T turnaround waiver would be in there.

MR. CORDISCO: Yes.

MR. BRODMERKEL: Good. We thank you.

MR. BRADY: Thank you very much. Have a good evening.

August 4, 2008

BIGG/QUALITY AUTO SITE PLAN AMENDMENT - 2008-08

MR. BRODMERKEL: The next item on the agenda will be the Bigg's Quality Auto.

MR. FETHERSTON: Good evening. We received comments from Leslie and from Dominic. We had spoken with the applicant Michael Bigg. He said that he will be making, he'll have us prepare a plan for the dumpster enclosure, some type of a block structure to match the existing building feature, I believe.

MR. BRODMERKEL: Location of the fuel pump?

MR. FETHERSTON: The fuel pump, we actually found out it was a diesel pump, it's not gasoline. It's diesel, but and I did find out that it was a 2,000-gallon tank. As far as the location we'll do the best we can with it.

MR. BRODMERKEL: I don't think there was, Leslie correct me if I'm wrong, but there wasn't, you didn't raise a question as to its location or anything, you just wanted it on the site plan?

MS. DOTSON: I think if you can show us general location.

MR. FETHERSTON: Sure.

MS. DOTSON: And any other pertinences, fence and so forth that go along with that.

MR. FETHERSTON: We'll do the best we can to identify it. I know it's a 2,000-gallon tank.

MR. BRODMERKEL: It should be pretty easy.

MR. CORDISCO: It should be registered with the DEC. So actually on the site plan if you could provide the registration number just so that the building inspector's office has a clear record of all of that.

MR. FETHERSTON: Got you.

MR. BRODMERKEL: Leslie, any further comments?

MS. DOTSON: Based on some discussion that had taken place with the applicant, prior to the meeting, we

August 4, 2008

prepared a negative declaration that reflected the assumption that these elements would be shown on the plan. I'd also like to have them show some of the parking requirements for the use. Again, it may seem fairly idiotic, but because that's really the whole purpose of this it would just make this consistent with the previous plan. Again, you've received all the comments, so.

MR. BRODMERKEL: I don't know what you mean by parking.

MS. DOTSON: Parking requirements. Again typically when an amendment is made to the plan any change to the parking that's actually provided, the parking schedule is provided. There was some information on the originally approved plan that gave an estimate as to the number of parking spaces that were incorporated. Obviously that's going to be less because of the building there you're losing space for circulation and so forth.

MR. BRODMERKEL: Do you just wanted a parking schedule included with the site plan?

MS. DOTSON: Yes, to make this continuous.

MR. FETHERSTON: If I may, what we did was we did a rough calculation of the existing building, office and the parking required for that, the number of bays in the existing garage and then added to that the number of what we're going to call bays for lack of another term in the existing building, we came up with 80 spaces required. The original plan required 125 or provided 125. I don't know.

MS. DOTSON: It provided.

MR. FETHERSTON: Provided not required. I took a Sharpie highlighter on here and with a scale I roughed out that we could easily accommodate 125 spaces. I just want to put on my calculation for 80 is what I see the required and we can provide that or should I do the 125 that was provided?

MS. DOTSON: I think showing the basis for the requirement of 80 serves you and your client better in the future so that you don't overstate the specific need. That's really the whole reason for it is to show that the needs for that building, for

August 4, 2008

that use of it calculated that we've provided them. I have no doubt that they're there, we just need to -- show your work.

MR. FETHERSTON: Okay.

MS. DOTSON: Thank you.

MR. BRODMERKEL: Dominic?

MR. CORDISCO: At this point, as Leslie had mentioned, she had prepared a negative declaration and I had prepared a resolution adopting the negative declaration granting approval. Subject to Mr. Edsall's comments the board could be in a position to adopt those tonight. As you recall last month you waived the public hearing and also you had gotten comments back from the community recommending a local determination. So procedurally you're in good shape in terms as far as that's concerned.

MR. EDSALL: My comments are very limited to what I believe should be added to the plan. One is the note acknowledging the building as an accessory vehicle storage or vehicle parking building purely for the exclusive use of accessory to the main use which is consistent with Dom's legal memo on permissibility of the accessory building. I did clarify with Mr. Fetherston in the second line exiting the vehicle storage building provides the ability for them to have a restroom in that building. And, in fact, it is separate, separated which would pick up the drains. And, in fact, is it a sanitary pump station?

MR. FETHERSTON: Yes.

MR. EDSALL: The town's sewer lines so that all seems in order. One minor improvement to an existing condition would be the addition of some Rip Rap around the stronger outlet piping.

MR. FETHERSTON: Will that require a New York State DEC permit for disturbance in the wetland buffer?

MR. EDSALL: I don't believe you will be doing any grading. Hand-placing some Rip Rap.

MS. DOTSON: It will actually protect the wetlands.

August 4, 2008

MR. EDSALL: Because I would anticipate there was originally Rip Rap there, it's a maintenance item.

MR. FETHERSTON: It's a maintenance item. Thank you, okay.

MR. EDSALL: So other than that we have no concerns.

MR. CORDISCO: That's not a vegetated buffer. I mean it's not as if there's vegetation you are disturbing, it's all shale.

MR. FETHERSTON: That's right.

MS. DOTSON: Yes.

MR. BRODMERKEL: At this point looking for a negative declaration for this applicant?

MR. KLOSKY: I move we adopt a negative declaration.

MS. BUNT: Second.

MR. BRODMERKEL: Moved and seconded. Any discussion? All in favor?

MR. GOLD: Aye.

MS. BUNT: Aye.

MR. GRABE: Aye.

MR. KLOSKY: Aye.

MS. DEANS: Aye.

MR. BRODMERKEL: Aye.

MR. BRODMERKEL: Dominic, you said we could move for approval this evening?

MR. CORDISCO: Yes, yes. The approval has condition in it that the plans have to be revised to accommodate all the comments. So it would be in effect a conditional approval, but you could adopt the approval, the resolution has been prepared.

MR. BRODMERKEL: Do I have a motion to that extent?

MR. GOLD: So moved.

MR. KLOSKY: Second.

MR. BRODMERKEL: Moved and seconded. Any

August 4, 2008

discussion? Hearing none all in favor?

MR. GOLD: Aye.

MS. BUNT: Aye.

MR. GRABE: Aye.

MR. KLOSKY: Aye.

MS. DEANS: Aye.

MR. BRODMERKEL: Aye.

MR. BRODMERKEL: Opposed none. You're in good shape.

MR. FETHERSTON: Thank you. Mr. Chairman, we will have no further appearances before the board. I will submit just to the consultants.

MS. DOTSON: Yes.

MR. EDSALL: Submit the plans to Gary's office, we'll check the plans for compliance.

MR. FETHERSTON: Thank you very much.

MR. VINSON: That needs to be completed before your applicant can secure the building permit. We can do a simultaneous review, but that process needs to be closed out before the permit can be granted for this building.

August 4, 2008

CORNWALL COMMONS SITE PLAN - 2006-19

MR. BRODMERKEL: Next item on the agenda would be Cornwall Commons, site plan D.S.E.I.S. a response to the public input.

MS. BABCOCK: Good evening. I'm here tonight for two reasons. The first to let you know that we are preparing an S.D.E.I.S. to address all of the comments that we received from the public, the board and the consultants. And we anticipate submitting a S.D.E.I.S. to you for your September planning board meeting. That's the first comment. The second one is I'm here as to request that you would basically adopt a resolution recommending to the Town Board that they approve private roads in the PAC. We have submitted a letter signed by our client dated July 17th, 2008 which I believe you all had received a copy of.

MR. KLOSKY: Yes.

MS. BABCOCK: Very good. Based on the comments from the board and your consultants we have agreed to proceed with alternative number three which would be private roads at a 40-foot right-of-way, 28-foot paved width and parking on one side. This would give you four more feet of traveled paved way that would provide for state emergency access which was the main concern of this board. We have determined that the storm water facilities are capable of handling the runoff from this increase in the 4-foot pavement. And of course this is an added benefit to the town because this project will be paying highway taxes but the town would not be responsible for maintaining these roadways. So I'm here tonight to ask that you make a resolution approving and making a recommendation to the Town Board that they approve private roads within the PAC.

MR. BRODMERKEL: Anything else?

MS. BABCOCK: That's it.

MR. BRODMERKEL: Okay. Thank you.

MS. BABCOCK: You're welcome.

MR. BRODMERKEL: Mr. Edsall?

August 4, 2008

MR. EDSALL: I have a comment just on flexibility for the applicants, at least the project's ability to address the roads. I'm fully in concurrence with 28-foot roads. I think it addresses the emergency vehicle access. I commend the applicant for their discussing it late in the S.D.E.I.S. game, as it may be, but I would suggest to counsel that they consider that they really want to ask for 40-foot. And if there is a need to lock-down the 40-foot because you may want to have the flexibility 15 years down the road that if for some reason the Town Board and the project believe that there's an ability to take those roads because now they will be 28-foot and they will meet the town road spec for width, if you lock yourself into the 40-foot it may tie your hands or tie your applicant's hands from doing something 10 or 15 years down the road. Again, I don't know that it's important. As a matter of fact, Dom and I have been kind of discussing do you have to show any right-of-way because it's a site plan, it's a road on the site plan. And there's no setback back requirement from the road on the site plan as long as physically it works.

MR. BRODMERKEL: Because the road is part of their property.

MR. EDSALL: That's right.

MR. CORDISCO: But if it could accommodate in the future a 50-foot wide right-of-way, not that it has to be created now. But, in other words, so that if you drew the 50-foot right-of-way, you know you don't have actually units, dwelling units actually within the 50-foot right-of-way it would be good to provide that flexibility in the future because there may come a time where the town wants to take over the maintenance of those roads. And it will provide the flexibility to do that. Not that I can envision it and certainly it's not the present intention I think of anyone to take over those roads, but the state law requires that in order to be a public highway there has to be a 50-foot wide right-of-way.

MR. BRODMERKEL: The only thing I can think of that it would impact as far as the applicant would be plantings. That wouldn't matter?

MR. CORDISCO: It wouldn't matter.

August 4, 2008

MR. BRODMERKEL: There is no structures?

MR. CORDISCO: Because technically there wouldn't be any right-of-way now. It's just that if there was one to be created later on is there enough room to provide a 50-foot right-of-way.

MR. EDSALL: My suggestion really was I fully agree that it would be beneficial to keep things moving and get a recommendation to the Town Board for the 28-foot roads, privately owned, and privately maintained, so that that can be disposed of procedurally, but I'm suggesting that the applicant consider if they really need to and if they want to tie their hands on the 40-foot at this point and whether or not it's needed to show.

MR. BRODMERKEL: Can we just not mention it?

MR. EDSALL: You may want to, just so that you don't tie their hands, just say 28-foot roads privately owned, privately maintained. You are in full agreement with what the applicant is proposing and then you can discuss legally what best --

MR. CORDISCO: You could even make a recommendation that if possible they provide the 50-foot right-of-way or show that it could be accommodated but if they can't then they can't. You know, I think the more important issue here is the safety issue and clearly they have made great steps forward by agreeing to the 28-foot ride roads.

MR. EDSALL: By in no means am I attempting to rock the boat with the site layout. I'm trying to leave them as flexible as possible for options down the road.

MR. CORDISCO: It's as simple as that. If it could accommodate a 50-foot wide right-of-way then the plans should at least make that provision so that in the future you could have the flexibility.

MR. BRODMERKEL: Michele?

MS. BABCOCK: We would be willing to consult with the engineer to determine whether we could provide that and we could provide some discussion of that in the S.D.E.I.S. as well for the board's

August 4, 2008

consideration.

MR. EDSALL: I think layout-wise it could go forward with the 28. The layout as they're showing. This is purely a map issue on what you show and what you don't show and I think it's better to not show anything if it ties your hands.

MR. BRODMERKEL: Is there a need to do this this month? Does it matter if we do it next month?

MR. CORDISCO: I think if you were to do it this month at this point all you're doing is making a recommendation regarding the width and the width is 28 feet wide. The Town Board has a role to play here because the code requires the Town Board to approve private roads within a PAC. And I believe that the Town Board at its August meeting would be in a position to consider this request and the recommendations.

MR. BRODMERKEL: So we could recommend just paved roads 28-foot wide?

MR. CORDISCO: Correct.

MR. BRODMERKEL: And they accept those?

MR. CORDISCO: Correct. And the way you would do that is actually authorize one of your consultants. I would be happy to do it, to write a letter to the Town Board indicating what's transpired. So if you make that recommendation I will put it in writing.

MR. BRODMERKEL: Members of the board, discussion?

MS. BUNT: I'm in agreement with that.

MR. KLOSKY: I think I like the 28-foot roads, it's greatly appreciated.

MS. DEANS: Do we have to put that in a motion?

MR. CORDISCO: Yes. The motion would be to authorize me to prepare or send a letter to the Town Board showing that you concur with Mr. Amato's statement regarding providing 28-foot wide roads and recommend to the Town Board that they be allowed as private roads.

August 4, 2008

MR. KLOSKY: So moved.

MR. GOLD: Second.

MR. BRODMERKEL: Moved and seconded. Any further discussion? Dom, we're going to leave out the part about right-of-way, let the board handle that?

MR. CORDISCO: At this point I mean it's just a suggestion. It's not critical to the process. I think that if we could leave it out and we can give the applicant the opportunity to see whether or not they can accommodate it I really don't think if they can accommodate it it's really not going to make much of a difference because it's all theoretical. It's not as if the right-of-way is going to be created any time now. The right-of-way would only be created if the Town Board wanted to take the roads.

MR. BRODMERKEL: If we leave it out of our motion it would allow us to, allow the board to do whatever they need to do and the applicant to get an answer to the --

MR. CORDISCO: Right. I think before the plans are finalized it's something that they're going to need to answer and provide whether or not they can accommodate a 50-foot wide right-of-way.

MR. BRODMERKEL: We are talking about approving it, is that correct, without the right-of-way statement in it?

MR. KLOSKY: Absolutely.

MS. BUNT: Right.

MR. BRODMERKEL: Any further discussion? All in favor?

MR. GOLD: Aye.

MS. BUNT: Aye.

MR. GRABE: Aye.

MR. KLOSKY: Aye.

MS. DEANS: Aye.

MR. BRODMERKEL: Aye.

MR. BRODMERKEL: Opposed? The motion is carried.

August 4, 2008

MR. KLOSKY: Is there an opportunity to communicate with the applicant about the coming of the S.D.E.I.S.?

MS. BABCOCK: Maybe if I could make a quick statement, I was here during the work session and I heard all of your comments. And we are addressing every letter and every statement within every letter. Even letters that we had received prior to the public comment period. Everything that we've received we are addressing. Every comment will be in the public hearing minutes or by correspondence.

MR. BRODMERKEL: If there was a request, I don't know if you heard it or were here, regarding the ability of someone to view the letters and the responses to them?

MS. BABCOCK: The way that we have it setup, the S.D.E.I.S. is that we have the entire comment verbatim from the letter and then the response as well as the Exhibit A will contain a full copy of all of the documents that were submitted to the town.

MR. BRODMERKEL: Okay. Thank you.

MS. BABCOCK: You're welcome.

MR. BRODMERKEL: Led, are you asking if we can discuss this on our own at this point?

MR. KLOSKY: Yes. I mean I guess there was some discussion beforehand about some of the comments which came in from the public.

MR. BRODMERKEL: Is there any problem with doing that while the applicant is here?

MR. CORDISCO: I don't see a problem with doing that. In particular it's just that it's providing additional guidance to the applicant to some extent, although the board as a whole is going to have to decide to accept the Final Environmental Impact Statement. So individual board members I think now is the time.

MR. KLOSKY: I guess I would like the S.D.E.I.S. to pay particular attention to comment three under the so-called binding comments from Mr. Church, Orange

August 4, 2008

County Planning, addressing alternate modes of transportation for reaching the core of the village and the core of the town. So I'm particularly concerned about that. I believe that something akin, not to the extent of a traffic study, but something which shows the likely volume of movements that might be made either by bicycle or foot and exactly how those movements would be made. How it would be possible for someone to get from the interior of your project to say the Cornwall library or you know, public, or private facilities in our town's core.

MS. BABCOCK: Okay.

MR. KLOSKY: Travel westbound I'm not so concerned about, but how do they get to the core of the village, the core of the town. I'd like to see if possible to do that some way other than automobile. I think that's where our master plan would like us to go and the code talks about it so I'd like to see it addressed. Additionally I am concerned about the lack of a clear, of a clear location of the access to the NYMA property as part of the subdivision plan. I think the code requires us to establish that location.

MR. BRODMERKEL: One of the things that came up is there is an access to Frost and emergency access to the site from Frost Lane. However, there is no walk-around of the gate. It would seem if we're going to use that for a walkway we should probably have a walk-around the gate. One of things that was mentioned in one of the letters was a rail trail which I think discussion is not really the trail, it is private property owned by other people. It might be good if you showed that buffer some place. Does the board want to go into any other letters and respond to them at this point?

MR. GOLD: I am just anxious to see their responses to the comments. I will wait for that.

MR. BRODMERKEL: We'll wait until next month.

MS. BABCOCK: Thank you for your comments.

MR. CORDISCO: Actually before she leaves I have two other brief things in regards to Cornwall Commons and one was the letter from Catherine Goodspeed and

August 4, 2008

as the tree warden for the town in her letter she asked for copies of the plans and formal consultation with the board. And of course the plans are always available to her and have been available to her through the building inspector's office.

MR. BRODMERKEL: Let me say right now that Kate gets the plans from Gary almost as quick as we do.

MR. CORDISCO: Yes.

MR. BRODMERKEL: So that she has been provided with anything that we have.

MR. CORDISCO: Yes. And of course her comments are extremely relevant and important to the process. The process itself though is that the comments should come in as part of the public comment but not necessarily exclusively, but her comments so far have to be addressed in the Final Environmental Impact Statement and then the board's practice has always been to provide her the opportunity to provide additional comments later on through the process as you did for Chestnut Woods and Willow Woods.

MS. DOTSON: Actually I do want to jump in here because I do want to point out the fact that in Chestnut Woods your findings, your lead agency S.E.Q.R.A. findings specifically carved out a specific area in which her comments were solicited as part of the site plan review.

MR. CORDISCO: Right. And that may very well be here as well because you not only have site plan for lot ten which is a residential unit but the nine lots of commercial development as well. But my point is, however, is that there's not really a formal consultation process as she had suggested. There's nothing that's provided in the town code that initiates some kind of formal process. And the second letter I'd like to discuss is actually one that was addressed directly to me and it was from Mr. Jacobowitz. And it followed on last month's meeting and it related to access with the NYMA parcel. The NYMA parcel has an undefined access, or easement for access purposes between the NYMA parcel and the Cornwall Commons parcel. It's my understanding that there's been ongoing

August 4, 2008

discussions between NYMA and Cornwall Commons about coming to some kind of terms to provide a specific location for that undefined easement. But they have so far as of yet not defined a particular location. And one of the solutions that we were suggesting, and we discussed this at last month's meeting, and of course we had discussed it back in 2006 when the preliminary approval was given to the subdivision plat was that the, if access was not defined by the time the final approval or the plans were ready for final approval then a note could be placed on the plat and a declaration of restrictions could be recorded in the county clerk's office to put future property owners on notice that there was an undefined easement potentially through their properties. That was being offered as an accommodation to both parties to make sure that the process moved forward for Cornwall Commons and that they wouldn't necessarily be held over a barrel but it would also provide some level of security for NYMA to ensure that their rights were not somehow exhausted or extinguished by the subdivision process without providing for that specific location. The Cornwall subdivision code actually has a specific provision in it that says that the location of streets and easements, both existing and proposed, has to be shown on a subdivision plat. So, the alternative is the actual location should be shown. Mr. Jacobowitz's letter to me was questioning the board's authority to go the easier route, easier route being placing a note on the plat and record a declaration of restrictions. My only comment is that if the Cornwall Commons and its counsel doesn't want to proceed along that path then the alternative path would be actually for them to provide an actual location for the access easement to the NYMA parcel.

MR. BRODMERKEL: Before approval?

MR. CORDISCO: Before approval, correct.

MR. KLOSKY: Which position? I'll amplify. I think as part of good planning we have a 35 acre potentially commercial development, is that correct?

MS. DOTSON: It's sounds the same as the Cornwall Commons parcel.

MR. KLOSKY: So you have potentially 35 acres of

August 4, 2008

commercial development with, I mean that would be a substantial easement to handle some traffic or some portion of the traffic from such a large site. I think it needs to be resolved in some positive way.

MR. BRODMERKEL: Whichever way they would like.

MS. BABCOCK: I will attempt to work with Dominic on this issue to resolve it. Thank you.

MR. BRODMERKEL: Dominic, was that all three items?

MR. CORDISCO: That was everything except for Leslie's whispering in my ear.

MR. BRODMERKEL: And, Leslie, would you care to whisper louder for the rest of us?

MS. DOTSON: One of the things that I am thinking about is that some of the measures that we had discussed in the pre-meeting workshop with respect to, you know, trying to preserve some of the trees that were on the commercial site which contains some of the larger older trees, we talked about ways that we can try to, you know, maximize preservation of those and try to, you know, put together side yards where trees are preserved. It does occur to me that to the extent that the access easement is not shown that we could think that something is protected or that we have a means to protect something where in fact it's going to wind up turning into pavement.

MR. KLOSKY: My concern also is that we end up in a last man out sort of scenario where the last person to actually turn in a site plan for one of those nine additional lots ends up having to pay the piper on the easement or the easement ends up on another site which has an approved site plan that didn't show the easement initially. So I'm concerned about exactly what the process looks like if we go forward without showing the easement at the time of the subdivision.

MR. CORDISCO: It would certainly be preferable to provide an exact location for what the easement would be. And by providing a note on the subdivision plat and requiring the filing or the recording of the declaration of restrictions puts all of the future land owners on those nine commercial parcels on notice that they're --

August 4, 2008

MR. BRODMERKEL: It could be them.

MR. CORDISCO: That's exactly right. And I would think that as far as commercial development is concerned many commercial developments would think twice or three times or four times before agreeing to purchase a parcel that could have a rather large right-of-way.

MR. EDSALL: I think more important from a practical standpoint it's not just a matter of providing access, there is the issue of the access might be the only one you want to make sure it's at the right rate so that it's a safe access. We want to make sure it comes out onto the town's loop road in the right place. It makes absolute sense to have this resolved before the final plat is done because it provides the ability to effectively design the access both the location but in sight distance and grade and make sure that that one single access can serve the parcel safely. To leave that as an open issue and hope and pray that where the default locations ends up being is going to work I think is a disservice to both Mr. Amato because it could impact one of the site plans and to NYMA because it could just make it a problematic access. So encourage the two parties to get together and resolve it.

MR. CORDISCO: And certainly clearly it would be best to do this. And just to reiterate it seemed as if Mr. Jacobowitz was objecting to the approach that I was suggesting which was done as an accommodation to both NYMA and Cornwall Commons. And if that's the case then the alternative is clearly to hold the application incomplete until the actual location is provided. And just to remind everyone the subdivision has to be finalized prior to the approval for the site plan for lot ten because right now lot ten does not exist.

MR. BRODMERKEL: Michele, can I ask, if you know, what the status of those negotiations are?

MS. BABCOCK: My understanding is we've reached out several times to the attorney for NYMA and we've been promised meetings, but we haven't received any dates for that.

MR. CORDISCO: That's all I had, Mr. Chair.

August 4, 2008

MR. BRODMERKEL: Did you wish to comment?

MR. EDSALL: That's all I had.

MR. BRODMERKEL: Just very quickly, the County Planning Department referred to Howard where it becomes Willow on CR32, which is County Route 32.

MR. CORDISCO: Mill Street.

MR. BRODMERKEL: There is a commercial zone there.

MS. DOTSON: A very small one, yes.

MR. BRODMERKEL: That's what he's talking about?

MS. DOTSON: That's what they're talking about, yes.

MR. BRODMERKEL: Okay.

MS. DOTSON: I did have some discussion with them on that, actually with Atticus but let's just say we disagree. We did not quite see eye to eye on that.

MR. GOLD: I'd like to move that we adjourn.

MS. DEANS: Second.

MR. BRODMERKEL: Moved and seconded. All in favor?

MR. GOLD: Aye.

MS. BUNT: Aye.

MR. GRABE: Aye.

MR. KLOSKY: Aye.

MS. DEANS: Aye.

MR. BRODMERKEL: Aye.

MR. BRODMERKEL: Opposed? Hearing none the meeting is adjourned.

(The meeting was adjourned at 8:15 p.m.)

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August 4, 2008

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

THE FOREGOING IS CERTIFIED

to be a true and correct transcription of the
original stenographic minutes to the best of my
ability.

Roberta O'Rourke