

February 4, 2008

1

TOWN OF CORNWALL

PLANNING BOARD

FEBRUARY 4, 2008

MEMBERS PRESENT: NEIL NOVESKY, CHAIRMAN  
KENNETH BRODMERKEL  
LED KLOSKY  
WILLIAM GRABE

ALSO PRESENT: DOMINIC CORDISCO, ESQ.  
PLANNING BOARD ATTORNEY

MARK EDSALL, P.E.  
PLANNING BOARD ENGINEER

LESLIE DOTSON  
PLANNING BOARD CONSULTANT

ABSENT: WYNN GOLD  
JANE DEANS

REGULAR\_MEETING \_\_\_\_\_

MR. NOVESKY: I'd like to call to order the February 4, 2008 meeting of the Cornwall Planning Board. Fran, for the record, Wynn Gold is in abstentia, we don't know where he is. Jane Deans called in she's ill and the remainder is unappointed so we have unappointed, missing in action and legitimate illness, Jane's not well. With that, we'll go to correspondence.

CORRESPONDENCE \_\_\_\_\_

MR. NOVESKY: Fran, I will forward over to you some

correspondence. One piece that I should make a note of that's something from Michele Babcock requesting that this board grants an extension of the preliminary approval for the above-referenced subdivision which is Cornwall Commons. We'll have to take action on that as a board.

MR. EDSALL: That's not 06-19.

MR. NOVESKY: 06-19.

MR. EDSALL: That's the site plan number so that's the incorrect number.

MR. CORDISCO: There's two open applications before the board.

MR. NOVESKY: Somebody wrote the wrong number.

MR. EDSALL: Exactly, I think it's 04-01 the subdivision.

MR. CORDISCO: Yes.

MR. NOVESKY: So we'll discuss that under discussion in a moment, okay. With correspondence I'm going to move the discussion on Darian field change to the end of the agenda. This is in the interest of expediency, not keeping everyone here.

OLD\_BUSINESS

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MR. NOVESKY: Old business, one point that I would like to mention grateful to Kenn Brodmerkel for volunteering to serve as a liaison with the Cornwall Conservation Committee and Mr. Brodmerkel will be doing that from this point on with the consent of the board. It's good to have a relationship with them and you'll be a very good spokesman for the board. Thank you.

APPROVAL\_OF\_MINUTES \_\_\_\_\_

MR. NOVESKY: Everyone receive their minutes so well prepared from January? Any questions, any issues? Hearing none, motion for approval.

MR. BRODMERKEL: I actually read them.

MR. KLOSKY: Klosky did appear as K-L-O-S-K-E-Y, other than that.

MR. NOVESKY: With that, would you then suggest a motion?

MR. KLOSKY: Move we accept the minutes.

MR. BRODMERKEL: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MR. GRABE	AYE
MR. KLOSKY	AYE
MR. NOVESKY	AYE

RESOLUTIONS \_\_\_\_\_

MR. NOVESKY: Board resolutions we have none tonight, correct, Dominic?

MR. CORDISCO: That's correct.

MR. KLOSKY: About that, I had a question actually in terms of the decisions. Dominic, in last month's meeting we requested a legal opinion on the requirements that we're able to attach to the existing Mill Pond property. There's some longstanding issues with that site which I'm curious as to which ones we can attempt to resolve and which ones we're required to simply leave be as part of this subdivision. I

certainly would like to be able to square away some of the longstanding issues that exist down there as part of this subdivision approving but I'm uncertain of the legal ground there and would like to have some kind of formal opinion.

MR. BRODMERKEL: Did you get word on that?

MR. CORDISCO: I did and I was prepared to speak about it tonight but I did not prepare a formal memo.

MR. KLOSKY: It's a relatively serious issue because I'm not sure it would mean a lot of work to bring the existing site into compliance with say fire access and all things.

MR. CORDISCO: Yes, and to put it as succinctly as I think I can which all you have before you at present is a subdivision application. And of course the industrial lot is being carved off for the benefit of the creation of new residential lots. And the question then really solely is whether or not the industrial lot that will be essentially which is an existing lot but is going to be reduced in size whether or not the reduction in size meets all of your zoning requirements. In other words, it does not trigger a new site plan review just for the industrial lot. A lot of the issues as I understand it that are of concern and an ongoing concern are truly issues already site plan review rather than just pure zoning compliance zoning and when I'm saying it in that context I'm talking about bulk requirements because that's typically the--

MR. BRODMERKEL: There's a relationship that I feel very strong between what may or may not be as far as an existing sewage system and what they are proposing to put in and if we don't know what we've got how can we say we're going to utilize something new to help it--

MR. CORDISCO: Well, I would turn to Mark to speak to that because I think that the applicant is proposing certain upgrades relating to the sewer system.

MR. EDSALL: Everything on the east side of Mill is going to be addressed as part of--

MR. BRODMERKEL: Which side is the east side?

MR. EDSALL: Subdivision side, residential side is going to be addressed as part of their request to the town to extend the sewer district to include that portion of the town and they're proposing a new pump station, they're proposing collection lines and also redirecting flow from the Beattie Road pump station down to the new pump station. Everything on the west side which is in effect the commercial property they're proposing nothing, there's no development on that side nor is there any proposal. So they have made a clear split with the county highway there.

MR. NOVESKY: That will be an agenda item and we can have Dominic your legal memo to review, I don't want to, because it's not an agenda item, so the basic deal is that those things which have to do with the sites might decrease the ability of the existing site to comply, those things we might pursue.

MR. CORDISCO: Yes, if you would like me to prepare a written memo to that effect I'd be happy to do that.

MR. KLOSKY: That would be helpful.

MR. NOVESKY: It would be a good idea.

MR. CORDISCO: Okay.

MR. NOVESKY: With that, any other discussion? Time to discuss the Michele Babcock request for the extension on preliminary approval or wait until Cornwall Commons?

February 4, 2008

6

MR. CORDISCO: Wait till Cornwall Commons.

MR. NOVESKY: Okay.

MR. KLOSKY: There's Michele.

MR. NOVESKY: Well, looks like judging by the camping gear they're here for the duration. We can clear up the agenda items quickly with Butterhill Daycare.

BUTTERHILL\_DAY\_CARE\_#2008-01

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Ms. Helen Bunt appeared before the board for this proposal.

MR. NOVESKY: You can be very, very brief because we're all pretty familiar with the situation.

MS. BUNT: Basically, I'm asking for I think it's a special use permit, it's allowed by allowed use by special permit and it involves the building that you are probably all familiar with the yarn shop, it was the yarn shop. And I have been to the zoning board and I have got my two variances there to comply with the square feet. I'm supposed to have 60,000 and I only have 32,000 but because of the playground.

MR. NOVESKY: You rent the playground, right?

MS. BUNT: Yes.

MR. NOVESKY: So I think the only issue we have, Helen, is that I think there is a requirement for a public hearing, am I correct?

MR. CORDISCO: That's correct.

MR. NOVESKY: You cannot waive the public hearing.

MR. CORDISCO: No.

MS. BUNT: That's fine.

MR. NOVESKY: So I think unless someone has any questions, you answered the one question put forth, the number of square feet.

MR. CORDISCO: Really does not require any change to the plan.

MS. DOTSON: They should put the new just information and reference the variances, that's one of the things I'm just mentioning.

MR. CORDISCO: No technical changes.

MR. KLOSKY: Then that plan should be available at least two weeks prior to the public hearing.

MS. DOTSON: Yes, she's going to have to file the plan with the clerk.

MR. KLOSKY: Current plan according to?

MS. BUNT: Steve has to amend this.

MS. DOTSON: If you read his comments what I'm suggesting that these comments I know you submitted an old plan I think for the purpose, let's put it this way, probably only two people who really care about the zoning information being absolutely correct, it doesn't change the use that you're putting on the site so I don't see any reason not to wait till afterwards and do it as a condition of approval. That way if there are any other legal things that need to be done it just is a conditional approval.

MR. NOVESKY: For the old site plan for public review and make changes since they're so minor.

MS. DOTSON: I'm suggesting that the board authorize decisions to be drawn up so I'm viewing the hearing as very much a proforma.

MR. NOVESKY: Can all this stuff be done prior to the next board meeting?

MS. DOTSON: Yes.

MR. NOVESKY: Then I will ask for a motion to schedule

a public hearing.

MR. BRODMERKEL: So moved.

MR. KLOSKY: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MR. GRABE	AYE
MR. KLOSKY	AYE
MR. NOVESKY	AYE

MR. NOVESKY: Next month would be March 3rd.

MS. BUNT: So get everything to Gary by--

MR. KLOSKY: One question she might want to address now rather than later, Helen, how will the kids, this is the masonry building on this side is the one that's going to have kids, how will the kids get from here to the playground? You're going to put a crosswalk or something? Might be nice to show that on the plans.

MS. BUNT: I wasn't going to put a crosswalk, we just delineate everything with the cones, we put cones across.

MR. KLOSKY: But they're kind of crossing through parking spaces so if the parking spaces were all full then I guess it's not very often that they're full.

MS. BUNT: No because this is for the parents that drop off so they wouldn't be here and this playground can't be used when the big kids are out there. So actually the state governs me over here and but the board governs me over here and the state is much more strict than you could be to me so if I obey them I'm beyond you.

MR. KLOSKY: Is there any kind of sign that warns a driver turning in that there's a lot of kids?

MS. BUNT: There is not at this time.

MR. KLOSKY: That might be a good idea.

MS. BUNT: We can do that.

MR. BRODMERKEL: Sign that says daycare.

MR. KLOSKY: Where they make the turn, it's not obvious I don't think.

MS. BUNT: That's it?

MR. NOVESKY: Thank you, Helen.

MR. BRODMERKEL: Motion that the attorney prepare appropriate paperwork for next month.

MR. KLOSKY: Second it.

ROLL CALL

MR. BRODMERKEL        AYE

MR. GRABE             AYE

MR. KLOSKY            AYE

MR. NOVESKY           AYE

MR. NOVESKY: Dominic will prepare the paperwork.

MR. CORDISCO: I was going to do it anyway.

MR. NOVESKY: Always so forward thinking.

SEVINCH\_BRIDGES\_#2008-02

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MR. NOVESKY: Sevinch Bridges as in the plural. Are they here? Incomplete plans, we don't know what they're doing.

MR. KLOSKY: Refer them to the next work session.

MS. DOTSON: It does require a variance but what I am recommending is that it doesn't really make sense to send it to the Zoning Board because--

MR. NOVESKY: Well, they're not here.

MS. DOTSON: Right.

MR. NOVESKY: Off the agenda, okay.

February 4, 2008

12

CORNWALL\_COMMONS\_#2004-01,\_2006-19

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MR. NOVESKY: Cornwall Commons they're not here, okay, let's go on to Willow Woods, you're moved up on the agenda.

WILLOW\_WOODS\_#2005-06

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MR. NOVESKY: Willow Woods.

MR. MILLER: It's been a while, for the record, Mark Miller from Veneziano and Associates representing Ginsberg Development, we're now calling Stone Hollow, formally Willow Woods. Back in August we received conditional final plat approval from your board and since then we have been working very hard to satisfy all of the conditions primarily associated with the outside agency approvals. I'm happy to report tonight we have cleared DPW, DOH, we just got Realty Subdivision approval and DEC. So we're essentially done with the outside agency approvals. What we're seeking tonight we just have a few more things to finish up but what we're seeking tonight is permission to begin rough grading, not installation of utilities but just start the rough grading so we can take advantage of this time period even before the plat is signed to get out onto the site, do some of the work so we can gear up and get things moving. The model home is under construction and so we'd like to start rough grading the road.

MR. NOVESKY: I believe the board will entertain that contingent on a few issues.

MR. EDSALL: Number one, it's important that any work on the site comply with the approved SWPPP. Secondly, just so that it is in the record we did meet with the applicant and discuss the very specific criteria for filling roadways within filling areas within the town roadway area so that's a very important issue that we have discussed cause there are specific requirements for material and replacement. The drainage district formation is still outstanding so that and the payment of the necessary inspection fees to the town would need to be resolved as well before they can start work.

MR. KLOSKY: I recommend that we make any grading contingent on the completion of the drainage easement of the drainage district, the creation of the drainage district.

MR. MILLER: If I can bring the board up to where things stand we submitted our map plan report and petition to the Town Board probably about a month ago and we received various comments from the town attorney and the town engineer. We have resubmitted the map plan and report and we have received word from Drake Loeb's office and I believe Mr. Edsall's office that everything is in compliance. As a matter fact, I understand on the work session agenda the drainage district is being discussed upstairs as we speak. We would anticipate or hope that at their meeting, regular meeting next they'll schedule a public hearing which is a requirement. We're probably if I had to guess 30 to 45 days roughly from the formation, we would ask your indulgence to take advantage of that 30, 45 days, as I say I believe there are no issues as far as we know, our documents are fully compliant, don't anticipate any problems.

MR. BRODMERKEL: You want to start moving earth now before that district is formed?

MR. MILLER: That's correct, just rough grading to get the roads in, that's what we'd like to do, yes.

MR. KLOSKY: I'm disinclined.

MR. BRODMERKEL: Counsel is advising against it, he did before and still does, I think Mark if I'm correct you had said that's not a good idea either.

MR. EDSALL: Well, I'm more concerned about compliance was SWPPP and the appropriate fees being with the town so they can properly cover the job. I would refer to--

MR. NOVESKY: You have the inspection fees posted?

MR. MILLER: Well, obviously sure none of the issues that Mr. Edsall said were a problem, the switch, the compliance with the standards.

MR. NOVESKY: Creation of a drainage district.

MR. KLOSKY: Can't anticipate the vote of the Town Board, I think we should let the Town Board do the thing they're likely to do and we'll follow.

MR. CORDISCO: The creation of the drainage district was one of the conditions of their final approval and would be necessary and needed in case the town ever needs to go in and correct the problem that happens out there, not that this particular applicant has any cause to be concerned about creating any particular problems, but if it was sold to someone else or, you know, or if they started work and then abandoned the job for whatever reason.

MR. BRODMERKEL: If the town decided to take action expediently this could be approved as soon as next week.

MR. CORDISCO: You need to set a public hearing.

MR. BRODMERKEL: That was going to be the second question, okay.

MR. MILLER: We're going to get a hearing scheduled next week and I don't know what the schedule of the Town Board will be.

MR. NOVESKY: I have no problems contingent on what your suggestion is if it's done more expediently than 30, 20, 45 days, Led is correct that anticipating the vote on the Town Board.

MR. BRODMERKEL: They have to have a public meeting minimum 30 days, 35 days out.

MR. KLOSKY: But that's how it is.

MR. NOVESKY: You get the will of the board.

MR. MILLER: Would it be appropriate as the chair I think just indicated to save us and the board another trip here to make it contingent?

MR. CORDISCO: Yeah, I think that's fine.

MR. NOVESKY: I don't have a problem.

MR. KLOSKY: I move we allow them to begin rough grading contingent upon the formation of the drainage district and the fees and escrows, et cetera, that Mark had specified earlier.

MS. DOTSON: In compliance with the SWPPP.

MR. BRODMERKEL: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MR. GRABE	AYE
MR. KLOSKY	AYE
MR. NOVESKY	AYE

MR. GRAGE: Who sees that's all done?

MR. NOVESKY: That would be who will sign off on it being completed.

MR. EDSALL: I will coordinate with Gary.

MR. NOVESKY: And the creation of the district would be subject to Dominic?

February 4, 2008

17

MR. CORDISCO: Yes.

MR. NOVESKY: Okay.

MR. MILLER: Thank you very much, appreciate it.

CORNWALL\_COMMONS\_#2004-01,\_2006-19

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MR. NOVESKY: Cornwall Commons.

Gerald Jacobowitz, Esq. appeared before the board for this proposal.

MR. JACOBOWITZ: Mr. Chairman, board members, Gerry Jacobowitz, attorney with J & G. We represent Cornwall Commons, Mr. Joseph Amato. We're here tonight to follow through on the process that we undertook quite a while ago and we were all much younger at that time and right now where we are is we had the draft SEIS submitted, you reviewed, your consultants did a review, we got some of the comments and the matter was put over till today. The first thing that I'd like to get out of the way before we all forget it is we need an extension of the preliminary subdivision approval that was granted.

MR. NOVESKY: If you're, to the letter of January 10 from Michele?

MS. BABCOCK: Correct.

MR. JACOBOWITZ: Yes, we need it extended. Why do we need it extended? We're here before you with other issues that relate to that and we need to finalize our utility plans before we're able to get approvals from the other agencies.

MR. NOVESKY: If I might--

MR. KLOSKY: I move we grant extension as requested.

MR. BRODMERKEL: Second it.

ROLL CALL

MR. BRODMERKEL            AYE

MR. GRABE                    AYE  
MR. KLOSKY                  AYE  
MR. NOVESKY                 AYE

MR. JACOBOWITZ: Thank you very much. I think either maybe more review letters that we have not got yet from the consultants so maybe what we should do at this point is let you get input from the consultants about what it is they have seen and heard since the last time and then we'll try to deal with those issues and take it to the next step. Is that okay?

MR. NOVESKY: Yes. And with that, Leslie?

MS. DOTSON: I did not have much additional to supplement what I had given you last month. I did want to explain that I understood that both the plans and the draft supplemental EIS was in the process of being revised to address the substantive comments I had submitted to the board last month. Because those were acceptance issues and those had formed a basis for my recommendation last month that the board reject the document as insufficient. I understand that those plans were likely to be, those comments, I'm sorry, were likely to be of such a stature as to involve the need for changes in the plans. I know that you also submitted lighting plans, I opted not to review those given the fact that I understood some of the underlying plan might change, I was trying not to waste effort overlap. I also wanted to suggest that you consult with Dominic with regard to making any formal decision regarding the SEQRA submittal and the action time line and also on the issue of taking site plan and SEQRA on the same track as I understood was specifically requested by the applicant.

MR. JACOBOWITZ: Am I correct there are no further comments as to completeness?

MS. DOTSON: Not from me.

MR. JACOBOWITZ: From Leslie?

MS. DOTSON: Not from me.

MR. NOVESKY: Mark?

MR. BRODMERKEL: Just let me, she did have a question about completeness in two areas?

MS. DOTSON: Yes.

MR. JACOBOWITZ: But they were in the January--

MR. BRODMERKEL: Just making sure you didn't misunderstand.

MR. NOVESKY: Mark?

MR. EDSALL: As is normal practice, the comments that I have relative to SEQRA are coordinated through Leslie's office and any input that I had relative to the completeness of the SEQRA submittal I have coordinated already with Leslie. My memo that I prepared for the board for tonight's meeting addresses what my understanding of the submittal is to date which is more a submittal of various exhibits which are part of the SEQRA submittal. And it's my position to the board that we have not received yet a cohesive site plan submittal, complete site plan submittal as would be the case for a full site plan review but as a courtesy to the applicant I went through the 25 drawing set which seemed to be the closest thing to an attempt to get a site plan started and I completed comments on those sheets to help them understand what I believe needs to be done to the plans to bring them to an acceptable level and I also reviewed what content might be missing and should be added to the plans. Again, we've got at this point a multitude of separately prepared exhibits but again they're not a coordinated in my opinion set

of site plan submittal drawings and that's what I am very much waiting for. I will defer to Leslie on the SEQRA issue but once I do have in my possession a full site plan submittal I will again review.

MR. NOVESKY: Thank you, Mark.

MR. JACOBOWITZ: This has in it the comments and the identified--

MR. EDSALL: Yes, I went through as completely as I.

MR. RUSSO: Mark, is that based upon the plans that were folded up in the previous binder or the set that was--

MR. EDSALL: I only reviewed what was submitted in accordance with the town's submittal deadlines, didn't do it twice, didn't think it was fair to the applicant to multiple times review drawings. What I did was I unfolded all the 30 different drawings and with a big stapler tried to put them in some order so that I could review them. And like I said, the 25 drawing set seemed to be the one that as best I understood was the one that was going to be the basis of a spring board to a site plan submittal so I started with that.

MR. KLOSKY: I found I don't, I found the plans in this book form like that in the slim binders compared to a regular roll up plans I found them difficult to use.

MR. EDSALL: Tortuous would be--

MR. KLOSKY: I tried hyperboles on my earlier days of the board but yes you're right, tortuous would describe it exactly.

MR. EDSALL: For purposes of site plan review obviously for SEQRA it might be a very appropriate way to have it packaged for the public.

MR. NOVESKY: Okay, thank you, Mark. Dominic?

MR. CORDISCO: I don't have any particular comments on either the draft supplemental impact statement because that's not, you know, some area that I typically provide comments on nor do I have comments on the site plan because once again, that's not something that I typically comment on. I did however and if the board's ready to get into this discussion I did however receive a letter from Michele Babcock regarding the road width issue which has been percolating for sometime and when the board's ready I can provide an overview of that if you're ready now.

MR. NOVESKY: I think the board is very ready.

MR. KLOSKY: Is that a site plan or SEQRA issue?

MR. CORDISCO: Well, it's a little bit of both to be honest in a sense because it's going to cause if the road's as previously as shown to date on the plans need to be revised then that will have an affect on the overall site plan and also on SEQRA issues as well because--

MR. NOVESKY: So we're looking at SEQRA portion of the discussion now, correct?

MR. CORDISCO: I think you're looking at a little bit of both to be honest.

MR. NOVESKY: Let's discuss it.

MR. CORDISCO: I don't know how you can easily separate it out. Ostensibly it could be perhaps more of a site plan issue but it has SEQRA impacts.

MR. NOVESKY: But it's all about road widths.

MR. CORDISCO: Any discussion?

MR. NOVESKY: Let's talk road width.

MR. CORDISCO: Any discussion limited solely to road widths, the Town Code for a Planned Adult Community which this is proposed to be does allow the roads within a Planned Adult Community to be private. And furthermore specifies minimum standards as to what those road widths would need to be.

MR. NOVESKY: What are those road widths?

MR. CORDISCO: For this particular design with two way traffic with parking on one side the roadway has to be at least 24 feet wide and it's my understanding that the plans, although this has not been corroborated, don't take it from me, my understanding the current plans do show 24 feet wide roads. That's the same road width that you would have for a maximum of a 6 lot subdivision in the town and the code does provide that the not only the planning board but the planning board engineer and the Town Board must all grant the approval for the private roads upon their review and to confirm that there is adequate access especially for emergency vehicle access.

MR. NOVESKY: Town Board has not considered this yet.

MR. CORDISCO: It has not been before the Town Board, it hasn't reached that point and it would be premature to do so because SEQRA has not closed yet so there's no approvals the planning board nor the Town Board could theoretically be in a position to grant these approvals. And it's my understanding that the applicant has received feedback informally from the planning board engineer that those roadways are too narrow for the size of the project and the applicant has also received written feedback from the Cornwall Fire District fire chief questioning the narrowness of

the roads and the adequacy of the--

MR. NOVESKY: Questioning or saying that they're too narrow?

MR. CORDISCO: Well, I think the exact wording was questioning whether or not the roads are too narrow.

MR. KLOSKY: Mark, so I understand basically 24 feet includes the parked car and the two lanes of travel so if you had a parked car there and you had a parked piece of fire equipment that would leave an eight foot gap for a third piece of equipment or ambulance to pass?

MR. EDSALL: Yes.

MR. KLOSKY: And that would be quite tight.

MR. CORDISCO: The fire chief's letter said specifically and I'm quoting the road widths appear to be narrow throughout the project site and that projects of this scale must have adequate width for access and emergency vehicles and that's the issue. You know at this point--

MR. GRABE: There's a couple however's that you have in your letter that it's approved on private roads to be 24 foot wide, that's a health and safety issue.

MR. CORDISCO: Correct, correct and I think, and the point is is that the planning board, the planning board engineer and the Town Board all have to weigh in as to whether or not the road design is adequate.

MR. GRABE: When do they do that?

MR. CORDISCO: After SEQRA is closed.

MR. BRODMERKEL: And who makes that determination?

Obviously the town engineer and the--

MR. CORDISCO: I think the town engineer gives you a recommendation, the planning board would make its decision as part of the site plan approval but before the site plan approval is granted or immediately thereafter you could make a conditional approval, it would go to the Town Board for their weighing.

MR. BRODMERKEL: Town Board would also have to approve it.

MR. CORDISCO: Yes.

MR. BRODMERKEL: The Town Board would have to approve it if we decided to vary from the stated private road standard.

MR. CORDISCO: No, I think the Town Board has to approve it if they're going to be private roads.

MR. BRODMERKEL: If it's going to be private road--

MR. CORDISCO: Exactly.

MR. NOVESKY: If it's going to be private road it can be 24 feet by Town Code. Dominic?

MR. BRODMERKEL: That sounds backwards to what I think I heard.

MR. CORDISCO: I understand that but that's the way the code is written, says that private roads are allowed in the PAC subject to Town Board approval.

MR. NOVESKY: But also subject to the consent of the--

MR. CORDISCO: To confuse you to the maximum extent possible actually three separate sections in the code that all deal with private roads within a PAC and so

we're reading them altogether and trying to make sense out of them and make sure that they work together and they do work together but they do, one section involves the Town Board, another section involves the planning board and the planning board engineer and another section sets forth the minimum specifications for the private roads.

MR. NOVESKY: So where does the consent of the fire commissioner or fire--

MR. BRODMERKEL: He directs us or informs us.

MR. NOVESKY: He has information that he considers the road too narrow.

MR. CORDISCO: That's where I, where you get back into the SEQRA because one of the issues you're looking at the traffic comment, welfare and safety.

MR. BRODMERKEL: If I am understanding you, it's not that we're stating that they're entitled to use only private road standards but we could allow them to use it that more accurate.

MR. CORDISCO: You can allow them and you can condition your approval on certain widths.

MR. BRODMERKEL: But they're not entitled to it automatically.

MR. CORDISCO: Correct, they're not entitled to what's written in the code automatically, what's written in the code is a minimum so just because they provide the minimum doesn't mean that you have to sign the plans.

MR. BRODMERKEL: Okay.

MR. KLOSKY: My own feeling 24 foot width if you had a car parked on one side and you had a pumper truck

working a hydrant and you tried to get another piece of equipment through that gap to service the fire or the emergency I think you'd have a very tough time doing that, that's my own feeling. So I think I'm, I would also be very reluctant to countermand, the fire chief has spoken to us one other time in my years on the board in this way, right, and I think that was just accessing the back of an apartment building if I'm not mistaken so it's not like we're getting these all the time or he's a panicky person, we have to take this very seriously.

MR. NOVESKY: We can't supersede the recommendation, is he considered the chief safety official for the town?

MR. CORDISCO: No, no, I mean, the planning board has to make a determination when it's granting site plan approval that the site plan and the site development is not going to adversely impact the public health, safety and welfare.

MR. NOVESKY: But if the town engineer and the fire chief argue that it does impede the potential safety.

MR. BRODMERKEL: It would behoove us to listen.

MR. CORDISCO: You should listen, you don't always listen.

MR. NOVESKY: Are we subjecting ourselves to liability.

MR. CORDISCO: It's not a liability issue from that standpoint but--

MR. NOVESKY: It's a sensibility issue though is it not?

MR. CORDISCO: Yes.

MR. NOVESKY: Okay, Led, you had a comment.

MR. KLOSKY: No, only that I would think that it would be hard to get an ambulance through.

MR. NOVESKY: So translate this back to the SEQRA process in this case it seems as though we're stuck somewhere between SEQRA and site plan.

MS. DOTSON: Well where it becomes an issue with SEQRA is that because this question has been raised resolving this to like resolving some of my previous comments could have an impact on the plan which kind of ripples and cascades through the plan. So I felt it was appropriate to bring the issue up now because as a courtesy more to the applicant because you hate to worry about arranging everything just so and only to say oh, by the way, there's this overlapping SEQRA.

MR. CORDISCO: If I could expand on that, I mean, this is something they're before us now because they have a draft supplemental, this is a comment that was made to them last year from an engineering standpoint and of course the fire chief's letter is dated in August.

MR. NOVESKY: Talking about the road width?

MR. CORDISCO: Talking about the road width, here you're asked to provide comments on the draft supplemental but you have this underlying engineering issue that's going to have a ripple affect throughout the environmental studies.

MR. NOVESKY: Well, it does because you're increasing the drainage potential on the site with a wider road and whatnot, there's no question about that.

MS. DOTSON: This has been mentioned to them several times before.

MR. CORDISCO: So I think it's at this point as I have

recommended in my memos that the board should give them some feedback as to where the board wants to go because it becomes an issue of completeness for their draft supplemental and especially if they want to tie the public hearing on their draft supplemental to their site plan well then--

MR. BRODMERKEL: We've got to have them working. Should we ask Mark for a recommendation?

MR. NOVESKY: We should but--

MR. KLOSKY: I'm disinclined to tie the SEQRA public hearing and the site plan public hearing together.

MR. BRODMERKEL: Let's wait on that issue.

MR. NOVESKY: We're looking for clarification from Mark.

MR. BRODMERKEL: What recommendation are you having for road width or road construction?

MR. EDSALL: There was over the years quite a bit of discussion to increase the road width of a public road for exactly these reasons, the road width in the Town of Cornwall I believe used to be 24, the argument was to raise it to 26. And after quite a bit of internal discussion and discussions with emergency services the road landed at 28 foot, not 30 which was one of the alternate sizes considered because it was felt that 28 was a safe width to get access to subdivisions. The size of this project in my mind the density that's involved warrants nothing less than what you would have in a subdivision because the emergency responses in this case might even be more heightened given the fact that it is seniors, given the fact of the density.

MR. BRODMERKEL: So you're recommending 28?

MR. EDSALL: It's I think consistent with common sense, consistent with history, consistent with problems that have occurred in other areas of this town and adjoining multi-family projects in other nearby towns and it has been an item that I have raised in February, in June, in October, in November and the chief in August so again the ultimate decision lies with the planning board but in over three decades of being a volunteer fireman I've seen people, I had on one occasion responded to a particular woman was killed because the fire truck couldn't make the turn because there was cars obstructing access to the fire scene. So I take it very personally, I have seen the affects of what shouldn't happen happen so it's a personal belief and it's based on experience.

MR. KLOSKY: Getting back to the SEQRA/site plan question is this an issue which you believe Mark needs to be addressed in the supplemental Environmental Impact Statement and if you think it does need to be addressed do you think it is sufficiently addressed because we're trying to decide whether this meets the--

MR. EDSALL: Well, Dom touched on the domino effect very succinctly, you've got a SWPPP, you've got other considerations in the supplemental that rely on something other than what you may ultimately say is the appropriate manner in which this should be developed. So it wouldn't seem to make sense to me to have the incongruous situation of an analysis that's inconsistent with maybe where the board feels is ultimately the basic minimum standards that the development, how it should, okay, so it's exactly what Dom said, it's a site plan issue that has an impact on SEQRA. So it would seem foolish to ignore it through the SEQRA process and then just raise it during the site plan process, just doesn't make sense.

MR. BRODMERKEL: Dominic, would we take a vote to indicate to the applicant where we'd like to be?

MR. CORDISCO: I think you can take a straw vote, it's not binding at this point but I think you also should first perhaps hear from the applicant, I'm sure they have something to say. Mr. Jacobowitz has not been standing there all this time for nothing.

MR. JACOBOWITZ: Would the record show it's now 8:11 and I'm being given an opportunity to address this issue after Member Klosky has already stated his conclusory opinion that he will not approve the project with the roads built in accordance with the town's specifications and therefore, we have been denied our right of due process, our freedom of speech, our right of assembly and the right to petition our government--excuse me--

MR. CORDISCO: You can--

MR. JACOBOWITZ: You're not going to interrupt me, I have the floor.

MR. NOVESKY: I can, let's be civil.

MR. JACOBOWITZ: I am civil, I'm talking, I don't think I have to be interrupted.

MR. NOVESKY: Mr. Jacobowitz, this is not a court of law, let me make this clear, we're here to hear what you have to say about the project. Let Mr. Klosky, we're on the record as a member of the planning board, I don't think that it's appropriate that you have to lecture him.

MR. JACOBOWITZ: You're now telling me I may not represent my client properly to make a record that our rights are being violated by the procedure that is being followed here, are you telling me I cannot make that statement?

MR. NOVESKY: Mr. Jacobowitz, are you suggesting that we're not following proper procedure?

MR. JACOBOWITZ: I surely am. If you heard what I said--

MR. CORDISCO: I think what we're getting into is legal argument, that if there's going to be a lawsuit then there's going to be plenty of opportunity to put that legal argument in their briefs. I don't see where the record needs to be made here. I think what's for discussion tonight is the issue of the road widths and if we'd like to have a discussion on that, it's the board's pleasure. I think that legal arguments are best served in legal papers.

MR. NOVESKY: Okay, in that case, Mr. Jacobowitz, if you'd like to address the issue.

MR. JACOBOWITZ: I surely would because Mr. Cordisco made a lengthy legal analysis of what he thinks the statute says and you all sat here and listened to him politely and attentively and he went through what he thought was the law. Now you're now telling me that I on behalf of my client, applicant cannot--

MR. BRODMERKEL: Gerry, you haven't started to tell us.

MR. NOVESKY: Kenn, please. You're out of order Mr. Jacobowitz.

MR. JACOBOWITZ: And I believe that it is necessary that I make sure the record is clear that this decision has already been made by Mr. Klosky, it's tainted his ability to be fair and impartial and provide due process. Now I will speak to the merits of fact after the fact.

MR. KLOSKY: Can I respond? I certainly have read your briefs.

MR. JACOBOWITZ: I'd like to say that we strenuously disagree with Dominic's analysis. And it's unfortunate that that got precipitated tonight without the opportunity to get back to Dominic and go over what he has in his memo to point out to him what we think our errors in his analysis are and why he may have ended up with a different conclusion if we had had that opportunity. Now, the premise of his position as I understand it is that there's discretionary power among this board to change what has been adopted by the Town Board by way of legislation because the issue of what's to happen to these roads is a matter of legislation, not discretion, and the Town Code that was passed specifically 158-16 (a) Sub 10 A through E a PAC may be serviced by private roads regardless of the number of lots created therein, so whether it's six which is your standard for a subdivision is irrelevant because the Town Board has stated as a matter of town policy regardless of the number of lots the road shall have a maximum right-of-way of 40 feet and meet otherwise applicable regulations regarding width, paved surfaces, curbing, drainage, signage and maintenance. And further providing that the plans for the roads be approved by the planning board and the town engineer. The plans, that means those pieces of paper rolled up or folded up whichever way they end up getting to you that show on it designs of roads and the specifications for roads are to be reviewed by the planning board and the town engineer to see if what the lines show on those plans is what the statute says. It does not give you some kind of broad, unfettered total discretion about what you think is the width of a road in the Town of Cornwall. Your power does not extend that far, sirs. Further, the Town Code further provides quote the applicant shall determine prior to final approval which roads are to be private or public roads prior to final approval. All roads will be constructed to the town specifications for the roadbed and the pavement depths and pavement width shall be 18 feet for a one

way street, 24 feet for a two-way street with parking on one side and 32 feet for a two-way street with parking on two sides. This is not an engineer's recommendation to you, this is the statute that was adopted by the duly elected Town Board after public hearings, after opportunity for the public to be heard, for the opportunity for your consultants, these same people sitting over here to make comment to the Town Board and after all of that they acted, they adopted this law that says what I just read to you. It then got signed by the Town Clerk and was filed with the Secretary of State of the State of New York and it has neither been modified, amended, revoked or rescinded. You are bound by this, they are bound by this.

MR. GRABE: Could you determine this for me here so I can understand it?

MR. JACOBOWITZ: You want to know where it is in the code?

MR. GRABE: No, I have something I want you to interpret in the code.

MR. JACOBOWITZ: Are you going to read it?

MR. GRABE: No, you read it, you're a better reader than I am.

MR. JACOBOWITZ: Yes, I read it and I can tell you what it says, yes, sir, it says that the planning board can't approve a private road if in their opinion it doesn't meet certain standards. However, the statute--

MR. GRABE: It says the way I understand it that the planning board shall not, I'll read it, the planning board shall not approve the use of a private road in any subdivision if it's determined that the use of the said private road is not consistent with health, safety, welfare and convenience of users of the road

and the people of the Town of Cornwall in general.

MR. JACOBOWITZ: Correct, that does say it and your reading of it is accurate but it doesn't apply here because the statute says in Section 158-16 (a) 11 private roads for commercial, industrial and planned adult communities, okay, that's us, we're a Planned Adult Community, private roads shall be allowed with the approval of the Town Board. It is not your jurisdiction to rule on whether a private road can be a private road in a Planned Adult Community.

MR. CORDISCO: Mr. Chairman?

MR. JACOBOWITZ: Because under this section the Town Board adopted a law that said that as to a PAC, the decision is for the Town Board.

MR. NOVESKY: Excuse me, Mr. Jacobowitz.

MR. CORDISCO: Mr. Chairman, I don't think it's wise to get into a parsing of what the Town Code says or does not say, especially when we're going to have selective quoting from it. Because the sentence that Mr. Jacobowitz just read was incomplete, it goes on to say that provided that they meet the minimum construction standards for public town roads and the last sentence in that section says access to said roads by the town's emergency services and the right to enforce parking standards shall be required as a condition for allowing said private roads which is exactly the issue that's before the board.

MR. JACOBOWITZ: It says that and I agree that it says that but the decision for that is the Town Board's, not your board. That's the difference. I do not quibble that the last sentence that Dominic read says exactly what he said but it's the last sentence in the paragraph that says the Town Board decides it.

MR. NOVESKY: Really do enjoy these intellectual and legal debates, however, I think it's outside this whole discussion is outside the purview of this board, the question becomes what is, I'm going to--

MR. BRODMERKEL: Part of the question is is it outside our purview.

MR. JACOBOWITZ: Yes.

MR. NOVESKY: That's why I'm going to direct the question to counsel.

MR. KLOSKY: I'd like the opportunity to--

MR. NOVESKY: I will just ask our corporation counsel prepare us a brief in terms of what does fall within the purview of the planning board so that we might--

MR. CORDISCO: I think I already did, Mr. Chairman.

MR. NOVESKY: I agree, I take it back.

MR. CORDISCO: I stand by what I wrote there.

MR. NOVESKY: Mr. Jacobowitz contends that that's not accurate.

MR. CORDISCO: Mr. Jacobowitz also said that it is unfortunate that tonight's the first time this is coming up. But the reality is that I sent this to Miss Babcock on January 29th which was last Tuesday and I have not received a single phone call or a request for further discussion regarding it so they've had it before they heard it tonight, they've had it for almost a week and they've heard it on multiple occasions prior to that in terms of at least four work sessions and that's so it should not come as a shock.

MR. JACOBOWITZ: What we heard, Mr. Chairman, was an

opinion of the engineer, his view, the view of the fire chief which is not that clear it says it appears as I recall his language, I couldn't find my copy of it but it sticks in my head that I used the word appears when you say different word than he said that it was too narrow, he said it appears, okay, which gives us the opportunity to deal with what he perceives is an appearance. But the memo from Dominic we got a week ago, that is true, we got it, we have reviewed it, we have been doing research, he cited a number of cases, we disagree with his analysis of all of those cases to the case and there's a history to this also that I'm not going to discuss tonight. My intention is to call Dominic and make an appointment to go see him and discuss this with him further and I'm making that known here so there's nothing happening behind any doors. And the reason we're into it tonight is because you now seem to be saying you're not going to process our SEQRA documents because of this issue about the roads and that's a very serious--

MR. NOVESKY: I'm not sure the board's taken a position on that yet.

MR. CORDISCO: No, I think--

MR. JACOBOWITZ: Let's get that clarified then, my speech may not have been necessary. Are we processing it or not?

MR. NOVESKY: That's for us to determine.

MR. JACOBOWITZ: That's correct.

MR. KLOSKY: I'd like a moment just to speak, I think that to call my judgment precipitous in this matter is somewhat, well, I hate to be impugned in that way in that we were given briefs by both the applicant and by the attorney for the board and that I read those briefs, I then took a look at the Town Code which is

understandably a little bit confusing and I think has led us to this position, I don't agree with Dominic in this that I'm hoping we're not leading towards some sort of confrontation in court and that's not why you brought this up this evening, I can tell you for certain that my mind is not closed on whether or not we're going to accept this document as I think the, what's the right language this evening?

MR. CORDISCO: Complete.

MR. KLOSKY: Complete, my mind is not closed, the road issue I have reviewed carefully, not in a precipitous manner inspired by this evening's conversation alone, I don't want the applicant to get the wrong impression that I haven't done any homework and taken a careful look at the code and everybody's statement we had a statement from you and Dominic, I read them both so I don't think it's precipitous.

MR. JACOBOWITZ: The record will stand for itself. I'm not going to respond and perpetuate the debate.

MR. AMATO: Look, you know, we've sat here, we've been at this for years.

MR. JACOBOWITZ: Eight years.

MR. AMATO: Okay, but the point is that the PAC Law was generated and you as a planning board and these consultants have an opportunity on more than one occasion to react and say what your lead engineer said this evening, why didn't this come up a year and a half ago or two years ago or three years ago? We've had two PAC Laws in the last five years, we've had the same set of regulations and rules, both times public hearings no one has said anything like he said tonight. And secondly, may I remind this planning board that we're sitting here tonight doing an SEIS and one of the reasons we're doing an SEIS is water impacts. So now

you're going to tell me that I should avoid the law that's on the books and add to the runoff by increasing the widths of the roads. Isn't that hypocrisy? Where are we going with this? What's next?

MR. JACOBOWITZ: I want to also add--

MR. AMATO: I'd like an answer, Gerry.

MR. NOVESKY: Let's call a timeout, you know, in elementary school, we talk about timeouts, I'm going to call for a five minute recess because I think the room is getting heated so just go relax a little bit.

MR. AMATO: I respectfully request an answer.

MR. NOVESKY: Five minute recess, thank you.

(Whereupon, a brief recess was taken.)

MR. NOVESKY: I will bring us back to the original intent of our discussion, which is to determine whether the SEQRA is complete, that's the discussion. We're not discussing the roads at the moment, although as a matter of clarification for the record, I'm told and advised that Mark Edsall was not involved in the creation of the standards for the roads in the town, correct, Gerry, that you had stated on the record and I want to make the record clear that he was not.

MR. JACOBOWITZ: Which time, the first time or the second time?

MR. NOVESKY: Mark?

MR. EDSALL: None of the sections of the codes that are referenced tonight for the PAC did I provide any input.

MR. JACOBOWITZ: For the first set of them? This law was adopted twice, so he's putting on the record that

at neither time did he have any review of the PAC Law, is that what he's saying?

MR. EDSALL: No, I said I did not provide input that recommended the widths that are in this law.

MR. JACOBOWITZ: Is he saying he didn't review it?

MR. NOVESKY: Gerry, listen to him, okay, he's saying that he did review it.

MR. NOVESKY: I feel like I'm in the movie Bananas.

MR. JACOBOWITZ: He did or didn't review it, it's not clear.

MR. NOVESKY: He was not involved in the creation of the standards of the roads, that's the matter of record and I will now move on to the next subject or I will call you out of order and ask you to leave the room. Enough, Mr. Jacobowitz, enough.

MR. JACOBOWITZ: Neil, I don't think you should call me out of order. There's one other thing that should be brought to your attention if you're looking for the light here, if you really want to have the light, the PAC Law was processed twice both times your board reviewed it and recommended adoption twice now, why was it twice because the first time the Town Clerk failed to file the law with the Secretary of State and the new Town Board came in and said we want to adopt this ourselves so they then went through the whole process again and your board got it, your board reviewed it, your board considered it, thought about it, do whatever you do and then you reported back to the Town Board favorably and then they adopted it, okay. So this is not something that wily-hily somebody who has an idea today can decide they're going to change what's constitutionally established. Thank you.

MR. NOVESKY: Your point is taken. Now the question that the board, I'm asking the board to address now is the completion of the SEQRA, that's the question on the table.

MR. CORDISCO: Yes, and if I could, Mr. Chairman, the board and its consultants have previously provided comments to the applicant which would indicate that the draft supplemental EIS that's been submitted to date is incomplete. My question is whether or not you want to formally declare it incomplete so the applicant can go and revise it and address the board's comments and they can resubmit it, that's procedurally where we are.

MR. NOVESKY: That's the question.

MR. JACOBOWITZ: Can I make a suggestion?

MR. NOVESKY: Not at the moment.

MR. JACOBOWITZ: But I have a suggestion to make before Mr. Klosky can make up his mind again.

MR. NOVESKY: Thank you. Go ahead.

MR. BRODMERKEL: You're not helping your cause, sir. Leslie, you asked questions as to completeness, is that correct?

MS. DOTSON: Ecological and the wetland issues overlapped.

MR. BRODMERKEL: No other questions were raised by the rest of the board, you had two questions of completeness, we have not discussed those issues at this point tonight, I'd like to understand more specifically why you feel it is incomplete.

MS. DOTSON: The information that's provided in the document with respect to the ecological issues and the

wetlands, well, I also did have some supplemental comments that stated that they had not addressed some of the school issues that were requested in the scope of work that was something that was fairly minor and you actually provided some information to the applicant. So I didn't see that that would have been a major problem to amend. But the ecological and the wetland issues were overlapping, they did not show that they fulfilled requirements of the representations that were made in the GEIS findings with respect to this specific site plan.

MR. BRODMERKEL: Can you specifically tell me why you feel that way?

MS. DOTSON: Because they have demonstrated by their own drainage study that they have substantially altered the drainage flow within the wetlands, reduced it to a point where the plan that was before you that the plan that was submitted that's been under review would in fact impact the wetlands negatively and they also created some direct disturbance to the ecological areas that they had indicated that they're going to protect and there was not sufficient information shown to demonstrate that they were making effort to protect that. So in a sense this document is not consistent with the GEIS findings and as such would not been acceptable.

MR. BRODMERKEL: It sounds like you're saying you don't like what they're saying but they have addressed it.

MS. DOTSON: No, they haven't, they have not, it's not consistent with what they stated, with what the board found, with what they themselves represented and the board agreed with and found in the original DEIS findings so, in other words, you're bound by those specific findings. In fact, that's been the basis for all of your consistency determinations up until now so the fact that this document does not demonstrate

compliance with that and the plans don't demonstrate compliance with that is a serious issue.

MR. BRODMERKEL: Did you get a chance to review that point?

MR. KLOSKY: I certainly read Leslie's comments.

MR. BRODMERKEL: I did too but I can't tell you I went back in and researched the point, you may have.

MR. KLOSKY: I did read through the detailed findings that Leslie sent us which was an attempt to shed some light on that.

MR. JACOBOWITZ: I can answer that and save you a lot of time, we don't disagree with what Leslie's said and we have now produced and will provide the answers to the two issues that Leslie indicated she did not think were complete. It took a lot of studying and analysis to satisfy it to the level we think is the appropriate way and we have that and we're going to deliver that tonight so we don't expect you to say it's complete tonight because we're just giving Leslie now and your board the answers to those two items, okay. And we also have in response to Mark's comment that he didn't feel that the plans had all the sheets in it that should be and there were some things that should be added to it. We have done that as well so that we hope when he gets the package he will look at that and say yes, you now have given me a complete site plan application, we took all the comments to heart and we went out and tried to, you know, respond to them so that we would have a positive report from them after they had a chance to see it. The difficulty was we just couldn't meet Gary's timetable with all this stuff and so we're going to deliver it to you tonight and we would expect at your March 3rd meeting that that's the night you'll give us an answer on completeness.

MR. NOVESKY: But, Dominic, don't we have an issue that we have to issue a completeness declaration prior to February 21st?

MR. CORDISCO: By February 22nd unless the applicant's willing to extend that timeframe.

MR. JACOBOWITZ: We--

MR. CORDISCO: But I will say this, though, I mean, it's obviously apparent, I mean, the record can reflect that there's several boxes of material that's here, that's been brought to the meeting that appears to be a submission to the planning board, but that seems to be outside the scope of the board's standard submission practice which of course--

MR. NOVESKY: If we're considering it for next month's meeting, I expect--

MR. JACOBOWITZ: Well, if we give it to Gary in two weeks he'll give it to you then you'll only have two weeks so if we give it to you a month ahead, how can you complain?

MR. NOVESKY: The question is if the applicant is willing to consent to the extension of the requirement, we'd be providing an answer by the 22nd of February or is the applicant willing?

MR. CORDISCO: This is a bit outside the scope of how these things happen, if I may, I mean, typically someone submits a draft document, you review the draft document, you give comments on it and then they submit a revised draft document. What you've got here is you're still in the process of giving your comments and you're getting revisions throughout that process. Now I understand that they want to move as quickly as possible but it's a bit of a moving target and it's not fair to the board to be operating under the February

22nd deadline when in fact you're getting a second version of the document coming in.

MR. JACOBOWITZ: It's not a second version.

MR. BRODMERKEL: Excuse me.

MR. CORDISCO: Well, I don't know what that is.

MR. BRODMERKEL: To my feeling, Dominic, I would disagree with you here. Leslie raised a point of absence or non-specific answering of questions either appropriate or not, the applicant has then responded to that by filling us with the information that was required. It seems to me as normal process that we would like to see happen so I would say I don't have any problem with what's going on here. I would like to suggest at this point that if we take a look at these documents we allow them to be presented to us.

MR. NOVESKY: I would, let me jump in for that, the premise to this whole issue is that there be an extension granted.

MR. CORDISCO: Yes, I mean, typically, this would get submitted in accordance with the timeframes that were previously established by the board, submission would be made directly to the building inspector's office where it would get distributed and from there the board, let's say if that happened in February and then the board at its March meeting would except the document and that would start the clock again so right now you're functioning and I understand that the applicant may be willing to grant you an extension which I think would be absolutely necessary if the board is willing to accept additional documents here tonight.

MR. NOVESKY: So the question is?

MR. BRODMERKEL: Part of what I'd like to do is ask that we accept these documents under the guise that the applicant who seems to be implying that he would allow us till the next meeting to review them.

MR. NOVESKY: Why don't we ask that question?

MR. BRODMERKEL: He's indicating he is, we'll ask him to say so for the record.

MR. NOVESKY: Led, do you have a question?

MR. KLOSKY: My question would be how much time because we could find the document, we could find the document incomplete this evening, then the submission comes in and the clock starts again. And in a way we would be entitled to 60 days, to 30 days to make a review rather than and so if we can go 30 days passed the current what would that be, 30 days passed the next meeting?

MR. JACOBOWITZ: No, no, no.

MR. CORDISCO: Well, typically, it would be 30 days passed the next meeting because as I said, you would accept it at your next meeting but if you want to accept it tonight the question is whether or not you would feel comfortable having comments on that pile for the March meeting?

MR. AMATO: We had an understanding we're going to bring the material that you wanted this evening and here it is and why can't you take it and why are we standing on such formality over here, which is really a new way to look at this? I have a feeling that somebody's a little annoyed with us which is fine but we can resolve this amicably and peacefully. In the meantime, we have brought all this paperwork you asked us to bring it and here it is. Why are we arguing over days we're willing to commit to the March 1st or March 4th meeting and that's it?

MR. NOVESKY: I'm just trying to get my dates here all clarified.

MR. KLOSKY: Our next meeting will be the third of March, is that correct?

MR. CORDISCO: Yes.

MR. KLOSKY: Okay, so my question then to the consultants would be is that going to be sufficient time to review the submissions? Obviously, we'll have to be reviewing them over the next 30 days and I haven't seen them yet, so it's hard for me to say how long it's going to take me. I'm willing to take a bite and take a look at them over the next 30 days, it's more to the consultants. Leslie has to have time to review stuff.

MR. BRODMERKEL: Two specific areas.

MR. CORDISCO: You'd be granting an eight day submission, excuse me, an eight day extension which you're entitled to 30 full days but you may very well give 30 days if you feel that you're comfortable reviewing that, I don't have a problem with that.

MR. KLOSKY: I'm very concerned.

MS. DOTSON: It's Leslie and Mark together.

MR. KLOSKY: I want Leslie's considered opinion on this.

MR. EDSALL: Are we looking at rolls of site plans that you are now going to supersede the multitude of folded exhibits or are we going to have now 30 exhibits and a set of site plans? I have no idea what we have.

MR. NOVESKY: Why don't we do an inventory of what we

have here.

MS. DOTSON: That would be nice.

MR. NOVESKY: Let's just see, Gerry, do you want to give us a rough overview of the piles of paper or Michele, would you like to do that?

MR. JACOBOWITZ: I'm sorry, Mr. Chairman, I just want to find out if we have a problem of the type that Mark's concerned about, that's what I was just doing.

MS. DOTSON: I think if we have a walk-through as to what's there.

MR. NOVESKY: Just a rough overview would be great.

MR. JACOBOWITZ: Let Michele tell you what she's got to satisfy Leslie's comments which is all that we're trying to do is answer the comments we got so far. So I don't, since you've had the package originally since December, okay, all you're looking at now is the new stuff, to answer Leslie's comments and give Mark the missing pages and missing information he said was missing when he reviewed it. So let Michele and John do that and you don't have to listen to me.

MS. BABCOCK: We have a complete revised text of the EIS and I can give you just a quick rundown.

MS. DOTSON: Is it red lined?

MS. BABCOCK: It's not but I can send you one. This is pre and post development drainage impacts on ecology, the certified review.

MR. BRODMERKEL: Is it just that two sections that have been revised or is it the whole thing?

MS. BABCOCK: I'm going to give you a list of

everything that I think that I--

MR. NOVESKY: Let me rephrase Kenn's question. He's asking, we think we're looking at two basic points.

MS. BABCOCK: What I did is--

MR. KLOSKY: So this document has been revised?

MS. BABCOCK: Yes.

MR. JACOBOWITZ: Just part of it.

MS. BABCOCK: So the parts that have been revised are the pre and post development drainage impacts on the ecology, Led, you had requested review by a certified professional of cabbage oaks, that language has been included, landscape renderings have been included, lighting plans have been included, there was further discussion of the traffic mitigation as discussed last time, pedestrian access and the downtown business area, line of sight profiles and school-aged children, empty nesters, so those were the areas that have been revised in the text of the document, as well as based on those revisions, we have a whole new Volume 2 which is the storm water management plan for you as well as we have new maps.

MR. NOVESKY: Can I ask a very sensitive question? Is this storm water drainage plan based on 24 foot roads?

MS. BABCOCK: Yes, and then based on the revisions to the storm water plan as well as the DEIS we have pre and post development wetland drainage area maps, a new grading sheet and I have some additional exhibits, landscaping plans as well as the hydrographs for the wetlands that's what we have this evening as well as because it was told that it was hard to review the plans in the back, we have provided the board plans in a rolled set, they were the exact same plans that were

in the back of your Volume 3s, this way they're all stapled together.

MS. DOTSON: But no separate scales such as Mark mentioned in his comments and the--

MS. BABCOCK: It's all one stapled set.

MS. DOTSON: Because it was really hard, I mean, I can't tell you the foul language that was percolating through my office when I was trying to get all those plans together.

MR. KLOSKY: Does that include the pre and post development in-flow hydrographs then for the wetlands.

MS. BABCOCK: Yes.

MR. KLOSKY: Okay, that gets a long way towards your comments certainly.

MR. NOVESKY: So that's it?

MS. BABCOCK: That's it.

MR. NOVESKY: That's beautiful. So now we have that my question becomes and I'm going to go back to the original question is whether we'll formally approve, ask the applicant if they'll consent to allow us to extend our review period until March 3rd.

MR. CORDISCO: To be honest, I don't think you need to, Mr. Chairman, because I think this is a re-submission and a re-submission triggers another 30 day timeframe. The question is whether or not you want to accept this re-submission.

MR. NOVESKY: I will rephrase my question.

MR. CORDISCO: I'm just thinking on the fly here

because it's changing on the fly so--

MR. KLOSKY: Mr. Chairman, I think the path forward is the same pretty much either way though I think that the path forward is that the, at the March 4th meeting we would then set the public hearing for April based on--

MS. DOTSON: We'll have to see what the document says.

MR. CORDISCO: If it's complete.

MR. KLOSKY: But we get to take the vote, let me finish, we have to take a vote on March 3rd if the applicant's willing to extend the deadline, we get to take a vote on March 3rd as to the document being complete or incomplete.

MR. CORDISCO: I don't see it that way, Mr. Klosky, I see this as being a re-submission, it's being made at the board meeting, the board typically does not accept documents at the meeting if the board is inclined to do that that's within the board's prerogative to do that but as re-submission and re-submission of a revised draft supplemental triggers another 30 day review period, you'll have 30 days to review it and I think that today is the fourth, the next meeting is on the third, you'll be within your 30 day timeframe at that point and of course you're going to have to review it and determine at that point whether or not it's complete. If it's complete, yes, you're correct then you would go on to scheduling a public hearing on the draft if it's incomplete.

MR. KLOSKY: Let me clarify, I think that at the next meeting under both paths whether we say it's a re-submission or whether the applicant extends the deadline we still must take a vote as to the completeness of the submission.

MR. CORDISCO: If I seem, this is overly formal, this

is a very important process in terms of what we're being asked to do and maybe subject to scrutiny I think that we should be very careful as to what we're calling it and what we're doing.

MR. NOVESKY: But they're parallel paths and the net result is we must have a decision on the third of March.

MR. CORDISCO: Yes.

MR. KLOSKY: So then--

MR. BRODMERKEL: The results are the same.

MR. NOVESKY: The results are the same.

MR. KLOSKY: I think we should do what Dominic has said.

MR. NOVESKY: Mark?

MR. EDSALL: And I apologize if I missed the answer but I'm confused as to whether or not if we receive a roll of drawings if they're meant to supersede the multitude of folded drawings and we need to focus on rolled drawings now or whether or not we have two comparative reviews where now poor Leslie has to take every one that's in the roll and make sure that the site plans set is consistent with the SEQRA documents. I just maybe I missed the answer.

MR. RUSSO: The roll is a complete set of the site plans now, there are some documents within the books that are exhibits more or less showing the areas that have been changed with regards to grading to show we have increased the habitat area by almost 6 acres and be able to reduce as far as disturbance.

MR. EDSALL: It would be convenient and I will use that

word since the board is being asked to do something within a 30 day period if you didn't have duplicity where you have to review two drawings that are the same and play Where's Waldo and make sure they match.

MR. JACOBOWITZ: John, you did these plans, can you represent to the board and Mark that what's in the rolls is the same as in the back of the DEIS?

MR. RUSSO: Correct, the only plans that are not within this site plan set are those as far as pre and post drainage areas to the wetlands which are exhibits within the back.

MR. EDSALL: If we could get a short letter from the applicant telling us which drawings that were in the folded sets still have to be looked at and effectively telling us ignore all the rest of them because now they're in the rolled set it would make our life a lot more convenient.

MR. NOVESKY: Is the applicant willing to do that?

MR. JACOBOWITZ: Of course.

MR. AMATO: But Mr. Edsall the only additions are what was requested, you weren't here last month, what was requested by Miss Dotson so yes.

MR. EDSALL: Mr. Amato you're submitting a mammoth roll of drawings and I'm just asking as a courtesy to the board that you don't put us in a position of checking to see that we have different things going on.

MR. AMATO: That's fine.

MR. EDSALL: If not, just don't give yourself the roll of drawings.

MR. AMATO: The mammoth roll of drawings go more than

what's more conditional final site plan approval, you have sufficient information to make comments on.

MR. NOVESKY: I think that the exacerbated appearance is causing a level of discomfort among the board and I think that the exhibitions that we're getting by people it's not leaving a good taste in my mouth. I will be frank, okay, so I will go to the question that I have and it's a difficult question and I still feel that in order to honestly consider even those drawings that we must have a reasonable resolution of the questions that we were trying to deal with before that led into the learned discussion between the two attorneys, if we can get some formal solution because I feel that if we're considering EIS impact we're considering environmental impact. If the road is 24 feet wide is it going to be different than if the road is 28 or 27 because of the drainage issues. So I do as my condition to reviewing this stuff and this is part of the discussion I need to have some clarification as to a resolution of argument or discussion we were having before, not here, not now, but I would like a brief of some sort.

MR. BRODMERKEL: Which argument?

MR. NOVESKY: About the jurisdiction of the planning board with regard to deciding the width of the roads within a, this is ultimately whether it's the ultimate result during the site plan review or now, I mean, we need to know something about this.

MR. BRODMERKEL: Can we proceed in the following manner? I think the applicant would either agree that he would give us the extra time to consider this or we start the clock over by considering this a re-submission, it amounts to the same thing either way within one day so I'm not concerned about that one day and I don't think the applicant gives a damn what we call it a spotted horse or a white horse.

MR. JACOBOWITZ: If you want to treat it as a re-submission as Dominic has suggested that's fine with us and we don't need us to consent to March 3.

MR. CORDISCO: Yeah, I mean--

MR. BRODMERKEL: Applicant has agreed.

MR. JACOBOWITZ: It's our understanding if I might just add that we hope that on March 3rd you'll have had the chance to review everything and make a decision that evening hopefully that will be a positive one that it is complete.

MR. NOVESKY: I think that everyone can give their--go ahead.

MR. BRODMERKEL: Since that has been agreed to and as the applicant has said they're responding to our requests so that's a good thing. The other question becomes the liability both ways as to whether 24 foot, 28 foot or whatever what the jurisdiction and the ability of this board is regarding what they can do with these roads. There will be as I think both our attorney and the applicant have agreed that they will meet and discuss this and come to hopefully some conclusion that they can both agree to.

MR. NOVESKY: I have a serious issue reviewing those plans that consist of as Michele pointed out a 24 foot roadway, so I need to have if it's not the jurisdiction of the planning board I'm not in disagreement, I don't know but if it's not in the jurisdiction of the planning board I don't know whether we can legitimately review those plans and come to a resolution.

MR. BRODMERKEL: Can we still accept those plans as an SEIS and say that they're complete?

MR. CORDISCO: This gets back to Mr. Klosky's issue

regarding the review and the simultaneous public hearing on the draft supplemental and on the site plan because what you have been asked to do I believe at the last meeting which of course I was not here was to couple those two together and that's really how the issue arose because now you've got a site plan that has roads that appear to be too narrow in the words of the fire chief and have also that same opinion has been expressed by the planning board engineer. So I think you have to put it in the context that you're being asked to do that and it's hard to extrapolate what the ripple affects will be as to, I mean, certainly there will be affects on the storm water pollution prevention plan as a result of widening the roads, if the roads are required to be widened but what you're asking to I think and this is to the chairman as well is what your authority is and it's very simple, the standards that are set forth in the PAC Law are a minimum and that if the board has a basis to require more than the minimum then that's within its jurisdiction to do so and you've got a recommendation at this point from the fire chief and from the planning board engineer regarding their concerns. It's premature for you to act on those right now, you can't decide what the road width would be today because you don't have SEQRA completed yet.

MR. KLOSKY: Dominic, would that be a finding the road width?

MR. CORDISCO: Well, it would be contained in the finding like a SEQRA finding, I mean, it would be part of your resolution.

MR. NOVESKY: Understand the relationship between road width and drainage, it's a massive road, it would seem to me to have some sort of environmental affect.

MR. KLOSKY: Where I was going it would seem to me when you couple the site plan and SEQRA approval then the findings statement which is contained at the end of the

SEQRA process does not have the ability to compare that findings statement with the site plan as submitted, it's not, it's somewhat compromised and the public should have an opportunity to comment on their impressions about that.

MR. BRODMERKEL: We could break them apart next month if we feel that way.

MS. DOTSON: Yeah and to be perfectly frank I get really uncomfortable looking ahead specifically to what a final resolution of SEQRA would be until we've gotten there because I can't presuppose the responses.

MR. KLOSKY: We're asking the public to pre-suppose.

MR. CORDISCO: SEQRA's based on a plan, you know, so you have to have a plan in front of you that you're evaluating.

MS. DOTSON: That's true but last response to comments is to, given the fact that there will no doubt be public comment, I can't pre-suppose what the answers are going to be so it's--

MR. NOVESKY: Well, go ahead, Dominic.

MR. CORDISCO: If the board wants to consider this and perhaps take it up at the March meeting I think that that's fine, you know, the timeframe has been extended of course you know you have a new submission tonight and if that provides an opportunity for the consultants to get together to talk about it and possibly find a resolution then that would be fine as well that gives us that opportunity. There's, in other words, there's not a pressing, there's not a deadline that you have to act under tonight. It was my recommendation that you give some initial feedback so the applicant doesn't go off spending additional time and money working on a plan that at the end of the day the board is going to

have reservations about approving.

MR. NOVESKY: Well, you're going to meet with Mr. Jacobowitz to discuss the issues.

MR. CORDISCO: I'd be happy to.

MR. JACOBOWITZ: That's my intent.

MR. NOVESKY: Then you guys can--

MR. BRODMERKEL: I don't have any problem with setting up to review this this month and coming together and making a decision next month I think that's what we're all agreeing to do the applicant has agreed to do that.

MR. KLOSKY: Yeah, my responsiveness on the pedestrian issue and I believe Michele you were saying on the cabbage oaks as well.

MS. BABCOCK: Yes.

MR. KLOSKY: I look forward to seeing that part of the submission, it's highly responsive where he only asked that question really in depth last month.

MR. BRODMERKEL: Do we take any further action, Dominic, do we have to vote?

MR. NOVESKY: No further action.

MR. CORDISCO: No further action, no, just acknowledge receipt of this re-submission.

MR. BRODMERKEL: Have we gone over everything on the agenda?

MR. NOVESKY: No, Darian.

DARIAN\_-\_FIELD\_CHANGE

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MR. EDSALL: Mr. Darian's site plan. I'm speaking here tonight for Gary Vinson because Gary, the building inspector, code enforcement officer has had some difficulties with the site, 2424 Route 32 next to Gym Kids, it's an old strip mall that has morphed into some conditions that are somewhat different than the approved site plan. Gary is in the uncomfortable position of needing to upon request for letters for refinancing, the site is in compliance or not in compliance with the approved site plan, so although some of the changes are minor they really aren't in compliance, he wanted us to explain the differences and as long as the board is comfortable the minutes will reflect your concurrence, that it is effectively not a big deal. The south side of the site they have paved what's effectively across the property line onto the neighbor's property up to a retaining wall.

MR. NOVESKY: Off Route 32.

MR. EDSALL: Off Route 32, the right side of the site but they have obtained a letter from the neighbor effectively saying he has no problem with it. They have added a dumpster, freestanding loose dumpster in the back right corner of the site, the southeast corner that's not benefited with an enclosure which is a normal requirement of this planning board for site plans, so both make it more aesthetically pleasing and secondly so that any loose garbage that may fall out of the dumpster is contained within the enclosure. So I think I'm speaking on behalf of both Leslie and myself and Gary that we think it's appropriate that if they're going to put a dumpster back there that it be done in a manner consistent with what this board asks for. Last item there's a rear parking area I believe it's paved a little more than what the site had shown back years ago, the concern was don't put too much pavement because there was some drainage problems in Firthcliffe

Heights, the town through community development grant money and some other developer money have implemented several hundred thousand dollars worth of drainage improvements so that, so I think that prior concern has been rectified by work that's been done. So I don't think that's a big issue. So long and short is if the board agrees that there should be a masonry enclosure for the dumpster which is the normal thing, make it match the finish of the building, I can say if you do that we'll accept everything else and consider the site plan in compliance and that leaves Gary to write his letters for financing, that's our recommendation.

MR. NOVESKY: I have no problem with that.

MR. BRODMERKEL: We accept the recommendations. Make a motion that will be up to you for a discussion.

MS. DOTSON: I concur with Mark's comments.

MR. NOVESKY: Kenn, how do you feel about it?

MR. BRODMERKEL: I made my motion.

MR. GRABE: What was the motion?

MR. BRODMERKEL: That we accept the recommendations as put forth by the engineer.

MR. NOVESKY: There's a motion and seconded.

MR. GRABE: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MR. GRABE	AYE
MR. KLOSKEY	AYE
MR. NOVESKY	AYE

February 4, 2008

61

MR. EDSALL: On behalf of Gary, thank you.

DISCUSSION

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MR. NOVESKY: We have a question here, Mark.

MR. GRABE: If Mr. Jacobowitz didn't agree with our authority on the widening of the road, where is that going to get settled?

MR. EDSALL: I think Dominic was going to speak with Mr. Jacobowitz about the legal issues and we'll take the next step after that.

MR. CORDISCO: I think you're going to hear about it again in March.

MR. GRABE: I'm sure we're going to because the way I read it we have total authority to do that.

MR. CORDISCO: I'm glad we agree.

MR. NOVESKY: We're entitled to consider the safety of the community in our process.

MR. CORDISCO: If you're asking me to write another memo I'll write a very shorter memo so--

MR. BRODMERKEL: A very shorter memo.

MR. CORDISCO: That says you have the authority.

MR. GRABE: The other question, I have one more question they do traffic studies through an agency, a paid agency, right?

MR. CORDISCO: Through the engineering firm, yes, consultant.

MR. GRABE: Does that agency also involve itself with the safety and health of the public?

MR. CORDISCO: Well, it depends, I mean, that particular engineering firm can provide road design that takes into account turning radius or radii and other safety issues, I don't believe they have been asked to do so here.

MR. KLOSKY: Phil Collins Engineers?

MR. EDSALL: John Collins.

MR. KLOSKY: I think what Bill's asking is ask them to give us their judgment.

MR. EDSALL: My suggestion is that you let Dom and Gerry do their thing, if it isn't revolved then you can get into the benefits of pure technical studies versus empirical long term experience with road widths and the fact that although you might be able to barely fit a vehicle between the curb lines if there's the misoccurrence of someone parking where they shouldn't are you endangering the lives of the people in the complex, so that's a whole other discussion after the lawyers are done.

MS. DOTSON: Because the problem is that any technical review is going to be based on certain assumptions of what conditions exist and sometimes reality in the field does not always match what assumptions the traffic engineers might make.

MR. NOVESKY: If our charge is to protect safety of the public and it's within the purview of the planning board to do that it's kind of a moot argument, isn't it?

MR. CORDISCO: At this point without having Mr. Jacobowitz or his client here, even though--

MR. NOVESKY: They chose to leave.

February 4, 2008

64

MR. CORDISCO: But even though other representatives of them are here, I think it's best to have this discussion continued at the March meeting.

MR. NOVESKY: Now you're going to continue it with Gerry to resolve the problem?

MR. CORDISCO: That was the first I heard tonight that he wanted to meet with me and I'd be happy to meet with him. I'll make sure I'm available to do that.

MR. NOVESKY: Your memo was very good with that. I'll take a motion to adjourn.

MR. BRODMERKEL: So moved.

MR. KLOSKY: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MR. GRABE	AYE
MR. KLOSKY	AYE
MR. NOVESKY	AYE

Respectfully Submitted By:

Frances Roth  
Stenographer