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TOWN OF CORNWALL

PLANNING BOARD

OCTOBER 6, 2008

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

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PLANNING BOARD ATTORNEY

MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

LESLIE DOTSON
PLANNING BOARD CONSULTANT

GARY VINSON
BUILDING INSPECTOR

ABSENT: JANE DEANS
HELEN BUNT

REGULAR_MEETING _____

MR. NOVESKY: I'd like to call the meeting to order.
All are present but for Mrs. Bunt, I haven't heard from
her. Gary, have you heard from her?

MR. VINSON: We have not.

MR. NOVESKY: Jane Dean is excused, she's not feeling

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well.

CORRESPONDENCE _____

MR. NOVESKY: Correspondence, Fran, I'll forward that stuff to you.

APPROVAL_OF_MINUTES_DATED_SEPTMBER_2,_2008

MR. NOVESKY: Approval of the minutes, anybody get any minutes? Do you want to move for motion to accept them?

MR. GOLD: So moved.

MR. GRABE: Second it.

ROLL CALL

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

MR. NOVESKY: No resolutions right?

MR. CORDISCO: No, sir.

HENNESSY_&_LOPRESTI_#2008-07

MR. NOVESKY: It's 7:31, scheduled public hearing a 2 lot subdivision lot line change Hennessy and LoPresti. I will ask members of the audience if there are public comments to keep your comments to two minutes please, provide your name and your address and restrict your comments to the fact that this is a 2 lot subdivision and a lot line change.

Mr. Steven Drabick appeared before the board for this proposal.

MR. NOVESKY: I will ask for brief explanation.

MR. DRABICK: Okay, the application before the board this evening is as the chairman mentioned proposal for a 2 lot subdivision and lot line change. What we're looking to do on this piece of property is subdivide the two lots, two existing dwellings that exist on the parcel itself. Both these dwellings are currently accessed through a right-of-way, a driveway coming from the intersection of Center and North Street, both the existing dwellings are currently serviced by municipal water and sewer. So in the aspect of the subdivision part of this application we're just looking to divide these two dwellings, place them on separate lots. Now also involved is a lot line change in which there will be a conveyance of property currently owned by the Funcks to the applicants, the applicants being Margaret Hennessy and Michele LoPresti and that parcel on the maps that the board members have is a parcel that's shown as crosshatched, highlighted in orange to show where the parcel's located, basically, it conveys to the applicants and it will become part of lot 1 that portion that they now only have an existing right-of-way to access the parcel of land. So what this will do is will actually make this part of the parcel itself, they'll only own it and it will call for an upgrade on the driveway to a private road but no

base, no real change in location of that driveway other than the fact that it will be paved, it will become a little bit wider at the end of it where we're proposing to have a T turnaround.

MR. NOVESKY: Thank you very much. Any member of the public wishing to comment, please step forward, give your name and address and keep your comments to two minutes.

MR. KRYZAK: Patricia Kryzak and I live on 2 Center Street at the access to that lane that goes in there, we have a right-of-way, a legal right-of-way to our home which is in there and I just, I'm in, just want to make sure that the legal right-of-way that's been there since probably close to 40 years ago maybe--

MR. NOVESKY: Just want to make sure it remains. Mr. Counsel, can you provide that information?

MRS. KRYZAK: It's on a map, it's on the map already.

MR. NOVESKY: Okay.

MRS. KRYZAK: And it's legal, it's on our title search and everything.

MR. NOVESKY: Okay, thank you very much. Counsel, can you provide input on that?

MRS. KRYZAK: I just want to make sure that we can come and go complete access to our home and our family can in peace.

MR. CORDISCO: I don't believe that the application involves any infringement on their right to continue to access the home.

MR. BRODMERKEL: Should be no change.

MR. CORDISCO: That's right.

MRS. KRYZAK: So that's--

MR. NOVESKY: Reassuring.

MRS. KRYZAK: Yes, so we have access, right-of-way?

MR. CORDISCO: You have whatever legal rights you have and if you're accessing it now you continue to have those rights.

MRS. KRYZAK: Okay, thank you very much.

MR. KRYZAK: My name is Harry Kryzak and the gentleman indicated a right-of-way for us written on his map since if they're really accessing the private road it will come to the edge of the structure, we'll be stepping out of the house right into traffic and there were for 86 years there were bushes and the drainage from the town were existing for the last 86 years and now according to the state law it's things over ten years is existing shall not be destroyed and we have to be very careful stepping out of the house right into I don't know how the, I would suggest peacefully to speak, I don't care what those people do but it should be, have to put a sidewalk between us and the driveway, my private driveway and that would eliminate a lot of things.

MR. BRODMERKEL: You're asking for a sidewalk?

MR. KRYZAK: It would be right on our side of, it would benefit those people because there's tremendous traffic.

MR. BRODMERKEL: Can you show on the map where your house is located?

MR. KRYZAK: Right here, it indicates right to the

corner, I don't know because that's right on their property, I assume, so, therefore, right, to solve the whole problem I think there should be a sidewalk proposed there so it will be safe for us and them or everybody else so we don't have to step out from the house and right into the, they're our bushes, they'll be killed by tremendous traffic.

MR. BRODMERKEL: You have 30 seconds left.

MR. KRYZAK: Basically what I'm trying to say we came to Cornwall, we want to live here and we want to be observed as taxpayers and we have the civil rights to exercise since those things were existing for so many years now people come and trying to be greedy and trying to eliminate us. It's not fair. Thank you.

MR. NOVESKY: Thank you very much. Duly noted.

MR. DRABICK: Yeah, if I can just address some of those issues there. Specifically with regard to the right-of-way there as the Kryzak's have mentioned that that driveway has been used by them for a period of time now and their may be rights established by use but as of record there are no deeded rights for that parcel for the use of that driveway. Our deed, the only deeded rights for the use of that particular driveway that are recorded, recorded deed rights are extended to the parcel that we're subdividing and the parcels that existed in the Lambert subdivision which would be the Funck parcel and the adjoining lot to it, those are the only lots that have recorded right-of-way. With regard to currently what we have shown on the plan here with regard to the improvement of the travel way of the driveway that's there in this particular plan we're showing that that improvement will not exceed the limit that the current driveway is right now as it comes off the end of Center Street we're not at this stage of the game we're not looking at tearing down the stone wall and the hedge and everything else, we're looking to

improve and pave up to that limit. There's an issue, there's an issue to be contended here with regard as are the rights viable, there's no question there's a right by use that of course has to go through a process to be recognized as a recorded and legal use.

MR. NOVESKY: This is not the forum for that.

MR. CORDISCO: Right, and we don't get involved with those kinds of things.

MR. DRABICK: It's basically a civil matter not really involved in what we're doing here and as Mr. Cordisco explained any rights that exist or will exist or will be recognized as existing will be included in the use of that driveway.

MR. NOVESKY: Okay, there was someone else standing up, ma'am, was there someone else with a public comment? Okay, did you have a final point, ma'am?

MRS. KRYZAK: Patricia Kryzak again. I don't fully understand, you can explain that again because I don't understand.

MR. NOVESKY: Ma'am, that would be for you to explain and understand, this is a public hearing.

MRS. KRYZAK: I just want to make sure that we do have--

MR. NOVESKY: This is a public hearing on a subdivision lot line change, if there are issues with regard to that it's a civil matter and something that will have to be handled directly between you two.

MRS. KRYZAK: But the line I want to understand the line here.

MR. NOVESKY: The lot line change--

MR. KRYZAK: The lot that we're allowed to get into that we have our right-of-way I understand from that we do have our right-of-way.

MR. CORDISCO: You have whatever rights that you have, you know, and this board doesn't opine or make any decisions based on your rights. All we're doing is whether or not the additional lots further in can be subdivided so that the homes can be on separate lots, it's not an issue before this board to either enforce or not enforce your rights to access your drive. At this point, the surveyor has said that it appears that your right to use that driveway is not a recorded right but nevertheless you may have the right to use it because you have been using it over time but that's something for the courts to decide. If you wanted to make that part of your recorded deed, I'm not suggesting that that's something that you need to do, but that's typically a private right between you and the landowner that owns that strip of land.

MR. KLOSKY: Would it be fair to say that no action that we're going to take as parts of this plan can modify her right-of-way?

MR. CORDISCO: That's what I'm hearing they're not proposing as I understand they're not proposing to put a gate on that section of the private road, they're not proposing to and correct me if I'm wrong they're not proposing to restrict access to that driveway and they are not proposing any road improvements in the vicinity of your driveway which would--

MR. NOVESKY: Is that correct?

MR. DRABICK: Right, and the road is not going, improvement is not going to exceed the limit of their improvements that they have now basically what it is is there's a stone wall there and a hedge line,

unfortunately, the bounds of the parcel that's being conveyed in the lot line change goes beyond that, there's no question about that and your surveyor has verified that and correct me if I'm wrong he's actually marked that in the field for you so--

MRS. KRYZAK: We asked him to do that.

MR. DRABICK: The extent of the boundary of the piece that this driveway falls within does come right up to the front corner of our house and it does go beyond the improvements that come out into the driveway area. But what we're proposing right now until all this can be worked out is that the improvement to the driveway that the location will only be to the extent of their improvements.

MR. NOVESKY: That's all we're considering at this time. Thank you very much. Are there any other members of the public wishing to make comment on this project? Seeing none, I'll take a motion.

MR. BRODMERKEL: Make a motion we close the public hearing.

MR. KLOSKY: Second it.

ROLL CALL

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

MR. NOVESKY: At 7:44 we close the public hearing. Thank you very much. With that we'll move on to project number one for the evening.

MR. KLOSKY: Comments from the consultants?

MR. NOVESKY: I'm sorry, comments.

MS. DOTSON: Just one of the things that had been brought up at last month's planning board meeting was a question as to how this should be treated under SEQRA and the presence of the Sands Ring House was raised as an issue. Normally, it could be considered that Type I action just because of the presence of the Sands Ring property but it does not appear as far as I know and that's kind of qualified that I'd like to clarify with Steve that there are not going to be any physical changes in the site that would affect the views to or from the property in question. I don't know if Steve's actually listening to any of this. Probably not, yeah. I was not sure whether there was some discussion last month when I was not here that there might be a possibility this would be a Type I action because of the presence of Sands Ring. I wanted to confirm nominally it would be but I'm saying as long as there are no changes that would affect the views to and from this, can we clarify that there are going to be no changes within the right-of-way adjacent between North Street and Center Street and the stone wall that forms the hedge row at the bottom of this property? Because there was some discussion about having lighting and plantings and it's not clear at all from the plan where that might be so I wanted to clarify that.

MR. DRABICK: Well, I guess my question is when you say changes I mean we're proposing to widen that driveway and pave it, I mean.

MR. BRODMERKEL: Meaning the road changing into a public or private road.

MR. DRABICK: Private road, yeah, existing driveway.

MR. BRODMERKEL: You're going to widen it?

MR. DRABICK: Right, it will be widened and it will be paved.

MR. NOVESKY: To what width?

MR. CORDISCO: Over areas that the Kryzaks are currently using for their driveway?

MR. DRABICK: No, no, in the area of the Kryzaks.

MS. DOTSON: I'm getting confused because if you look at the existing area of pavement some of it actually lies outside from within the driveway or private road that's currently serving this, it extends into the Sands Ring property.

MR. DRABICK: There's a small section that does run across the corner.

MS. DOTSON: I'm concerned about building out where specifically where any improvements might be particularly if it involves plantings or widening, I'm assuming that you'd do it in an area that would level things out and even things out within this right-of-way but I have no way of knowing.

MR. BRODMERKEL: Can we ask that we see a specific layout in relationship to the driveway as exactly where the road is going to end up?

MS. DOTSON: Yeah.

MR. DRABICK: Well on the plan I have there now I do show a proposed outline for the edge of pavement on this private road, it's right here.

MR. BRODMERKEL: I cannot identify it.

MR. DRABICK: It's a solid line, it begins at the corner of the Kryzak's driveway and runs down here and

down around and it would to get the 18 feet it would come right up to the bounds of the boundary between this particular strip and the parcel owned by the Town of Cornwall.

MS. DOTSON: So but I did want to ask farther and this goes to comment 2 about any other plantings and lighting and so forth because again that's something that's not normally part of a private road improvement in any case so I'm not sure it sort of seemed to me as if any discussion about lighting and so forth would have been down in the hash marked area where the whole new section would be created and the T turnaround would go but I have no way of knowing because it didn't specify in the meeting last time.

MR. DRABICK: Right, well, obviously, with the pavement proposed to the boundary of the parcel there there wouldn't be any room for that to happen and also to just to reaffirm again up to the extent of the improvements on the Kryzaks which is the driveway and the stone wall and the hedge line the road obviously will be not the full 18 foot width there, it would be slightly narrow, it will be to the limit of the approvals.

MR. KLOSKY: I'd like to articulate my specific concern which might be driving a bit of this. The Sands Ring Home there is a very important historic and cultural resource in our community, it's probably the principal historic resource in our community. I don't see this property as it currently exists or the road as it currently exists infringing on that property. Everything the owners have said has been very respectful of it but this plan needs to reflect the things like the hedge row, the hedge row which lies on the owners, which I think it lies on this property, this subdivided property is an important buffer between the Sands Ring Homestead and the new construction. I would love to see a note on the plan saying that that's

going to remain. New lighting, if new lighting like let's say the owner was a person of bad will, right, we have to, you can never assume that the existing owner is going to remain the owner for the next 20 years, right, I would also like to see something that said that the lighting that's going to go in, if any lighting is going to go on along that road that you won't, that it won't be like a floodlight pointed at the Sands Ring place. Leslie, that's where I'm at at least and I don't know whether that's where you're going.

MS. DOTSON: Yes, this was trying to address--

MR. KLOSKY: Does that help to better explain what my concern is? I don't know if the whole board shares that.

MS. DOTSON: I think there's some obligation under SEQRA and so what I'm saying is that so long as there are no physical changes that they're going to create any potential for physical improvements on that this could be treated as an unlisted action. But once you start shifting over that's why I'm pressing upon that issue and this also ties into while we're on the subject of access to the existing driveway for the girl scout cabin, as I understand it, the dark section of North Street and Center Street are both town roads so the access, any driving access to the girl scout cabin that little looped area that's already from the public road so nothing that they're doing could affect that, they cannot cut off that access.

MR. KLOSKY: I'm satisfied on that point. I'll go on the record saying I'm satisfied on that point since the last meeting.

MS. DOTSON: I'm just asking about anything with lighting that that be done below, if the tree line can be left and there are no changes along this section of

private road then you're in good shape.

MR. DRABICK: Well then at this point pose a question to the board and the engineer, Mark, with regard to the existing access to this to avoid any further disturbance if we were to look just to pave the area of the driveway that exists there now maybe not to an 18 foot width, something less, 12 feet till we get down into the lots and then go to a full 18, if that's acceptable and it would make less of an impact on the Sands Ring Homestead area, I mean, we'd be willing to do that. You know, I went to the 18 foot width because it's basically it's the requirement preferred width.

MR. EDSALL: Given all the comments I'm going to make a trip out here with Steve to take a look at it and clearly there's a need to have less than the desired road width for the private road near the Kryzak residence but again keep in mind that the history on existing private roads that are being improved is to try to do the best we can so I'll work out with Steve and have the detail so that it doesn't cause a problem.

MR. DRABICK: If we can do it and be less imposing on the Sands Ring I think the applicant's for that, I think it's a great idea.

MR. KLOSKY: I'd love to see a note on the plan about preserving the existing hedge row and non-broadcasting light, you can work with Leslie on what language for the light.

MR. NOVESKY: We think we can work that out, don't we, Steve?

MR. DRABICK: Thank you very much.

MR. NOVESKY: Mark, did you have any further comments?

MR. EDSALL: Very quickly I've asked Dom to make sure

in any future approval resolutions he includes the waiver for the T turnaround, it's, since it's just a formality I'll work out with Steve and the private road maintenance agreement Dom has.

MR. CORDISCO: Does the board wish to authorize me to prepare resolutions?

MR. NOVESKY: I'll take a motion.

MR. KLOSKY: So moved.

MR. BRODMERKEL: Second it.

ROLL CALL

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

MR. NOVESKY: Please prepare the resolution.

MR. BRODMERKEL: Mark, when you're counting that out I just want to confirm that we're going to try and preserve the driveway in question.

MR. EDSALL: Kryzak?

MR. BRODMERKEL: Yes.

MR. EDSALL: Yeah, I mean, there's a stone wall there so obviously you can't.

MR. BRODMERKEL: I don't remember what's there, I don't remember.

MR. EDSALL: Looking at the plan looks like--

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MR. BRODMERKEL: When looking at this--

MR. EDSALL: We've had previous cases where we've had narrow spots because of construction directions, we'll just work in the direction.

MR. BRODMERKEL: Thank you.

MR. KLOSKY: Steve, so you know we just authorized Dominic to prepare resolutions for next month in the event that these somewhat minor issues can be resolved.

MR. DRABICK: Thank you.

STURGES_&_DEULL_#2008-11 _____

MR. NOVESKY: Sturges & Duell I will preempt it by saying that the board has discussed this prior to this meeting and very favorably perceived, well designed project but you can go ahead.

MR. MILLER: I'm Richard Miller, I'm the architect, this is Jonathan and Sherry Duell and Terry from McManus Construction is here if you have any questions. We figure that you guys looked at the package pretty well, I'll go through the package.

MR. NOVESKY: The narrative describing the property.

MS. DOTSON: They didn't get all the photos, they have the narrative, if you have your fancy little colored photos and can bring up your board.

MR. MILLER: What our request is for a rear yard setback variance 75 foot presently and we're requesting a 20 foot.

MR. NOVESKY: For the record, this is a rarity in the planning area but this is a good variance as opposed to a bad variance.

MR. MILLER: I brought along larger photos because I realize they weren't that easy to see. So this is Exhibit D which is a view from 2.5 miles away, Pleasant Hill Road and that we went out there with a lift, with a large orange marker and this is the house location where that orange marker is and that's the location where we presently are approved to build.

MR. NOVESKY: I know they're talking about non-reflective glass and everything.

MR. MILLER: Yes, and this one is where we're proposing it, so the same height but the orange is gone, you

can't see it from the valley, so actually the, so that's, I'll pass those around. In addition, this is a model of the proposed structure, the trail at Black Rock comes up from the hairpin turn on Mine Hill Road and there is a point right about here where the trail can see the property. It's the only point where if you're on the trail continues over here but you can't see it from that point. The approved setback this is the rear property line and this is the 75 foot setback on Exhibit A and B, I think shows this is the approved site for the house. The thing is from the trail that's much more visible than pulling it back to the rock so that's what we're proposing but it is in the rear setback.

MR. NOVESKY: Very well done. Thank you.

MS. DOTSON: So, basically, they're asking, they need a zoning board referral but I'm asking and suggesting that the board authorize me to draft a letter to send to the zoning board stating that the planning board supports the variance and asking them to grant it.

MR. NOVESKY: I don't think there will be much debate. Any comments?

MR. KLOSKY: So moved.

MR. BRODMERKEL: Second it.

ROLL CALL

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

MR. NOVESKY: You'll get a favorable letter of recommendation to the zoning board encouraging them to

consider favorably your setback.

MR. MILLER: I'd like to add two things, maybe this, we today we received a letter from Black Rock from the executive director and it's a favorable--

MR. NOVESKY: Imagine my surprise.

MR. MILLER: I'd request if this could be incorporated into the record and then--

MS. DOTSON: And bring that to the zoning board.

MR. KLOSKY: Zoning board needs that more than we do.

MR. NOVESKY: Leslie, you'll take care of that?

MS. DOTSON: Yes.

MR. VINSON: This matter is on for the October ZBA meeting.

MR. NOVESKY: Thank you very much.

MR. MILLER: The second thing we're thinking about we have spoke to the Costas I guess Exhibit 1 shows the--

MR. NOVESKY: The Costas would be?

MR. MILLER: The neighbors, sorry, their house is this structure here so this is the driveway coming up, the existing driveway and approved driveway comes along near their house so we're proposing to also buffer the line along the driveway so that there's less impact on them.

MR. NOVESKY: And the Costas like this idea?

MR. MILLER: Yes, they do.

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MR. NOVESKY: Well, thank you said the Costas. Thank you very much, good job.

PEGGY_LAPIDUS_#2007-12 _____

MR. NOVESKY: Peggy Lapidus is next.

Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. SHAW: Good evening, my name is Greg Shaw, I'm with Shaw Engineering tonight. I'm representing Peggy Lapidus on this subdivision application that's before you. Presently, we have two parcels of land, I have outlined in this scheme one parcel which is in blue, that parcel is the Lapidus residence and it has frontage onto Waterview Terrace and the second, and that parcel is 3.37, the back parcel which fronts Waterview Terrace is 3.37 acres in size and the second parcel which I have outlined in pink on this plan is 6.83 acres and that's also owned by Peggy Lapidus and by Dan Cox, that's at the terminus of a private road called Long View Trail which has a relatively long distance to bring you out onto Route 94. Presently, on this, the two parcels is the Lapidus residence as I mentioned there's a second residence on the second parcel which again has access off of Long View Trail. What we're proposing is to take these two parcels and to subdivide them into four parcels and in order to achieve that we're going to have to install a private road approximately 300 feet in length which is going to access off of Waterview Terrace. So in reality what we'll have is the Lapidus residence which will now have frontage on both the private road and Waterview Terrace and will access off the private road, a combination of the two parcels designated as lot number 2 where the residence will be situated in the SR-1 zone, parcel number 3 which is as I mentioned the existing house which accesses Long View Trail out to Route 94 and finally lot number 4 which is located in this direction. With respect to the bulk tables in the SR-1 zone we're obligated to provide a minimum lot area of 30,000 square feet, we're providing for lot number 1

49,495 feet and for lot number 2, 83,834 square feet. The balance of the land is in the SLR zone which requires a minimum lot area of two acres and lot number 3 which will now be 2.19 acres and lot number 4 will be 2.04 acres in size. As I mentioned in order to accomplish this we're going to have to install a private road of 300 feet in length consistent with other properties in this area. The lots are going to be serviced by individual wells, this is somewhat unique in that Waterview Terrace is tied into the town sewer system, it's a low pressure sewer system where everyone pumps into a common force main just as this residence is within the district and tied in the sewer system, our proposal is for lot number 2 which is part of lot number 1 as it's presently configured that also will be tied in. In talking to your consultants at the workshop session Mark Edsall suggested possibly to petition the town to have all of the lots tied into the low pressure sewer system which we'll do but in any case if we're not successful in that we would believe we'll be able to get lot number 2 in cause they have rights and lot number 3 will continue to rely upon their existing septic system and lot number 4 will have an individual septic system also. So that's a brief overview of it. We're here tonight to basically introduce the project to the board, get the feelings from the board on what do you think of the subdivision and if we're successful to move on into the design phase.

MS. DOTSON: At this point, this looks a lot more complicated than it really is and Greg's done a fantastic job at trying to bring some order to this. Because previously when this was before it was a lot line change which needed variances to whack off one lot and it was really confusing and we need a lot of information. There are actually three tax parcels that are part of this, just one picky correction part of the private road has been given another tax parcel number, I have no idea why but there are two building lots

there, he's correct in that. So this does not need any variances as long as the private road is built, as long as he subdivides all of those lots and, you know, pending any technical review issues with respect to showing either septic disposal or the septic systems I don't see any problem with this. I refer this back to Orange County Planning Department because they had looked at a previous version which was very different and they had disapproved of it. I wanted them to see this from early on. We do need a new application just to cover what this is because this is vastly different from the other.

MR. NOVESKY: This doesn't require discussion with the Blooming Grove Planning Board because of its proximity?

MS. DOTSON: I think the real reason for sending it to Orange County Planning Department would be for them to identify any issues but I can't see any intermunicipal issues.

MR. NOVESKY: Okay, Leslie, do you have additional comments?

MS. DOTSON: That's it.

MR. EDSALL: As Leslie indicates the plan is much easier to follow now. Greg is correct that I have suggested all the lots be tied into the low pressure sewer, if the board is amenable to that approach, I'd suggest you authorize me to prepare a letter to the Town Board suggesting that they grant, of course you have to request them but that you support outside user agreements for the lots not presently in the district. Other than that, I have got some minor comments on the plans that Mr. Shaw can easily address. I would suggest that you might want to consider authorizing the preliminary public hearing as long as Mr. Shaw addresses the information.

MR. NOVESKY: Conditioned on that I would take a motion to authorize that.

MR. BRODMERKEL: So moved.

MR. KLOSKY: Second it.

ROLL CALL

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

MR. EDSALL: That's it.

MR. KLOSKY: My only thing was that the zone separation line that separates zone SR-1 from zone SLR if you can call that out in the legend, I got that all botched up with lot lines and I know that sounds really minor.

MR. SHAW: Not at all, very simply just to clarify for tonight and I will make that change to the SR line in this fashion.

MR. KLOSKY: If you can add that to a legend that would save me some time.

MR. SHAW: Not a problem.

MR. NOVESKY: Any other comments? Okay, thank you very much.

COX_FARM_#2005-18

MR. NOVESKY: Cox Farm.

Mr. James Clearwater appeared before the board for this proposal.

MR. CLEARWATER: Good evening, my name is James Clearwater, I'm a land surveyor with MJS. I'm here with the applicant, Bea Stern. I think this is probably the biggest set of plans you've had this evening. And I guess it's been a while since we've been here with this project, it's been on a hiatus. We have worked on it a lot, we'd like to bring you up to speed on what we've done and see where we can go from there. This property of course is located on Orrs Mills Road, it fronts on Orrs Mills on several locations, it also has a very small frontage on Jackson Avenue. It's proposed that there be a loop road public street coming in off Jackson, off of Orrs Mills Road looping through the property and back out again. There will be two short private roads off of that, all of which is the proposed 23 lots. Now, you may recall that a year ago the Town Board authorized this property for a cluster resolution and this plan represents a cluster subdivision. The property's located in the water district, the property's entitled to water, proposal is that the water main will be extended up Jackson Avenue to the site and around the new road to service each of the lots. Each residence would be served with their own private septic system as is per the normal around town. There are wetlands of course on the site, DEC wetlands, Army Corps wetlands the DEC has signed off on their wetlands, this plan represents the approved wetlands occasion. The Army Corps wetlands we're not disturbing above and beyond what it is we're entitled to do by a nationwide permit, however, we're still getting jurisdictional determination from the Corps even though we could just file a notice of intent, we're getting the JD just so we have it on record. As far as

drainage goes what we're proposing to do with this subdivision is what the DEC and what the industry is heading to, we're not proposing to collect water in the manner in the standard manner that has been done for years with curbs and catch basins and detention ponds and running it all downhill. What we want to do is collect the water in roadside swales and clean up the water in that manner, we have rain gardens on each lot to collect rain water from each of the roofs. The whole idea being this is the way that the industry is headed to reduce hard surfaces and improve the water quality in a better manner than what has been done in the past. Now this of course would require that the standard road section of curbs that the town has in place would have to be waived and this is a planning board action, we went to the Town Board a year ago and they told us that they would entertain it, we haven't gotten approval for that yet, we're heading back to the Town Board to get that in writing or not. In any case, we're working with an engineering firm from Pennsylvania by the name of FS Brown, they've proposed numerous and built numerous projects like in this Pennsylvania and in Connecticut that show this type of, have this type of road and drainage design. Actually, we met with Bob Conley, the Highway Superintendent, and he asked us to provide names of towns and projects in Pennsylvania. This plan represents quite a bit of work since we have been here last, I don't know if you want to go through in detail but I can if you wish, we need to go to the Town Board for our road waiver and I'm sure Mark--

MR. BRODMERKEL: I would say after approval.

MR. NOVESKY: After the town.

MR. CLEARWATER: Regardless of whether we use the road section that we're proposing or the road section that the town has in place the lot layout won't change, septic won't change, water won't change, it's merely a

road.

MR. KLOSKY: You're putting together a package which will document your storm water control measures?

MR. CLEARWATER: Yes.

MR. KLOSKY: I think the board would be interested in seeing that.

MR. CLEARWATER: We submitted a brief draft storm water pollution prevention plan, it does not have all the exhibits with it, we did have the text and we will be expanding on that of course.

MR. KLOSKY: Your intent is to pursue a storm water management district?

MR. CLEARWATER: Yes.

MR. KLOSKY: How is the maintenance?

MR. CLEARWATER: Right, there's a homeowners' association, big common area or park area in the center of the project which we have left open and the two hilltops will be left undeveloped and left in a natural state for the people to use in common and it will be the detention ponds will be held privately, the town doesn't usually pick them up.

MR. KLOSKY: Any way of combining the drainage, any way of forming the drainage district in terms of timing? Don't both the drainage district and the variances for the roads have to go before the Town Board?

MR. CORDISCO: Yes.

MR. KLOSKY: Would there be a way of combining that?

MR. CORDISCO: Something they'd do between preliminary and final approval.

MR. EDSALL: Forming the district, the determination as to whether or not they--

MR. KLOSKY: Can't happen the same time, can't really pair up that action? I was just wondering.

MR. BRODMERKEL: I'm confused. You said that the drainage system would be the same whether you got approval from the town or not.

MR. CLEARWATER: Well, you're still dealing with the same amount of water regardless.

MR. BRODMERKEL: But two different systems.

MR. CLEARWATER: The road pattern would stay the same, either you have roadside swales like the DEC is telling us we're supposed to do but the drainage would be handled differently but the roads would all be the same.

MR. BRODMERKEL: I misunderstood you then, okay.

MR. NOVESKY: Additional comments?

MR. BRODMERKEL: Lot 23 is there a house on there?

MR. CLEARWATER: Yes.

MR. BRODMERKEL: Heck of a driveway.

MS. DOTSON: If they get approved by the DEC, that's one of the things that would require a wetland permit.

MR. NOVESKY: Leslie, do you have any comments?

MS. DOTSON: I don't have too many comments, even

though this layout probably looks very much the same as what you've seen before actually it does incorporate some small but significant differences. The layout's shifted slightly, the road location is shifted slightly, this is actually a much better layout according to the topo, it sits better, less grading, less disturbance, it's a really a very good change. They keep going back and forth with what they're proposing with lot 23 and whether or not it's going to require a wetland permit. In the previous version they were going to keep it away from the wetland and they weren't going to need a permit. Now they're back but and I think actually with the previous layout it would have worked better, this is more of an intrusion on the other lots but it's going to be up to DEC. So really I don't have too much more to say because I think that they really need to get feedback from the Town Board as to what would work with the drainage but overall it's a good change.

MR. NOVESKY: Thank you, Leslie.

MR. CLEARWATER: If I can speak to lot 23 for a moment. What we were originally proposing was the house would be further away from the other lots and there would be a short wetlands crossing. The DEC said basically nix-nay on the crossing which unfortunately pushed the house over closer to the other lots which makes the DEC happy but it didn't necessarily make the subdivision any better.

MR. BRODMERKEL: You've got these oval shapes on each lot, what are they?

MR. CLEARWATER: Rain gardens.

MR. KLOSKY: It's where everything is going.

MR. CLEARWATER: We have details here, if you want.

MS. STERN: These are a couple of standard details provided by FS Brown on rain gardens, grass swales on if you'd like I can leave those.

MR. NOVESKY: Mark, do you have any comments?

MR. EDSALL: I will be very brief, Mr. Clearwater's absolutely correct that the ball really is in the Town Board's court. Right now they need to take action and I will work with Mr. Conley, he's already been in contact with me, your call to him raised questions, concerns and I will be meeting with Mr. Conley and Supervisor Quigley and we'll try to get moving.

MR. NOVESKY: Very good, thank you, Mark. Any other comments from the board members?

MR. KLOSKY: Only that I am very happy to see a project of this magnitude finally making an attempt at these alternative storm water approaches. I think this also because it's so far up in the watershed because of the lack of proximity to commercial sites or other it's a relatively isolated site, this is a great opportunity to pursue these technologies which is certainly where we're going.

CORNWALL_COMMONS_#2004-01_&_2006-19

MR. NOVESKY: Next is Cornwall Commons.

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

MR. JACOBOWITZ: Yes, good evening. I was here during your work session before and I heard what the consultants were suggesting to you. We're a little disappointed in that because we thought this last month was going to be consumed with dealing with language in the FEIS so that tonight that the one you got sent to you prior tonight would have been the one you'd have acted on tonight. After reading Leslie's comments on the findings, draft findings and also Mark's letter there are some items that need to be addressed, I mean, we can spend the next month with them and in their company and doing what's suggested and there's some basic things though that their position is it's policy. So I think we need to discuss some of those things tonight so that we know what we're working on otherwise we're going to, you know, we have a disagreement, we come back in a month you'll then make a decision, we'll need now another month to get that stuff put into the EIS and the findings.

MR. NOVESKY: We'll bring that onto the floor.

MR. JACOBOWITZ: I'd like to just cover them or whichever way we want to proceed, we have a list, fortunately there's not a lot of them but we need to address those and I think now doing that with the board is the way we should get policy decisions so consultants know what you want and we know what you expect.

MR. KLOSKY: Can I ask Dominic a question? In the face of that, Dominic, is there any time constraint currently on the board's final adoption of an FEIS?

MR. CORDISCO: No.

MR. KLOSKY: So, I mean, Mr. Jacobowitz, in all fairness the complexity of the project and the complexity of the documents we have been ebb and flow, we have been having flow across our desks very significant and what time it takes at least I myself think what time it takes that's the time it takes so, you know, there's another view on that along those same lines.

MR. JACOBOWITZ: Okay, I'm not even going to respond to that. We have been here nine years, you know, so, you know, whatever time it takes, you're younger than I am.

MR. NOVESKY: Mark?

MR. EDSALL: If the board is looking to at least discuss issues so we have some direction, I would appreciate some direction on my comments. They're less voluminous so we can just hit the three, start with the simplest. I believe one has been agreed to being very easily solved, one here is very likely resolved and I apologize for not being at last month's meeting so let's look at the three, the first one is comment 5 and they have agreed they're just going to make the responses uniform acknowledging the road width, I don't think that's an issue.

MR. JACOBOWITZ: You're correct and there's language that talks about us providing plans showing 28 feet and John tells me that the plans submitted all show 28 feet.

MR. EDSALL: I don't think there's any issue on--

MR. JACOBOWITZ: Twenty-eight foot is a non-issue either way you slice it.

MR. EDSALL: Just make sure it's consistent through the document.

MR. CORDISCO: That's something that did not occur between last month and this month's version of the document so that's one reason that needs to be addressed.

MR. EDSALL: I'll skip to the last bullet which I understand has been resolved that the board had considered the different pedestrian routes. I wasn't aware of the discussion from last month so it's my understanding that the other routes are more, are being considered primary routes and that's been resolved from last month's discussion.

MR. KLOSKY: Some.

MR. BRODMERKEL: There is a majority of the board that decided that they were satisfied.

MR. NOVESKY: Well, I do happen to have the minutes, while you're discussing the next issue I'll look up the minutes.

MR. BRODMERKEL: We were able to obtain an agreement with the, forgive me, I can't remember the name.

MR. JACOBOWITZ: Stone Hollow I think is the name, their plan that you approved shows public highway up to our property line so we don't need an agreement, they need an agreement from us because they can't build what's on your plan without an easement from us. So we're willing to give them the easement, they haven't come to ask for the easement yet or provided us with a draft of a document.

MR. BRODMERKEL: Dominic would be in agreement with that?

MR. CORDISCO: I don't believe that at all, I believe the Stone Hollow plan was a stand-alone plan, I'm not aware of any easement that they need from Cornwall Commons.

MR. JACOBOWITZ: Do they need an easement or not?

MR. RUSSO: No, not right now, the plan shows them building retaining walls, they were coming to us to eliminate grade retaining walls and to do such grading and landscaping.

MR. CORDISCO: They filed a plat, I mean, they're done.

MR. JACOBOWITZ: It has retaining walls.

MR. RUSSO: Gerry is right, the right-of-way of their road on their project is part of our property line.

MS. DOTSON: I understand there was also some language in the FSEIS that seemed to give some indication that negotiations were being renewed. I don't know if that's the case or whether that's just a blast from the past.

MR. RUSSO: That was.

MR. BRODMERKEL: Gerry, we need a clarification that says you can access that roadway from your property with no problem.

MR. EDSALL: I don't know that it's Stone Hollow's decision to give, once the Stone Hollow road is dedicated, the Town Board can say we want these projects connected and say build a sidewalk. So once it's dedicated it becomes public land and the Town Board can authorize anything they want.

MR. AMATO: We're prepared to say that and do that.

MR. CORDISCO: Just to be clear, just a pedestrian access?

MR. EDSALL: As well as the Town Board could authorize or you could as part of your site plan authorize to fill up to the property line to allow the pedestrian connection.

MR. GOLD: Do we know that the access doesn't cross private parcel on the Stone Hollow?

MS. DOTSON: Yes, in fact, they have a detail shown in the FSEIS as an attachment.

MR. GOLD: Cause I'm just looking at this one.

MR. KLOSKY: But there are, their pedestrian access through Stone Hollow is dedicated, predicated on a project not yet built.

MR. EDSALL: Pretty sure it's going to be built because they've spent a heck of a lot of money on their own.

MR. JACOBOWITZ: If it isn't built, our alternate is the cross lane route and with this property we don't quite understand why there's a bigger issue about access for us than there is for the project to the west of Stone Hedge, that big residential project there on Quaker, it's on Mill Street, something Hollow.

MS. BABCOCK: Quaker Mill.

MR. JACOBOWITZ: How do those people get to Main Street?

MR. KLOSKY: Quaker Mills in in existence.

MR. JACOBOWITZ: Yes, and they somehow get to Main Street and they didn't have to build sidewalks or do other ways of getting across 9W or anything else and

you haven't required Stone Hedge to do anything different about getting cross 9W other than going down to an existing crossing that's light regulated at Laurel, I think it's Laurel, the new traffic light. So that's the preferred way to go having people necessarily go across 9W four lane divided highway, it's not the most desirable method for them to get downtown.

MR. NOVESKY: I don't know that there is strong disagreement.

MR. KLOSKY: My only concern is once those nine commercial properties are built out, you gotta hope that people from the town and village are going to go over there to use those facilities. And I hope that not every one of them chooses to drive, I mean, that would be bad for everybody. So we want to make pedestrian access from the village and town to not only the 460 units of residential whatever that is the PAC, we also have the other nine sites that are adjacent to that which are slotted for commercial development. So I think we owe it to the public to make a good, to make the traffic impacts low.

MR. BRODMERKEL: Mr. Chairman, I would beg that we could call this discussion to an end. They have access, they have a walking route to get there with this route. What more?

MR. KLOSKY: Why does it all say potential then?

MR. NOVESKY: Let me defer to other members.

MR. GRABE: Well, they have potential pedestrian access, I assume they're going to take advantage of it sooner or later?

MR. KLOSKY: Why the word potential?

MR. GRABE: I guess it's not positive they're going to put it there.

MR. KLOSKY: Right, which worries me.

MS. DOTSON: But you're in the driver's seat.

MR. JACOBOWITZ: We're not married to the word potential.

MS. DOTSON: You're in the driver's seat, they're showing this as being potential but that's something as part of the process you can decide you need to have it which I think you need more than one, this thing's going to be built out in phases remember too.

MR. EDSALL: Is Stone Hollow your primary now?

MR. JACOBOWITZ: No, Frost Lane is the primary method.

MR. AMATO: Stone Hollow would be the second way.

MR. EDSALL: Are you anticipating, are you looking that you're going to build both accesses eventually?

MR. JACOBOWITZ: Yes.

MR. EDSALL: Assuming Stone Hollow's dedicated.

MR. AMATO: Yes.

MR. EDSALL: So maybe we should just eliminate the word potential and indicate they'll be built consistent with the development of the site.

MR. NOVESKY: Move on, we're eliminating potential.

MR. GRABE: I was under the assumption that the state was doing a big project here on Willow and 9W that was proposed several years ago so if they were going to

put--

MR. EDSALL: The bridge replacement which includes the original design which Mr. Amato was present at a lot of the meetings we had looked at a total reconstruction of the bridge at Academy and 9W with all the glorious decisions that have fallen on the wayside with the state's economy so I don't anticipate they're going to be rebuilding the bridges soon. So I think the two alternatives being pedestrian crossings will have to be depended upon.

MR. GRABE: When they did this one I would assume one of the reasons why it is a potential pedestrian access they can't put it in until they redo these roads and ramps.

MR. EDSALL: Well, no, right now they're getting them to the Willow Avenue sidewalk and Willow Avenue sidewalk runs continuous to Main Street period, so they get to Main Street that's the route they take, either Frost or up through Stone Hollow, walk down Willow and they're right in the center of town.

MR. GOLD: Which raises the question of pedestrian access plan number 3.

MR. GRABE: Where is that?

MR. GOLD: That's the one that goes directly across 9W.

MR. BRODMERKEL: It's not an option.

MR. GOLD: I'm not at all comfortable with that access, it either needs to be clarified or eliminated as far as I'm concerned.

MR. EDSALL: If you're going to eliminate it, I would replace it with the prayer, I'll use that word, that the DOT moves forward on the modification to the clover

leaf at Academy and 9W as was originally proposed by then Supervisor Randazzo and myself to the DOT to put a crossing under 9W separated by Jersey barriers and a fence back in the days when the school was proposed there so that you could get under 9W and up into the site. So bottom line is it may never happen but if DOT comes up with a new configuration we adapt them.

MR. GOLD: I'm okay with that, I just, does that mean we can eliminate this for now or do we--

MR. EDSALL: Number 3?

MR. GOLD: Yes.

MR. EDSALL: I would indicate number 3 as being the possible and say that that one's totally premised on DOT doing something and that at that point--

MR. GOLD: That I'm okay with.

MR. EDSALL: And if DOT doesn't accomplish anything you never get the--

MR. NOVESKY: Are we resolved? I'm just reviewing the minutes here trying to catch up with exactly what we made a commitment to do last month. And I think that it is certainly appropriate that we stick to the game plan. And what I am seeing here is without any action we're proposing to take action next month that would be today, Leslie, did you work with Mr. Jacobowitz to get the revisions done?

MS. DOTSON: Well, I did what I understood to have been asked which is to prepare a draft findings statement and it was a useful exercise, I'm really glad that the board asked for it to be done so early because that actually informs some changes in the FSEIS because in the process of going through the data I discovered that there was some calculations that needed to be revised

because there are actually some errors in it so we were drawing incorrect conclusions plus that the wider road width made some additional changes we had to make sure we had the right numbers.

MR. BRODMERKEL: Other than language problems, anything else?

MS. DOTSON: There are a number of problems, yeah.

MR. JACOBOWITZ: That's the list I have.

MR. EDSALL: Can I beg your indulgence to finish my three bullets so you can work on Leslie's four pages?

MR. NOVESKY: Please, Mark, sorry.

MR. EDSALL: The last one was 58 which I really think Gerry's right, we need some direction. I'm just looking to get my arms around the signal at Academy, Faculty and Main, it says fair share and it's only fair to say somebody to put up their fair share but if there's no one else at the table or only one person at the table how do you calculate the percentage? We can presume that the state is not going to step up and have a lot of money to throw out a signal. I'm sure the town is not going because it in fact is none of the roads are town roads, so I don't even know if it would be legal for the town to spend any money, probably not. So at that point we have Joe and maybe nobody else maybe one other person really there's not going to be many other people who come to the table with a project of this magnitude. Is the fair share based on the total traffic through the intersection and the five percent contribution of traffic trip generations from Cornwall Commons or is it, is it a percentage based on applicants before the board or active projects or however we're going to do it. I want it nailed down because 8 or 12 years from now I don't want to be talking about this eight years from now, I want to

figure it out now.

MR. JACOBOWITZ: There are two issues actually with that one is the amount and the second is how do you trigger it and how do you make sure you get it? So, okay, so on the amount, we'll pay our fair share, that means our pro rata contribution to the traffic at that intersection and there's an issue whether it's the a.m. peak or the p.m. peak whichever is greater, so we don't have that problem.

MR. EDSALL: If the contribution is 5 percent of the total traffic are we presuming and if that's the answer, fine, that the DOT because you've got background traffic or increase over the next eight years is going to come up with 95 percent of the money cause at that point the light's never going in.

MR. JACOBOWITZ: If our share is only, I'm not sure about the 5 percent, I hope it's 5 percent.

MR. EDSALL: I'm picking a random number.

MR. JACOBOWITZ: Well, if that's the case and we're only contributing a portion of it and we'll write a check for our portion, we're not a guarantor of the traffic on a state highway of 218 that it requires a traffic light because of all the other traffic contributing to it, it's not fair.

MR. NOVESKY: That makes sense, you can't be expected to.

MR. EDSALL: The flip side of the coin under SEQRA if the level of service drops to the point where until the signal is in do you say at that point no more building permits until the other 78, 75 percent is generated by a state agency? How do you do this?

MR. JACOBOWITZ: It's an off-site.

MR. NOVESKY: If they generated 80 percent possibility still remains that there would be no light because who would come up with the 20 percent unless we come up with a reasonable formula.

MR. BRODMERKEL: It's up to the state to come up with the money if these folks--

MR. EDSALL: It's your responsibility to deal with the impact, you can't presume the state's going to come up with dollars.

MR. JACOBOWITZ: But because the state, it's the state's light, it's the state's highway and if they, they're the ones who will say it's needed, we're not going to say it's needed, the state will have to decide that it's needed, if they decide it's needed and they don't take care of it that's the state issue, doesn't make anybody down the road a guarantor when they only contribute part and they're willing to pay their share.

MR. NOVESKY: You're willing to pay your share.

MR. JACOBOWITZ: Sure, and based on the maximum of a.m. or p.m. contribution to the traffic at that intersection.

MR. NOVESKY: That's to be determined.

MR. KLOSKY: That just means that it never happens.

MR. NOVESKY: You can't be expected to be the guarantor for the state, we all have to realize.

MR. BRODMERKEL: I'm very comfortable with that calculation, if it never happens it's because the state decided for whatever reason that they didn't want to put a light there. We were told forever there was never going to be a light at Laurel next to the

hospital, okay, and all of a sudden they were under construction, we didn't even know they were coming. Mark, how much advance notice did we get?

MR. EDSALL: I got about a week's notice, we heard a lot of stories.

MR. BRODMERKEL: So the state does what the state does when the state wants to do it. But since it's their road and they make that determination to say that you're contributing an extra 5 percent to it you should pay for 5 percent of it, that seems fair to me. Did the hospital contribute to any portion of that light?

MS. DOTSON: No.

MR. NOVESKY: I'm curious Mark can we reasonably expect to require above and beyond?

MR. EDSALL: I'm looking for it to be clear so we don't have a problem later on, if you're telling me that you want to take the higher percentage of the a.m. or p.m. peak and that's the maximum percentages contribution that they're going to make and that if the remainder--

MR. NOVESKY: Is that a reasonable argument?

MR. JACOBOWITZ: Yes.

MR. EDSALL: If the remaining funding isn't available then your attitude is well then just tough luck, the signal didn't go in, tough.

MR. NOVESKY: What's the alternative? I mean, is it reasonable to expect that the developer accept responsibility for 100 percent of the cost if the state decides that it doesn't want to do it?

MR. EDSALL: I don't know that that's reasonable either. The problem is I just want to make sure that

we pay what was obligated.

MR. NOVESKY: Before we proceed, Wynn, do you have an opinion?

MR. GOLD: I have lots of opinions but--

MR. NOVESKY: Regarding the light?

MR. GOLD: It seems to me that this is a reasonable solution, I want it spelled out clearly how that, how the peak flow is determined and who's responsible.

MR. NOVESKY: A.m. or p.m. peak flow.

MR. EDSALL: It's a number we can come up with.

MR. GRABE: I agree with that formula 5 percent.

MR. NOVESKY: Would seem that you have a reason and the consent on the part of the board that it is not an unreasonable approach that the peak percentage or the traffic flow be used as basis of what's fair.

MR. BRODMERKEL: If you agree that would be a majority.

MR. NOVESKY: I agree with the concept of fair.

MR. BRODMERKEL: That's all we're talking about.

MR. NOVESKY: But we have not resolved--

MR. KLOSKY: Can I ask the consultants what's been done or other similar projects?

MR. NOVESKY: That's a reasonable question.

MR. EDSALL: I've seen it done many different ways.

MR. KLOSKY: Name a couple.

MR. EDSALL: Orange County DPW project where they said fine, we'll put up \$20,000 and guess what, if you want to tie into the road, you're going to pay the rest. Every case it all depends what jurisdiction.

MR. CORDISCO: Other projects have allowed building permits for a portion of the project and then those building permits are halted at a certain stage unless the improvements are built or they can come back before the board to see whether or not the improvements are necessary to allow the remaining building permits to be issued.

MR. KLOSKY: Could we ask them to put up a current cash amount in the event the warrant is met, not to put it up now but just fix a number that they can anticipate if the light becomes--

MR. EDSALL: I think you should fix a percentage.

MR. KLOSKY: Fix a percentage right now of the contribution rather than some traffic count in the future.

MR. JACOBOWITZ: You may have 20 other projects built between now and then.

MR. NOVESKY: Mark, I think you can go up to--

MR. GRABE: What about CVS?

MR. EDSALL: The developer paid a hundred percent.

MR. GRABE: Of the light by CVS?

MR. EDSALL: Yes, as you have projects that come before the board that have any impact on that intersection we'll have to be aware enough to look at their possible contribution.

MR. KLOSKY: Does that sound like a future court case to you, us getting to court and arguing about what percentage or what if you've got four developers contributing plus the state?

MR. NOVESKY: We decided it's traffic flow.

MR. EDSALL: It's going to be a moving target because the cost of the signal that's why I'm setting a percentage because it's going to change.

MR. KLOSKY: Then we don't argue in the future.

MR. NOVESKY: Arbitrary percentage, pick a number.

MR. EDSALL: We'll work on that, it's in the traffic study.

MR. NOVESKY: Reasonable then we don't have to talk about it anymore.

MR. JACOBOWITZ: Versus arbitrary, you offered us two choices, you said the arbitrary one or the reasonable one.

MR. GRABE: How do we collect money from the state?

MR. EDSALL: We don't collect money, what would happen is that the findings are going to identify that the applicant is guaranteeing a certain percentage contribution and you may have a trigger where you say when 50% of the project's built out you have to post a bond at that point in anticipation of the state moving forward and then the state would be aware that there's a contribution towards the signal so their nickel would be less, if I have five more developers between now and then their share becomes lower. I had one in Chester where we had six different developers contributing.

MR. CORDISCO: That's also an example of a mechanism and a description that needs to be in the final supplemental that's not in there now.

MR. NOVESKY: We agree on that.

MR. JACOBOWITZ: Yes, now the second part of it is how do you make us live up to the promise and our suggestion is that you, that if a determination is made that the light is needed we have to pay our share before you grant final approval to whatever application is pending before your board at that time and if it doesn't happen before we come in with the last application to you we must pay it before you give the final site plan.

MR. CORDISCO: You're talking about lots 1 through 9?

MR. JACOBOWITZ: Yeah.

MR. CORDISCO: But they're going to be subdivided and brought in by different applicants.

MR. JACOBOWITZ: Doesn't matter, if the trigger, if the demand is there and the light has to go up whatever application is pending doesn't get approved unless we write the check and if it doesn't happen, if there's no warrant to justify that light before we come in with the last lot you can withhold approval for the last lot until we write the check.

MR. CORDISCO: I don't understand.

MR. EDSALL: Let's work the details out, I don't think the board really cares other than the fact you want a secure guarantee and we'll make sure that happens.

MR. KLOSKY: At the time we determine the light is needed if the state comes up with their part I don't want it to be money, I want it to be you owe this much,

the next developer owes this much.

MR. BRODMERKEL: And if it's ten years from now and they're all built out what do you say?

MR. NOVESKY: I think we resolved the issue in concept.

MR. EDSALL: And I hate to disappoint you but that's the end of my list.

MR. KLOSKY: One more traffic question. The intersection, re-timing of the intersection and how do we make the FEIS I think and the findings need to reflect that that's done before we start issuing any certificates of occupancy for that site, I mean, and that's an easy thing to do but I think it needs to be tied down.

MS. DOTSON: That was not clear, some of the language was not clear.

MR. AMATO: Gerry's got a list.

MR. JACOBOWITZ: That's on the list, let me deal with it, it's not in order but let me deal while it's hot.

MR. NOVESKY: Random order.

MR. JACOBOWITZ: There was a slight miscommunication between us and Leslie because we had decided after the last meeting and Joe had authorized me to tell Leslie that we'll pay for the cost of timing of that light down at Forge Hill and Route 9W whenever the state says that they want to do it whenever and we'll pay for it and it will be our obligation to pay for it. I didn't get the message I guess clear enough.

MS. DOTSON: It wasn't clear enough in the document.

MR. JACOBOWITZ: There is a question about doing

husbandry activities, that means cutting off dead limbs and vines and the question is when should that be done on this property. And our suggestion is as we're going to develop each of the lots that's the time we have to do the tree trimming the vine removal which are things recommended in your finding should be done there to help preserve and protect the trees.

MR. NOVESKY: Leslie?

MS. DOTSON: Okay, but there's some areas that aren't, like right near the houses I wasn't sure if you only meant at the edges or did you mean farther in?

MR. JACOBOWITZ: That section wherever it is in that section.

MR. AMATO: We're working in terms of sections then I think you'll cover it.

MR. NOVESKY: Any questions about that?

MR. BRODMERKEL: No.

MR. KLOSKY: I'm perfectly happy with that.

MR. JACOBOWITZ: There's language in there we're going to have these, a crossing for the salamanders and the crossing is one that the DEC would approve and our guy Bob Torgeson has been there before and gotten approval for this crossing.

MR. NOVESKY: From pond to pond so they can reproduce.

MS. DOTSON: Upland.

MR. JACOBOWITZ: So the point is it's a very simple point really, it's that the DEC's approval is only as to the design and the specifications of that crossing, there seems to be some language in there that made

their involvement broader as to the road and so on.

MS. DOTSON: That's a historical artifact from the language in the original findings.

MR. JACOBOWITZ: I just want to clarify is that okay? It's only the crossing design.

MS. DOTSON: We all know that DEC has a way of getting what it wants anyway so whatever we say--

MR. NOVESKY: Are we okay with the salamander crossing?

MR. KLOSKY: Always been at ease with the salamander crossing.

MR. JACOBOWITZ: We have a naturalistic plan, if you recall, because it was a little confusing, we have a separate sheet on which we show the areas we're not going to disturb and also the naturalistic planting and we do show what we're going to be doing in those areas. The question that Leslie's had is that that plan would have to be re-reviewed again, I'm not sure why by the board before we get final approval on lot 10 and we don't understand why we need to have the plan reviewed again and approved. It's in the package and when you get to give us our approval on our site plan you're going to be approving that plan. So if you want something different or you're going to tell us as part of the plan and we'll make the change to the plan and you'll say okay, this is a plan that's acceptable.

MS. DOTSON: No, I think we're having a miscommunication here because the only reason I made that reference is that there's a certain amount of wiggle room that's incorporated within these plans and I recall there being this specific offer of saying we'll look to see what trees could be saved as we're siting each house so I was thinking at that point that's a site specific, it's not a plan, it's more like

a plot plan.

MR. JACOBOWITZ: Yeah, but what you're saying is we have to submit that to a consulting, landscape architect and to the town's tree warden whereas really it's a matter for the building inspector, I mean, if you put in the findings that we're to wherever it's feasible we're to save trees within a site by moving a building to do that why isn't that a building inspector responsibility, why do we have to go to a landscape architect and a town tree warden?

MS. DOTSON: What page is that?

MR. JACOBOWITZ: Page 26 at the bottom and it goes over to the top of the next page where you say to make specific adjustments of units in the field because we have no problem with that but why do we have to go through that procedure?

MS. DOTSON: We have a miscommunication. What I'm talking about is in terms of like being able to shift a building within a site, that's what I'm talking about the flexibility within the plan.

MR. JACOBOWITZ: Terrific but why do we need the tree warden?

MR. BRODMERKEL: Can you drop the specification that says he has to come back to somebody for approval?

MS. DOTSON: That's fine, I think it's just the language.

MR. JACOBOWITZ: Thank you. I'm getting to the end here.

MR. BRODMERKEL: Can you imagine?

MR. JACOBOWITZ: Last item your PAC law says that we

upon a finding by your board that we need to, that we're having an impact on town recreation facilities we must make a recreation fee payment even though we have on-site recreation and the fee we must pay is \$666 to \$1,000 which is a percentage of what your fee is. So if you change your fee, it goes up, our 666 can go up as high as 1,000, okay. The question is when must we pay this? Leslie suggests which we agree is at the time of building permit so that if there's an escalation we have to pay the higher amount but it's not because we're Santa Claus, it also means we don't have to write you a check all at once for 490 units even though we may not get to build some of them for five years down the road.

MS. DOTSON: This is going to be built out during a period of time it seems punitive, I don't think it's our decision.

MR. NOVESKY: I don't think we need to pursue this any further.

MR. KLOSKY: Why isn't this done at the time of the issuance of Certificate of Occupancy, the building permit?

MR. EDSALL: Fee issues are Town Board issues.

MR. KLOSKY: But I mean it's when the person turns up to live there.

MR. CORDISCO: Typically, the fees are due.

MR. JACOBOWITZ: I think those were the items Leslie that you have had highlighted in there that you needed guidance on so that we could finish the SEIS provisions about those items so now as Leslie mentioned earlier the findings, track the SEIS, that's why it's important to have these answers because what goes in the SEIS is going to be in the findings.

MS. DOTSON: This goes beyond it because there are some other things that where there was no specific implementation identified, for example, the PAC law talks about the recreation fees but nowhere in the adopted law does it identify a timing mechanism for implementing it. So I recommended in putting these together we needed to do that, you know, there are several ways you can do that but I'm just saying that's another example. There are some other issues with respect to homeowners' association certain things that will need to be provided for as part of these findings we're going to have to provide for the town either the town attorney or the planning board attorney to look at the homeowners' association bylaws to make sure that those things and only those things that are of interest to the town and to the planning board are incorporated so we make sure that we have the enforcement mechanism so the ball doesn't get dropped.

MR. JACOBOWITZ: There's a lot of other things in the findings that Leslie has that are agreeable with us, there's all kinds of stuff in there.

MR. BRODMERKEL: These were the items you felt we needed to discuss?

MR. JACOBOWITZ: Yes, we need guidance.

MS. DOTSON: There are things that you will never have seen before that are totally new but some of them I have highlighted because I'm creating a mechanism for how to implement these things.

MR. BRODMERKEL: At this time we assume that it will be relatively easy, shall we say, that next month we'll have a document that would be agreeable to all.

MR. JACOBOWITZ: Yes.

MR. KLOSKY: I think it's going to speed the process up greatly if we take a track Leslie suggested earlier which is the word document that could go on to our consultants to allow them to work on the language directly so that the FSEIS will directly reflect the wishes of the board. So far the document has been in the hands of the consultants and has remained the consultants' document thus far though we have been working together on it very well and we're very close to finished, it would facilitate completion if our consultants could red line provide to and sort of bounce it back and forth with you all and I'd be more comfortable with the process if the final document was being generated by consultants rather than by the, I mean, your efforts have been nothing short of exemplary thus far but at the same time it adds legitimacy to the process.

MR. NOVESKY: How does that strike you?

MR. AMATO: This whole document is drafted by Leslie.

MR. JACOBOWITZ: The findings he's talking about the SEIS.

MR. NOVESKY: Is that acceptable?

MR. JACOBOWITZ: You know what the procedure was we did the draft, we then gave it to Leslie, Leslie gave us back a whole bunch of comments, we made all those changes and now these comments are what are remaining basically that need to get massaged and concluded.

MR. KLOSKY: Leslie maybe you can amplify what you were talking about?

MS. DOTSON: Some of this as we went through it again in the process of developing the findings I found that even some of what I had said last month I would slightly modify in a way that would make it stronger in

the event someone's challenging us some of that's included in the findings I would change slightly and Dominic also has some that he hasn't specified.

MR. BRODMERKEL: Is the question whether we can get the document in Word format?

MR. KLOSKY: And the question is who has the final edit on this thing before we see the version we approve? And I think that the final edit on this document before we see the next printed out version should come to us from our consultants I believe rather than from the applicant, so far every time we have received this it just makes the process cleaner, makes everything much cleaner.

MR. CORDISCO: It makes as Gerry had said that it makes a track of the findings statement, if things are not in the final supplemental there's really no basis for them to be in the findings statement, there needs to be a basis for that.

MR. JACOBOWITZ: My hope would be if that that's the procedure we follow that between now and the date that you have to receive a package for your November meeting that we'll have concluded all the language in the SEIS and we'll have also resolved the language in the findings so that you've got those things now you can't act on the findings at the November meeting because of the ten days between the thing which then means you would be able to act on it at the December meeting unless you're going to meet Thanksgiving Day which we didn't think we should ask you to do that, I'm pushing you, I know.

MR. CORDISCO: Even though the board cannot adopt the findings statement at the next meeting it doesn't mean that the draft that's already in draft form could not be further revised and tweaked and prepared for the December meeting.

MR. JACOBOWITZ: Right, so you get a chance to receive it.

MR. NOVESKY: Is that acceptable?

MR. BRODMERKEL: I'm ready to go.

MR. KLOSKY: There's something very specific here which I'm trying to get at which is that the next form of this document I think should come to us from the consultants.

MR. JACOBOWITZ: How did you get it from us, didn't we send it to you by Word?

MS. DOTSON: We want it in the editable form.

MR. NOVESKY: Say yes, that's it.

MR. JACOBOWITZ: The answer is yes.

MR. NOVESKY: Upon the issuance of the building permit.

MR. JACOBOWITZ: Yes.

MR. NOVESKY: Good, okay, that was easy.

MR. AMATO: Is there anything else that we should be talking about?

MS. DOTSON: No.

DISCUSSION

MR. EDSALL: There was one piece of correspondence which we didn't act on, request from the Holloran Road 10 lot subdivision for a 6 month preliminary extension.

MR. NOVESKY: We did that last month didn't we?

MR. EDSALL: No, because the letter came in on September 17. If you could, I would suggest 6 month extension, still working with the Orange County Health Department.

MR. BRODMERKEL: So moved.

MR. GOLD: Second it.

ROLL CALL

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

MR. NOVESKY: Motion to adjourn.

MR. BRODMERKEL: So moved.

MR. GOLD: Second it.

ROLL CALL

MR. GRABE	AYE
MR. KLOSKY	AYE
MR. GOLD	AYE
MR. BRODMERKEL	AYE

October 6, 2008

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MR. NOVESKY

AYE

Respectfully Submitted By:

Frances Roth
Stenographer