

TOWN OF WALLKILL PLANNING BOARD

MEETING

FEBRUARY 1, 2006

MEMBERS PRESENT: G. Lake, W. Capozella, R. Carr, A. Dulgarian, T. Hamilton,
H. Ross

MEMBERS ABSENT: P. Owen

OTHERS PRESENT: J. Bacon, D. McGoey, S. LaBruna

1. **FOXWOOD** - 3 LOT SUBDIVISION - Mt. Hope Road (62-1-16) #16-05

G. Lake: Your name for the record, please.

J. Axel: My name is John Axel.

G. Lake: Go ahead. Just give us a brief description. I know you've been here a while now.

J. Axel: Yes. It's a three lot subdivision. Lot #1 is over sixty two acres, actually sixty eight and a half acres, lot #2 is three acres and lot #3 is almost four acres. These lots are serviced by individual wells and septic systems. We conform to the septic designs. Eustance & Horowitz has reviewed and has signed off on them. That was one of the outstanding issues.

G. Lake: You have received that?

M. Hunt: Yes. It's in the file.

J. Axel: I believe the other outstanding issue were some notes in regard to the site distance for the proposed driveways on lots #2 and #3. The notes have been added. I believe the map is now satisfactory.

G. Lake: Let me go through the Board.

A. Dulgarian: Why are we looking at a ten lot subdivision?

J. Axel: Actually one time when I was here previously, we were asked to do a build-out plan which was actually previous to the moratorium.

A. Dulgarian: So, what we're looking at is really the three lot subdivision?

J. Axel: Yes.

A. Dulgarian: Did you go within the limits of clearing on this?

G. Lake: That is one of the questions here that Mr. McGoey has to ask the Attorney.

D. McGoey: The limits of clearing are shown on sheet #2. The question that I had for Mr. Bacon was the notes with respect to maintaining the vegetation for the site clearing to make sure they were going to be okay.

J. Bacon: What we've been doing for these is that the applicant has been actually transferring the site to the Town so that if they don't take care of it, we've got to take care of it and receive reimbursement to the Town.

G. Lake: Is the note on the map?

D. McGoey: It's on here as notes #17, #18, and #19. We have to make sure that Mr. Bacon checks it.

G. Lake: So, you have to just make sure that our Attorney is satisfied with it.

J. Axel: Sure.

G. Lake: Mr. Dulgarian, anything else?

A. Dulgarian: No.

H. Ross: Nothing.

R. Carr: Nothing.

W. Capozella: I was just looking through my notes. I know we said something about the site distance even though there's a road coming down here and the existing house. Is there anything that we really need to discuss other than that because it's a downward slope and cars come barreling down that road?

D. McGoey: What we made them do is certify that it met the standards at the prevailing speed which they have given.

G. Lake: Anything else, Mr. Capozella?

W. Capozella: No.

T. Hamilton: Mr. McGoey, do we actually have to define the vegetation clearance around the homes?

D. McGoey: Yes, that's on sheet #3.

T. Hamilton: Well, I see it on lot #3 but it kind of disappears when it gets to lot #2, at least the plan that I have.

D. McGoey: You're right. I'm not sure how much.

J. Axel: That actually is the existing tree line in the back of the septic on lot #2. We can define that further for the Board.

D. McGoey: You were following the existing tree line behind the septic?

J. Axel: Yes.

T. Hamilton: But is there anything else on there that can be saved? I mean, he's not showing what's there, any big ones that maybe they can save. There is no reason to wipe that whole area out completely.

D. McGoey: Possibly on lot #3 but on lot #2 there's not much. I would have to go out in the field and see if there's any large trees in the front that may be saved.

J. Axel: Yes. If you go out and find them we would be more than happy to save them.

T. Hamilton: They should be on here and marked with the sizes. Aren't we going to incorporate in the future that we want the satellite photograph that shows what's existing so we know what it really looks like to see what's on those sites?

D. McGoey: It's something we have to discuss and require of the applicant.

T. Hamilton: Okay. That's all I have.

G. Lake: This is a County road. Are you all set with your County permit?

J. Axel: We have to apply to them for a permit. I don't see any problem.

G. Lake: Any negative comments from them?

J. Axel: No. Actually, we've already gotten the final?

T. Hamilton: Do we have that because we can't sign the maps without it?

D. McGoey: The note is on the plan. They can't start work until they get the County permit.

G. Lake: Anything else? I know they have Preliminary.

MOTION for FINAL THREE (3) LOT SUBDIVISION subject to the Board's comments tonight made by H. Ross and seconded by A. Dulgarian.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

2. **MKA** - Cottage Street Subdivision - SITE PLAN/SPECIAL USE PERMIT (Sketch) 46 Single Family Residences & 214 Townhouse Units - Cottage Street Extension - (36-1-28.2, 29 & 36) #90-05

G. Lake: Your name for the record, please.

C. Utschig: My name is Chuck Utschig. I represent the applicant, Baker Residential Limited Partnership relative to a revised application for what was known as the MKA site.

G. Lake: Why don't you just step back a little bit. Mr. McGoey and myself, we've had a couple of work sessions with you. Maybe just bring them up to date what we've done at the work sessions and then we will continue on.

D. McGoey: As the Board is probably aware, this application has been before us since probably 1987, 1989 and has been subject to several lawsuits of which we were not successful. The court's

essentially approved the SEQRA and approved the Preliminary Subdivision and Site Plan.

T. Hamilton: Site Plan also?

D. McGoey: Site Plan also. They were conditioned. The plans that were received by the Town were never reviewed for completion. Therefore, they were never stamped with the Preliminary Stamp and filed with the Town Clerk. The only map that was filed with the Town Clerk was a five lot subdivision. It wasn't approved by the Board. Mr. DiPirro entered into a contract with MKA and reached an agreement with the Town Board to substantially reduce the number of units that is presently before you. I asked the applicant and their engineers if they would bring those plans within a complete form so the Board could review them and are before us tonight. There are still a number of technical issues which they have submitted revised plans on but I haven't reviewed yet and they understand that. They're here tonight to just to kind of give you a brief overview of what the project will look like. You all have a set of those plans and then we will go from there.

T. Hamilton: Wasn't though in those discussions with the new owners that there wasn't going to be any commercial on the site.

D. McGoey: Right.

C. Utschig: If you give me a second I'll go through the proposal.

G. Lake: And then, I will go through the whole Board and determine where we have to go.

C. Utschig: For those other members who weren't around when this application started years ago, I just wanted to quickly go over what the three hundred forty two unit sub-community plan looked like and that's what we call the MKA site. It had forty six single family lots. It had .7 acre open space. It had one hundred thirty six, what were called semi-attached units. It had a three acre parcel that was commercial, about fifteen thousand square feet and it had apartment units totaling one hundred sixty units. Put it all together, three hundred forty two, fifteen thousand square feet of commercial space. As Mr. McGoey indicated, the settlement agreement significantly reduced the size of the project. What we're proposing is a project that has two hundred sixty one units, around an eighty unit reduction and the commercial space has been eliminated. We really have a very similar single family component to our plan as was originally proposed. We maintained the road network, the access points, and the utility easements. Again, very much similar to the MKA plan and the reason for that is because the area is pretty limited as to flexibility. Based on the record it seems to work out and is fairly acceptable. The change in our project has to do with what we call the townhouse portion. We're proposing basically two hundred sixteen town homes primarily in three unit buildings. Access to this component is in two locations at Cottage Street Extension and Mud Mills Road. Utility services are divided the same as proposed by MKA. We have improved on the sewer design. It was an issue that was problematic with the old application with a discussion of what to do with the pump station. We're proposing our own system. It will have five inches of gravel (not clear). The maintenance and the operation of that system will be the responsibility of

the Home Owner's Association. There will be a blanket Home Owner's Association for this project to take care of the utilities, the stormwater management. The roads are private so the snow plowing will all be private. In essence, this is maintained by the Home Owner's Association. At the request of the Town Board though, the lots are divided into fee simple lots and that was at the request of the Town Board. I can go into further detail if the Board would like me to but that's generally the description of our project. The one thing that we would like to accomplish tonight because of the nature of this project is to schedule us a Public Hearing.

G. Lake: Let me go through the Board. I have had the advantage of being at a couple of work sessions.

A. Dulgarian: Let me ask Mr. McGoey a couple of things. A private sewer system, didn't someone have a problem?

D. McGoey: No, not really. Actually I think Mr. Smith prefers it that way. It relieves him of the responsibility of maintaining an additional two or three pump stations. The area we had problems with was Canterbury Knolls. Canterbury Knolls had a private collection system and pump station. The pump station wasn't being maintained because of financial problems with Canterbury Knolls and the Town assumed responsibility maintaining that and eventually turned it back over to Canterbury Knolls when they got back on their feet.

A. Dulgarian: So, is this bonded or something for protection?

D. McGoey: It will be bonded for construction purposes and then the bond will be released when the construction is completed.

T. Hamilton: What about guaranteeing the maintenance?

C. Utschig: The Home Owner's Association, part of the documents that have to be filed with the Home Owner's Association and will include obligations for each of the members based on the maintenance and operational costs for the pump stations, for the roads. It's all set up so everyone is aware of it with a contribution that they will have to make on a monthly or annual basis. It's a very formalized process we have. You have systems that were governed by set rules and regulations like they are now and they would go into default. It's currently requirements that govern these Home Owner's Associations are much stricter and there really isn't a way out of it.

A. Dulgarian: My second question is can you briefly clarify for me the difference between the it's going to be fee ownership on the townhouses and the traditional way (not clear). Can you tell me is this a benefit for the Town?

D. McGoey: That's correct. It's just like they are on a single family lot. Kabro, also I believe is a

fee simple. Although there will be private roads, they will have ownership of the individual lots. It will basically be a footprint around the building.

A. Dulgarian: And, as far as the assessment for the Town, is would be

D. McGoey: Market value, unlike a condominium.

H. Ross: It's a question of the sewer easement.

C. Utschig: We have a small extension of the interceptor that we have to build and we will connect into that.

T. Hamilton: But, you don't have that approval for it though, the extension?

C. Utschig: The overall extension of the Department of Environmental Conservation permit, we have to make some additional approval, we have to get some additional approvals in order to build the section they wanted. The stream crossing has to be funded and we would get authorization from the Department of Environmental Conservation to build. The way it was originally set up was we made a submission to the Department of Environmental Conservation that carries the permit forward but we still need a permit to do the stream crossing.

H. Ross: The Town Sewer Treatment plant (not clear). Is the district being extended or not?

C. Utschig: We're in the district.

D. McGoey: No, not yet.

C. Utschig: I'm sorry. The decision for the sewer for the extension is part of our application..

G. Lake: So, you don't have sewer yet?

C. Utschig: Right.

G. Lake: Basically what's happened, we are running this parallel with the Town Board at their request.

A. Dulgarian: How will it be calculated?

G. Lake: You mean when it's up and running?

A. Dulgarian: Yes.

G. Lake: I would imagine it will be calculated like any other residence for water usage. Anything else?

Mr. Hamilton: No.

R. Carr: I just need clarification. SEQRA has been approved by the Court and so, are there mitigation's that we can look at it terms of the traffic?

D. McGoey: The applicant has agreed in the agreement to the Town Board to construct mitigation very similar to the rest of the developers that this Board has been negotiating with in that area. They're going to accomplish the improvements at Mud Mills Road and Cottage Street Extension.

R. Carr: MKA was included in that.

D. McGoey: They were included, yes.

G. Lake: There were numbers.

D. McGoey: Yes, there were numbers and the numbers has since been revised.

C. Utschig: And, we're more in essence providing the same mitigation that MKA project had provided even though it's a lesser generation project than they had. Our traffic in terms of what we're proposing is about fifty percent less. So, we kind of held to the level of mitigation that was originally contemplated yet, we have a project that is substantially less in terms of traffic.

G. Lake: Anything else, Mr. Carr?

R. Carr: I still feel it will be a lot of traffic on roads that are fairly narrow. There's not much that can be done. We don't know exactly where our leeway is what we would be looking at versus having a Court say something. It would not normally be something that we're just raising at this point.

G. Lake: Right.

R. Carr: I just realized that. Mud Mills Road is a tough road and Cottage Street Extension is also. That would be my concern.

C. Utschig: I think from our position that the Town Board and the Planning Board has commissioned an area wide traffic study to do the whole list of projects and they are all contributing fair share dollars to do those issues. We're still doing the traffic mitigation and

the applicant is proposing to do the same amount of money. I just want to make it clear that we're doing traffic improvements.

R. Carr: I'm not disputing that but I'm saying going under the tunnel I believe there will be a lot of traffic and then you have Mud Mills Road which is still a problem.

G. Lake: Not defending them in way, shape or form, but one of the very first meetings we had.

R. Carr: My only concern with the traffic study, the road can only take so much left and right hand turn lanes and so forth. It looks like the infrastructure can only handle a certain amount of traffic.

G. Lake: In that study, we did try to keep it.

C. Utschig: Yes. If I'm mistaken, that traffic study was based on trip generation rates and because we had a commercial development we had generation rates that were four thousand and above. Our project is going to be less than half of that so, you really have done a good job in identifying mitigation. The project across the street from us is doing work at that specific intersection and you may be right. We were first to maybe do that work but I think the decision was, we got this one let's find another place to do more improvements. We just followed along with the recommendations from the Town Board and the Planning Board to do that.

G. Lake: Anything else, Mr. Carr?

R. Carr: No.

W. Capozella: I do have a question. I know that this has been going on a while and it's previous to me being appointed on the Board. I guess my general question is are we looking at this project as a pre-existing before any zoning things changed. All this litigation is going back, to what, 1989? Now, are we going to look at this project based on those dates or look at it now? There are different things going on from 1989 to 2006.

D. McGoey: My understanding is that this project had SEQRA approval granted by the Court and Preliminary Approval granted by the Court. It pre-dates our new zoning.

W. Capozella: Okay. My second question, not being an Attorney, in looking at this document dated January 20th, as I read through this and it gives a chronological account going through Court and what the decision was and so forth. I'm really not clear what the Town agreement, how MKA, is either transferring it completely over to DiPirro and if the agreement is between MKA/DiPirro and the Town. Again, it was not clear in this document, basically it said MKA. Now, can they transfer all this over to somebody else without starting over? I know there was an agreement with the Town but it's not quite clear where DiPirro Group comes in and what they agreed to?

J. Bacon: I'm don't really see anything in the agreement.

D. McGoey: The Attorney for MKA or DiPirro could answer that question.

Unidentified Person: MKA has assigned the residential portion to DiPirro.

W. Capozella: How does DiPirro fit into this?

Unidentified Person: It's a situation.

W. Capozella: Yes. It's a situation that was transferable to anybody. It's like a pre-existing .

Unidentified Person: Not clear on tape. We're here tonight to have a Public Hearing scheduled and continue the process.

T. Hamilton: I think, what it is, through the Court and all their approvals and it's existing from the full build out that was before us at that time and since it's come back to us and it's a smaller number of units and so forth, they've downsized it. That's the difference.

W. Capozella: Again, I did see in the document MKA, DiPirro and it seemed like a lot of transferring going on.

G. Lake: Mr. Hamilton, anything else?

T. Hamilton: One of the other things I know I've always asked other applicants to do with similar projects especially now that tonight it was stipulated that these were going to private roads, what consideration has been taken for school bus pickups for the pupils in this project and the school busses. We've been told they would not go into private roads with the busses. Where are you going to pick them up, how are the kids going to be safe?

C. Utschig: Yes. We talked to this Board about what their preferences were as to how this should be handled. We originally talked about trying to create an area where the busses could get off and pick up the kids. We provided parking spaces for people to drive down and park. There will be a spot for a standing area for kids to wait. We will not go into a private development.

T. Hamilton: Have you done that on both entrances or just on the top level? Is that where the school said they would stop?

C. Utschig: Just this end.

T. Hamilton: They won't go around.

C. Utschig: Our client would be more than willing to make accommodations up there.

A. Dulgarian: You said there are approximately two hundred and fourteen. About how many do you

estimate now?

C. Utschig: I didn't mean to say. I did say this was a large number of units and we should make provisions. I think the projection on the school children is about half of what was the MKA project. If you use the same methodology that was used in the original DEIS, the projection of the school kids with the MKA project was one hundred and ten but our project would be eighty six.

MOTION to schedule a PUBLIC HEARING for March 1, 2006 made by T. Hamilton and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

3. **GOLDEN TRIANGLE** - SITE PLAN/SPECIAL USE PERMIT (Acceptance of Findings Statement) - Silver Lake Scotchtown Road (40-1-16) #74-02

G. Lake: Your name for the record, please.

L. Wolinsky: My name is Larry Wolinsky for Golden Triangle. With me tonight is Craig Wells from Tim Miller Associates and Mr. DeMiller from Tim Miller Associates.

G. Lake: Okay. Basically, what we're doing tonight is rescinding the acceptance of the Final Environmental Impact Statement. You are going to submit some amendments?

L. Wolinsky: Yes. I have it so I can give it to Mary Lynn so she can give it to the Board and the Board will have a chance to review it between now and the next time we discuss it.

G. Lake: Mr. Dulgarian, do you know what we're doing?

A. Dulgarian: No.

G. Lake: We're rescinding, that's all we're doing tonight. They have a new appendix that will go into the binder for everybody to look at between now and when they come back and then we will re-accept it at that point and pick up where we left off.

L. Wolinsky: Mr. Chairman, before you take the motion to rescind, I just want to tell you on the record that we are rescinding it for a specific purpose of the school information and at this point in fact, we're waiting on the schools which is the only issue that we have at this time and we wanted the record to reflect that.

G. Lake: No problem. At the work session we felt this was just the best way to go to clean it up and make sure everybody has that information to look at.

MOTION to rescind the ACCEPTANCE OF THE FINAL ENVIRONMENTAL IMPACT STATEMENT was made by A. Dulgarian and seconded by W.Capozella.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

4. **SCOTCH VALLEY** - 41 LOT SUBDIVISION - Silver Lake Scotchtown Road (99-1-1)
#06-03

G. Lake: Your name for the record, please.

L. Potter: My name is Lorraine Potter with Lanc & Tully Engineering.

G. Lake: Go ahead.

L. Potter: We're here this evening to request the Planning Board to consider a re-configuration of the interior lot and also consider a modification of the Preliminary Approval. We were here the beginning of November, 2005 and at that time we were requesting to revise the interior lot to allow for a road going to the adjoining part. We have revised the plans at your request and have been able to provide a fifty foot strip here. At that time the Planning Board had granted us permission to reduce the width of the lot to eighty feet. While we were doing that we took a closer look at what may be a little bit better configuration for visibility for the interior lots. The plan that you have in front of you now and then also this particular plan the interior lot as been included to show the roadway coming through. If you will notice, this lot up here #32 and #32 here. Several of these lots have better (not clear). They flow better. They're a little bit further away from the wetlands like on lot #26. Also, as far as utilities are concerned we have a utility easement for the drainage in this area and over here we have a utility easement for sanitary sewer. With the new layout we were able to combine and therefore one utility easement in this area for both sanitary sewer and for drainage and eliminate one over in this area. As you can see it shows the one easement here for both sanitary sewer and for drainage as opposed to the two utility easements going through the lot here. Also, part of our reduction in lots was due to the Army Corps of Engineers as part of their review. They had requested that we had reduced the lot with the wetlands in here and in here. They wanted us to provide it cleaner. They asked us to remove one of the lots and fill in parts of the wetlands for a better backyard so people wouldn't encumber on the wetlands themselves. We're here tonight to request is that the interior lot reduction of the interior lot. The minimum lot width would be eighty four feet which is what we have done also on the interior.

R. Carr: What are we looking at?

L. Potter: Showed Mr. Carr. You have the interior that you had requested.

A. Dulgarian: Does this have to go to the Zoning Board of Appeals?

D. McGoey: No, it's the current zoning of eighty foot lots.

G. Lake: Even though they're changing it now?

D. McGoey: Yes.

W. Capozella: I'm confused. Didn't you just say something about the Army Corps of Engineers came in and changed some of these lots and that's why you went to eighty four feet?

L. Potter: No. Why we went to eighty four feet on the exterior was because of the road and while we were looking at this, we felt if we reduced the size of some of these lots it would open up like this corner lot just to make it more build-able, a little bit more uniform. In terms of the utilities it

eliminated a utility easement in this area and we were able to combine it over here. In this particular case, it moved this house away from the wetlands and away from the stream. As far as the Army Corps of Engineers was concerned, their concern was in this area with the wetlands through here. We had three lots previously. They asked us to reduce the lots in this area as just create two lots and fill in the wetlands as part of the disturbance of mitigation.

D. McGoey: Mrs. Potter, by reducing the lot width in the interior circle did you gain any lots?

L. Potter: We did not gain any lots. We were at forty two lots, we're down to forty one.

D. McGoey: And, that's because of the Army Corps of Engineers?

L. Potter: Yes.

R. Carr: Where does that one . . .

L. Potter: There were three lots right here.

G. Lake: I will go through the Board. This has been here a few times and we extended the approval because we were waiting for the Department of Environmental Conservation for the water main and now we have this modification.

A. Dulgarian: And, we have done final before, correct?

D. McGoey: No. Originally it was a final subdivision and the map was filed. And then they had wetlands so they had to re-design the whole thing.

G. Lake: Right now, they have Preliminary.

A. Dulgarian: I think, you know, we've seen this for a long time. What they're seeking is very minimal.

H. Ross: The right-of-way through the road across . . .

L. Potter: At the request of this Board as far as better planning to provide access.

D. McGoey: The though area was that if we didn't have a connection road here, all of the traffic would go out Mud Mills Road. This way, some of the traffic could come out onto Silver Lake Scotchtown Road and alleviate Mud Mills Road.

H. Ross: The right-of-way to that is to come out of Mud Mills Road.

L. Potter: No. It would come out on that other parcel.

H. Ross: Yes, but eventually . . .

L. Potter: It would be like on Cottage Street Extension to Mud Mills Road.

D. McGoey: There is a Town road, right here. The connection is right here. The thought is that if this large parcel gets subdivided, most of this traffic would come out this way through this subdivision to Silver Lake Scotchtown Road rather than go out here to Mud Mills Road.

R. Carr: As I understand it, all they're looking at is to change. I'm still not crazy. I guess this is better than what we had before. I still feel we shouldn't have flag lots in this type of density.

W. Capozella: I like the idea about that road. Looking down the road there might be a possibility of doing something with that. However, is there something that we can put on the plan before they actually even do anything with that road to connect it to. Somebody could come down and grab that parcel and put that road through and develop it somehow, who knows what? Before that happens, is there something we can say with this through road that we get to look at it again.

T. Hamilton: That's normal.

W. Capozella: Basically what we're doing is saying it's a future road.

T. Hamilton: It's just a roadway.

L. Potter: One of the reasons we selected that particular spot, we took a look at what was happening with the topography of the adjoining parcel to make sure that it wasn't in an area where it was (not clear). Also, if you were going onto that road the road is not facing a house. It is facing two driveways.

W. Capozella: I'm just concerned that once we sign this and approve it and it's labeled as a future road, do we still get another chance to look at it if somebody decides to use it?

D. McGoey: No.

W. Capozella: Looking at it, it may affect us somehow which it could but even though we wanted that road there based on trying to do better planning that maybe it might hurt us down the road. I actually like it but it's just something.

D. McGoey: It's an offer of dedication that the Town does not have to accept.

L. Potter: If they don't accept it now though, would they lose it in the future then?

D. McGoey: I think it remains as an offer as part of the filed map.

J. Bacon: It's an offer as part of the filed map.

G. Lake: You want to know if something happens on that other property, will we look at it?

W. Capozella: Right.

G. Lake: The answer to that, I believe, would be yes.

W. Capozella: And, not just automatically use that road?

G. Lake: First off, nobody is going to go to a single family house on the other side and build that much road to go in. I would have to say, yes, it would come back to us.

W. Capozella: Okay.

T. Hamilton: Maybe what he's trying to hint at is that if we don't run into another problem like the small little apartment unit on the other side of the tunnel that is trying to get access to Second Avenue or whatever it is because it's a Town paper road and the Town doesn't want them to come out and use it. The applicant is saying that it is a Town road and they have the right to come in that way. It's just something that we will have to deal with at that time because that's what's happening now with that paper road.

D. McGoey: Right.

T. Hamilton: But, we will have a look at that project when it does comes in.

G. Lake: That one is a paper street and this is just an offer of dedication.

M. Jeremitus: We own the property. Even if we sell the whole subdivision, I can retain ownership of that piece so nobody can do anything with it.

G. Lake: I don't think that was the question.

M. Jeremitus: It's not the ownership of that right-of-way.

G. Lake: Mr. Hamilton, anything else?

T. Hamilton: That other section, Mr. McGoey, is that in the sewer district or they don't have water and sewer?

D. McGoey: I don't think they're in either district.

T. Hamilton: That's all I have.

MOTION for MODIFICATION of PRELIMINARY APPROVAL subject to all comments made by A. Dulgarian and seconded by W. Capozella.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

5. **LEARY** - HOME OCCUPATION - SITE PLAN/SPECIAL USE PERMIT - 108 Howells Road (32-1-23.1) #102-05

Cancelled.

6. **SCHLEIER** - 2 LOT SUBDIVISION - Derby Road (21-1-44) #02-06]

G. Lake: Your name for the record, please.

D. Yanosh: My name is Dan Yanosh, surveyor for Silvia Schleier. We had approval for a two lot subdivision back in June of 2005. Since the moratorium has been lifted we're coming back for one more lot next to the two lots already approved on Derby Road. This lot would be three acres. It complies with the new zoning regulations, size, width, depth.

A. Dulgarian: Where are the two lots already subdivided?

D. Yanosh: To the right of this one.

G. Lake: So, you're here looking to set a Public Hearing then?

D. Yanosh: Correct.

G. Lake: Mr. McGoey's comments, are you going to have any problems with any of them?

D. Yanosh: No problem at all.

G. Lake: Any other questions from the Board? Mr. Dulgarian, we're setting a Public Hearing tonight.

A. Dulgarian: Yes. Just that, what are you leaving, a little strip there to get to the other property?

D. Yanosh: That was approved before. It's a seventy five foot wide piece to go to the back, a future road to the back of the property.

T. Hamilton: Mr. McGoey, does he show utilities for that back piece?

D. McGoey: What's that?

T. Hamilton: Where he's showing the future Town road going through?

D. Yanosh: I showed it on the original subdivision, a future layout using the older zoning. I can revise that one to show the new zoning.

D. McGoey: In your previous, you subdivided it before . . .

T. Hamilton: But, now the zoning has changed.

G. Lake: I think what Mr. Hamilton is asking is does he show what it was between now and the Public Hearing?

T. Hamilton: How big is that proposed lot #2?

D. Yanosh: This is what I did for the overlay before for the remaining. I needed about two acre lots.

T. Hamilton: How big is that lot #2? How many acres?

D. Yanosh: Ninety two acres.

T. Hamilton: Ninety two acres so he's got to go either for the conventional or the conservation thing so he better show it both ways if he doesn't know which way he's going to build it.

D. McGoey: Yes. He can do that.

D. Yanosh: I will be here Monday.

T. Hamilton: Just don't wait until the last minute.

D. Yanosh: What I'm saying is, we have a meeting Monday to actually go over how to go about it.

G. Lake: Yes.

A. Dulgarian: I have nothing at this time.

H. Ross: Nothing.

R. Carr: Nothing.

W. Capozella: Nothing.

G. Lake: Mr. Hamilton, anything else?

T. Hamilton: No.

MOTION to schedule a PUBLIC HEARING for April 5, 2006 made by A. Dulgarian and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

7. **MILLER** - 4 LOT SUBDIVISION - Van Duzer Road (65-1-2.24) #46-04

G. Lake: Your name for the record, please.

D. Yanosh: My name is Dan Yanosh, surveyor for Mr. Miller.

G. Lake: Go ahead.

D. Yanosh: This was submitted back in 2004. We did have a Public Hearing on this October 6, 2004. The moratorium came into affect and we couldn't do the four lots. We revised our plans and came back with two and now that the moratorium is now lifted, these plans show a four lot subdivision for three new proposed houses on. Lots #1, #2, and #3 are conforming to the new zoning. I have to change the bulk table to Mr. McGoey's comments which is the environmental factor on this. The remaining ninety seven acres in the back for a future subdivision.

G. Lake: You're doing the three now and then he's going to show us what he's going to do with the remainder through the conventional or conservation plan.

T. Hamilton: Right now with these.

G. Lake: Otherwise, here we have a piece of land and we have a conservation. If he makes a decision now to do this on a conventional basis and then the rest would be looked at conventional or are these two lots going to be conventional and then when he comes back for the remainder, will that fall under the conservation easement where he gets his density and everything.

D. McGoey: It would be wise for him that his overall development plan show all the lots in a conservation form or conventional.

G. Lake: As an applicant he only wants to do three right now for whatever reason. So, how do we get around that then? If he comes back . . .

D. McGoey: He has that option. If he wants to go with the three acre lots versus the two acre lots he can go with a conventional subdivision.

T. Hamilton: But he's got to go three acres right now.

D. McGoey: I think it's smart when he looks at the overall that he goes conventional.

D. Yanosh: Again, I'm going to learn Monday night. I looked at the regulations under the new conservation easement. I don't know about the buffer zones. I will learn Monday how to do those. I'm not a planner. I just want to get involved in that also. If the Planning Board can show me how to do that way, I will probably do it once I find out how to do it.

G. Lake: Part of the good part, that we will be here Monday night.

A. Dulgarian: We are?

G. Lake: If he finds out that it's to his benefit, he can always pull off the Public Hearing. Mr. Yanosh, do you have any problems with any of Mr. McGoey's comments on this between now and the Public Hearing?

D. Yanosh: No.

G. Lake: Let me go through the Board.

A. Dulgarian: I have nothing.

H. Ross: Is this part of the Orange County Department of Public Works water line?

A. Dulgarian: What water line easement?

D. Yanosh: This is not Orange County.

H. Ross: That's for the reservoir?

D. Yanosh: Yes.

G. Lake: Anything else, Mr. Ross?

H. Ross: No.

R. Carr: Nothing.

W. Capozella: A quick question here as far as, now this was a two lot that was already approved.

D. Yanosh: No.

W. Capozella: Never did. Now, you can come back and just say okay we can make it four lots because the moratorium is off?

D. McGoey: The moratorium is off. He has to comply with the new regulations.

G. Lake: That's correct.

W. Capozella: Okay, I'm fine.

T. Hamilton: Nothing.

MOTION to schedule a PUBLIC HEARING for April 5, 2006 made by R. Carr and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

8. **MILLER** - 5 LOT SUBDIVISION - Mt. Hope Road (65-1-5.22) #122-04

G. Lake: Your name for the record, please.

D. Yanosh: My name is Dan Yanosh, surveyor for Mr. Miller.

G. Lake: Go ahead.

D. Yanosh: This is a subdivision we were going to start. I had an application in to the Town and the moratorium went into affect. I had to pull the application. You have never seen this one. This is on County Highway 11, Mount Hope Road around the corner from where we were before. It's across the street from the Kingdom Hall over there and all open fields. The plan again is to meet the new zoning, three acre lots, two hundred feet of frontage. Four lots right now, the remainder eighteen acres will be left for future development. Again, Mr. Miller owns behind it. You can't do much in the middle over there but possibly again, the hardest part with doing a conservation easement is I'm going to have to look into the wetlands.

G. Lake: Do you have any problems with any of Mr. McGoey's comments on this at all?

D. Yanosh: Not at all.

G. Lake: Okay. We did get a letter from Orange County Planning Department which kind of

indicates, here I don't know if you got it all not, but it indicates this could be a very good candidate for the conservation subdivision.

D. McGoey: Therefore, the Board should ask him to do the plan accordingly.

G. Lake: I would think, let me go through the Board.

T. Hamilton: What if he gets a letter from the County that they're requesting.

D. McGoey: We could recommend.

A. Dulgarian: I'm almost embarrassed to tell you I don't know anything about this to make a determination. I really have to be brought up to speed. I missed that one meeting, I think, and then .

..

T. Hamilton: Did you look at the paperwork?

A. Dulgarian: No. I never had it.

G. Lake: It should have been in your file.

D. Yanosh: It's all in the new zoning.

A. Dulgarian: Well, I guess I have to get up to speed then so I can't comment.

H. Ross: It will be good because it will protect.

D. Yanosh: I will consider it.

R. Carr: I don't know about this. I have no idea.

T. Hamilton: Well, any big parcel should be subject to the conservation regulations.

G. Lake: Hold up please.

R. Carr: I'm just saying on some pieces of property I can't lend myself to.

G. Lake: Mr. McGoey?

D. McGoey: What it allows us to do is take this parcel and do a sketch plan of a conventional subdivision, three acre lots to determine how many three acre lots he can get out of it. Then he will take eight three acre lots, he will be able to take that and reduce those lots by requiring two acres.

Eight, two area lots on this site, the rest of it will be conservation subdivision lots.

R. Carr: I understand that part of it but from the Town's standpoint in trying to preserve open space, you have to show me that it works out better.

D. McGoey: Yes.

R. Carr: This is all going to pretty much open. I don't know whether this project will be part of the clustering to kind of shield the development away from the road.

D. McGoey: That's part of it.

R. Carr: I'd have to see it to know. I don't know that every single piece of property.

D. McGoey: The last item on the agenda, we've asked the Planning Consultant for the Town to look at that for the applicant and the Board and he has given us a conservation subdivision to look at which will give you a little insight.

R. Carr: I don't know what it is that . . .

G. Lake: He would have to prove to us.

R. Carr: He's going to try and get as many . . .

T. Hamilton: That's why it's their choice. It's really their choice.

R. Carr: But I'm just saying from our standpoint where we're directing them to do it that way.

T. Hamilton: We're really not recommending. We're just asking to see it. We just want to look at it both ways.

A. Dulgarian: I think that's pertaining on us on large parcels to see it especially if the topography or the old growth.

T. Hamilton: That's why we're trying to push the satellite images so that we can see a lot of that stuff on what's on each parcel.

W. Capozella: We're going to set a Public Hearing on this?

G. Lake: That's all we're doing tonight.

W. Capozella: Okay.

T. Hamilton: Mr. McGoey, question now, being that the other back parcel is owned by the same applicant, have we taken any consideration with the subdivision in the front on how he's going to get out because he has no road frontage on that back lot. He's got to come through here somewhere if he's going to re-do it later. So, we should have some kind of indication where it might come through.

D. McGoey: Yes, that's true Mr. Hamilton.

D. Yanosh: I do have three hundred fifty seven in one spot and two thirty seven. Mr. Miller does own that land along there on Van Duzer Road also.

J. Bacon: Which lot does the deed (not clear).

A. Dulgarian: Mr. Yanosh, does this lot, this is the lot we just looked at, correct?

D. Yanosh: No.

G. Lake: I think Mr. Hamilton brought up a good point about making sure that the piece in the back doesn't get landlocked and I think we should have an easement for that piece so it's not an issue. Anything else, Mr. Hamilton?

T. Hamilton: No.

MOTION to schedule a PUBLIC HEARING for April 5, 2006 made by R. Carr and seconded by A. Dulgarian.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

9. **MILLER** - 7 LOT SUBDIVISION - Mt. Hope Road (65-1-P/O 5.22) #45-04

G. Lake: Your name for the record, please.

D. Yanosh: My name is Dan Yanosh, surveyor for Mr. Miller.

G. Lake: Go ahead. Have you received Mr. McGoey's comments?

D. Yanosh: Yes. This one is across the street. This was here back in October of 2004. It had a Public Hearing and I don't think the Planning Board closed the hearing but one of the neighbors complained about the well. Remember the well being polluted and that situation?

Well, I received information from the Orange County Health Department that what the guy did down here with the fertilizer had nothing to do with his well. It was all crazy. The complaint was not the fact of the well but the fact that his well was built wrong. The Department of Environmental Conservation and the Orange County Health Department has signed off on every problem that we had down there. He cost my client a year and a half of development because he made the accusation that really didn't stand up. So, we're back with the same plan although we did make the lots bigger to conform to the current zoning and moved the lots back. The driveway locations and everything else sit in the same place. Back in October of 2004 we did get approval from Orange County Highway Department for the driveway cuts. That was all okayed by them. Right now, what we've done on this plan here is made the lots bigger.

G. Lake: Okay. So, you don't have any problems with any of Mr. McGoey's comments then?

D. Yanosh: My only question is, do I need another Public Hearing?

G. Lake: We left that Public Hearing opened?

D. Yanosh: You had to because . . .

G. Lake: For a year and a half or more? Mr. Bacon, did you hear that?

J. Bacon: The moratorium kicked in.

G. Lake: He had a Public Hearing and it was left open. The moratorium kicked in and now he's back and we never closed the Public Hearing.

T. Hamilton: So, this is a continuation then.

J. Bacon: So, he received Preliminary Approval.

D. Yanosh: No, because they couldn't do that because the Public Hearing wasn't closed.

J. Bacon: You will have to comply with the new zoning.

D. Yanosh: I know, that's not a problem.

G. Lake: And, he's done it.

J. Bacon: So, what's the question?

G. Lake: Does he need another Public Hearing?

T. Hamilton: Or, do we have to re-open it? It's a continuation really.

J. Bacon: You never closed the Public Hearing?

G. Lake: No. Why don't we just set it for April 5, 2006 as a continuation. Will he have to send out notices again for a continuation of a Public Hearing?

T. Hamilton: We hasn't usually but being it's so long. After a year or more, I think we aught to make him do a whole new complete new Public Hearing.

J. Bacon: Alright. I agree with that.

D. Yanosh: Although I will object to that, because the only problems about Pocatello Road and no other issues with the project except for the fact of that well being polluted. That's the only reason you left it opened and that's the only reason why the Health Department, it wasn't because of him, it was because his own well was installed improperly.

T. Hamilton: How many people on that road?

D. Yanosh: I believe they were all here that night, also.

G. Lake: I have to agree. You know what, we have new zoning. That's been a long time.

T. Hamilton: It's changed.

A. Dulgarian: They had so much time.

G. Lake: I think we should do it.

T. Hamilton: The zone changes.

MOTION to re-set and re-open a PUBLIC HEARING for April 5, 2006 made by W. Capozella and seconded by T. Hamilton.

A. Dulgarian: Aye

H. Ross: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

10. **COUNTRY SIDE MEADOWS** - 14 LOT SUBDIVISION - Shawangunk Road (3-1-23.2) #26-04

G. Lake: Your name for the record, please.

L. Torro: My name is Lawrence Torro with Azzalina, Fury & Raimondi.

G. Lake: Go ahead.

L. Torro: We left off, as well, at the time of the moratorium. We were about ready for a Public Hearing at that point and it was put on hold because of the moratorium. Since the moratorium we've come back with a fourteen lot subdivision which we converted to three acre lots. One lot was taken out. Everything else is the same except it's one less lot on the left side of the cul-de-sac in order to comply with the three acre zoning.

G. Lake: How about the frontage, that stays the same, right?

L. Torro: Right. The road location, nothing has changed from the application filed prior to the moratorium except one less lot.

R. Carr: What's the length of the cul-de-sac?

L. Torro: The cul-de-sac is approximately sixteen hundred feet. That was an issue we had resolved prior to the moratorium as well.

R. Carr: Can we approve the cul-de-sac?

L. Torro: That was prior to the moratorium, the Planning Board waived the length of the cul-de-sac.

T. Hamilton: They didn't have the approval, that's why they had to stop. Now, they have to meet whatever came after the moratorium.

J. Bacon: Preliminary Approval.

L. Torro: The issue on the length of the cul-de-sac, the one just passed, was on any new applications.

T. Hamilton: It's after the fact.

G. Lake: As of February 5th of whatever it was, all applications had to meet the code.

L. Torro: But, it was an existing application.

G. Lake: No. I don't believe that's the way it reads.

R. Carr: It's not all new.

G. Lake: From that point on, from I think September on, you must comply.

L. Torro: We comply with the zoning.

G. Lake: With whatever new zoning took place.

R. Carr: We could waive.

D. Yanosh: It should be a waiver under the subdivision law. You used to waive that. Now, it's a zoning law itself.

R. Carr: I know it's in the zoning but I don't remember whether it's in the conservation subdivision. I believe we can waive it up to fifteen hundred feet.

L. Torro: That's something under the new law. At the time of this application that Local Law 2 of 2005 was passed. It said it applied to all applications submitted after that date and this was an on-going application. The Board had also asked for larger frontages on the lots on the left side and even said make the cul-de-sac longer in order to open up those lots. That was done at that point. It was prior to the moratorium. If you look back at the notes, it's at the point where we're looking at a

Public Hearing being set because the moratorium was put on hold and the application was put on hold. It's still the same application. As we're coming back, we're complying with the new bulk regulations but the cul-de-sac issue was addressed on the application prior.

T. Hamilton: But the cul-de-sac is now under the new zone changes.

J. Bacon: The moratorium actually didn't apply to applications prior to the moratorium but when they did the new zoning, then you should have had your Preliminary Approval by then.

D. McGoey: Just so you know about the waivers. It's under the conservation subdivision section. "To allow for flexibility in site design and layout to meet the goals and intent of this section, any applicant applying for approval of a conservation subdivision may request a waiver from the Planning Board of the following requirements: 1) 1,000 foot limit on cul-de-sac length (waiver from 249-24.2). Cul-de-sacs not to exceed 2,500 feet. 2) Roadway width and pavement areas from Town of Wallkill road specifications with authorization from Planning Board and Highway Superintendent. 3) 200 foot setback from all pre-existing town, county, and state roads to no less than 50'. Reduction in setback requirement may only be awarded where vegetated natural buffer will remain. 4) Within the RA District, reduction of 150 foot lot width to no less than 110 feet. The Planning Board shall provide a statement of findings stating that the waivers granted are commensurate with improvements in project design related to the purpose and intent of this section.

T. Hamilton: That's only if the application does a conservation subdivision.

A. Dulgarian: Then, it's still our option.

G. Lake: Right now, this is not allowed.

H. Ross: But with the waiver, he could have it.

G. Lake: Mr. McGoey, let's show everybody the plans . . .

D. McGoey: This is the conventional subdivision on the application which consists of thirteen lots. These lots are actually five acres, a couple are three. What the planner came up with what would be allowed as a conservation subdivision and, as you can see, it cluster's the lots with a portion of the site for a wetland area being for a conservation subdivision. They showed two alterative roads. Suggesting either one or the other, not both. I can see even a modification to this where you could bring this road in and make the cul-de-sac.

G. Lake: How big are those lots?

D. McGoey: These lots are two acre lots for a conservation subdivision.

T. Hamilton: These lots are one hundred fifty by two hundred and that's not two acres.

G. Lake: I thought it went all the way down to three quarters or something.

D. McGoey: Yes, maybe this is it. Thirty two thousand six hundred and seventy square feet.

L. Torro: They're less than one acre lots.

D. McGoey: I'm thinking about the conventional lot sizes.

T. Hamilton: There is also the issue of the two hundred foot buffer.

L. Torro: No, that's existing town roads not new town roads.

G. Lake: I think we're just suggesting that this could be considered here and I'm assuming by your (not clear).

L. Torro: Correct.

G. Lake: The question is, this cul-de-sac under the new regulations.

D. McGoey: It can only be a maximum of one thousand feet.

L. Torro: Where is it in the new zoning?

D. McGoey: It's not in the new zoning regulations. It has not been changed.

L. Torro: Okay, so it's the Local Law 205 that I just looked at.

D. McGoey: That could be.

L. Torro: And, that was on a new application.

D. McGoey: Mr. Bacon will have to tell us whether the cul-de-sac length should be reduced.

L. Torro: It's under Local Law 205.

G. Lake: If you need the time to research it