

September 2, 2008

1

TOWN OF CORNWALL

PLANNING BOARD

SEPTEMBER 2, 2008

MEMBERS PRESENT: NEIL NOVESKY, CHAIRMAN
KENNETH BRODMERKEL
LED KLOSKY
HELEN BUNT

ALSO PRESENT: ADAM RODD, ESQ.
PLANNING BOARD ATTORNEY

JOHN SZAROWSKI
PLANNING BOARD ENGINEER

BRYANT COCKS
PLANNING BOARD CONSULTANT

GARY VINSON
BUILDING INSPECTOR

ABSENT: JANE DEANS
WYNN GOLD
WILLIAM GRABE

REGULAR_MEETING _____

MR. NOVESKY: I'd like to call to order the September 2, 2008 meeting of the Cornwall Planning Board. We have four members present. Let me ask Adam, all votes on this board they must be four members.

MR. RODD: Yes.

MR. NOVESKY: So any dissension on any issue for any votes be it noted that it would be not the majority.

CORRESPONDENCE

MR. NOVESKY: Fran, I will forward you correspondence from the DPW, Orange County Planning Department, Karen Arent, Goodspeed/tree warden, Gaba to Babcock and that's it. Also as a matter of record, Fran, we want to make a note that based on correspondence from Mr. Gaba to Michele Babcock relating to the Winding Creek Cornwall application I note for the record that client Winding Creek presently owes \$10,000 in consultant fees to the Town of Cornwall escrow account and owes \$3,000 to a second escrow account and for the record no further action will be taken until those accounts are brought up to date. Bow of heads acknowledging.

PENNINGS_GREENHOUSES/ALTERNATIVE_HEATING_SOURCE

MR. KLOSKY: Pennings Greenhouse.

MR. NOVESKY: Also for a matter of record we're holding a brief discussion related to an innovative alternative energy process being implemented by Pennings Greenhouse. We have no, planning board has no authority over that in terms of approval or disapproval but for the record, we acknowledge discussion on it. Any comments for the record?

MR. KLOSKY: None, it's within their--

MR. NOVESKY: We're encouraging.

MR. BRODMERKEL: Positive approach to what they're trying to do.

MR. NOVESKY: The board acknowledges and approves the concept of alternative energy and glad to see it implemented in the Cornwall area.

September 2, 2008

3

APPROVAL_OF_MINUTES_DATED_AUGUST_4,_2008

MR. NOVESKY: Approval of the minutes. Everyone had a chance to look at the minutes?

MR. KLOSKY: Move we approve the minutes.

MS. BUNT: Second it.

MR. NOVESKY: Acknowledging Mr. Brodmerkel's outstanding job, probably better than mine as chairman of the board last month. All in favor?

ROLL CALL

MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. KLOSKY	AYE
MR. NOVESKY	AYE

RESOLUTIONS: _____

FANNING _____

MR. NOVESKY: Resolutions, we have a resolution for the Fanning subdivision, first we must have a vote on the SEQRA negative dec on the SEQRA.

MR. KLOSKY: This is for Fanning? I'd like to address a question to the planning board engineer. We're in receipt of a letter from the Orange County Department of Public Works which notes looks like three or four items regarding the Fanning subdivision. I'm wondering if you feel any of those are substantial? One of them is actually a question which was unusual.

MR. SZAROWSKI: Right, they're asking if the town requires a sidewalk for a private road apron, they want to make sure that you're following your standards, not necessarily, there's a few, if you require it, they should show it as such. The rest of them, cross-section they're looking for specific, asphalt cross-section in the county right-of-way, the utilities are just standard county details, control density backfill and we're looking for the stabilized construction, these are all just minor technical details.

MR. BRODMERKEL: Does the application meet these standards?

MR. SZAROWSKI: I don't have, Mark didn't point them out to me. I'm reading through Mark's comments, we're more about the need to have an alternate private road turnaround.

MR. BRODMERKEL: Mark's not here.

MR. SZAROWSKI: He's saying all engineering and technical comments have been accepted but I can't speak

to the--

MR. KLOSKY: If we adopt a resolution tonight--

MR. BRODMERKEL: On the second page there's a road detail, can you look at that and determine if it meets the standards so we can take action on this if possible?

MR. SZAROWSKI: Doesn't look like they have prepared the details or added them to the plan, this is all that's just been submitted.

MR. BRODMERKEL: Can we specify that that be brought up to the county standards?

MR. SZAROWSKI: Yeah, you can do that, they should be adding a separate detail for items in the county right-of-way.

MR. KLOSKY: I'm willing to leave that over to the Planning Board's engineer.

MR. NOVESKY: That would be a condition of the final resolution not the SEQRA resolution, correct?

MR. COCKS: Yes.

MR. NOVESKY: We still have on the table consideration of the resolution.

MR. KLOSKY: I move that we accept the resolution adopting negative declaration.

MR. BRODMERKEL: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MS. BUNT	AYE

September 2, 2008

6

MR. KLOSKY AYE
MR. NOVESKY AYE

MR. KLOSKY: I move that we adopt the resolution granting preliminary and final subdivision approval for the minor subdivision of lands of Fanning contingent on the plans being modified to meet the requirements set forth in the Orange County Department of Public Works letter dated August 15th.

MR. NOVESKY: With an amendment we have a resolution on the floor.

MR. BRODMERKEL: Second it.

ROLL CALL

MR. BRODMERKEL AYE
MS. BUNT AYE
MR. KLOSKY AYE
MR. NOVESKY AYE

MR. KLOSKY: Mark will get together with the applicant to square these details away.

MR. SZAROWSKI: Yes.

MR. NOVESKY: Thank you very much.

HENNESSY_&_LOPRESTI_#2008-07

MR. NOVESKY: Hennessy LoPresti is next.

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

MR. DRABICK: Okay, we have I believe this application was first submitted back in June and you referred us to the zoning board for a variance and last month we were granted that variance which basically was for the lack of road frontage for the Funck lot as a result of the proposed lot line change. So we're now in a position to move forward with this application and probably would be looking forward to setting the public hearing on it. Having said that though there was one item I believe that was brought up at the first meeting with regard to the extent of improvements the board would like to see if any on the private road so that's the only outstanding question.

MR. NOVESKY: Right, Mark had a comment I think on the road agreement, correct?

MR. SZAROWSKI: Correct, yes, he did, he's looking for the limits of the new private road serving the two lots and wants to see the details for the improvements added so private road upgrade detail added to the plan.

MR. DRABICK: Okay.

MR. NOVESKY: And that would be it, correct? Are there any other issues?

MR. BRODMERKEL: Any planning questions?

MR. COCKS: No, just going to have a submit the 15 foot wide easement for Dominic to review and approve.

MR. RODD: As well as a road maintenance agreement.

MR. KLOSKY: And some sort of--

MR. BRODMERKEL: Road maintenance agreement.

MR. DRABICK: There was a--

MR. RODD: They need one.

MR. BRODMERKEL: They don't have one?

MR. DRABICK: There was a road maintenance agreement drawn up I believe it was forwarded to Mr. Cordisco's office.

MR. RODD: I'm not sure about that, I don't think so, I spoke to Dominic and he said we don't have it so if it crossed in the mail whatever, send another one.

MR. DRABICK: There was one prepared and was supposed to go to that office.

MR. KLOSKY: There is a town issue here which is that the frame building shown on I believe the east side there I believe is the girl scout cabin if I'm not mistaken?

MR. DRABICK: That's correct.

MR. KLOSKY: Traditionally, that piece of property to the left of the girl scout cabin has been accessed by the girl scouts for vehicles, whatever, there's a camp fire there, they have a flag pole, that access has been going on for decades. I'm wondering if it's, what the status of that access will be under the new private road agreement? I mean, clearly we don't want to lock the girl scouts out of accessing their property because it's not possible to safely access the northwest side of the girl scout cabin without using that traditional access and I know that there was a gate that went in

back there and some other things like this. But, I mean, that piece of property has been historic, there's the historic property directly adjacent to this and the girl scout cabin's a key cultural resource for a long time. I'm just wondering what the applicants' intentions are vis-a-vis allowing access because otherwise we have to talk about easements?

MR. DRABICK: I don't know if I'm in a position to speak for the applicant with regard to that. As you suggest, I would think maybe if we can get together a representative with the girl scouts or from the town.

MR. KLOSKY: The piece of property belongs to the town so, I mean, that's where the girl scouts' cabin sits on a piece of property that belongs to the town, it's not like some girl scout would be able to negotiate with the access on the property or anything like that.

MR. RODD: By granting the subdivision we're not eliminating any other party's easement rights that they may have. So if they have them nothing that you do is going to affect it or eliminate it. If they don't have it then they don't have it. Cause that arose in a different context with another neighbor used part of the private road and it was made very clear to them that for example the zoning board dealt with the road frontage issue that nothing that we did, nothing that this board is going to do with respect to the private road is going to affect anyone's easement rights.

MR. KLOSKY: I see, so I guess where I'm going with it is would it still be possible, I mean, how does that affect the private road agreement is where I'm going with all that?

MR. RODD: It doesn't.

MR. NOVESKY: It carries with the deed, the easement for the road carries through with the deed.

MR. RODD: Yeah, if they have an easement right-of-way access over the private road they have it and by requiring them to provide a private road maintenance agreement it doesn't affect that easement, it doesn't eliminate this.

MR. KLOSKY: Is there an intention to gate this because there's no gate shown?

MR. DRABICK: To my knowledge, no, we haven't shown proposed gate, obviously, that's a question that should be posed to the owners of the property.

MR. KLOSKY: Okay, just wondering from the point of view for emergency access, I mean, is the owner present?

MR. DRABICK: Yes, the owner's present, he can answer.

MR. LOPRESTI: I can answer the question. The only access that we were considering is the turnaround that's proposed to be for the road, it goes actually further down passed the stone wall property, it's going to be actually be on lot B.

MR. KLOSKY: So those turnarounds are way back there?

MR. LOPRESTI: So the private road is just straightaway all the way through, it's an extension off there, off Center Street, it's actually North Street Extension. The girl scout cabin technically we understand what we have been told by the town doesn't have any access to that road right-of-way to the girl scout cabin, there's a half moon circle where people park and there's another access there so they could access it technically if they'd have access which is not true, we haven't had any discussions. It's kind of up in the air, no representative, when we asked Mary is what her name was who runs the girl scout cabin we were told to

find out what the demand and usage is of the road so we can come to some type of either understanding agreement or we can work on an agreement. Cause as we know as of right now the only agreement that's there is between the Funcks and us so it's kind of--

MR. DRABICK: The only deeded access, the only deeded written recorded access is between the LoPrestis and the Funcks for the use of the road.

MR. KLOSKY: The only deeded access but there's also the sort of traditional access which has been going on for a long time there. All right, that satisfies my questions.

MR. LOPRESTI: We have to have a representative of the town or Mary if she would like to discuss maybe we can discuss some kind of, see where everybody is, where they're at at the road and what they want to do and maybe incorporate the development of the road like a nice natural border so it kind of, because it's a homestead property.

MR. KLOSKY: It's a key cultural resource.

MR. LOPRESTI: We'd like to put some flowers, not one big road and blend it all in to what's there already that would ideally be the goal of it but like I said, there's been no representative to discuss anything with.

MR. KLOSKY: Cause it belongs to the town but the girl scouts kind of operate it.

MR. LOPRESTI: Well, the property to the right belongs the town, the road itself is just between us and the Funcks so we'd like to tie in the border between the town and the property and kind of make it flow together so that way it's not like nobody is going to run a spike fence and lights, anything like that.

MR. KLOSKY: That's my specific concern.

MR. LOPRESTI: No, not anything like that. If anything, if there was going to be some border, some flowers, maybe a couple lights because it's dark going all the way down to the driveway access in back so a couple small solar lights can be a possibility. But like I said, the overall discussion of the road we haven't even gotten that far between me and my family because we don't know really what's going to happen.

MR. KLOSKY: There aren't any SEQRA requirements concerning its proximity to a historic structure?

MR. COCKS: I had no clue that that was a historic structure.

MR. KLOSKY: Well, the homestead itself is less than five hundred feet certainly.

MR. NOVESKY: This is just a subdivision, not a site plan.

MR. LOPRESTI: Just a subdivision amongst the two properties that are already existing in the back of the property.

MR. DRABICK: We're not proposing any new development, just existing structures.

MR. KLOSKY: So there's no new construction proposed?

MR. LOPRESTI: No, no new construction, restoration if anything.

MR. KLOSKY: This is within 500 feet of the historic, I mean.

MR. NOVESKY: Only if there's some, they're not

proposing activity, just simply a subdivision.

MR. KLOSKY: If they say it's fine then that's fine. I'm just asking the question. Is there a SEQRA requirement that kicks in because it's within 500 feet of the historical society structure, Sands Ring Homestead I'm pretty sure is.

MR. RODD: I'm not sure that it is.

MR. KLOSKY: And that's within 500 feet of the project, Helen, am I off base?

MS. BUNT: It is a historic building Sands Ring.

MR. RODD: We'll look into that SEQRA issue, I mean, it's as I understand it they're not proposing any new structures, this is simply they have two existing structures on one parcel, they want to create a lot line so to speak so they're on separate parcels.

MR. KLOSKY: It's still a subdivision.

MR. RODD: We'll doublecheck on that.

MR. BRODMERKEL: Time out, it's an existing subdivision we're moving the lot line, is that correct?

MR. DRABICK: No, no, it's a proposed subdivision, right now, the property exists as an entire parcel with two existing dwellings on it. So what we're doing now is part of the application is 2 lot subdivision putting each one of those dwellings on their own lot and incorporated is a lot line change to acquire a property from the Funcks which will give ownership to lot 1 of the access to both of those lots.

MR. KLOSKY: I'm not saying I don't think it's a solid plan, just saying I want to make sure we're meeting the SEQRA requirements of the adjacent structure.

MR. LOPRESTI: We'll make sure that the--

MR. KLOSKY: Sands Ring Homestead is the historic structure in question so I mean that's the question.

MR. LOPRESTI: Well, Sands Ring has also from what we understand from what I see they also have a road to the actual Sands Ring structure, they have their own parking spot and road that's maintained by the town itself.

MR. KLOSKY: Sure.

MR. BRODMERKEL: This road doesn't go all the way down to the end where it meets whatever that might be either Main or Hudson whatever it's called?

MR. LOPRESTI: Yeah, the North Street Extension picks up where North Street and Center Street, Center Street is the adjacent street picks up right there and runs back.

MR. KLOSKY: I see what's being proposed but I'm just saying that typically when we're allowing subdivisions adjacent to historic structures there's a more, the review looks traditionally more robust and I'm not saying that we need that in this case but I'm asking the Planning Board's attorney to look into the SEQRA requirements because of the adjacent historic structure, that's all.

MR. NOVESKY: That's a fine legitimate question but we have addressed the question, we know that that's only on the table so we have an existing road maintenance agreement pending Adam's review, we have existing--

MR. RODD: I will doublecheck, I was told we didn't, if we don't have it we'll call you.

MR. NOVESKY: What about the sewer easement issue?

MR. COCKS: That still needs to be addressed.

MR. SZAROWSKI: He wants 20 feet, Mark would like 20 feet centered over the sewer line 20 foot easement.

MR. NOVESKY: Details of the private road upgrade that we were discussing before.

MR. SZAROWSKI: Correct.

MRS. KRYZAK: Patricia Kryzak.

MR. NOVESKY: Are you part of this?

MR. VINSON: No, she's not.

MR. NOVESKY: There's going to be a public hearing next month.

MRS. KRYZAK: Sorry.

MR. NOVESKY: I'll take the only thing that we have to do here is schedule a public hearing, am I correct?

MR. VINSON: Yes.

MR. RODD: Yes.

MR. NOVESKY: I will ask the board for consideration of scheduling a public hearing for next month.

MR. BRODMERKEL: So moved.

MS. BUNT: Second it.

ROLL CALL

MR. BRODMERKEL AYE

September 2, 2008

16

MS. BUNT	AYE
MR. KLOSKY	AYE
MR. NOVESKY	AYE

MARK_&_VIRGINIA_SCOTT_#2008-09

Mr. Richard DeKay and Mr. and Mrs. Mark Scott appeared before the board for this proposal.

MR. NOVESKY: Mark and Virginia Scott. Gary, you pointed out that this is requiring a referral?

MR. VINSON: ZBA referral.

MR. NOVESKY: We can actually move that along on this, couldn't we, Helen, this would be a ZBA referral?

MR. SCOTT: Yes.

MR. DEKAY: Mr. and Mrs. Scott I asked them to come up to meet the board. This is on 36 Willow Avenue.

MR. BRODERKEL: I don't know where the property is, I don't have a locator map so I don't know where the property is.

MR. DEKAY: We were at the workshop and the engineer Mark Edsall at that time the planner at that time Leslie Dotson felt that this presentation is sufficient to be referred to the zoning board.

MR. NOVESKY: That would be determined by the zoning board I would assume what they would require.

MR. DEKAY: Helen was there and she heard that.

MR. BRODMERKEL: We're not debating it, Mr. DeKay, what I am telling you there's supposed to be a locator map so that I who have not seen this plan before know exactly where this property is. I do know not know where it is, I lived not far from here for a long time but I'm not sure exactly where the house is. We should know.

MR. DEKAY: Do you know where Judge--

MR. NOVESKY: We don't need to have a discussion as long as we know that this is a referral to the Zoning Board of Appeals. Why don't we just make a referral to the zoning board and we can make corrections on the map as it comes back.

MR. KLOSKY: I suggest you add a note specifying that blacktop will not be used on the driveway because of the impervious surface issue since that's not your intention adding it that should be painless.

MR. NOVESKY: Motion to refer to the zoning board.

MS. BUNT: So moved.

MR. KLOSKY: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. KLOSKY	AYE
MR. NOVESKY	AYE

MR. DEKAY: Thank you.

September 2, 2008

19

FANNING_#2006-13

MR. NOVESKY: Fanning we finished that already.

STONE_HOLLOW_AT_CORNWALL_LLC_#2008-10

Mark A. Lukasik, P.E. from Tectonic Engineering appeared before the board for this proposal.

MR. NOVESKY: Stone Hollow at Cornwall LLC. This is where you go from 29 to 28 lots, is this that issue?

MR. LUKASIK: Hopefully not but--

MR. KLOSKY: Isn't there a drainage district?

MR. COCKS: Yes, it's going to be redone by the Town Board.

MR. KLOSKY: Yes, Town Board has to review.

MR. LUKASIK: Good evening, Mark Lukasik, Tectonic Engineering here to present this project. We have appeared before the workshop session, discussed it briefly and I just want to take you on a quick tour of where we are now. Obviously, all sitting members approved the Stone Hollow project that's currently under construction off Willow Avenue. And just to let you know a little bit about how we got here, about a year ago DEC contacted Tectonic Engineering to help with inspection requirements and various construction related items as it relates to this project. One thing that came up fairly quickly was that in their own analysis of building the project as it was then in the process of being approved by the town was that there were a couple issues that could cause a pretty substantial impact in the eyes of the GDC as the marketer of the project and that may have been changed in a matter that suits GDC's needs but presents a project that's a little more appealing to the Town of Cornwall at the same time. The expectation of the timeline that would proceed with Chasen presenting this project here before you was that it would happen fairly rapidly. A lot of these modifications were going to

essentially miss the process with you. As luck would have it, it did not go that way largely due to problems more on the applicant's side through DOH, DEC getting all the sign-offs in line before we can come back and get the maps signed, you signed the maps plus or minus Memorial Day of this year. In the meantime, a lot of things changed since last fall, not only had the project sat around, kicked around GDC's office, let's change this work on this, maybe this is a little better, maybe this is less impact, more, less desirable than we get to a scenario where the real estate market starts to drive things as well. And we get into a situation where maybe certain aspects of it aren't even doable given the way they were originally approved. A side affect of this is that we get to a scenario where the design tech at Chasen, obviously not us at the time the scope just became really unwieldy and it became something that we saw originally as minor field modifications and we worked with the town engineer's office, a scenario where no way this is going to come back to this board, this board is going to have two jurisdictions, now we have two engineers and a whole lot of confusion. So you have two sets of plans which I just want to put forth at this point are in the process of being combined into one solid deck that's so you'll get one set of plans stapled on one side which is a major issue in the eyes of Mark Edsall and Garling Associates as well. And I think this board would kind of probably lean in the same direction as well. You've got one set, subdivision map, the one side showing the new lot lines and you have the engineering side Tectonic's set at the moment which really presents the existing conditions that were out there before you made any review of this project and then has the Chasen information on it where it's not proposed to be modified, all screened back, so you can overlay the two in your eyes as you review it and then you have the proposed modification highlighted.

MR. NOVESKY: So we're going to get a consolidated set

of plans?

MR. LUKASIK: You will ultimately see a complete modification to the documents that you have already approved reflecting all these changes and is anticipated to be provided the next time we meet with the board.

MR. NOVESKY: Anybody have a problem with that?

MS. BUNT: No.

MR. BRODMERKEL: Why don't we discuss it now.

MR. NOVESKY: We're just waiting for the consolidated set of plans, am I correct?

MR. LUKASIK: You will receive that.

MR. KLOSKY: May I also say I'm somewhat uncomfortable with the spillway from the principal storm water containment pond being 100 feet from the southbound side of 9W.

MR. LUKASIK: It's in the exact same location.

MR. KLOSKY: I believe that the pond's larger now.

MR. LUKASIK: It is a larger pond, correct, there were two ponds from before.

MR. KLOSKY: So the potential overflow is roughly double than it was previously so I am I will say again I am concerned about the 100 foot separation of the spillway from Route 9W and the fact that that spillway is actually oriented pointed towards 9W so in the event of an average, an overflow in a severe storm you don't, you know, the water will be flowing, I'm not, I will need to be convinced that 9W will not be inundated in the event of a severe storm, I guess storm water is

something we're supposed to think about and that's what I'm bringing up.

MR. LUKASIK: That's fine and I can certainly add a response to that in a future submission that will take that point and address it. From the application standpoint this project as you alluded to at the beginning is losing one lot. The entire west side of the project is as filed last known change on that side everything is as approved where the change begins consolidation of two lots, the most remote section in the cul-de-sac and there's a cascading effect in terms of lot lines when you move down on the eastern side of the project. A lot of the adjustments are largely due to adjusting as a result of the consolidation of the storm water management we'll get to in a second and also shifting--

MR. BRODMERKEL: Consolidation of what?

MR. LUKASIK: Storm water management facility, formally we're three storm water basins on the east side of the project, now we're proposing two just for sake of ease of construction and environmental impact. There's a couple lot line adjustments to maintain compliance from a zoning standpoint to be able to cite homes on the property and really as a result of starting the lot adjustment at the cul-de-sac. Getting more to the actual changes that are proposed closest to Willow Avenue we do propose to shift the lot line to simplify ownership and easements with respect to the last lot on the project. Previously there was a lot which required an access easement across an adjoiner to get this driveway out to Willow then there was also an overlay easement for ultimate access to the sewer lift station that served that home. We are just trying to simplify that from an ownership standpoint. As a result of that change, there's a modification which pushes one of the dwellings, requires some regrading, some adjustments to retaining those structures from an individual grading

standpoint. Moving into the center of the project as alluded to before consolidation of storm water management two ponds at the start of the job were consolidated into one. There were also some related drainage facility infrastructure modifications largely keeping with the same concept that was originally proposed by Chasen and approved by the board which bypassed off-site flows from the west of the project through the site and down to the drainage underneath 9W. So that remains the same, just gets pushed in a different direction but the concept remains existent. At the tail end of the project closest to the cul-de-sac there was an additional pond which we desired to relocate out of a massive rock cut into an area that's more constructible and a little easier to manage at that location from a disturbance standpoint. As a result of that push plus the lot consolidation on the end we wound up with two lots in the middle that kind of quote squeezed from both sides so they required grading adjustment shifting the lot lines, et cetera, to accommodate that, not only at this north pond but also centrally one item we do want to highlight is with this particular configuration storm water management, we were able to maintain approximately 2/3 of the existing vegetation that was originally proposed to be removed to facilitate the construction of the storm water management facility. This is just immediately south of the former aqueduct location, it's a pretty nice stand of vegetation and we really were striving to--

MR. BRODMERKEL: What's the term former aqueduct mean?

MR. LUKASIK: About 300 feet or so underground the property in itself was released back into private ownership. The aqueduct is still there but the property is no longer owned by the City of New York.

MR. BRODMERKEL: Above ground?

MR. NOVESKY: Is that a buildable site then even though the aqueduct runs under it?

MR. BRODMERKEL: Yes.

MR. LUKASIK: That's correct.

MR. NOVESKY: What if the aqueduct develops a hole?

MR. BRODMERKEL: I'm sure the esteemed attorney would have stopped it.

MR. VINSON: Not on my watch will they be building over it.

MR. LUKASIK: We're not proposing any dwellings.

MR. NOVESKY: Just a curious question not to raise issues. Okay, very good.

MR. LUKASIK: Things that obviously, well hopefully your professionals had a chance to go through some reviews and have some comments to offer. We would like to request a couple things of this board and the professionals whether this is the time to discuss that or not.

MR. NOVESKY: Let's ask for the comments from the consultants first.

MR. SZAROWSKI: Mark reviewed the plan and basically he did comment on the consolidation of the lot 28 and 29 reducing it from 29 to 28 lots with the storm water. The hundred year storm event must be 8 inches for Orange County. This was correctly utilized in the original SWPPP but downgraded to 7 1/2 inches and it should be properly kept at 8 inches. Inverts for the outlet pipes on the structures in the model are higher and the additional head would increase the flow.

MR. LUKASIK: We'll doublecheck.

MR. SZAROWSKI: The weir coefficient for the model the two ponds have two different weir coefficients even though the same structure details.

MR. LUKASIK: We'll doublecheck.

MR. SZAROWSKI: And then of course the ponds are going to the DOT right-of-way so that should be referred back to the New York State DOT for review.

MR. LUKASIK: We would have suggested it not just on the basis that we haven't increased the flows given one of the comments that I think it's something we'll have to throw out just to address the discharge directly so that's fine.

MR. SZAROWSKI: And then I guess the road profile and utilities are supposed to be essentially unchanged.

MR. LUKASIK: True, to highlight one fact which I didn't elaborate on before the roadway profile itself remains the same, nothing has been modified there, the utilities with respect to sanitary sewer and water have not been modified with respect to the mains that are approved under jurisdiction of the DEC. The modifications that when we have talked about this with the County Health Department they see this project and are willing to review it as an administrative change from their side, they recognize that there's a planametric shift, some of the homes have gone from here to here, thus the service connections are no longer here, they're now here, that needs to be indicated to them but they don't see it as a big deal. They have already done something very similar for this project during this original review process. There's two pushes on water loops underneath some utilities where they for lack of a better term are being pushed

about a foot deeper, not seen as anything major in the eyes of the county but that would be the only modification to the lines themselves. Very doable and approveable in their eyes if we're able to get to that point. Just to highlight one thing that we would ask this board to consider and the county has basically said they would consider if they received a referral from your professional having reviewed this project would be, would they consider a concurrent review both with this planning board reviewing this application and would also allow us in the next couple weeks to submit to the county to process from a health department standpoint rather than wait for you to make your determination on the project as a whole.

MR. NOVESKY: Who makes that decision about that acceptable process?

MR. LUKASIK: The county's indicated that they will consider it but you would have to also on the same side consider allowing the county to review. At the same time, county doesn't normally allow it because they don't want to get inundated with things that don't get approved.

MR. NOVESKY: Does anyone have any input on that?

MR. BRODMERKEL: I never mind doing things like that if it's something we can legally do.

MR. RODD: I think you can legally do it, I think it's a practical matter, I know to the extent that there was some concerns about the drainage and the ponds and the size and all that stuff to the effect that the extent it might be tweaked and might affect the configuration potentially of individual lots that would throw a monkey wrench into the county's review of it so perhaps I think it would be easier to do it sequentially.

MR. LUKASIK: All right, we would like to at least ask

and maybe this can be asked again next time we're present, this obviously we have some comments we would appear again and ask at that time in the process maybe it's good enough maybe it's not but we'll see then at this point. Fair enough? I'll stop on anything else.

MR. SZAROWSKI: That was the extent of Mark's comments.

MR. COCKS: Yes, as mentioned before this is going to be a new subdivision so the County Planning Department, all other outside approvals are going to need to be redone. We're also going to have to go back to the Town Board for approval of a different drainage district since the lots were affected. In regards to zoning compliance, this is going down one note one, no variances are going to be needed. There's only one issue in regards to some of the lot configurations of lot width at the back of the lot that is to be 80 percent of the allowable number in the front of the lot. I guess last time this was addressed by just using it as the building envelope instead of the actual back of the lot. Leslie said that she doesn't, this is going to be a problem cause the building envelope has the right lot width and the backs of the lots aren't going to be used since that's next to Route 9W. There's just a couple other comments on specific lots, she's noted that lot 28 now owns its driveway in fee instead of having an easement across the adjoining lot, lot 21A is now going to be mostly drainage and they are going to have a smaller lot area that's actually usable. Lot 20A is going to be improved cause it will eliminate a lot of the grading in the back of the lot and that's as mentioned going to save a lot of additional trees. And lot 14A is the large lot in the very back of the cul-de-sac noted that its large size just due to the configuration of the cul-de-sac and there was really no other way to make 15A or 16A any larger. There's a couple comments in the EAF just indicating that the off-street parking should be 56 instead of 28 and that since they're just modifying a

portion of the subdivision they should not put in the half numbers, they should actually put in the whole subdivision numbers. Other than that, there's just a couple areas where it needs some minor revisions just with some of the zones and that was it.

MR. NOVESKY: Thank you.

MR. KLOSKY: No comments.

MR. BRODMERKEL: I don't understand the parking business.

MR. COCKS: It's required to have 56 since they're only modifying the back half of the lot they only put in the changes for the back half instead of including the whole subdivision, so they only put in 28 spaces, they are providing the right number just marked it wrong in the EAF.

MR. LUKASIK: When we prepared the EAF we looked at this as essentially 15 lots going to 14 when comparing before and after really to be consistent with the application that was submitted and what we consider to be the scope of the review of the project given that half of it's been approved and is essentially remaining the same, so I will have to look at this a little more closely. But however it is that we have to present this to clarify this review for the process of the board's understanding we'll write it whatever way we gotta write it.

MR. BRODMERKEL: Do we not have a town road here?

MR. LUKASIK: We do.

MR. BRODMERKEL: Why are we talking about parking spots?

MR. VINSON: She's just looking for a correction on the

plan, that simple.

MR. BRODMERKEL: I still don't understand.

MR. VINSON: Every residence is required to have two parking spaces, Leslie's identifying they should identify the total number of lots not just a portion of them.

MR. COCKS: Spaces are provided in the driveways.

MR. VINSON: In the EAF.

MR. BRODMERKEL: House has a driveway, what's the question here? I don't know why we're talking about parking spaces.

MR. VINSON: It's in the EAF document that she's just looking for it to be corrected or referenced.

MR. BRODMERKEL: Okay, I still don't understand why we're bothering to talk about parking.

MR. VINSON: Every residence is required to have two parking spaces.

MR. NOVESKY: We do that on all these?

MR. LUKASIK: It's always requested within the EAF, it's always completed, we have simply filled out the EAF as half a project and Leslie appears to be saying don't do that, fill it out for the entire project.

MR. NOVESKY: Okay, thank you.

MR. LUKASIK: Very quickly if I can just take two more seconds of your time, obviously, we have alluded to the town drainage district, I'd thrown a note out to Mark, I don't know what his schedule is and I just would like to lean on your office and perhaps maybe over to the

town attorney with respect to whether public hearing ultimately is required, we'll deal with it even as a--

MR. VINSON: Yes.

MR. LUKASIK: --even as an amendment.

MR. VINSON: Application requires a public hearing, yes.

MR. LUKASIK: We don't know if this board would be open to setting a public hearing for the project for the following meeting pending.

MR. NOVESKY: I'll open it to the board.

MR. BRODMERKEL: Let's see what they, what the plans look like, there seems to be a number of questions.

MR. NOVESKY: We don't usually schedule a public hearing unless we have plans in hand.

MR. LUKASIK: And anything else the professional we'd be submitting to workshop or--

MR. VINSON: Workshop is always available to the applicant and you have until the following Wednesday to submit, to appear before the board.

MR. LUKASIK: Just whether the professionals feel that it would be advisable, usually we can get some guidance.

MR. VINSON: It's always advisable to take advantage of the workshop.

MR. LUKASIK: Then we'll do so, just to be safe, you don't happen to know whether Leslie contacted the County Planning Department regarding referral?

September 2, 2008

32

MR. COCKS: She said that they have already been referred.

MR. LUKASIK: Thank you. Have a good evening.

CORNWALL_COMMONS_#2004-01_&_#2006-19

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

MR. NOVESKY: Cornwall Commons. Before we move onto anything on that, we have a request signed by Michele who was here requesting extension of approval for conditional six months to run from September 5 to March 5, 2009. Adam, I assume we should deal with that right up front, that's the extension of the preliminary approval for this Cornwall Commons?

MR. BRODMERKEL: Make a motion we grant the extension.

MR. KLOSKY: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. KLOSKY	AYE
MR. NOVESKY	AYE

MR. NOVESKY: Finished.

MS. BABCOCK: Thank you.

MR. NOVESKY: Now we can continue with discussion of Cornwall Commons.

MR. JACOBOWITZ: Gerry Jacobowitz. We submitted the FSEIS, it's been reviewed by the consultants, Leslie has provided a four page--

MR. NOVESKY: Let me interrupt you just on that point we just received that now, we have not received it prior to this meeting, just for the record.

MR. JACOBOWITZ: Yes, okay, and we have gone over that

with her and that basically we have been able to say yes to all of the requests that she has suggested in here and Mark Edsall's letter to you I think he mentions three items, I think they are all covered by things that Leslie has in her summary. Mark also gives you an explanation of your position in response to the County's letter of the 239-M that you received and then Leslie deferred to Dominic on three points in listing all of which I believe one of which I know we had discussed with Dominic's office and resolved, the other two, one deals with is there anything necessary to be dealt with if this fire district line is not changed by the time you adopt the findings and basically the answer is there's no risk or issue there because both fire districts are under a duty to protect the territory within the fire districts. And in conversations with both the Vails Gate Fire District Board of Commissioners and the chief they have no problem with servicing the area and in conversations with the chief and two commissioners of the Canterbury District, they have no problem with it, they both agree the district line should be changed and that takes paperwork of the two fire districts and the two Town Boards, there's nothing we can do about it other than provide whatever maps, aid, assistance they ask us to do and we have done everything so far so we don't see that that should be an issue in connection with acceptance of the FSEIS.

MR. NOVESKY: Excuse me, Gerry. Adam, you do agree with that?

MR. RODD: I'm going to have to defer to Dominic on that, I know I didn't discuss with him that specific point but I will bring it up with him.

MR. KLOSKY: I will say that I am significantly concerned about confusion about borders of fire districts through a subdivision where you're going to have very similar structures throughout. I mean,

you're talking about the fire district that runs right through the middle of some of the roads. I know the initial plans certainly was considered under the umbrella idea that it was going to be consolidated into a single fire district for the entire project so a single lot being separated into two different fire districts multiple lots being in two different fire districts is more common but a single lot lying in two separate fire districts correct me if I'm wrong but that's highly unusual. I'll turn to the consultants for that.

MR. BRODMERKEL: We don't need to get into whether it's unusual, both fire departments have agreed they want to change the line so it's a matter of administrative stuff to get it done.

MR. NOVESKY: As long as our concern is that proper fire coverage is there which appears to be currently the way it is, it is the way it is, but I think that's an issue that had to be addressed.

MR. BRODMERKEL: Everybody wants to change it.

MR. JACOBOWITZ: But even if it didn't get changed which is hypothetically I don't believe is the case before we have a build in there Vails Gate folks said it's a non-issue, they have that situation in various places in the Town of New Windsor within their fire district territory.

MR. NOVESKY: Fire district line goes right down the middle?

MR. KLOSKY: Down the middle of a lot?

MR. JACOBOWITZ: Yeah, I raised it with them, I said isn't this a good reason to do it, they said yeah, we want to do it but that's not necessarily a motivation for us to do it, we have no problem dealing with it,

they said they'll get along with the Canterbury Fire District people and they'll work it all out as they do in many other instances that was the conversation.

MR. BRODMERKEL: There are understanding between the fire departments.

MR. JACOBOWITZ: They work those things out but now they're both on board, they want to change the line, there's advantages to both districts to do it and it's going to happen but it's not going to happen before you adopt the FSEIS and the findings because hopefully you'll get that done fairly soon and they're going to take a while to get all those municipal boards in action.

MR. KLOSKY: Adam, would it be unusual for the findings to specify that the single fire district composes the entire lot?

MR. RODD: No.

MR. JACOBOWITZ: I'm sorry, could that get repeated?

MR. KLOSKY: Would it be unusual for the findings in the FSEIS, I'm sorry if I get the letters mixed up but one of the findings might possibly be that the, a single fire district means that a lot must lie wholly within a single fire district.

MR. RODD: I don't think that's a requirement.

MR. JACOBOWITZ: Yeah.

MR. RODD: It's not a requirement, you should identify in the FEIS which district, where it is that it's being serviced but it's not a requirement.

MR. NOVESKY: We have already been told it's not unusual for that to be the case so anyway so--

MR. JACOBOWITZ: Well, it would be unusual to make it a condition of our approvals that we have to get the district line changed, it's not within our power. And the other one in the language of the response to comments about a traffic light at the intersection of 218 and Main Street we had previously proposed and there was no objection to it and it's incorporated in there that when we complete construction of lot 10 and there's a requirement from the DOT for a traffic light we'll participate on a fair share basis and Leslie's point was that happens if there's a light there needed before then, before we build out because of other background traffic, because of other things happening and so we're willing to provide that the, that we'll pay our fair share whenever the light is put up, it could happen before we build out, we have contributed to it, we'll pay our fair share, so then we don't have to, it doesn't get triggered only after we finish our build-out so and that's something that she says in here she's referring to Dominic.

MR. KLOSKY: I'm interested in knowing how the fair share is determined.

MR. JACOBOWITZ: By your generation of traffic, by the generation of traffic.

MR. NOVESKY: Relative to 9W?

MR. JACOBOWITZ: There's 100 cars and we contribute 10, we pay 10%.

MR. NOVESKY: But is the traffic generated on 9W?

MR. JACOBOWITZ: No, at that intersection.

MR. KLOSKY: But potentially for the light though required might not get built due to lack of funding by other partners. If you say you'll put up 10% and no

one puts up the other 90 percent then we could go without a light when one was required.

MR. JACOBOWITZ: That's right cause we're not the government.

MR. BRODMERKEL: It's a state highway so the state highway determines whether or not they're going to build it.

MR. NOVESKY: They would determine whether or not it's needed, correct.

MR. KLOSKY: What I'm saying is the need and construction are delinked in this scheme.

MR. NOVESKY: Well, this if he acknowledges the need and there is a developer who's contributing their share it would be incumbent upon the state to provide that I would think.

MR. BRODMERKEL: I can see the town requiring a pro rata share but does the state work that way too?

MR. JACOBOWITZ: No, but it gets them off the dime, in other words, if you go to them and say Cornwall Commons is paying pro rata share, the state isn't going to pay the whole thing, that moves it up the priority list for their action, it seems to be their practice.

MR. NOVESKY: Fair.

MR. KLOSKY: Under the scheme of the traffic generated by Cornwall Commons could push the light above or blow the service levels required and we could then not get a light built for a significant period of time because the state was unwilling or unable to put up the money.

MR. JACOBOWITZ: That could happen whether there's a Cornwall Commons project or not.

MR. NOVESKY: There was only one question as far as discussion related to the easement agreement with NYMA.

MR. KLOSKY: Adam, I was looking for some sort of it seemed to me in the last meeting that the code requires resolution of the easement prior to the subdivision that's not linked to the FSEIS but it did appear to me that the code requires that prior to granting subdivision that we resolve the easements and I hate to see the whole project end up in a last man out sort of thing where 9 lots are built and the easement is not resolved and then when the 10th lot is built comes in for site plan approval suddenly we have to resolve this easement and that's poor planning. I think that instead we should resolve the easement in a way that's most workable for the town which will end up owning the roads and--

MR. NOVESKY: The real issue.

MR. KLOSKY: The code requires that it seems to me.

MR. NOVESKY: That's the question.

MR. JACOBOWITZ: Did Dominic discuss that with you?

MR. RODD: Dominic discussed the context of the ultimate FEIS that there should be language in there referencing and preserving any easement rights.

MR. JACOBOWITZ: Page 48 at the top in response to comment 70 which is the one you're referring to the last page 48 top first full paragraph.

MR. KLOSKY: I'm not sure what a possible future easement is.

MR. JACOBOWITZ: That's, let me add one thing to it, this says the site plan page 3 of 57 we also want to

bring your attention and we will confirm that that the subdivision plan has this on it also this same paragraph it will go on the site plan which is the one buffer now but it's already on your subdivision plan that you approved.

MR. BRODMERKEL: Gerry, let's point out and I very well could be correct is that the Town Law indicates that we must have an agreement prior the approval.

MR. JACOBOWITZ: I don't think that's what Dominic will tell you in a formal opinion, he did say something to that effect at the last meeting but we have done some research and discussion and I believe that this language endorsed is all that you can impose.

MR. NOVESKY: Adam, we did ask for a formal opinion from counsel on that.

MR. RODD: Okay, we'll look into that.

MR. NOVESKY: That would resolve the issue which is whether it's part of the Town Code or it if it's not it's not.

MR. KLOSKY: In the end it's up to us to interpret the code.

MR. NOVESKY: It's up to us to make a determination.

MR. BRODMERKEL: Because we didn't get a clear statement last month.

MR. NOVESKY: I have asked for a formal opinion from counsel that will answer the question at least provide a basis for discussion so we'll wait till we have the answer.

MR. KLOSKY: I agree with that.

MR. NOVESKY: Okay, that's good, okay.

MR. JACOBOWITZ: So those were the three that required legal attention based on Leslie's thing to you and the rest of them are all matters of revising language in the text to satisfy her comments and we have agreed with her with respect to all of them so I know you haven't had, you haven't read what she's indicated to you so it makes it a little difficult to evaluate that.

MR. NOVESKY: Thank you for acknowledging.

MR. JACOBOWITZ: Because what we had hoped was that you'd be able to approve the FSEIS you subject to the language being revised to reflect Leslie's comments and that it be done and submitted to you by September 23 so that at the meeting in October you would be able to take action on or review findings because the FSEIS has to be in final form here 10 days before you can consider the findings. So that was what we had hoped would be able to be done and you'll get the revised FSEIS in plenty of time to review it to make sure it is compatible with her comments. Now, does anybody among you have comments about the content of it because those we have not heard from anybody yet, we have got the engineer, we have got the attorney, we have got the planner.

MR. NOVESKY: I will open it up for discussion amongst the board members that are here first.

MR. KLOSKY: You know the proposed pedestrian access remains in use on Willow Avenue without improvement, that seems to me to be, it will certainly increase pedestrian traffic along Willow Avenue and the bridge which crosses over the top of 9W as for instance and other positions of the pedestrian access I don't, it seems to me that there's some obligation to link up this project with the town and to actually try to walk that portion along Willow there.

MR. NOVESKY: Willow or--

MR. KLOSKY: Where Willow crosses over the top of 9W.

MR. BRODMERKEL: Whose bridge is that?

MR. KLOSKY: That I don't know.

MS. BUNT: It's not the town, it's the state. Are you proposing that they replace the bridge?

MR. KLOSKY: No, not at all. I just think that the sidewalks, railings, et cetera along there, I mean, I'd like to have, I'd certainly like to have the board's engineer take a look at those and see if those provide adequate pedestrian access.

MR. BRODMERKEL: That's already a walkway for children to go to and from the schools and the state has the responsibility to maintain them.

MS. BUNT: If that's your concern now it should be your concern now and not after the Commons goes in.

MR. KLOSKY: And also the crosswalk on 9W is kind of an odd duck, I'm not sure exactly what connects that.

MR. BRODMERKEL: That's different, we'll talk about that one, that's fine, this is a different question.

MR. KLOSKY: I remain in general concerned about pedestrian access between this site and the rest of the town.

MR. NOVESKY: I think that's a general question but I don't understand how the Willow Avenue bridge comes into play because the Commons is not, am I correct, I mean looking at the site map how the Commons--

MR. BRODMERKEL: Down Frost there are sidewalks all the way.

MR. JACOBOWITZ: Well, there are two accesses that we had, there are three possible, two we believe are rational, reasonable and--

MR. BRODMERKEL: Which two are those?

MR. JACOBOWITZ: Those are Frost, Willow and the second is from our property to the subdivision next to us, Willow Woods.

MR. VINSON: Stone Hollow.

MR. JACOBOWITZ: Has sidewalks, the idea we would link up to that so that people in this project would walk on the sidewalk on the new street through Willow through Stone Hollow as a second pedestrian way and Leslie comments--

MR. KLOSKY: Did Stone Hollow show that connection?

MR. VINSON: No.

MR. SZAROWSKI: It's not shown as a connection.

MR. JACOBOWITZ: That's what we're proposing and we would then have to work that out.

MR. AMATO: In the meantime we have pedestrian access to the town and it's a logical sensible conclusion and I don't know why we continue to beat it to death.

MR. KLOSKY: Have you actually walked that?

MR. AMATO: Just look at the map, it's right there, this goes on and on and on, look at it for a change, just show it to them, my God.

MR. JACOBOWITZ: Well, the Frost Lane access to Willow is the one that we--

MR. NOVESKY: I think it would be more appropriate if we kept it down a little bit.

MR. AMATO: I'm sorry, it's just that we talk about this month after month after month, we produce sketches, we produce pictures.

MR. NOVESKY: I think that he's asking a question if we just address the question we'll be okay.

MR. AMATO: I'm trying to, I don't know what I can do, I can't stand on my head.

MR. JACOBOWITZ: This is how we propose to connect to Stone Hollow, I will pass it around, it's hard for you to see.

MS. BABCOCK: It's Exhibit 7.

MR. BRODMERKEL: Except that I don't think it's correct. I see Frost Lane and I see it cross to Academy but I don't see Stone Hollow in there.

MR. JACOBOWITZ: Pedestrian access plan 1, there's 3 plans, look at 1.

MR. BRODMERKEL: I don't have 1, I've got 3 twice, that's my problem.

MR. NOVESKY: I have 1, 2 and 3.

MR. BRODMERKEL: Okay, that makes more sense now, Gerry.

MR. KLOSKY: I don't understand how they're connected to Stone Hollow.

MR. NOVESKY: Is that a proposed walkway across 9W?

MS. BABCOCK: It's a crosswalk.

MR. KLOSKY: Doesn't really end up anywhere.

MR. KLOSKY: No, I guess the proposed Stone Hollow subdivision connection, can somebody explain to me how that's proposed to work? How are we going to connect to Stone Hollow subdivision?

MR. RUSSO: We would actually build a walkway out to what's proposed as a public road on Stone Hollow which has sidewalks that run along the length of the Stone Hollow so from the multi-family area we would run a sidewalk, meander a sidewalk out to the proposed town sidewalk.

MR. KLOSKY: But that would be across private property.

MR. RUSSO: No, it's across our property directly onto the town road right-of-way.

MR. SZAROWSKI: The Stone Hollow subdivision the road had been shifted to the, to that boundary and in an attempt for fire access that never came to fruition.

MR. SZAROWSKI: So the sidewalk is adjacent.

MR. NOVESKY: Led's question relates to--

MR. KLOSKY: Sorry?

MR. SZAROWSKI: There's a retaining wall right along that property line.

MR. RUSSO: That they are proposing currently and to do that they are requesting an easement to do the disturbance and grading on that so we can work something with Ginsberg to do that work and ensure that

we have a viable access through there.

MR. SZAROWSKI: Yeah, it made it a difficult situation.

MR. RUSSO: Right, their original plan did not show any retaining walls.

MR. KLOSKY: So your intent is to reach an agreement with Stone Hollow people to make that connection and they're requesting an easement?

MR. RUSSO: They are requesting an easement to build walls, actually we do some of the landscaping and want to do, to redo some of the landscaping because it's going to require some grading onto the Cornwall Commons property so--

MR. KLOSKY: So you think there's a very high probability of success with making this connection?

MR. RUSSO: There's 100 percent.

MR. JACOBOWITZ: Our property line adjoins the right-of-way so we don't need an easement from them.

MR. NOVESKY: Thank you for answering that question.

MR. JACOBOWITZ: What we do need is to do some grading, the grading has to be done in a way to facilitate getting from us to them.

MR. NOVESKY: We got the hundred percent answer so that's fine.

MR. JACOBOWITZ: That's the engineer talking. It's always plus or minus, right, you meant a hundred percent plus or minus?

MR. RUSSO: Plus or minus 50.

MR. KLOSKY: I have to admit this is sounding very responsive but I'm not sure everything that's being said tonight is reflected well inside of the FSEIS and so if we can maybe improve some of the language to better explain to me exactly how that connection is going to be made to Stone Hollow I'd certainly feel better about the document.

MR. NOVESKY: Okay, Kenn, any questions or Led?

MR. JACOBOWITZ: That's one of Leslie's comment.

MR. KLOSKY: So I've gone a long way to make a comment that Leslie had given to us five minutes before the meeting commenced.

MR. JACOBOWITZ: Her X comment, letter X.

MR. KLOSKY: It was something of an issue for the board to receive the comments from the town's planner this evening only a few moments before the meeting commenced.

MS. BUNT: And I don't have a copy.

MR. NOVESKY: Duly noted on the record. Led, do you have any other comments?

MR. KLOSKY: No.

MR. BRODMERKEL: I just would like to say that I don't have the reservations that Led has regarding pedestrian access, I think Frost Lane and now with the addition of the other access down the new development I think there's quite sufficient walking pedestrian access into town for people to utilize. And I don't see any problem with what has been delineated. As far as using 9W and a crosswalk there Gerry I think there's some problems with two things, a sidewalk on a state highway, you know what that would involve?

MS. BUNT: And walking down the road that you have delineated that's a private road if I'm not incorrect.

MR. RUSSO: That's actually a town road, Academy Avenue.

MR. VINSON: Academy Avenue Extension is a public road.

MR. JACOBOWITZ: But it doesn't go out to 9W.

MR. BRODMERKEL: So the parking lot then is private?

MR. VINSON: Is private, yes.

MR. BRODMERKEL: Just making a point. I must say most of if not all of my questions which were rather lengthy previously have been answered satisfactorily. I did make a note here about your response on item 28, maybe it's just I don't understand it, Gerry, and I don't know if you'll be able to help me page 19, in disagreement with what they're saying, that it does pertain to that, it's more of a technical engineering and environmental question I understand but--

MS. BABCOCK: If I may, they are just referring to a manual that actually isn't the law in New York State. So our response is simply this is what the law is in New York State, there's no requirement for us to preserve wetland C because it is an isolated wetland, however, we are preserving most of the wetlands and just that the MCA paper notes that clustering development is a good tool to use and that's what we're doing.

MR. BRODMERKEL: Okay, that would explain that. From the point of view from the Orange County Planning letter Mark I will say shared my response to that letter.

MR. SZAROWSKI: Yeah.

MR. BRODMERKEL: And it was shall we say inappropriate in several places, Mark delineated a number of things that didn't make any sense in that letter and in his response, I agree with that.

MR. NOVESKY: You agree?

MR. BRODMERKEL: Yes and I won't take your time up anymore this week.

MS. BUNT: I don't have any problem with the pedestrian the number 1 and number 2, I wouldn't have a problem if there was only a number 1. And my only concern from my past thing is any subdivision or anything that happens it's more, I mean, everything else is nice and the drainage and all that stuff but is the drainage and those were the biggest problems that I faced is water running onto somebody else's property. It would appear that they have done their homework and looks like that won't be a problem for us and I have to say that this thing has been bounced around so much I don't think anything's been under a microscope more than this in Cornwall.

MR. BRODMERKEL: Would you agree with that from an engineering point of view? I just want to make a specific point there was a lot of discussion both in the County Planning letter and with several letters to this board regarding runoff and the applicant is stating that the runoff after build will be no more than if not less than it is currently happening and I would assume without seeing any statement from the engineers that are saying that they disagree with that that they are in agreement with that from what they can tell?

MR. SZAROWSKI: That's correct, yes.

MR. NOVESKY: With that, any action are we proposing we take the action being requested next month?

MR. RODD: Next month is fine.

MR. JACOBOWITZ: Can we between now and then work with Leslie to get the revisions made that she's listed so that you get the revised version prior to that next meeting and that we would assume that's what would happen normally.

MR. NOVESKY: That would normally happen, quite honestly, it's more of an internal administrative issue because we can't comment.

MR. BRODMERKEL: It would be a good idea if you'd do that and I would ask that we get these in a more timely manner.

MR. COCKS: I had no clue that we didn't send them to you, I'm sorry.

MR. NOVESKY: You can't be held responsible.

MR. JACOBOWITZ: Doesn't preclude any further comments from the board based on the language that has changed and the other part of it is can the planner go forward to do a draft of the findings statement so that you can't act on it at the next meeting but at least you would have it at the next meeting and then have a full month to have it before take you action then in November.

MR. BRODMERKEL: I see no problem with drafting one. We can react to it or not.

MR. KLOSKY: Yeah, we don't have to take action on the draft.

MS. BUNT: No problem.

MR. JACOBOWITZ: You wouldn't take action on the draft at the October meeting, you can't, whether or not you would in November would be a matter for your board.

MR. KLOSKY: Adam, would that set the clocks running?

MR. RODD: Not sure, I'll find out.

MR. BRODMERKEL: Does the extension we just gave you you cover that?

MS. BABCOCK: No, that was strictly with respect to the preliminary subdivision.

MR. NOVESKY: Preparing the statement couldn't hold us to anything in terms of the time clock.

MR. JACOBOWITZ: I don't think there's a time clock issue but if there is we'll extend the time, we're not looking to play that game.

MR. KLOSKY: I would like to see Leslie take on the findings statement sooner rather than later.

MR. NOVESKY: But that doesn't preclude us from having Leslie bring the statement.

MR. KLOSKY: No objection.

MR. NOVESKY: We can go ahead and do that.

MR. KLOSKY: Between that and the opinion on the easement that should help us to move forward.

MR. NOVESKY: Any other questions? Thank you, Gerry.

MR. JACOBOWITZ: Thank you all.

MR. NOVESKY: With that?

September 2, 2008

52

MR. BRODMERKEL: Motion to adjourn.

MS. BUNT: Second it.

ROLL CALL

MR. BRODMERKEL AYE

MS. BUNT AYE

MR. KLOSKY AYE

MR. NOVESKY AYE

Respectfully Submitted By:

Frances Roth
Stenographer