

TOWN OF WALLKILL PLANNING BOARD

MEETING

MARCH 18, 2009

MEMBERS PRESENT: G. Lake, W. Capozella, R. Carr, A. Dulgarian, C. Najac

MEMBERS ABSENT: T. Hamilton, H. Ross

OTHERS PRESENT: J. Bacon, D. McGoey

1. **QUICKWAY #4** - SITE PLAN/SPECIAL USE PERMIT - Extension to Final - Tower Drive (41-1-120) #28-00

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

M. Blustein: My name is Michael Blustein with Blustein, Shapiro, Rich & Barone for the applicant.

G. Lake: You need an extension, are there other agencies or just the times?

M. Blustein: Nobody wants to rent a fifty thousand square office building at this time.

G. Lake: Is there anything else?

M. Blustein: We have some further details to also work out. We are requesting an extension at this time for six months.

G. Lake: We've been giving a year because of the times.

M. Blustein: We will take it.

G. Lake: We understand with some of the other agencies that you have to be involved with. Let me go through the Board.

A. Dulgarian: I have no problem with a year.

R. Carr: No problem.

W. Capozella: Nothing.

C. Najac: Nothing.

G. Lake: I have nothing further.

MOTION for a ONE YEAR EXTENSION to FINAL SITE PLAN APPROVAL made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

2. **GOLDEN TRIANGLE** - 2 LOT SUBDIVISION & PHASING - Silver Lake Scotchtown Road (40-1-16) #78-02

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

L. Wolinsky: My name is Larry Wolinsky on behalf of the Golden Triangle applicant.

G. Lake: Go ahead.

L. Wolinsky: Mr. Chairman and members of the Board, we have three items of business to review with you this evening I think as is indicated in Mr. McGoey's memorandum. One is that we are requesting final subdivision approval, just two lots cutting off the residential project from the balance of the property which will ultimately developed as commercial. The second item before you tonight is to review again with you the issues associated with phasing of the residential condominiums. The third issue is to just turn in the time where we are extension wise with respect to the Special Use Permit. The subdivision approval will expire in June. We're trying to get that filed so we don't have to start the entire process completely

over again. I thought maybe the best way to handle this is to take each of the issues one at a time and then go over them and then see where we are and then go on to the next one?

G. Lake: Okay, fine.

L. Wolinsky: For the two lot subdivision approval and where we had been with that is that we're trying to do that in a way that it is protected and makes sense. I will say at the outset that just creating the two lots complies with all the zoning requirements.

G. Lake: Why don't you just outline exactly just so everybody has an idea?

L. Wolinsky: Okay.

L. Potter: My name is Lorraine Potter from Lanc & Tully Engineering. This is the overall parcel. The two lots with the residential lots in this area is approximately eighteen acres and the remainder of the property would be lot #2. With lot #1 we're proposing an easement over lot #2 for access. The utility easements to go along with the construction of lot #1. The easement that is shown here will also become the future Town road when the commercial lot #2 is developed.

L. Wolinsky: I just wanted to say that the two lots comply with zoning. We have a note on there about the cross easements. We may need to elaborate on that note a little bit if necessary. That's the key issue in the subdivision is getting those cross easements correct. We also, however, based on the discussions we've had at work sessions put two additional notes on it. One note we said that lot #2 as it has no approvals yet is not for development. Obviously anything to do with that line, even if it were conveyed out to another party would have to come back to this Board. The other lot . . .

G. Lake: Let's back up. Lot #2 is the big lot?

L. Wolinsky: Yes.

L. Potter: Yes.

L. Wolinsky: That's the commercial lot.

G. Lake: Okay.

L. Wolinsky: The other one we've spoken at work sessions about if nothing happened out there at all the possibility of merging the lots back to the original single large lot and

obviously that would make some sense to the extent that if it was no longer a residential project the zoning would no longer permit residential. Remember this was grand-fathered under the previous regulations. So, we put a second note on the plans that essentially says that if in a period of time to complete the development and it doesn't happen within that time the residential section would not develop and everything would merge back into a single lot. I think we incorporated items there that are fully protective and address the concerns of the Board. Again, what we're trying to do here is get this thing filed so we don't have to go through this entire process.

G. Lake: You just said a couple of things that caught my attention. For one, let's go to lot #2 when you said if it wasn't done or if it was to be sold. Now, if you remember and I'm not sure you were involved, and I can't remember who exactly was involved but I remember the one meeting down at the Community Center. You know everything we've done up to this point on this side of the road has always been hinged on a couple of things. One, the exit onto Route 17 and it has always been agreed to by everybody up to this point. Item #2, phase #1 would always, I don't want to say it was being considered as a way to continue financing for the rest of the project but you just said if it was sold which kind of all a sudden indicates to me that I think this Board even though there are different members on it today than it was back when we had that meeting we had always viewed the entire project as being counted as one. Even though you were going to subdivide it out the condominiums and even though we understood that the condominiums were going to be built first so when you just said it might be sold and it might not get done that kind of raised my thinking a little because like I said I can remember that meeting very vivid and it's always been kind of like tied together. I understand we're subdividing. I understand you want different uses but by the same token you've just thrown something out that I wasn't prepared to hear and that was the possibility of that not being done. Now, in saying that while we're trying to throw this thing all back together real quickly to clear my mind. You know, I-86 has already started out there. I'm just wondering where we're at with that exit.

L. Wolinsky: Let, me . . .Mrs. Potter will tell you where we are. We met with Mr. Griely and he couldn't be here this evening for the meeting. Don't get the wrong impression. I didn't mean to convey and it wasn't me who represented that this wouldn't get built or that if it's going to get sold. We were asked by this Board, we were asked to address the potentiality as a part of protecting this Board. That's why I created the notes. It was presented to us, what if. It wasn't us saying that we're abandoning this or this isn't going to be happening. I just want to make that point clear. All I was trying to do was address what I thought were concerns that the Board had on what would happen if lot #2 never developed or lot #1 never developed. What would happen if after this was approved somebody sold this property, that's all I was trying to address.

G. Lake: And again I can totally respect that but you have to respect this Board's position of the long history. Not only do we have with this project but several other projects of which massive traffic studies have been on that have been included where the Board has been looking forward to that exit and that road cut. Like I said you have to understand where I'm coming from.

L. Wolinsky: I understand.

G. Lake: With us all of a sudden hearing that.

L. Wolinsky: Let Mrs. Potter bring you up to speed on the memorandum from Mr. McGoey.

L. Potter: I spoke with Mr. Phil Griely and he met with Mr. (Not clear) of the New York State Department of Transportation last Friday. They're moving along with the review process of the interchange. Mr. Griely has been requested to notify some of the areas of the interchange and going through the process and he will be sending the updated reports to Brian as they are completed. He is not going to be waiting for the overall design and reports to be completed. He will review them as he is given each update. Mr. Griely will probably be here at the next meeting should you have any additional questions but I know he had spoken with Mr. McGoey I believe regarding this also.

D. McGoey: Not about the exit.

L. Potter: Okay. Well, that's the update on the exit. So, it is moving forward with the New York State Department of Transportation. The Federal Highway Administration is also appraised of what is taking place so, everything is being co-ordinated that if the Federal Highway Administration takes over the road prior to the interchange being completed it will be updated with everything also.

G. Lake: Okay. You know and again not to huff on this, I kind of thought we were passed the State level a little bit and I thought we were waiting for the Federal people to come down and giving their blessings and, like I said, for the next two years there's going to be an awful lot of work being done out there and I just can't imagine getting that done two years from now. I just have a hard time believing that the Federal Government is this slow.

L. Wolinsky: Well, I don't think I need to comment about that. It's moving to the extent that it can and he has not backed off on this in any way. Mr. Griely met with these guys as late as last Friday trying to push this thing forward and whether it doesn't get done with conjunction with I-86 and they have to rip it up, that may very well be the case. I don't know. They are

making a good effort. Look, we all know lot #2 is the valued lot on this property. We all know that without the road and the interchange, we've known that for ten years. There is no abandoning of that whatsoever. Again, I just want to point out on those other two issues that you raised if you look at comment #2 in Mr. McGoey's memorandum he specifically refers to what happens if something is left in limbo and what happens if it is sold to another party, that's what I was trying to address. I wasn't trying to bring something new up. I was just trying to address issues that were raised.

J. Bacon: The merger issue, how does that really play in the whole? What does that really accomplish?

L. Wolinsky: I tried to explain it. As Mr. Lake pointed out this is the entire project. If nothing ever happens out here and this project ceases to exist on both sides it would be a zoning issue. This is grand-fathered in under the PID regulations. There's no reason for a residential lot if there's no residential until there was therefore a requirement to merge. I think that is what you were trying to achieve. Are there any questions on the subdivision?

G. Lake: Go ahead, Mr. Dulgarian.

A. Dulgarian: When you were explaining about tearing it up explain to me exactly what you're talking about if you went ahead and built the exchange off of Route 17 and then it became . . .

L. Wolinsky: I think Mr. Lake was pointing out that they're doing work out there now and he's saying if they do all that work out there and we're not done when getting that modified interchange approved and the new Town road and we have to tear up what has been done out there.

G. Lake: Well, right now on Route 17 they're starting the I-86 expansion.

A. Dulgarian: I wasn't aware of that.

G. Lake: Any time in the morning you can see the traffic backed up from Middletown and past the Circleville exit.

A. Dulgarian: That's for the widening process?

G. Lake: And, as part of the widening process and anything else they will do there. My thing is and I think everybody has always agreed that it would be a great thing to connect Route 211 to Silver Lake Scotchtown Road. It would be a great thing to get that new exit there.

A. Dulgarian: I was always under the assumption it was going to be tied into I-86 also and that's already happening.

G. Lake: And now its starting to happen for the next two years and you have to start and wonder they are with that and why they haven't entered into it if the applicant is making a conscious effort to move that forward.

A. Dulgarian: I understand that. I didn't realize that the I-86 and the exit was moving forward already.

R. Carr: There is heavy traffic now.

D. McGoey: Mr. Lake, I have a question on the subdivision. You have a ten year provision here if the lots were merged. What if the lots were sold to two separate parties and they don't agree with the merging?

L. Wolinsky: Well, I think the way I asked myself that same question. I answered it to my satisfaction what that the lot notes are restrictions by title. They show up in all the title policies and anybody acquiring this is put on notice of the requirements. So, I think there are notes and they would have to come back to the Planning Board for any kind of use if the lots merged so if they won't merge and the Town decided to enforce that merger against us they would have a little advantage because there are notes.

D. McGoey: But, if you have separate owners?

L. Wolinsky: The problem is you have to be careful because you can't restrain or have a condition or I don't believe you can have a condition to not sell these lots. I think if we put the impediment in the title if they merged, the title will have the notes.

G. Lake: Mr. Carr, do you have anything else you would like to ask about the subdivision?

R. Carr: I guess when we finish with the subdivision, will we be talking about the other ones?

G. Lake: We will be talking about the other things also.

R. Carr: In terms of the subdivision and what you said Mr. Lake, the attractive part of this has always been and you can only do so much with the traffic out there. Having said that and as part of the subdivision I don't know who will be responsible for merging the lots at this point. I have less of a problem with the subdivision but I've always had a problem with the phasing. I have a problem with the phasing as part of the bonding. Before we go through

with the subdivision for your financing and so forth I want to make sure that the phasing aspect of the project is satisfactory.

L. Wolinsky: We will talk about that next.

W. Capozella: I still have a question about the subdivision. You mentioned about the road that's going to be actually the access road right there which would be lot #2.

L. Potter: It's part of lot #2.

W. Capozella: Will that road be a guarantee to access that property and what happens . . .

L. Potter: The reason for this easement lot #1 residential has an access road where the future Town road will be. The access road eventually will become the Town road. Right now because that is on lot #2 will provide an easement on lot #2 for the access road to lot #1 grading and utilities that would serve lot #1. Once lot # starts becoming developed and the Town road goes in this will all become a right-of-way thereby the roadway and utilities would all be in a right-of-way for lots #1 and #2. Right now the reason for the easement is just for the provision of serving lot #1 because this is on lot #1.

W. Capozella: I have one other question for Mr. Bacon and that is any extensions.

J. Bacon: The last was January 2008.

W. Capozella: They're allowed two?

J. Bacon: They will have until January 2010.

W. Capozella: Nothing else, Mr. Lake.

C. Najac: I have a question on the notes concerning the ten years.

L. Wolinsky: If nothing happens out there. The note says that the property owner shall take all requisite legal measures to consolidate. It puts the obligation to the property owner. At some point in time the piece of property would come back and it would either come back to the Town ten years from now if nothing happens out there with that note.

D. McGoey: Two different property owners, which property owner?

L. Wolinsky: Who ever comes in, you will say to them that it has to be merged.

J. Bacon: Why don't we say the owners of both lots?

G. Lake: That note personally I don't see how you can force anybody from turning around and reversing a subdivision if they don't want to. I don't care who it is because it will be a problem at the County eventually on both these subdivisions and I don't see how a note like that could be in there and even be enforced. If everybody walked away from lot #2 and the condominium association ended up buying it or whatever the case might be. I just think it's normal business for the subdivision.

L. Wolinsky: It is only if there is no development out there.

G. Lake: But still once it becomes a filed map and has a legal road frontage I just don't see anybody . . .

L. Wolinsky: When we get title reports there is always an exception to Schedule "B" that says subject to the notes on the filed map. This will be a note on the filed subdivision. It can be enforced, that's all I can tell you. If there is a better way to do it we can try. I was just trying to address your concerns. I don't know how else to do it.

G. Lake: You don't have ten years anyway because there is a section in the code that says it has to be built within so many months from the start. For us it's almost non-material.

C. Najac: I had a concern about the time frame also. Is there a way for us to say that the subdivision is only legal for the project only?

L. Wolinsky: Let me say this. The subdivision under your code, the subdivision as it stands is entirely legal. This is eighteen acres and this is over seventy three acres. So, even if it didn't merge and it came back you would have two subdivided lots, both conforming. They would have to make an application before you and get an approval. So, if you're worried about merging let's not require a merger and let's just have the lots stand the way they are. They always have to come back to the Planning Board. He will have two conforming legal lots anyway.

R. Carr: If the land is subdivided and nothing is built on lot #1 our approval will run out, doesn't it?

J. Bacon: If we approve it and we approved a Site Plan it would have to be built within thirty six months and if not the applicant would have to go to the Town Board.

R. Carr: So it seems that . . .

J. Bacon: The note on the map and they would have a very difficult time getting financing from a bank.

R. Carr: It just seems it's not worth it.

L. Wolinsky: I was asking myself this. I did this to try and address the conditions that were raised in here but I was asking myself what are we trying to prevent here? What is the real harm in trying to prevent and I kept saying to myself that this is in conformance with the zoning and even the new zoning so what are we trying to prevent here?

G. Lake: Anything else Mr. Najac?

C. Najac: No.

G. Lake: Let's move on.

L. Wolinsky: So, on the issue with the request for phasing of the condominiums Mrs. Potter will give you a presentation based on the comments you've already given us. I've also asked Mrs. Potter to prepare a handout with a schedule of what's happening, what's proposed to happen in each phase so that you can follow along with her presentation. I also asked her to delineate whatever phasing they're proposing for the off-site improvements.

L. Potter: As you are aware back in December it was requested to explain the phasing of the condominiums. First up front, I will go to the last page which would be the off-site improvements. Just to let you know we separated one for on-site and one for off-site. The on-site improvements would include phase #1 of the condominiums. The off-site improvements would require a traffic signal at the intersection of Maltese and Bert Crawford Road. The upgrade improvements of Silver Lake Scotchtown Road would include the widening at the intersection with Mud Mills Road to the proposed future Town road or access. We included the turning lane. It would include the sidewalks and all striping within. Thirdly, in order to do the residential portion we will be connecting the water line from Tower Drive boring underneath the Route 17 and then coming through Silver Lake Scotchtown Road at this point. In order to accomplish phase #1 we would have to do those improvements up front. For the condominiums, Phase #1 as you can see is going to include five buildings which would be twenty five residences, a portion of the recreational facilities which would be the pool, a picnic area, a tot lot which would be in this area and several other

passive areas as well as a portion of a walking trail. There would be approximately fourteen hundred seventy five feet of roadway. The road would be the main entrance. It starts coming off road "B" which would turn toward this building, the cabana and the pool and then the loop road coming around. The storm drainage would accommodate all of this roadway with a storm drainage area in here and over here. The water, as I said would connect at intersection of Silver Lake Scotchtown Road and will be built within this area as well as the sanitary sewer also. The connection to the sanitary sewer in Silver Lake Scotchtown Road will be at this point. After that phase is completed, Phase #2. The basic road for phase #2 would be a section of about one hundred twenty feet will be built. The sanitary sewer would come in the back of this building here. The water main and the other drainage is already in as part of phase #1 so it would be the construction of the buildings at that point.

A. Dulgarian: In phase #1 and phase #2 there's only one way in and one way out?

L. Potter: Yes. We had met with the Fire Department. The applicant has also spoken with the emergency services. The Fire Department was okay with that and we received a letter from the Fire Department in December. They're concern was a long as we provided this loop road they were okay with that. They felt it was sufficient in this area.

A. Dulgarian: Even with phase #2?

L. Potter: Yes, even with phase #2. When we move on to phase #3 there is where the emergency access and will come out to Silver Lake Scotchtown Road where the proposed future Town road is going to be so phase #3 would include this area which includes three buildings for seventeen residences. It includes recreational facilities, a walking trail in this area an seven hundred twenty feet of roadway and would include the emergency access road which would be finalized as the interior road would be as well as storm drainage, water

supply and sanitary sewer. As far as phase #4, that would be the complete build-out as well as making sure that the road meets the standards for final approval.

G. Lake: Mr. Dulgarian, any questions on this?

A. Dulgarian: I would like to see that road built all the way to phase #2.

L. Potter: Which road?

A. Dulgarian: What you're going to call the access road at the northerly side? Now, when you're doing phase #3 and you say you're going to use that as an emergency access what

type of material is that going to be?

L. Potter: We're going to put in grade the road and put in the sub-grade, the drainage with crossings here and the drainage in this area. We will discuss with your engineer as far as in regards to what level he would want and whether we would have to put in curbs and a base as well.

A. Dulgarian: How many units are you talking when you're into phase #3 and you're having a temporary road?

L. Potter: Including phase #3?

A. Dulgarian: Yes.

L. Potter: Fifty eight.

A. Dulgarian: Fifty eight for the first three?

L. Potter: Yes.

A. Dulgarian: I'm not a big fan of the phasing. I understand the reasons behind it but I mean if you're going to end up hopefully building this thing out I'd like to see that road in right from the beginning or as least at the end of phase #3, not temporary. I'm not that comfortable with that. It's about the only thing I have. I have one more question. On the stormwater control measures each one is stand alone in other words there's enough stuff done on one to cover the blacktop on that?

L. Potter: Yes.

A. Dulgarian: That's it.

R. Carr: My concerns are the off site. I'm not crazy about the phasing either but due to the economics.

L. Wolinsky: That's exactly what it is.

R. Carr: Nothing else.

W. Capozella: By approving this subdivision and all four phases is that what we're looking

for? In other words, we don't get another look at it again?

L. Potter: No.

L. Wolinsky: It's a separate issue. We're only looking at phase #1. I call it a bulk subdivision of the entire property.

L. Potter: I know where you are coming from. Lot #1 and lot #2 are separate. We're talking phasing here as far as lot #1 is concerned. This is lot #1 and we're talking about the phasing of lot #1.

L. Wolinsky: It's about the phasing of the condominium portion only.

C. Najac: I'm not very keen on phasing from other projects within the Town. I am also concerned about the roadway.

L. Potter: One of the reasons we weren't going to finalize this road was because there are a lot of utilities that serve phase #4 that would have to be put in. The road, the drainage, the sanitary sewer, etc. As I said we would discuss with your engineer.

C. Najac: Back to that phase #3 you're basically putting in a dead-end. You're making a dead-end road.

L. Potter: Yes.

C. Najac: Yes.

L. Potter: Back here.

C. Najac: Are you proposing putting up a gate so that no one has access other than emergency vehicles?

L. Potter: We could look at that.

C. Najac: Or are you just leaving a trail because they need to get in as well as get out?

L. Potter: Correct.

C. Najac: I can't see a fire truck backing around . . .

L. Potter: No. That's the reason for the emergency access road being constructed as part of phase #3. In other words your normal access is not just going to be a completed road with all the utilities.

L. Wolinsky: He's asking is there going to be a crash gate or something here for the Fire Department?

L. Potter: We can discuss that with the Fire Department and with your engineer.

L. Wolinsky: How will the Fire Department access . . .

L. Potter: Once the Fire Department comes in here they have access to come all the way out again. At that point you wind up with two accesses for emergency vehicles. That's the reason for it. If they come in here they won't have to turn around here. They can continue on through and come out over here. In phase #3 we're providing two accesses. It's just not a completed road. It's specifically for emergency access use.

G. Anything else, Mr. Najac?

C. Najac: No.

G. Lake: I personally don't have a lot of problems with phasing. We've phased Wildflower I think and Golf Links Road.

D. McGoey: Fairways.

G. Lake: Thank you. Those projects have come along and I agree with my Board members that we have been burnt by other applicants, the biggest one on Silver Lake Scotchtown Road but my entire time being on the Planning Board I think that was one of those situations and I believe we're more careful today than back then. Phasing doesn't bother me at all. I understand it. We do have projects in the Town that we have done it already. For me, it's not a big deal as long as the Fire Department is happy and emergency services are happy. That's all I have about the phasing. Go ahead.

L. Wolinsky: Unless there are any other questions, the only other issue that we wanted to discuss before we go to Mr. McGoey's comments is the extension. As Mr. Bacon pointed out I think we may have been a little premature when we traced the original approvals back. It actually was granted in December but was signed in January.

G. Lake: Do you have a problem with getting the extension tonight if this Board decided to

do it?

L. Wolinsky: No, not at all.

G. Lake: We've been doing it for a year basically.

L. Wolinsky: Not at all.

G. Lake: Let me ask you something about your water line. Have you gotten your Health Department permits and your Department of Environmental Conservation for the boring's to bring the line across?

L. Potter: We had previously gotten the approval on Scotch Valley for coming across.

G. Lake: Is that still standing yet?

L. Potter: Yes.

G. Lake: Mr. McGoey, your comments. Are there any particular ones that we should be looking at outside of all the stuff already talked about?

D. McGoey: We talked about most of them. We still have to solve the problems of bonding and cross easements on the subdivision plan.

G. Lake: That can be looked at between you and Mr. Bacon?

D. McGoey: It can be. I don't think there's anything we haven't discussed about.

G. Lake: Mr. Dulgarian do you have anything else you want to talk about?

A. Dulgarian: You're getting close to calling a vote on the three items?

G. Lake: Unless you have something else you want to talk about.

A. Dulgarian: I think I'm comfortable living with the subdivision. As Mr. Wolinsky said it's a stand alone on the subdivision but I think the problem with us swallowing it is that all along it was one project and now there's a subdivision. I think given the size of the property and to go for the entire project I don't have a problem doing that. I don't have a problem with the third item, the extension. The phasing I will go along with Mr. Lake. You brought up a good

point. We've been bitten maybe once out of this but I will go along. Having said all that I still have a problem when you get to the third phase and you don't have that road going through. I know we have cul-de-sac length limits and such that don't really apply here but they are on the books for safety reasons. I have the same concerns about that Mr. Bacon informed me it only applies to subdivisions but we're doing it for the same reason either way and I will go along with the phasing but when you get up to three I'd like to see that road built out. I know they have the infrastructure issues. I think there's a way to do it temporary so the residents can get out. I'm willing to compromise between what they're looking for and what we're looking for.

L. Wolinsky: I have a possible way. Would you be amenable to having a condition that says this all would have to be done before any Certificates of Occupancies was issued for phase #3? That way we would be able to start the construction but they wouldn't be able to be occupied?

A. Dulgarian: Absolutely. I just can't see us waiting for the last minute. Once you get going on this hopefully it will go. I think it's up to us to look out for the residents of this community so they have another way out of the project. That's all I have Mr. Lake.

G. Lake: Mr. Carr, do you have anything else?

R. Carr: No.

W. Capozella: Lot #2 did you say you were going to restrict that or . . .

L. Wolinsky: The zoning has been changed. I would suggest that we leave note #7 alone which says lot #2 is not a building lot and may not be developed and constructed until required approvals are requested from the Town of Wallkill and maybe you want to consider eliminating what I tried to do on note #8 because you felt so strong on creating a mess down the road.

G. Lake: My suggestion was going to be to ask Mr. Bacon to look at all those notes anyway. I think he has a good idea of what this Board wants and to make sure they come in line to what is doable or not doable. I thought it would be best for us to have our attorney sit down with you Mr. Capozella, anything else?

W. Capozella: No.

G. Lake: Mr. Najac?

C. Najac: I have nothing further.

G. Lake: I really don't have anything else and I was at most of the work sessions and we had talked about a lot of these things. Mr. Bacon, do we have to do a Negative Declaration on this?

J. Bacon: I believe that was done.

L. Wolinsky: That was done.

MOTION for a TWO LOT SUBDIVISION subject to Mr. McGoey's comments and this Board's comments subject to Mr. McGoey and Mr. Bacon reviewing all the notes made by W. Capozella and seconded by R. Carr.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

MOTION for SITE PLAN (Condominiums) EXTENSION for ONE YEAR subject to all of Mr. McGoey's comments and this Board's comments made by A. Dulgarian and seconded by C. Najac.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

MOTION for PHASING for LOT #1 approved subject to all of Mr. McGoey's comments and this Board's comments made by R. Carr and seconded by A. Dulgarian.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

3. **SILVER LAKE RIDGE** - SITE PLAN/SPECIAL USE PERMIT & SUBDIVISION
(Condominiums) - 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: This is here for sketch only. Go ahead. Explain what was done at the last work session.

L. Potter: At the last work session it was clarified that because this is a multi-family use the cul-de-sac law does not apply to this particular project. It was determined that by use this eighty six units would be permitted under the current zoning however, seventy six units which would comply with the traffic study and the school study that was requested. The traffic study was based on the previous subdivision of thirty nine lots. The Board had requested that the traffic not impact anymore than that. In regard to the schools you requested an updated school study. Mr. Garland is here to discuss the updated study.

G. Lake: Why don't we get through sketch.

L. Potter: Sure.

G. Lake: Okay. Let's make sure that the numbers are clear and unfortunately I have a couple of members on vacation and we will decide to get through sketch and then go through the comments and have you come back for another work session.

L. Potter: Okay. We're here requesting sketch plan approval. We're proposing seventy eight units however, during a discussion at the work session it was requested that the applicant possibly consider work force housing. In this case we would consider going to the eighty six units and suggest that the Board determine how many units they would consider for affordable housing or work force housing. If that is a consideration that the Board would take on then that will increase the number of units that are shown on the plan. The buildings that are shown are five unit buildings and we would see any work force housing to accommodate those additional units. In regard to Mr. McGoey's comments with the close proximity to the wetlands, the buildings could be modified slightly or if the work force housing is not to be considered we could remove a building. The majority of the units are two bedroom units. The concern is basically the number of units that the Board will agree upon.

G. Lake: Let me just help the Board. We did set up an internal committee that a couple of guys are working on a formula or what could be helpful for someone who wanted to do affordable housing which I think this Board feels is a good idea but by the same token to be able to stand here and tell you at this point two of them have to be or ten of them have to be, we haven't gotten that far and I think I'm pretty sure at the work session I did point that out to you and it wasn't a drop item because we haven't gotten far enough to go to the Town Board. It would be on a voluntary basis at this point. I know I have a couple of ideas on how it should work and we're still working on that. I just don't know and I told you this at the work session and I will tell you here now I just don't know how to stand here and say five of them should be work force, two of them should be work force because we haven't formalized anything as far as numbers of what makes it right one way or the other. That would strictly be up to you guys if you want to go forward with that. The Board can tell you their feelings tonight and then from that point you might be looking as to how you're going to do it and what formula you're going to use and obviously the Town has their own figure to consider what work force housing is. I just want to make that clear to the whole Board that I said you had to do this because we're not at that point yet to sit here and say this is the formula .

L. Potter: We understand that you're not forcing us to do it. We do understand that it was

discussed. The applicant would like to say something.

M. Jeremias: My name is Michael Jeremias. I think we're trying to summarize. It's not fair to hold us up. I know seventy eight were considered previously (not clear).

G. Lake: I will go through the Board.

A. Dulgarian: What?

G. Lake: Well, we're looking at it for sketch and we're kind of looking at two things now. Sketch at seventy eight if that's where you want to keep it or if you want to see about affordable housing.

A. Dulgarian: No. I'm not thrilled with the whole sketch here. I liked this better when it was single family homes. Mr. McGoey, do the numbers on the conservation zoning, the build-able land that's not used that's all within the requirements? I know there are so many wetlands.

D. McGoey: Yes. It's meets the density requirements.

A. Dulgarian: What about your comment number three, what's up with that unit?

D. McGoey: It's too close to the wetlands. I don't think it can be constructed without encroaching on the upland area of the wetland and creating some disturbance.

A. Dulgarian: So,

D. McGoey: It might have to be moved or eliminated.

A. Dulgarian: Okay. So, how can we approve sketch with that unit not being where it needs to be or maybe not even there?

D. McGoey: I think they should be able to move it.

L. Potter: We can do that. We can accommodate.

A. Dulgarian: That's it from me.

G. Lake: Mr. Carr?

R. Carr: Yes. I liked the single family better than this. I didn't like it as a conservation subdivision the first time however it does do something. It does push everything further back and I'm not crazy over this layout. Again, is this similar to the one out on Schutt Road because they are condominiums they don't have to (not clear). On the work force housing I think the Town Board has to determine.

G. Lake: We did have a site meeting with Mike from Behan's office a little bit and we did talk to him about this particular issue.

R. Carr: It's something we have to look up maybe in Albany. I'm not crazy about it. I do personally think that you do need to provide some of protection to get work force or some kind of affordable housing (not clear). I applaud the applicant for offering to work with us.

G. Lake: Mr. Capozella?

W. Capozella: I liked the thirty nine homes. I know with the current economy (not clear). I know a lot of times I bring up about the water and sewer. You mentioned something about the traffic study.

L. Potter: That I had submitted previously and your engineer has reviewed that. That was prepared by John Collins Engineers. As I mentioned previously the school numbers were also presented and we were requested to update them in regard to the Middletown School District. Mr. Garland is here should you have any questions regarding that information.

W. Capozella: The school numbers I have.

G. Lake: Mr. Najac?

C. Najac: Mentioned something about the affordable housing (not clear).

L. Potter: We had also proposed to add some additional planting of trees in this area to buffer that.

C. Najac: I will go along with it. My other issue is the sidewalks.

L. Potter: Sidewalks are right here all the way out to the road.

C. Najac: I asked before but (not clear).

L. Potter: On the previous subdivision we had proposed a sidewalk from the opposite side of the road. We can't put sidewalks on the same side of the road because it is not feasible

according to the site conditions. You will be encouraging people to walk there when it's not safe. I understand you want it to go to other areas but that is a very dangerous bridge to walk on. I have done it in order to see what it was like. It is very narrow. There is no sidewalk so if you are putting sidewalks in that area you may be endangering someone by encouraging them to walk there.

C. Najac: Well, I'm looking at it this way. People have decided they need to walk along that road. You may have to widen that bridge to put the sidewalk in than having them walking on that bridge.

L. Potter: Right.

C. Najac: If I come up to that bridge and there is a pedestrian on that bridge I stop. They have to be able to walk across without getting hit.

L. Potter: Okay. Most people aren't that considerate.

C. Najac: Well, they're still walking out there. We're talking about hard times and here we are we're also talking about affordable housing. You realize that maybe some of these people looking for affordable homes don't have two cars. They have one vehicle and if someone went to work in it the other person may want to get to point "B" and the only way to do it is to use their feet. We need to make the whole Town safe that way.

L. Potter: I understand.

G. Lake: Anything else, Mr. Najac?

C. Najac: No.

G. Lake: Mr. Garling, you do have the new school study?

E. Garling: Yes.

G. Lake: Give us a brief review and then we can move on.

E. Garling: Let me go over this quickly. The new school study requested by the Board the Middletown area we now have a total of fifteen project, a total of two thousand one hundred seventy two units studied. That comes to approximately twenty percent of the total population now. The school enrollment and study that you have now in front of you comes up with a substantial number of students for the number of units in the Town of Wallkill.

Table #1 on pages four through six indicate all the details of each of the projects we studied and the additional ones in the Middletown School District. I had a problem with Imperial Ridge and Imperial Gardens information. I was looking at the site from the Assessor's Office. When I finally called the Assessor's Office back and also spoke with the owners of the property and we found that there was a reason for the high numbers of school children. We had half the number of actual units. So, those numbers are different. There is a total of four hundred forty nine rental units, one hundred thirty eight one-bedroom, two hundred eighty five two-bedroom and twenty two three-bedroom units and four, four-bedroom units. The Assessor's Office did not have that information which I provided to them the other day. The table unfortunately on page ten needs some modifications. I thought I had proof read that but we didn't make the changes. On page ten, table two one hundred and three Imperial Ridge that still have two hundred forty four. That should be four hundred and forty nine units and that makes it .44 public school children per unit and .25 public school children per bedroom. So, it is much busier than the other projects. What we come up with in terms of all of these projects is relative to public school children in general comes out to .05 and .031. On page fourteen, table four we compared the figures and again there are some changes in there and I will get those number to you but the "Ryker's" Study has a total of eight hundred units, eight hundred school children and we corrected that to nine hundred and eleven and the actual number (not clear). Seven hundred and thirty nine which is a difference of one hundred and seventy which means that the actual number is one hundred and seventy less than the "Ryker" study. On page fifteen we went back and we prepared some figures we had in projects that we had studied for the 2004-2005 school year with the same developments last year. That comparison indicates that the numbers are slightly less currently than they were for the 2004-2005 school year with the one exception, Water's Edge which has ninety four units, eight school children and four or five compared to twelve. It's a slight increase but a very low number. I just want to point out on page sixteen, table six these are some old numbers we had provided in the original report as indicated four children per unit on a variety of projects and if you take a look at those when you're evaluating other projects that have come in. I just want to point out that on page seventeen the single family units which obviously has nothing to do with this project but I just thought it was interesting to note that the single family units the average number of these projects in 2004-2005 came out to be .291 school children per unit. That's exactly what the university study number in 2006 however, if you were to point to the Town of Minisink they had 1.44 school children per unit and another in the Town of Wawayanda had 1.31 but all of the others which much lower than them .91 even for the single family homes. The only other thing I wanted to mention was relative to the traffic studies what we have found out is that historically the single family homes traffic study used a figure of nine to ten traffic movements per day for a single family home. That's normally because single family homes generate more public school children. Many of the trips today, the average trips are done because they have school children.

Because the townhouses, the condominium units have fewer school children they only generated something in the nature of six trips a day. When you translate total trips per day it's normally in the range of (not clear). The peak hours for a single family home will be about one per unit whereas for a townhouse it's about .6 per unit. If you have any questions I would be happy to answer them.

G. Lake: Okay. Do you just want to study this?

A. Dulgarian: Just briefly where did you get your information from? The school bus company?

E. Garling: These are from the schools themselves.

A. Dulgarian: I thought the schools didn't know how many were in each development.

E. Garling: Schools are releasing the information. The schools will give you what they have but they won't give out the details. In other words I used to be able to go to the schools and

A. Dulgarian: Are they still telling you how many kids are coming from that?

E. Garling: They gave me the information I have.

A. Dulgarian: So, Middletown School District gave you information on Canterbury Knolls?

E. Garling: Yes.

A. Dulgarian: And, that's kindergarten through twelve?

E. Garling: Yes. All she gave me was the number of children by grade on each street. I cannot specifically.

A. Dulgarian: Do these include private schools like St. Joseph's, Burke?

E. Garling: Some of them didn't have that information.

A. Dulgarian: So, there could be more?

E. Garling: Oh yes. These figures are public school children.

A. Dulgarian: We didn't specify public school children.

E. Garling: We indicated, we only got that information for the Pine Bush and Goshen School District. They gave us that information. It was approximately ten percent more.

A. Dulgarian: So, these could be ten percent more?

E. Garling: Oh yes because you're going to get home schooled and private school students. In terms of the school study which is normally the concern is what is the cost to the public. The cost to the public is from children who go to the public schools. Even the professional study will show that the numbers are higher in total. This is just the public school, those school aged children that go to public school.

A. Dulgarian: I just have one. Again, we got this thing pretty fresh. Inwood Hills, sixty nine units, six children.

E. Garling: Yes.

A. Dulgarian: Six school aged children in that whole complex?

E. Garling: Yes.

A. Dulgarian: I mean I don't have access to this information. If you're telling me that's what they gave you. Okay. I appreciate the work you did. The single family information is very interesting. Like Mr. Lake said, I'm just going to take a little bit of time to digest this information.

E. Garling: I've told everybody for years look at your own block, go up and down the block and see what it looks like. The street I live on in Goshen we moved there in 1985. At the time we moved in there were about seven or eight children. Five or six years later there were no school children on that block. We're talking about a block that has forty single family homes and some two-family homes. Today there are about ten to twelve school aged children and most of them are pre-school with most of them being in the elementary grades. This is one block that we live on and this is what has happened over a twenty year period. The numbers change somewhat to that degree. I don't know of many projects that have huge numbers of school children. Things have changed dramatically in a couple of years.

G. Lake: You know what, I don't mean to cut you off but we have more applicants.

E. Garling: One of the other things I wanted to bring up

G. Lake: You know what, you will need to go to a work session anyway with this project. If there are any new comments from the Board speak up now so he can take it back. We have other applicants. I don't mean to cut you off but we've spent an awful lot of time on a couple of projects and it's not fair to anybody else. Do you have anything else?

A. Dulgarian: No.

R. Carr: No.

W. Capozella: No.

C. Najac: No. Can you make the work session a late one?

G. Lake: Yes.

MOTION to accept for SKETCH PLAN made by C. Najac and seconded by W. Capozella.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

4. **EL BANDITO** - SITE PLAN/SPECIAL USE PERMIT (Addition to Building) - 536 East Main Street (502-7.2) #74-08

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

J. Locke: My name is John Locke with ARF Engineering & Surveying.

G. Lake: Basically we have to send you to the Zoning Board of Appeals?

J. Locke: That's where we're hoping to go.

G. Lake: Okay. Why don't you just tell the Board where you want to put the addition?

J. Locke: Let me just go over basically what the project involves. There is currently a patio area up in front of the building. They wish to put an addition on the building, one-story slightly under six hundred square feet. The goal is to get a little more seating in there. The business has a demand for that and they're hoping to do it. It will require one variance with respect to the front setback. It really is impractical to put an addition elsewhere on the building because of the current internal layout of the building with respect to the kitchen and the other facilities. We do meet the requirements for everything else with respect to parking. There are a couple of issues we want to discuss with the landscaping and the lighting.

G. Lake: Okay.

J. Locke: Briefly, I would like to hand out some photographs. We sent these in with your packets, those were black and white. These are in color to give you a better idea of what we have. The existing site is heavily landscaped. Admittedly it does not conform with the new requirements but it makes no sense to us to rip out the true landscaping to a new place to meet the letter of the law.

G. Lake: I would suggest because I think, I agree with you. I've been there and know it is pretty well landscaped. I would suggest for you to go through the new code and just maybe add where it's feasible. I don't think it's unreasonable as far as we wouldn't want to see you rip out existing landscaping. Just around the front maybe.

J. Locke: We were just hoping to get.

G. Lake: I think we're just looking for you to maybe pick up what the new code says and add a little something.

J. Locke: I appreciate it. One of the other things we were hoping to discuss is you have in the code requirements for sidewalks.

C. Najac: Yes. We have sidewalks here that goes nowhere.

J. Locke: Obviously if we end up having to do sidewalks and would be more effective would be in the right-of-way. We will have to engage that discussion with the Orange County Department of Public Works. I don't know of any other significant issues.

G. Lake: Let me go through the Board and see if they have any other comments.

A. Dulgarian: I don't have anything.

R. Carr: Nothing.

W. Capozella: Nothing.

C. Najac: Your landscaping looks pretty good there so maybe you could add just a little bit. There's no need to take out anything existing.

G. Lake: By the time we see you again you will have enough time to get together with the County.

MOTION to send applicant to the ZONING BOARD of APPEALS for a front setback made by C. Najac and seconded by A. Dulgarian.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

5. **AIDEN ESTATES** - 15 LOT SUBDIVISION (Re-approval) - Bart Bull Road
(31-1-29.4) #81-02

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

T. Ollie: My name is Thomas Ollie representing Christine and Brian “Blo” of whom Christine is the daughter of Eddie Wright who started this project. We made a mistake in allowing the Preliminary Approval to expire without requesting an extension from this Board. We thought the six months ran from the time we completed the conditions of the Preliminary Approval and obviously we found out it ran from January 16, 2008 so it expired in July.

G. Lake: Basically and unfortunately we’re going to have to kind of send you back to square one. It’s not something that we’ve practiced in the past. If you had gotten a letter in or some kind of communication but there has been new and different regulations come along. I don’t think this Board can turn around and say okay because legally we can’t.

T. Ollie: I’m hoping I don’t run into any new things only because it’s been through a long process and there haven’t been any changes since it was approved.

G. Lake: There are no big changes as far as I can see. Mr. McGoey has quite a few comments. Mr. Bacon, our first step is to get him back to a work session I guess to get through these comments and will he need to have a Public Hearing?

J. Bacon: Yes.

G. Lake: Does he need to update his Environmental Assessment Form?

J. Bacon: Because a new negative declaration will be needed, the applicant will need to complete a thorough on-site investigation of flora and fauna by a qualified firm in light of the recent court decision in *Kittredge v. Planning Board of the Town of Liberty*, 57 A.D3rd 1336, (3d Dep’t., December 31, 2008). Also, the applicant should complete the SEQRA long form Environment Assessment Form rather than the short form which had originally been submitted in 2002.

T. Ollie: It would be interesting to find out what you’re referring to on the wildlife. I was just wondering.

J. Bacon: Many Planning Board’s have received the letter indicating that the prior language was not adequate.

T. Ollie: We will get a wetland biologist to evaluate for us.

J. Bacon: I think that’s what Mr. Lake was saying when he said it’s not a lot.

G. Lake: Unfortunately you're talking about a report done in 2002.

T. Ollie: On the Environmental Assessment Form, right.

G. Lake: Mr. McGoey, your comments.

D. McGoey: There's nothing in there he can't handle.

G. Lake: Okay.

D. McGoey: One additional thing was to spruce up the entrance.

T. Ollie: At the last appearance that we made we had discussed some sort of an entrance feature and I think we're just looking for some guidance from the Board that we comply.

G. Lake: Why don't you get back to a work session with this and we can schedule a Public Hearing for May 6th. Will you be ready?

T. Ollie: Yes.

G. Lake: Let me go through the Board to see if they have any new comments.

A. Dulgarian: Nothing.

R. Carr: Nothing.

W. Capozella: Nothing.

C. Najac: Nothing.

G. Lake: I have nothing to add.

MOTION to schedule a PUBLIC HEARING for May 6, 2009 made by R. Carr and seconded by W. Capozella.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

6. **AMERICANA DINER** - SITE PLAN REVISION (Addition) - 420 Route 211 East
(54-2-1) #66-06

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

A. Meluso: My name is Anthony Meluso with Gardiner Engineering.

G. Lake: Go ahead.

A. Meluso: This is for a five hundred square foot addition on the Americana Diner.

G. Lake: Mr. McGoey, your comments.

D. McGoey: The sidewalk, the applicant has offered to construct. The location of the sewer lateral from building to the sewer line to the rear. I also wanted the clarification of the parking calculations. The plan sheets should be consecutively numbered. Take out the architectural floor plans. The striping detail is confusing. The striping for the handicap spaces should be shown and dimensioned. The privacy slats for the dumpster enclosure should specify evergreen inserts.

A. Meluso: We picked up the sewer easements and the parking calculations on the left side. The adjoining property owners . . .

G. Lake: Let me ask you something. Are you still going to put on that little addition so you don't (not clear).

A. Meluso: Originally I had it up a little bit further to the north I guess. I put it there to avoid having to get a variance. We have four existing handicap spots and all have signage. It's pretty well screened.

G. Lake: Let me go through the Board.

A. Dulgarian: It's a nice existing business in the Town. The addition is probably better for him. I don't think it has any negative impact. I don't have any issues.

R. Carr: I have no concerns.

W. Capozella: I don't have anything.

C. Najac: Nothing.

G. Lake: I have nothing.

MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments and this Board's comments made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

MOTION for SITE PLAN REVISION subject to all of Mr. McGoey's comments and this Board's comments made by R. Carr and seconded by C. Najac.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

7. **EISELE** - 3 LOT SUBDIVISION (Re-approval) - Foster Road (29-1-16.2) #19-08

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

S. Plass: My name is Susan Plass with Leo Carroll's office.

G. Lake: Did she submit a letter?

M. Hunt: Yes.

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

S. Plass: No. Actually one question. The significant trees.

D. McGoey: I think I said greater than eight inches.

S. Plass: Right. It's acres of woods.

D. McGoey: In the areas of construction. Several large trees are located in the proposed driveway of lot #1 however the sizes of the trees have not been identified. The plan indicates that they are greater than eight inches in diameter. If there are significant trees the driveway should be relocated to avoid those trees.

S. Plass: I will take another look.

D. McGoey: I know you have a problem with site distance out there. There are a lot of trees out there.

G. Lake: I think we talked about that quite a bit the last time you were here. You have a unique situation over there but unfortunately we are going to have to go through the process to get you scheduled for a Public Hearing which we can do probably April 15, 2009. Will you be ready?

S. Plass: Yes.

G. Lake: Mr. McGoey are you going to need her back for another work session?

D. McGoey: No.

MOTION to schedule a PUBLIC HEARING for April 15, 2009 made by W. Capozella and seconded by C. Najac.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

8. **CARDONA** - 2 LOT SUBDIVISION - Mount Joy Road (60-1-118) #06-09

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

J. Howard: My name is Joe Howard from JL Consulting.

G. Lake: I believe we have to send you to the Zoning Board of Appeals because you don't have enough frontage. I will go through the Board.

A. Dulgarian: No.

R. Carr: Nothing.

W. Capozella: Nothing.

C. Najac: Nothing.

G. Lake: Will the frontage be the only variance you will need?

J. Howard: It will determine on how the code determines the lot width.

G. Lake: When you go to the Zoning Board of Appeals make sure that you place the houses on the each lot to determine if you need perhaps a side yard also.

J. Howard: I will make it clear about the road frontage as well as an interpretation of the lots. We will have plenty of side yards. That won't be a problem.

G. Lake: I just don't want you to have more issues and we wind up having to send you back to them.

J. Howard: I understand.

MOTION to send applicant to the ZONING BOARD of APPEALS for road frontage and any other variances that may be required made by C. Najac and seconded by R. Carr.

A. Dulgarian: Aye

R. Carr: Aye

W. Capozella: Aye

C. Najac: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES