

TOWN OF WALLKILL PLANNING BOARD

MEETING

MAY 5, 2004

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

MEMBERS ABSENT: P. Owen

OTHERS PRESENT: D. Brodsky, J. McKay, D. McGoey

1. PUBLIC HEARING 7:30 P.M. - **RNR PROPERTIES** - SITE PLAN/SPECIAL USE PERMIT - York Road (3-1-73) #005-004

G. Lake: Public Hearing started at 7:30 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 600 Route 211 East, in said Town, on the 5th day of May, 2004 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of RNR Properties, Inc., P.O. Box 759, Rock Hill, New York 12775, for approval of a motor vehicle service center for trucks and the display of trucks and equipment for sale on property located on County Road No. 76, Bloomingburg Road & York Road, Tax Map Parcel Section 3, Block 1, Lot 73, under the Zoning Law of the Town of Wallkill. All parties of interest will be heard at said time and place. S/Gary Lake, Chairman

J. Nosek: I am with Roger Ferris Engineering & Surveying.

G. Lake: Do you have a map you can put on the board?

J. Nosek: Yes.

G. Lake: Bring us up to date since the last time you were here.

J. Nosek: The last time we were here we had a number of comments from the Town Engineer. We've since had a work shop meeting and I believe the majority of the comments have been addressed. We also had a site visit with the Highway Superintendent. He did request some improvements along York Road. What we had agreed to is to provide some additional piping and catch basins and the Town had indicated that they would provide us with the piping and the catch basins if we would do the installation which we have no objection to. That information has been included on the plans as well as grading within the right-of-way. Just a brief presentation for the public. This is a proposed site plan on the east side of York Road and has a very

limited amount of frontage on County Highway No. 76. There's no access off of County Highway No. 76. It's a very steep slope. Our propose entrance is off of York Road. This is for a motor vehicle repair station and truck sales, equipment type sales. Our site plan includes parking facilities for both customer parking and employee parking. Our building is approximately ten thousand five hundred square feet which does include a four thousand square foot Phase II addition which is not proposed to be built initially but perhaps in the future as the business grows. This lot will be serviced by individual well and septic system which has been designed in accordance with State regulations and we have provided some extensive landscaping as per the Town's request.

G. Lake: Let me go through the Board.

R. Carr: I will wait until after the Public.

G. Luenzmann: I will wait.

W. Capozella: I will wait.

T. Hamilton: I will wait.

N. Hermann: A quick question. York Road is very limited in size. There's going to be some serious traffic going down that road and it's a very difficult access right across from the bar. Could it not be advantageous to change the grade of the slope coming off of County Road No. 76?

G. Lake: We did discuss that at a couple of work sessions. I don't think so. But I will tell you I do believe and I was hoping I had that comment here tonight, talking to the Highway Superintendent and the head foreman that I believe not are they going to widen in their little section in front of them but I believe the Highway Department will be doing some work up there this year.

N. Hermann: I know that's very limited.

G. Lake: And they're going to, I don't know exactly what side but I think they're going to widen that road a little bit.

N. Hermann: How many feet in is this property from the intersection?

J. Nosek: It's actually, once you come in from the "Y" on York Road it would be the fourth parcel on the left hand side which is directly after the road.

N. Hermann: About a quarter of a mile then? Twelve hundred and fifty feet?

J. Nosek: It's not quite that much but maybe eight hundred.

N. Hermann: I know it gets very tight at that intersection. Any improvements to the former bridge that was taken out?

D. McGoey: The Town is undertaking a design to replace the bridge.

N. Hermann: How soon in the future?

D. McGoey: That's a good question. I think they have to get the funding but it's been designed.

N. Hermann: Thank you.

MOTION to close this PUBLIC HEARING at 7:38 P.M. made by G. Luenzmann and seconded by R. Carr.

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

G. Lake: Dick's comments. Do you have them?

J. Nosek: I have them in the folder.

G. Lake: Just go down them quickly please.

J. Nosek: Dick is just noting that the drainage pipe and catch basins along York Road. Item #2. The request is that this work be done prior to Certificate of Occupancy. I do have an additional map here I can give you which indicates that note. Item #3. The Planning Board should discuss the architectural elevation of the building as well as the type of equipment to be stored on the site. I believe it was submitted to the Board in recent months. While you're looking at the architectural elevation, item #4. Structures and improvements on the adjoining lots in reasonably close proximity to the property line should be shown. We can get our survey crew to go out, there is nothing within two hundred feet of our property line except a small shed on the DiMeter property which will be shown on our plans. There is a residence across the street, nothing within two hundred feet. The revised plans will reflect that. Item #5. The wall pack unit should be shielded and a detail provided.

The present wall pack unit is unacceptable. We also did replace the wall pack unit. It is a unit that is wall mounted but has no, projects down and has full shield. That's on the revised plans. It's a Garco Lighting, Model 41 series. I think that will be sufficient. Item #6. A dimension should be shown for the fifty foot buffer and the twenty five foot landscape strip. We also did dimension the fifty foot buffer and the twenty five foot landscape strip.

D. McGoey: Could I ask that the size and species of the trees have not been shown. We need to know what the sizes are and we had a request for some additional buffer along York Road because there is a residence on the other side of the road. Maybe some evergreens and some red maples.

T. Hamilton: On that line, Dick, that the property line that shows the road on that side?

D. McGoey: Right.

T. Hamilton: Those trees are quite a bit apart. I don't think the buffer is enough on that side.

J. Nosek: There is one thing I could add. I did take pictures and I can show you that there is a pretty good wood line that goes through there that really fairly significantly under conditions now would screen the building from view. We have no objections to adding more screening.

T. Hamilton: The wood line is on your property?

J. Nosek: Yes. In other words, the twenty five foot of buffer that would remain undisturbed has existing trees. It's a wooded area.

T. Hamilton: What sizes are they?

J. Nosek: Would you like to see pictures?

G. Lake: Do you have pictures? Yes, let's see them.

T. Hamilton: Because anything over a certain size should be shown on that buffer that are existing.

D. McGoey: Unless they're going to not touch it.

J. Nosek: They're not big trees.

G. Lake: You're not going in that area, correct?

J. Nosek: We're not proposing to disturb it. It does provide a pretty significant screening.

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

R. Carr: I know this came up before. The Town did not want the access coming off of?

D. McGoey: It was the grade.

R. Carr: My only thought there too, is to see that road now, when I came out of that road and took a right and bottomed out my car. It's difficult to have that road bring in additional traffic. You're directly across from H. O. Penn, correct?

J. Nosek: Yes.

R. Carr: To me, I have two concerns about it. One, the traffic just on that turn anybody turning right or turning left and two, would be does this have to meet the New York State Stormwater Runoff?

D. McGoey: It doesn't affect the neighbors.

R. Carr: It doesn't. That would be my other thing. This all drains down this way. It's wet in there. Everything up here is going to run over into that house that's across that road. Those are my two concerns.

J. Nosek: Our client wanted to have the access off of Route 76 because it basically means more business. If there was any way we could, we would but realistically it's about an eighteen foot drop literally over a very short distance. For all practical purposes it's impossible to get a driveway over there.

R. Carr: You couldn't grade that?

J. Nosek: We could not grade that. If you look at it you will see. You will know right away. It's an eighteen foot drop down over about fifty feet. It's equivalent to a very large side bank of Interstate 84.

R. Carr: I just think that York Road is a narrow road and the turn off of York Road is a tough turn as well. Those are my concerns. I don't know as far as the stormwater.

D. McGoey: The Highway Superintendent has requested getting the stormwater into the new drainage system along York Road to the existing drain pipe towards the County Road.

J. Nosek: We agreed to do a fairly substantial amount of cutting, grading, catch basin and piping network to assure that all of our water that comes off the site makes it's way into the new system ultimately into the cross pipe that's underneath York Road. If you go to page two, I believe, you will see our off site design which carries the water down to a series of basins and then, of course, the last basin is where it will cross over to the existing culvert pipe that's there now. We are proposing to do a substantial amount of clearing and drainage work in York Road.

G. Lake: Anything else, Mr. Carr? I will come back to you.

G. Luenzmann: I have nothing. It looks like Dick has solved the drainage problem and that turn problem up there.

D. McGoey: Most of the traffic, I understand Mr. Carr's concern coming out of York Road and turning right but probably eighty or ninety percent of the traffic would be turning left.

G. Luenzmann: I just know it's zoned for this type of business and there are other businesses of that in the area. I see no problem with it.

W. Capozella: I don't have anything.

T. Hamilton: Are you going to limit him what he's showing for display? That's all he's getting is those lots that he says?

D. McGoey: That's it.

T. Hamilton: So, we don't find out that it's all the way down into the employee parking. He's showing seven.

D. McGoey: The number of pieces of equipment for display are up to this Board.

T. Hamilton: I just want to make sure that's all he's going to be limited to, is what he shows on the plan. Plus this truck that's up on the highway?

J. Nosek: It's eight.

T. Hamilton: Is that going to have a big sign on it or something else?

D. McGoey: If it's a sign, it would be subject to the Building Department review and approval.

T. Hamilton: I was just concerned.

D. McGoey: If you don't agree with that truck?

T. Hamilton: No. If I had a detail of what he was going to put up there. Have a truck and then a big sign over the truck.

D. McGoey: That would be subject to the Building Department.

A. Dulgarian: Came in at this time.

G. Lake: Anything else, Mr. Hamilton?

T. Hamilton: No.

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

R. Carr: No.

G. Lake: Mr. Dulgarian?

A. Dulgarian: No.

G. Lake: Dick, are you satisfied with your comments?

D. McGoey: Yes.

G. Lake: You understand we're looking for a little more landscaping?

J. Nosek: Yes.

G. Lake: From the residents across the street?

J. Nosek: Correct.

G. Lake: Mr. Hamilton, do you think that was sufficient when you saw the pictures?

T. Hamilton: Plus what's happening next door is a similar operation. It shouldn't really impact it.

MOTION for a NEGATIVE DECLARATION made by T. Hamilton and seconded by G. Luenzmann.

A. Dulgarian: Abstain

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES, 1 ABSTAIN

G. Lake: Is this for Preliminary?

D. McGoey: No.

MOTION for SITE PLAN/SPECIAL USE PERMIT subject to D. McGoey's comments made by G. Luenzmann and seconded by T. Hamilton.

A. Dulgarian: Abstain

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES, 1 ABSTAIN

2. PUBLIC HEARING 7:35 P.M. - **GORSKY** - 6 LOT SUBDIVISION - Scotchtown Collabar & Brook Roads (20-1-30.23) #079-002

G. Lake: Public Hearing started at 7:48 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 600 Route 211 East, in said Town, on the 5th day of May, 2004 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Nikita & Vera Gorsky for approval of six lot subdivision near the intersection of Brook & Collabar Road under Section 249-19 of the Zoning Law of the Town of Wallkill. All parties of interest will be heard at said time and place. S/Gary Lake, Chairman

T. Ptak: I am the Engineer for the applicant.

G. Lake: Do you have a map for the Board?

T. Ptak: I will put this one up. We're here to request approval for a six lot subdivision. Two of the lots have houses on two of the proposed lots. The remaining four lots are vacant at the present time. The lots are large with the exception of lot #1 which has an existing dwelling. They are generally over six acres and as large as fourteen acres. We've addressed most of Dick's comments. I've spoken to the Town Highway Superintendent regarding this project and as far as I know there were no further comments, at least I haven't seen any further comments. I addressed the ones he originally had.

G. Lake: Let me go through the Board.

A. Dulgarian: I will wait until after the Public.

R. Carr: I will wait.

G. Luenzmann: Wait.

W. Capozella: I will wait.

T. Hamilton: Wait.

G. Lake: Is there anyone from the Public who wishes to comment on this application?

MOTION to close this PUBLIC HEARING at 7:51 P.M. was made by G. Luenzmann and seconded by W. Capozella.

A. Dulgarian: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

G. Lake: Do you have Dick's comments?

T. Ptak: Yes I have.

G. Lake: Why don't you go through them for the Board and tell us what you've corrected.

T. Ptak: Item #1. The applicants engineer must certify on the site plan that the site distance for all lots is acceptable in accordance with AASHTO standards at prevailing speeds. The only question I want to ask Dick is AASHTO has recommended these distances. They are guidelines. They are not standard but desirable site distances. What I understand you want will be the desired site distance at the prevailing speed, what is provided and also the stop and site distances also.

D. McGoey: Yes.

T. Ptak: Item #2. The note for the driveways on Lots #5 and #6 indicates that the driveways shall be five feet minimum from the property line. However, the ordinance requires ten feet. For any flag lot it would be impossible to put the driveway ten feet from the property line. If you have a twenty five foot width and a twelve or fifteen foot driveway, that's impossible to meet. I spoke with the Highway Superintendent on that issue and he suggested that we show five feet in between the driveways, which I show. Item #3. Iron pins and concrete right-of-way monuments must be noted at each specific location as required for all subdivisions. No problem. We will show that. Item #4. Comments from the Highway Department must be received and addressed. I spoke with him as late as yesterday and he didn't have any comments at this time other than what we had done in the past. His comments were that we show cross pipes for the drainage on the two long driveways for the flag lots and to also show the typical grading and abide by that for the Town road, which we've done. Item #5. The typical driveway profile on Sheet 2 should show the right-of-way line and note that the driveway will be paved from the edge of road to the right-of-way line. In addition, the distance for the -2% slope must be specified and approved by the Highway Department. We will add that it will be paved to the right-of-way line. The distance for the minus two percent, in accordance with the Highway Superintendent it is twelve feet past the right-of-way line.

G. Lake: Okay.

A. Dulgarian: Is the triangular property within the boundaries of the road? Is that a part of this property?

T. Ptak: The triangular portion is part of the property and it's all wetlands. It's all State wetlands.

A. Dulgarian: Who is that deeded to then?

T. Ptak: Lot #3. It's true wetlands.

A. Dulgarian: So, you won't be disturbing it?

T. Ptak: Right. You can't build on it. You can't fill it.

A. Dulgarian: I honestly did get a chance to see the site. I know the topography is steep in some areas. Wetlands on site obviously. Any streams or anything like that which may be affected by the location of the sanitary sewer or runoff reasons that we may be affected by the stream?

T. Ptak: No. There is, I will call it a brook. It's not really a stream that is within the wetland boundaries.

A. Dulgarian: Where is that on this site?

T. Ptak: It's in lot #3 as you go around the bend

A. Dulgarian: So, it's at least five hundred feet away.

T. Ptak: Yes. It's within the wetland buffer and it's within the wetland proper. We meet the setbacks for the guidelines of New York State Department of Environmental Conservation.

A. Dulgarian: Now on each deed, are there going to be wetlands limitations so the owner's are aware?

T. Hamilton: That they can't disturb or do anything with.

A. Dulgarian: When John Smith buys lot #3 he knows that he can't go into the wetlands and do any kind of development, that's going to be flagged somewhat or it's delineated.

T. Ptak: It's flagged. It's delineated and if you would like us to add further there is a note that says they can't develop it.

A. Dulgarian: I think that should be on each deed because ignorance is not bliss. Once a property owner owns the property he will feel he can do what he wants.

T. Ptak: I don't think I will have a problem with that.

D. Brodsky: The important thing is to make sure it's on the map so that every subsequent property owner is on notice. We can certainly put on the map that an obligation of each owner to put it into the deed but if one of the owner's doesn't do it, the subsequent owner is still on notice because it's on the map.

A. Dulgarian: What he said. I like that.

T. Ptak: We will put a note on the, do you want it in the deed and on the map?

D. Brodsky: Put it on the map that there will be no encroachments within the wetlands and that each owner and subsequent owner will be required to include a provision in the deed and we will work on some language so it doesn't become vague from one deed to the next. We will have specific language that will be put in.

T. Ptak: Alright. So we can get that from you.

D. Brodsky: We will compile the language for you.

A. Dulgarian: Other than that, I don't have any problem with the flag lots because they're big lots.

R. Carr: I really have no problems with it. The lots are large.

G. Luenzmann: I would like an explanation on this five feet to ten feet. It looks like you have all kinds of room to put in the proper sized driveways with the proper spacing.

T. Ptak: For a flag lot, the Town really requires twenty five feet and if you have a twenty five foot width and you put a twelve or a fifteen foot wide driveway in there, there's no way that you can get ten feet from each property line.

G. Luenzmann: Why don't you change the lot lines. Change the property lines.

T. Ptak: So, what you would want on this and future flag lots is to be ten, fifteen, and ten so you're talking about a thirty five foot width. It has been the policy basically on flag lots to be a twenty five foot width. Again, I spoke with the Highway Superintendent and he said to put the five feet in between each of them.

G. Luenzmann: I understand you rationale to a point. This is a subdivision and you're defining the lot lines. Design it so that we have the sufficient spacing.

G. Lake: In his defense though, this isn't something new. We've done a hundred flag lots at twenty five foot. It is nothing new seeing it this way. It may be something we need to address in the future but we shouldn't punish this applicant at this point.

G. Luenzmann: It's just that he has the room to do it. A lot of times you get a property where you're constrained by the geography of the land and here we do seem to have the room to do it so why not do it.

G. Lake: What I'm saying you're one hundred percent right but by the same token, we done a hundred or more where we haven't picked that up.

W. Capozella: My only comment is with the ten foot minimum requirements. In all fairness, if it's

been done in the past.

T. Hamilton: I was thinking the same thing but as you said we've been doing it right along.

G. Lake: I think it's going to be a nice project out there.

MOTION for a NEGATIVE DECLARATION subject to D. McGoey's comments made by A. Dulgarian and seconded by T. Hamilton.

A. Dulgarian: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

MOTION for PRELIMINARY SUBDIVISION made

T. Hamilton: One thing, what about the Highway comments.

D. McGoey: We will have to get them between now and final.

T. Ptak: When I spoke to him basically Mr. Lippert said this was basically run of the mill and he wasn't except for the comments he gave me that I addressed. If I could ask the Board if we could have approval subject to Dick's comments. I don't know why we would have to come back for these comments and also Eustance & Horowitz review.

G. Lake: It has to go to the Health Department, doesn't it?

D. McGoey: No. It's Eustance & Horowitz.

T. Ptak: The lots are all over five acres except for lot #1.

G. Lake: In all due respect, we just don't do that. It's Preliminary. Go to Eustance & Horowitz and when you get there we will get you back on. I just don't think it's good for us to start that practice.

MOTION for PRELIMINARY APPROVAL subject to D. McGoey's comments made by A. Dulgarian and seconded by R. Carr.

A. Dulgarian: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

3. PUBLIC HEARING 7:40 P.M. - McGOVERN - 4 LOT SUBDIVISION - Brimstone Hill Road & Lybolt Roads (12-1-29.2) #004-004

G. Lake: Public Hearing started at 8:03 P.M. M. Hunt read the Public Hearing notice.

M. Hunt: NOTICE IS HEREBY GIVEN that a PUBLIC HEARING of the Planning Board of the Town of Wallkill, Orange County, New York, will be held at the Town Hall at 600 Route 211 East, in said Town, on the 5th day of May, 2004, at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Jason McGovern c/o Bosco Realty, 100 Main Street, P.O. Box 871, Warwick, New York 10990 for approval of a four lot residential subdivision on Lybolt Road and Brimstone Hill Road under Section 249-19 of the Zoning Law of the Town of Wallkill. All parties of interest will be heard at said time and place. S/Gary Lake, Chairman

G. Lake: Bring us up to date on this project.

K. Pinkham: I have some comments from Mr. McGoey.

G. Lake: Why don't you explain the project to the Public here.

K. Pinkham: It is a four lot subdivision on Lybolt Road with individual septic and wells. The project

area shows the tree line pretty much encompassing the entire property. We've recently done a tree survey and it doesn't on this plan but I have a plan on the Board that brings it up to date.

G. Lake: Let me go through the Board.

A. Dulgarian: Nothing.

R. Carr: I will wait.

G. Luenzmann: Nothing now.

W. Capozella: No.

T. Hamilton: I will wait.

G. Lake: Is there anyone from the Public who wishes to comment on this application?

MOTION to close this PUBLIC HEARING at 8:08 P.M. made by R. Carr and seconded by A. Dulgarian.

A. Dulgarian: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

G. Lake: We have quite a few comments from our Engineer. Have you fixed all these?

K. Pinkham: We can just . . .

G. Lake: Why don't you go through them quickly?

K. Pinkham: Certainly. Item #1. Our February 11th technical review requested that the lot width dimensions be provided for each lot at the building setback line. We've adjusted those. I gave a

copy to Mr. McGoey reflecting those changes. It's approximately a shift of five feet between lots #2 and #3. Item #2. Comments from the Highway Department should be received and addressed. We have a few calls in with Mr. Lippert. We haven't gotten a return call yet. Item #3. The applicants engineer has not satisfactorily responded to our request that the site distance for lot #3 be noted as being acceptable in accordance with AASHTO standards on the site plan. We've added a note on the plan, note #13 and Mr. McGoey has that. Item #4. We should discuss with the Planning Board Attorney whether the area to be graded and maintained free of vegetation for site distance improvement should be a deed requirement of the lot owners, or otherwise, how this site distance will be maintained as being acceptable. We've included a note #14. A maintenance responsibility will fall upon lot #13 for vegetation and maintenance. Item #5. It appears that an easement may be required for the overhead electrical lines crossing lot #1 serving the adjoining dwelling unit in the ownership of Moorehouse. We've addressed that and it will be an easement. Item #6. We previously requested that trees in excess of six inches in diameter be shown to be preserved where possible. I have a plan. We've been out for that last few days doing tree surveys. We have them located. We don't have them labeled with the diameter because I just got the data in today. I will definitely provide that to you. Item #7. Concrete right-of-way monuments and iron pins are to be noted at appropriate locations. This is not to be provided in legend form but to be shown at each location. We can put them on the plan. Item #8. The horizontal and vertical survey datum is to be certified as being tied to the Town's datum. We tied into Wallkill Town monuments and is within the Town of Wallkill. That will be certified. Item #9. You understand that the typical right-of-way grading detail requires clearing and grading back to the right-of-way line. This has not been noted in the detail but will be.

G. Lake: It's not on there?

K. Pinkham: It's not on there yet. Item #10. The typical driveway profile should note that the driveway will be paved from the edge of road to the right-of-way line. That will be provided. Item #11. Lot #4 may be impacted by both New York State Department of Environmental Conservation and Army Corps. wetlands. However, the delineation has not been confirmed to date. In addition, the certified person responsible for showing the delineations on the plans should be noted. We can put that note on. It was ERS Consultants. We can have a signed statement from them. The wetlands delineations were done. They have the map and it just has to be signed off. Item #12. Eustance & Horowitz approval of septic systems will be required after receipt of Preliminary Approval.

G. Lake: There is actually quite a bit that you still have to put on these plans. Let me go through the Board I surely wouldn't recommend any action tonight.

A. Dulgarian: The same thing I asked the last applicant. Existing conditions on the site. I know there are wetlands. Are there any other streams through the property that may be affected by this development?

K. Pinkham: We did have the wetland specialist flag the wetlands out here. Generally if there was a stream or any activity he will pick that up in his wetland delineations.

A. Dulgarian: My concern is how close it is to lawns, houses, septic and if it's affected by any sort of runoff or anything that would impact that stream. And, if so, what's going to be done about it?

K. Pinkham: We could provide diversion drains to limit any impact on the wetlands that are existing.

A. Dulgarian: When you come back, I would like to see that please.

K. Pinkham: Sure.

A. Dulgarian: And, you have addressed all old growth?

K. Pinkham: I believe it was six inches and above, yes.

A. Dulgarian: Could we also have that information?

K. Pinkham: Yes.

A. Dulgarian: Lot #1, that septic is not in the wetlands, it's right on the edge?

K. Pinkham: That is right on the edge of the wetland buffer. That's a one hundred foot Department of Environmental Conservation buffer.

A. Dulgarian: Right. It's right on the edge of the buffer.

K. Pinkham: It could be shifted off.

A. Dulgarian: I'm just curious. I will have to ask our Engineer.

D. McGoey: It's okay.

A. Dulgarian: Other than that, I have no problem with the sized lots.

R. Carr: I echo Mr. Dulgarian's concern on the wetlands and the tree survey to keep the trees as much of the trees as possible.

K. Pinkham: I believe this was logged about two years ago so, we did pick up some trees that will remain. I didn't note the size of the trees. We will provide a plan to you providing the sizes.

G. Luenzmann: Note #3 about the site distance, you were going to add a note #13, is that what you said?

K. Pinkham: There's a note #13 added on to a plan I gave to Mr. McGoey.

G. Luenzmann: What does it say?

D. McGoey: It says that upon completion and clearing and re-grading along Lybolt Road in the vicinity of lots #1 and #2, the improved driveway site distance for lot #3 will exceed the minimum required in the standards at fifty miles per hour.

G. Luenzmann: Does that meet your requirements?

D. McGoey: Yes.

G. Luenzmann: We didn't have that note on our plans.

K. Pinkham: I have it here.

G. Luenzmann: It looks to me like it's a good development. We've just got to get these technical things straightened out

W. Capozella: He has obviously addressed my concerns.

T. Hamilton: I think we have to hear from the Highway Department to see what he's looking to have done on Lybolt Road.

G. Lake: Your Public Hearing is closed. In lieu of all the things that are not on the plans, I think it's a little much even to consider a subject to so, I'm going to recommend that we table this for further action but before I do that I'm going to ask you are you willing to waive the six five day time frame?

K. Pinkham: I would have to discuss that with the client.

G. Lake: I have to be honest with you. If I had seen there were these many things not done, you wouldn't been on tonight. You would have been postponed. I guess we have a choice. I'm not going to take a chance and have the sixty five day time frame run out and we can't get you back in.

K. Pinkham: Okay.

G. Lake: Or, I can call a vote and you already know what my vote is going to be.

K. Pinkham: Okay, then we'll waive the time frame.

MOTION to TABLE for further review made by G. Luenzmann and seconded by T. Hamilton.

A. Dulgarian: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

G. Lake: Get back with Mr. McGoey and we will get you back as soon as possible. You have agreed to waive the sixty five day time frame. You know we are busy and you do agree?

K. Pinkham: Yes.

D. Brodsky: I have one comment on note #14. I was curious as to why one of the lots is maintaining an easement on the other two and why they're not maintaining it their own properties because it's our intention to add to the note a provision that the Town can enforce the easement because obviously it's for the benefit of the Public. We don't really want a situation where the owners falls on the owner of lot #3 and he complains that the owner of lot #2 won't let him on the property. Why aren't they maintaining their own portions?

K. Pinkham: I think it's for the benefit of lot #3.

G. Lake: Let's get it straightened out and you will have a little time to do that.

4. PUBLIC HEARING 7:45 P.M. - **WOLFE TOWING** - SITE PLAN/SPECIAL USE PERMIT - Bloomingburg Road (3-1-33.1) #115-002

**Cancelled. Notice not published within sufficient time period.
Public Hearing rescheduled for July 7, 2004.**

5. **GOLF RIDGE ESTATES** - 15 LOT SUBDIVISION - (FINAL APPROVAL) - Sands Road (14-2-13) #058-002

J. Nosek: I am with Roger Ferris Engineering & Surveying. I did get Mr. McGoey's comments. First, is a copy of the Health Department approval letter for the Planning Board.

G. Lake: Okay. Thank you.

J. Nosek: So, we're all set there. Item #2. The Planning Board Attorney to review the note on Sheet 4 in regard to a sight distance easement for acceptability. Basically what that easement is for is to assure that either property owner whether it's #11 or #12 has the right to go on to each others lot and clear the area where it's shown to maintain the minimum site distances required. So, for example, if lot #12 were to start construction before lot #11 did, they would have to clear their portion of where it's hatched but they would also have to clear the portion over lot #11 to get the full site distance that's required. What ever language is appropriate I have no objections.

G. Lake: Okay. Why don't you work that out with our Attorney for the language.

J. Nosek: No problem. Item #3. The driveways must be ten feet from the property line. The driveway for lot #11 appears to be too close. Other driveways should be checked and dimensions shown. We have no objection to moving them over to make them ten feet.

G. Lake: Let's do that.

J. Nosek: Item #4. We are requesting that all trees in areas that are to remain undisturbed be preserved. This should be noted on each lot. No problem. We will put that note on the plans. Item #5. All issues with respect to the Highway Department should be addressed. We did meet with Mr. Lippert. He did ask that we show the grading details that's on the plans. The proposed swale to be constructed seventeen feet off the centerline of the road which is detailed on the plans. He also indicated that a few of the utility poles are going to need to be relocated. I discussed this with our clients and they've agreed that they will remove what ever poles are required to be moved in the frontage area obviously of our site. We added note #17 the relocation of any utility poles to accommodate the drainage swale within the Town right-of-way shall be the responsibility of the developer.

G. Lake: Are you satisfied with that?

D. McGoey: Yes. As a matter of fact, I talked to the Highway Superintendent. We will work with the Attorney for the language for that easement.

D. Brodsky: My feeling is that even though one lot may be benefitting (not clear).

G. Lake: Okay. Let me go through the Board.

A. Dulgarian: Dick, on lot #5 with the elevations there, is anything needed there?

D. McGoey: I don't think so.

A. Dulgarian: This lot, that's pre-existing, non-conforming and nothing to do with you?

J. Nosek: No. The garage is actually not even on our property. It was also requested on lot #4. You will notice we provided a fairly wide right-of-way so that later on if the Town decided they wanted to smooth it out they have the right-of-way. That was also a request and we have no objections.

A. Dulgarian: And that continues back into lot #5?

J. Nosek: Yes.

A. Dulgarian: I have no issues.

R. Carr: None.

G. Luenzmann: Nice property. No problems.

W. Capozella: No.

T. Hamilton: No.

MOTION for FINAL APPROVAL of 15 LOT SUBDIVISION subject to D. McGoey's comments made by G. Luenzmann and seconded by A. Dulgarian.

A. Dulgarian: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

6. **CRYSTAL RUN PARK** - BUILDING 6 - SITE PLAN/SPECIAL USE PERMIT - Crystal Run Road (60-1-52.22) #002-004

W. Abt: I'm the Architect for Herbert Albert Company. They're the owners of the site at the corner of Crystal Run Road and Ballard Road. This is Peter Albert, representing the owners and Jeff Chumard is here from Clark Patterson, the Engineers for the site. We also have our traffic consultants here tonight.

G. Lake: Why don't you tell the Board, I know you've been through a work session with Mr. McGoey. Why don't you tell the Board exactly what the building is going to be and some of the issues. I know we have a bunch of comments. I realize we're going to be setting a Public Hearing but let's maybe show everybody the picture.

W. Abt: This is a four-story office building, one hundred thirty thousand square feet, a brick masonry building similar to the buildings that are at Crystal Run Corporate Park now. The site is located at the intersection of Crystal Run Road and Ballard Road. This is the proposed building with the parking and landscaping around it. As I said, it is a four-story office building. It would be similar to the office building adjacent to it which is the Blue Cross/Blue Shield building. It would be a normal office building for large office tenants. It is not a specialized building. This plan is showing the adjacent site on Crystal Run Road. This is the proposed building at Ballard Road and Crystal Run Road. The site would be inner-connected with building #85, the Blue Cross/Blue Shield building, which is adjacent to this site but will be inner-connected so that both buildings can utilize the access from each building. The traffic impact of the project has been studied and it was submitted with the traffic study. We're trying to mitigate the traffic for this project by combining the site access with the adjacent building and making some off-site improvements by providing right hand turn lanes for the Blue Cross/Blue Shield building and the Crystal Run Road building. We also would be changing the driveway across from the Holiday Inn on Crystal Run Road to a right hand turn only driveway to help with the traffic issues on Crystal Run Road. This would be the main entrance on Ballard Road where we're proposing to have a traffic light. All of the traffic would be entering from Ballard Road and will also be connected through Crystal Run Road.

G. Lake: Did I hear you say you were going to put a traffic light at what point, right at the driveway entrance?

W. Abt: At the driveway entrance where you cross . . .

G. Lake: From the medical building across the street.

W. Abt: That's correct.

G. Lake: Okay.

W. Abt: There are five hundred seventy two parking spaces which is more than the required amount. It is valid to the number that the tenants have been requiring for this type of building. The landscaping, I want to discuss. The building is setback similar to the other buildings at Crystal Run Corporate Park. On these buildings, the parking varies in setback from Crystal Run Road. One of the comments was that you wanted to maintain the space from Crystal Run Road. What we have done is, we need to put some of the parking in the front of the building but the parking would be terraced up the hill and there is extensive landscaping of the parking in the area adjacent to the parking. The planting in this area would be for larger trees and smaller trees within the project.

G. Lake: Just so I understand. You're going to terrace. We have worked with another applicant kind of hard to maintain that very nice setback that we have out there. So, that will all be terraced?

W. Abt: The problem with this building is that it is at a higher elevation.

G. Lake: Right. I'm talking about your parking lot right now being so close. You're going to terrace that parking lot so you don't see it, is that what you're saying?

W. Abt: Yes.

G. Lake: Between now and the Public Hearing can we get a visual of that, or a rendering of what so we will actually know what we're looking at? I just think it will be helpful.

W. Abt: We have comments from Mr. McGoey. His comments have been pretty much addressed. The main comments that we're working with is the traffic and landscape. There was also a comment about sidewalks. We have a lot of people using the site, walking around the site. They rarely walk in the street. What we have provided is a walking area within the site. We would rather not put sidewalks out in the street. We also have comments from the Fire Department.

G. Lake: I was going to ask you that. Have you talked to them?

W. Abt: I haven't talked to them but I don't think it's a problem.

G. Lake: Do you have the comments from the Sewer & Water Superintendent?

W. Abt: I didn't receive those.

G. Lake: I will give it to you so you will have it. I know you have a lot of comments here. You're going to have time to clean them up. Let me go through the Board.

A. Dulgarian: I have a couple of questions. The buildings that the Albert Family have there are very nice either through their own doing or the architects. It's blended in pretty nice. This corner here, gets a lot of traffic. I think it's going to be a big deal to have that turn out right. I would like to see and what Mr. Lake was talking about, the view from the road but whatever landscaping you did, add to it. I would have to be convinced that a right hand turn is needed for that exit and that an exit belongs there. If you can convince me of that, I would think we would have to go over to that medical building and fix his exit because he has a right in and right out only, if I'm not mistaken there. If we go with a traffic light, then he can have ingress and egress both ways. It would benefit him but I don't know that this warrants an exit/entrance there, or right. I would have to be convinced of that.

D. McGoey: We tried to coordinate the entrances with this project and with the building across the road. We knew that Building 6 has been on board for a long time.

A. Dulgarian: So in other words . . .

D. McGoey: We wanted a light there.

A. Dulgarian: Then we need to go back to the other property owner. The property is twelve acres. Upon completion, how much of that is going to be blacktopped or otherwise? I would like to know that figure when you come back.

D. McGoey: Just to add to that, there is a requirement in the ordinance for a percentage of landscaped area on the site.

A. Dulgarian: Gary, we touched on this with the other property where they wanted to have stuff out front?

G. Lake: Right.

A. Dulgarian: We don't have that map that shows the whole site, do we?

W. Abt: The site that we're proposing?

A. Dulgarian: But where the adjacent, do we have that map?

T. Hamilton: And then the next building was the Horton Pavilion, that's the one that's looking to change the parking.

A. Dulgarian: I would like to see a drawing of all three to see the setbacks. So, in other words this

project is proposing parking out much further than the other two and you're saying it is justified by the landscaping.

W. Abt: No, it's not like the other two. This project has parking coming out fronting the street here. You don't see because the building.

A. Dulgarian: And the Pavilion?

W. Abt: Their parking starts back here.

A. Dulgarian: So, is that setback further than what you're proposing?

W. Abt: This is setback further.

G. Lake: I think they need a little bit up front to make the numbers work and what I'm saying this might be a good thing to see.

W. Abt: Another factor in the design of this building is the steepness of the site was one of the reasons why the parking is here. It is relatively steep and quite steep here also. The parking was done according to the elevations.

A. Dulgarian: Can you briefly touch upon the stormwater plan?

J. Chumard: The stormwater is sufficiently in front of either side of the property as well as

A. Dulgarian: No on-site?

J. Chumard: Pardon?

A. Dulgarian: On either side of the property, is that on your site?

J. Chumard: Yes.

A. Dulgarian: Okay.

J. Chumard: It generates underground stormwater which enters the underground infiltrators will discharge into the detention pond eventually. The discharge would be off-site from 95, down to 85 to the rear.

A. Dulgarian: Where does that end up?

W. Abt: These buildings all have a storm detention pond outlets towards Route 84.

A. Dulgarian: You're saying that the stormwater runs directly into the Wallkill River?

W. Abt: There is a drainage system in Crystal Run Park.

A. Dulgarian: That water is not put through a retention/detention prior to that?

W. Abt: It's brought to the detention here.

A. Dulgarian: And then it comes off, it just doesn't . . .

W. Abt: Then there is a stream that runs out to this other property to transfer from here to the Wallkill River.

A. Dulgarian: When the stormwater runoff is occurring on this site, does it go to the detention first and then into the storm drain?

W. Abt: It would go to the detention first.

A. Dulgarian: Oh, it would go to the detention first and then controls the amount that runs off. These detention/retention ponds you're going to have on-site, are they going to be incorporated in the drawings.

W. Abt: In fact, there are detention ponds here and here.

A. Dulgarian: It just seems to me with that much blacktop and buildings that but the numbers will have to work out. That's all I have at this time. I just would like to see more on the landscape plans.

R. Carr: Just to follow up a bit to what Mr. Dulgarian was saying about the stormwater. Have you looked at storm management on the site where, and I'm not sure what the grids are, where water is kept on site rather than dumping it in.

J. Chumard: I don't think we can do that. It is suitable for going under the parking lot because it would infiltrate.

A. Dulgarian: So, you're not only changing the speed, you're changing the volume which is what we're after.

R. Carr: The other thing, how far is the driveway from the corner at Ballard at the other light? How far would it be from that light to the next light?

W. Abt: About four hundred and fifty feet.

R. Carr: That whole Crystal Run area, we need to see the traffic study because that whole area is getting tied up.

W. Abt: (Not clear).

R. Carr: And all of that traffic, the only connection is in the back, is that correct?

W. Abt: That's right.

R. Carr: Other than those, and all the buildings do look great out there and that's one of things that we try to do is to maintain an area such as that.

G. Luenzmann: I have a problem with two lights so close together in that area.

W. Abt: The traffic study addresses that. The bulk of the traffic coming to this building would be making a left hand turn and without a light it would be impossible.

G. Luenzmann: But going through you would be on top of another light.

W. Abt: The study addresses that.

G. Luenzmann: Does some kind of synchronization fall into that?

W. Abt: It shows it in the traffic study.

G. Luenzmann: It looks like your parking lot has no through road for that type of traffic.

W. Abt: The topography here is such that this is what we had to do.

G. Luenzmann: I understand.

W. Abt: For this size of a project it works well. This is another major thoroughfare.

G. Luenzmann: It becomes one to a certain extent. I also echo the landscaping. One of the things that we have an opportunity to do is to make sure we have sufficient landscaping.

W. Capozella: Yes. I just had a concern with the road there and the traffic coming out of there and backing up. I believe we do need the light to justify it.

G. Lake: Let me go to Mr. Hamilton and then maybe the traffic man can give us a little better spin about what happened there?

T. Hamilton: How does the study take into consideration the Exit 122 which now is going to change

to a new exit ramp rather than across the front by the State Police Barracks? The whole pattern is going to change. Is this still going to work? Have you taken into consideration what's going to happen with that change?

W. Abt: (Not clear).

J. Sauna: I am the traffic engineer for the project. The report is done in two parts. The first part assumes the road system essentially the way it is today. The second part assumes the new interchange. A full analysis has been done with the existing road condition and with an assumed new road configuration taking into account the new interchange.

T. Hamilton: What will change? Does that say the new light you're going to put in, will there have to be any changes to that?

J. Sauna: Not to the new light The traffic would be the same at that location.

T. Hamilton: What about the traffic coming off of Route 17?

J. Sauna: One of the big differences is if you have that new road in back of 90 coming up there is that the traffic going by the road would be coming through on a through movement rather than a left turn. It actually works a little bit better.

T. Hamilton: It was just quoted maybe five minutes ago that the traffic coming from the Galleria moves much better because they're making a right hand turn to make on that light to go over on Crystal Run, back that way. That won't happen when the new interchange is there. They're not going to be going that way. Now, they're all going to be stopped at the light because they have to go straight.

J. Sauna: There would be some improvements to the intersection. Remember you will have much less traffic on Crystal Run Road so we can give more green time to Ballard Road. It's all in the report. It's documented.

T. Hamilton: Mr. McGoey, do we have somebody that can check on this traffic so we don't here "A", "B", "F" and different figures to help us understand?

D. McGoey: Yes.

G. Lake: Anything else Mr. Hamilton?

T. Hamilton: No.

G. Lake: Obviously, you're going to have to go back to another work session and you've got Mr.

McGoey's comments which I assume are going to be handled.

W. Abt: Right.

G. Lake: At this point, this is a Type 1 Action?

D. McGoey: That's correct.

G. Lake: So we have to send out Intent to become Lead Agency, correct?

D. Brodsky: Yes.

G. Lake: I would make a motion to send this out to the affected . . .

A. Dulgarian: Can I make a comment especially since he's coming to a work session. I think Mr. Luenzmann had an excellent comment that perhaps there should be a driveway made to both projects and then the parking lots off of those driveways because if you're weaving in and out of the parking lot and people backing in and out, I think there should be a driveway for both projects and it would probably cut down on accidents.

MOTION for intent to become LEAD AGENCY made by T. Hamilton and seconded by G. Luenzmann.

A. Dulgarian: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

D. McGoey: The Planning Board generally asks you to do the mailing, certified with a return receipt. Just send me a list of the affected agencies. I will look at it and we can talk about being in total agreement.

7. **MEADOWS OF WALLKILL** - 6 LOT SUBDIVISION - (FINAL APPROVAL) -

Goshen Turnpike & Brown Road (7-1-75.2) #077-002

G. Lake: It's been a while since we've seen you. Why don't you bring the Board back up and where you're at and what's been done. And, obviously the big question is the well.

S. Strow: Since the last time we were here we undertook a pretty expensive testing of the well in question. (Not clear) was retained to do testing of the methane and the report was submitted to the Board. As a result of that report, we in working with them we developed a testing and mitigation procedure. The procedure is outlined on the plan. Very briefly, the procedure would be each well would be tested for methane in addition to the typical testing that's done for bacteriological conditions. Upon testing of the well, if the methane is present, the first step will be to install vented well caps, something called a gas shroud which is installed inside the well. The detail of it is on the plans. After those things are installed, the well will be tested again and if the methane is still detected at the specified limits an aeration system will be installed as part of the water supply system.

G. Lake: How many wells were there involved that had methane in them?

S. Strow: There's only one well that was involved. We were required to test one well as part of the approval with Eustance & Horowitz.

R. Carr: Did you do more wells to do this study?

S. Strow: One the existing well was tested as part of that study. The procedures that's outlined is for when the additional wells are constructed.

G. Lake: Dick, did you have a chance?

D. McGoey: LBG is a repeatable ground water and geological firm and I have no reason to question them. I know there's been a concern raised that it may be coming from the landfill. We don't know that. That LBG plan is that if a typical ground water situation can happen naturally with the ground water. They feel that's what is occurring. I have no reason to disbelieve that. The remedies and the details on the plan that they recommend seem to be over and above what I had expected. We can't ask them to drill all the wells.

G. Lake: And then it becomes the home owners responsibility to maintain this system?

D. McGoey: Yes.

R. Carr: In reading the report, there is no way to control it. Is there any liability if we should approve something like this?

G. Lake: What happened because this was before your time, they drilled a well and it caught on fire. Since that time, they've hired specialists to go out and give us a report and now Mr. Carr has a very good question.

R. Carr: My question is we have a report that says that maybe it was isolated in occurring but at the same time it does not have an opinion that only testing that one well that they would know. If we approve this subdivision?

D. McGoey: And the proximity is near the old Town dump.

R. Carr: It's probably a liability right there.

D. Brodsky: If you've done your due diligence as Lead Agency . . .

R. Carr: There is no way to assure us.

D. Brodsky: What about a test boring to see if that is a prevalent problem?

A. Dulgarian: Well, when you drill one well and it had a problem like this, I think you should drill a couple more to verify.

D. Brodsky: Do you have any idea how far down that methane was?

R. Carr: That was with the subsequent testing, correct?

D. Strow: Right.

D. Brodsky: I don't know what the major methane that may be holding in pockets that may have . . .

R. Carr: It still remains in this well at a rather high level, right. A level that you would require substantial . . .

S. Strow: This well currently does not have the pump and shroud installed so it's only been tested in it's initial construction as far as the procedure I spoke of earlier. It was test. It goes back to August and September when the testing was actually done so as of this date, I can assume that it does. It's now vented but it has not been tested subsequent to that. That's why the procedure was developed. If I could answer a couple of the questions that were raised. To the Board I think it's impossible to absolutely one hundred percent but the team we had are specialists and the report he makes a rather firm statement that they believe it's natural in occurrence but they're also stated it's common in many parts of the Appalachian and into New York. It's not common but it's happened before. I'm aware of another one in Goshen where there was methane found in a well. All indications are that it's natural. Take it a step further and I think the report might address this. I'm not positive but in

my conversations with them that there are other components that they're looking at in terms of is it possibly from the landfill.

R. Carr: Excuse me for interrupting. That's what I was looking for in here because they do make that statement that they don't believe or they do believe it's natural in occurrence. I just don't see the rationale for it. I just never saw what indication that they had to say that it is naturally occurring. The well was on fire for an hour.

W. Capozella: They talked about the topography and I think that's where the ruling came from as a natural phenomenon. I questioned that myself.

G. Lake: You're trying to use this well for the house?

S. Strow: Correct.

G. Lake: And you think the water will test out okay?

S. Strow: It has tested out okay. It was submitted to. The typical tests that are always required were submitted to Eustance & Horowitz and there's a letter from them to that affect that it has tested okay. The report from the specialists very clearly states that it's not a health issue or a toxic issue. It's a health issue of it being explosive but it's not a health issue in terms of the quality of the water ingesting it.

R. Carr: So, methane is gas, then?

S. Strow: Yes.

R. Carr: Is it in the water in the well?

S. Strow: I'm not a chemistry major but it depends on the temperature of the water. It's part of the water at the lower temperatures and when the temperature reaches a certain level it's where it becomes gas. It's contained in the water at low temperatures and it's stated in the report.

G. Luenzmann: I just have a couple of questions. Is it usual for people to say if there is gas in your well, you shouldn't use it?

S. Strow: The conclusion is that it's probably a much wider spread issue than just another fifty feet and drilling another well.

G. Luenzmann: So, you may get it in another well, then?

S. Strow: In fact, the report states that it's quite likely that some of the neighbors have the same

problem and that it recommends they should be tested. It's an all wide ranging situation so it's not likely that you just drill and got lucky or unlucky.

G. Luenzmann: So, it's important then to take an area that has this problem and just handle it if it occurs with certain type of venting, etc.

S. Strow: Yes and that's what the procedure that we came up with. We went back and forth with the consultants to develop . . .

G. Luenzmann: And you talked about mitigating the problem, is that right Dick?

D. McGoey: Yes.

G. Luenzmann: To handle the problem and vent it properly?

D. McGoey: Yes. They have provided appropriate details on the plan.

W. Capozella: I have questions about the methane. It hasn't really been tested. Is it going to work one hundred percent?

S. Strow: I'm not following you.

W. Capozella: You mentioned a shroud or something. Was that installed?

S. Strow: On this well it's not installed yet.

W. Capozella: So we don't know.

S. Strow: This existing well is to go through the same procedure from the start. Right now it has the vented cap and it will be tested again and follow the procedure. You can't know until you drill the wells whether you have this or not.

A. Lipman: I think what you may be missing is the design to take care of the methane and making it safer after the shroud is installed. It should resolve any problem if it's still present.

T. Hamilton: Yes, that's what I read.

G. Lake: What are the chances when you drill another well of getting it again?

S. Strow: There were a lot of conversations back and forth with the specialists and they prepared the report. All of the information that we exchanged didn't get put in the report. One thing that they told me was that it's more likely that the wells on the northerly side which would be the northerly

part of the wetlands are more likely to have this and is less likely on the other side and they based that on geology and if they were specifically recommended experts in this area, nobody's questioning that. They were actually recommended by the Board. They've done other studies in the area and they're very familiar with the geology of the area and that's where their conclusion in this report comes from. According to them, they think it's likely that we will hit it on the same side as the wetlands that this well is on.

G. Lake: How deep is this present well?

S. Strow: Three hundred and five feet. They reference in the report a fracture at sixty foot level where the concentration seems to be.

G. Lake: So, you can't put a casing to pass this? It's just tough to comprehend.

S. Strow: There were some discussions about things like a well house, it used to be called or something like that. It's not quite practical in our days. Essentially that's what the system does. It aerates it. Their recommendation is based on their experience with it and they didn't mention that they have experience right in this area in the Town of Wallkill. They mentioned quite a large significant project in Pennsylvania that was where they dealt with this.

G. Lake: Okay. Do you have anything else on the wells or do you want to touch on Dick's comments?

A. Dulgarian: What are we looking to accomplish?

G. Lake: It's in for Final Approval. They received Preliminary and their Public Hearing. Then this came along and they have now submitted this report which our Engineer feels is reliable. Let's go through Dick's comments. Start with item #3.

S. Strow: The French drain recommended in our comments of July 11, 2003 to be constructed at the end of the driveway for lot #3 has not been shown. We overlooked and we didn't have a copy of Mr. McGoey's previous comments. We will incorporate that French drain. It was spoken about at a previous meeting. Item #4. The applicants engineer must certify on the plans that the site distance shown is acceptable in accordance with AASHTO standards at prevailing speeds. This must be noted on the subdivision plan. I believe Mr. McGoey is asking for a note to be added but the site distances are shown on the plan. Am I correct, that you want something in the form of a note?

D. McGoey: Yes.

S. Strow: We will add a note to the plan to that effect. Item #5. Septic system approval by Eustance & Horowitz must be verified. There is a letter from Eustance & Horowitz dated February 12th whereby they acknowledge that they witnessed the septic testing. Item #6. Comments from the

Highway Superintendent must be addressed. I think that refers to a previous set of comments from the Highway Department and there was a memo from June 21, 2003 from Mr. Lippert that stated that he was satisfied with the plans at that time. That was the first set of final subdivision plans that the Board saw. I think that's been satisfied. Item #7. County 239 L & M approval should be verified. I think maybe Mr. Lipman should speak on that or if the Board has anything to say on that.

A. Lipman: I think the notice to the County would have come from your Board and if you didn't get any response from them it is deemed approved. I don't know of any response.

D. McGoey: I just want to make sure that it was sent.

A. Lippman: We've never seen a response.

G. Lake: Dick, I think that may have occurred before the change within the office.

D. McGoey: Okay, we will just have to check the files.

S. Strow: Item #8. As discussed in our comments of July 11, 2003, we understand that this subdivision falls within five hundred feet of lands in agricultural use or otherwise lands in an agricultural district. If so, appropriate notes must be shown and reviewed by the Planning Board attorney as being acceptable. I think that is in the same situation as the 239 L & M. It's requesting a note and we never received any negative comments. We will add the note and Mr. McGoey will provide us with another subdivision with the required note.

D. McGoey: The agricultural notification and the Public Hearing.

A. Lipman: We filed with the Board. It was sent.

D. Brodsky: Would it have gone out with the original Public Hearing?

A. Lipman: No. I think it went out after the Public Hearing notice.

G. Lake: Let's check our records. We need a copy for our records.

D. Brodsky: You should have in on file. The law says that it maybe become part of any other notice.

G. Lake: Are there anymore comments?

A. Dulgarian: No.

D. McGoey: Just one more comment. Who would be responsible for the testing and installation of the wells?

G. Lake: I asked for that and they said the home owner.

A. Lipman: It is the home owner who would be responsible. There is no other party for this. I think what Mr. McGoey is saying is who is responsible as to between the sub-divider, the builder, the home owner for testing the well and the extent of the corrections and I think that it has to be done and the testing and disclosures are done after the shroud is installed then, before a Certificate of Occupancy is issued, the aeration system will have to be installed. You can't put the aeration system in until you have a water system. It is installed as part of that system.

D. Brodsky: Still have a general note on the map indicating that methane is present at the site and there is a possibility that the rest of the wells will have the same problem, something along those lines.

G. Lake: Backup just a minute. First off, you want to take it out of the hands of the sub-divider.

A. Lipman: Well, only because . . .

G. Lake: And put it in the builder's hands?

A. Lipman: Only because the sub-divider isn't going to be doing this. It will be somebody in the construction business.

G. Lake: How do we handle that then?

D. Brodsky: They not going to know whether there's a methane problem so they actually go in the grid so, I think that actually makes sense.

G. Lake: My question is they walk out of here and someone buys a lot. How do we make sure that he realizes that problem make exist? There's nothing on the map right now.

D. Brodsky: You can have something on the map but the question is whether it's specific enough to put someone on notice that there is a potential problem.

T. Hamilton: In the deed description.

D. Brodsky: You could add that there is a potential for the same problem on the other lots.

G. Lake: That's what I mean because he just said it's possible it could be on the other lots.

D. Brodsky: So, then just add that it's possible that the other lots will have the same problem and therefore certain mitigation measures will have to be taken.

R. Carr: And does the owner have to comply with that?

D. McGoey: Well, he said as a condition for a Certificate of Occupancy.

G. Lake: You and I both know that doesn't happen all the time. I just don't want to see them end up down here saying that there are problems.

D. Brodsky: Part of the problem would be that the buyer purchases a lot, they may not find out about the note on the map until they are already in contract.

T. Hamilton: I'm saying it should be in a deed description.

D. Brodsky: The deed is later.

T. Hamilton: They're not going to close on it.

D. Brodsky: We have litigation measures that will allow it to be in compliance. The question is at what stage will that buyer or builder find out about the potential problem.

G. Lake: I would want to find out right away.

D. Brodsky: Then we can put it in the contract notification right up front.

A. Lipman: Mr. Chairman, we have no intention of marketing these lots. There's no doubt that whoever markets these will be aware of it, not from notes, not from deeds or anything else.

D. Brodsky: The problem is for the transfer to get to the buyers.

G. Lake: I have no doubt. I apologize by giving you the impression that I think you're going to pull a fast one, but I'm not.

A. Lipman: No.

G. Lake: I'm strictly trying to make sure that the Town is protected so somebody doesn't come down two weeks from now or a year from now and say I bought a lot and my well caught on fire. We're looking for a good chain of how this is going to be kept up.

A. Lipman: You mean, the home owner?

G. Lake: Anybody. I don't care if it's a builder. I don't care if it's the owner but there is no law saying that . . .

A. Lipman: I would have a problem of complying with what Mr. Brodsky suggested should be

changed on the note and I have no problem with including it.

G. Lake: I'm just trying to get it clear for me and this Board. I'm not questioning.

A. Lipman: Nothing that you said was unreasonable and we will comply with it.

G. Lake: Dave, how do we make sure that, no matter if they're sold one at a time or all at once, this problem is known, for sure?

D. Brodsky: I have no way to enforce that they are going to put it into a contract because nothing's going to happen unless a contract is signed. We may make it a condition of a covenant, a file in some fashion. The problem will be that someone will go to contract and not find out about the potential problem until after plus the map is generally not certain until close to closing. The problem is how do you enforce the disclosure up front.

A. Lipman: I can make a suggestion. We will agree to provide not in the searches, the notes on the map with the Town. We will do that and we will provide your Building Department the proof that we've done that before he issues the Building Permit.

D. Brodsky: I just don't know how the Town would sell these properly.

A. Lipman: I have said I will put that note on the plan. I will acknowledge in the contract that he's aware of it.

G. Lake: I'm sorry but I really need to know.

A. Lipman: I been only doing this for forty five years and this is the first time I've seen it.

G. Lake: I just want to make sure, that's all. It will be the builder's responsibility to take and install the system.

A. Lipman: If we're building on-site, in other words the builder owns this lot, yes it's the builder's responsibility. But if the builder comes in to build a house that's off-site in the sense that he doesn't own the lot, it's owned by the ultimate home owner. I don't know that you can put this on somebody who is not in the chain. To the extent that we can, we will but the home owner is going to be aware of it. He's signing the contract to buy it.

D. Brodsky: You can put it in a note that failure to provide notice to any owner or a subsequent owner in the contract to pursue them. It creates a big problem.

A. Lipman: It certainly does. It gets the title involved. We are going what you asked for to make sure that this buyer who ever he is, gets this notice.

G. Lake: Anymore questions from the Board?

A. Dulgarian: No.

R. Carr: No.

G. Luenzmann: No.

W. Capozella: No.

T. Hamilton: No.

A. Dulgarian: I think we're in a strange predicament here. I have no problem that they will get the disclosure right and all that but still they're dealing with a situation where there is methane on the site and part of me is very uncomfortable with that but I know enough to rely on our expert hired help. If Mr. McGoey whose opinion I respect greatly, tells me that the people who did this report are repeatable and that it makes sense then it's good enough for me. It's going to have to be because I don't know about the rest of it. And if our counsel is telling me that by us recognizing there was a problem and that there was an expert that reviewed it, and our expert reviewed that, then we have done our due diligence. For those two reasons I would be comfortable with giving them Final Approval even though it is difficult.

G. Lake: You hit it right on the head. I agree with you. I just wanted to make sure we were all on the same level.

R. Carr: I have to agree with what Mr. Dulgarian said.

G. Lake: Does anybody else have any further comments?

MOTION for FINAL APPROVAL subject to all comments and subject to our discussion on placing any new notes made by G. Luenzmann and seconded by A. Dulgarian.

A. Dulgarian: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

8. **SCENIC VIEW** - 7 LOT SUBDIVISION - Scotchtown Collabar Road (19-1-18.2) #047-003

J. Tirolli: It's seven lots, not seventeen lots. This is a seven lot subdivision located on Scotchtown Collabar Road. We have a proposed Town road off a Town road that's about nine hundred feet long. If you recall last summer we showed an overall development plan in the back half of the property potentially. Developing some additional lots connecting the existing road to be built on this property and potentially connecting to the other development. If this development does come through, it would be a potential for us to connect. This plan is for seven lots. One of those lots contains all the property in the rear and obviously it would be held in abeyance at the time being pending the outcome of the other development. We have been to the Department of Public Works with this and they have given us two letters and we've complied with all their requests. One of which is to remove the curbing at the entrance which they don't want in rural areas. The other was to lessen the distance of the stabilized construction entrance to one hundred feet, which we've done on the plan.

G. Lake: You said you removed it?

J. Tirolli: Yes. Typically the County wants curbing for the entrance, to define the entrance off the County road. Mr. Kennedy indicated in his letter that he would prefer that curbing to be removed. Their policy now is for the rural areas. It's only when you get in busy areas where the curbing is required. We had it on the plan initially and we have since removed it based on the County's request. We've also discussed the plan with your Highway Superintendent, Mr. Lippert, who has given me his comments and essentially he wants a twenty four foot pavement with the foundation course extended the full thirty six feet to the swales. He doesn't want the shoulders paved but he wants that item or extend it so that we have a drive-able width of thirty feet before the swales.

D. McGoey: It may be a problem with the Fire Department.

G. Lake: I will contact Mr. Lippert on that. We have been asking for thirty feet and that's something that we have worked out with the five fire companies in the Town.

J. Tirolli: I will let you work that out with him.

G. Lake: I will talk to Mr. Lippert about that.

J. Tirolli: He stated to me that in his findings and his schooling has told him that an area to be thirty feet.

G. Lake: I think we've gone to twenty four and then

D. McGoey: The three foot shoulders.

J. Tirolli: I will let you resolve that.

G. Lake: This is here for Sketch right now.

A. Dulgarian: Well, the same thing we do with all subdivisions especially a very rural piece of property, the old growth trees to be saved and what kind of impacts you're going to have on streams and wetlands. All of that needs to be shown on the map. I will refer to Mr. McGoey if it's going to be six foot trees or what ever. It is very important in the planning process that we keep as much old growth as we can. Other than that, as far as the configurations, I wish that the other project was in at the same time so we could see the overall picture.

G. Lake: I agree with you there.

J. Tirolli: We left his plan based on both developments on each side of us.

A. Dulgarian: Do we have the other maps?

J. Tirolli: We have the opportunity to tie whether they come here or they come here. There was some discussion about not going through so when and if this is approved, we will come back and talk about the connection. At this point, there's not much we can do until they get approval.

G. Lake: Anything else, Mr. Dulgarian?

A. Dulgarian: No.

J. Tirolli: As you know this is wooded and in my estimation there's probably three to four hundred trees all over the six inch caliber in the area where we're going to put homes and the road. What I would suggest because doing that kind of survey is interesting but when you get all of those dots and codes on the plan it gets obscure. I'm going to suggest to this Board that other than the driveway, the well and the sewer where you have to obviously remove trees over six inches in diameter that we put a restriction on the plan that if you want to clear cut any trees over six inches in diameter past fifty feet from the house, you need to come back to the Planning Board because we can't guess now what shape and size the houses are going to be. If people want to go further and relocate then they come back but this way they're restricted on the entire lot other than dead and sick trees.

D. McGoey: There are significant trees in the front yard along the road.

J. Tirolli: Right.

D. McGoey: Between the road and the dwelling unit. We may want to see some there also.

J. Tirolli: In both cases other than one lot the houses are quite removed. We will restrict from cutting around the house.

D. McGoey: I will take a look at it between now and the time you come back. We're only at Sketch. There are some significant trees in the front yard.

J. Tirolli: Six inches and larger?

D. McGoey: Yes.

J. Tirolli: What I'm saying you cut nothing between the road and the house except the driveway and then fifty feet around the house. Do you still want me to locate the trees in the front yard?

G. Lake: Anything else, Mr. Dulgarian?

A. Dulgarian: No.

R. Carr: I agree. What is the width on the proposed road?

J. Tirolli: It appears to be over two hundred feet. There's a series of numbers there.

R. Carr: I can't tell because of the dashes.

J. Tirolli: There must be one missing.

G. Luenzmann: I don't have anything. I remember when we did the other projects, it's amazing that you have a property like this and I understand why the walls were built by farmers and that's what these are?

J. Tirolli: Yes. We would add in that note . . .

G. Luenzmann: You can just look at history.

J. Tirolli: We would indicate that no stone walls are to be removed. The same thing, other than the septic system, the driveway and the fifty foot envelope around the house unless they come back to the Planning Board and ask.

R. Carr: Nothing.

W. Capozella: Nothing.

T. Hamilton: Dick, have we looked into a drainage district?

D. McGoey: In our stormwater report we indicate we don't have any detention facilities because of the size and scope of the project. It's a small number of lots. There's a large wetland below us. It doesn't require detention or quality treatment. Basically we have culverts under the road in the low spots.

T. Hamilton: But the drainage easements I see on some of these lots, the Town usually requests a drainage district so that if and when the Town has to go in and clear and maintain it, that there is tax money that's going to pay for it.

J. Tirolli: I'm fine with that.

T. Hamilton: You have to apply to the Town Board for that.

J. Tirolli: Right.

G. Lake: Anything else, Mr. Hamilton?

T. Hamilton: No.

G. Lake: Dick, do you need another work session?

D. McGoey: Yes, but I suggest you set a Public Hearing date.

MOTION to schedule a PUBLIC HEARING for September 1, 2004 made by G. Luenzmann and seconded by A. Dulgarian.

A. Dulgarian: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

J. Tirolli: I have one other request and just to throw it out because we have such a time span. Do you have any objections if we submit our well information to Eustance & Horowitz to get our seven percolation's done now and September 1st? Under the hearing if we're done, we will have some additional information. It's our risk.

G. Lake: Call tomorrow and make sure you get on a work session. You can always cancel it if you don't need it.

J. Tirolli: Good point.

9. **LIBERTY COMMONS** - SITE PLAN/SPECIAL USE PERMIT - Goshen Turnpike (44-1-49.2) #050-003

A. Fusco: I'm the engineer on this project. What we have is a fairly complete set of plans for a thirty five unit condominium project. If you recall, this was an RMB zoning previously which would have allowed in excess of forty five lots or forty five units. We had the zoning changed through the Town Board to R-1 and we're proposing thirty five condominium units. We have proceeded with this and been before the Board and all the appropriate work sessions. As you can see we do have some elevations here which you may have seen before and the architect is here to go over any of that questions that you may have. We did receive comments on April 28th from the engineer and we have complied with all of them we could do. We have not yet received from Special Attorney's the condominium documents but we will submit those as soon as possible to the Planning Board Attorney as soon as we have them. Other than that, at this time we're basically in compliance with all of the requirements. We would like to proceed with a Negative Declaration and Preliminary Approval. We did submit both of those to the Planning Board Attorney for his review and I believe we've had a satisfactory approval on those.

G. Lake: Mr. Dulgarian?

A. Dulgarian: The connections across the road which is going to be gravel, is that correct, that it's an emergency with a crash gate?

A. Fusco: What we've done on that we've shown that to be there to pave that in consideration of the neighbor as well so it is going to be a crash gate but we do intend to put some blacktop on that. That

is basically because the last comment on Dick's items indicated that based on our field review of the emergency access drive off Foster Road, it appears that there will be substantial disturbance to the private driveway requiring reconfiguration on the driveway. In addition, the existing driveway is paved and no provisions have been made to provide for a paved access from the dwelling unit to Foster Road, unless it is the intention of the developer to pave Pinto Road all the way to Foster Road. The details of how this transition and improvement will be completed should be discussed and shown clearly on the site plan. What we plan to do is to pave it. We will cut that gentleman's driveway off nice and neatly and put the access into his driveway.

A. Dulgarian: So, this drawing ?

A. Fusco: That the schematic of it. This comment we received was on April 28th.

A. Dulgarian: Okay. And the landscaping is going to continue the way it is?

A. Fusco: That's correct. We received that April 28th that comment regarding the paving of the driveway which was last Friday and since then what we've agreed to do on the plan that we're going to submit to you is to show that.

R. Carr: Just a couple of things. We talked about buffering that home in the back there. There should be more landscaping, maybe a double row.

A. Fusco: We put a solid row in there. We thickened it up. We doubled it from what we had before.

R. Carr: This drawing shows eleven white pines covering two hundred seventy six feet, is that?

A. Fusco: Yes.

R. Carr: I don't have the same opinion.

A. Fusco: We will put some more in there. I just want to say that we did double up. We will put a staggered row in, is that what you would like?

R. Carr: Yes.

A. Fusco: To be honest with you, we want to be a good neighbor. That's why we agreed to the driveway. I don't have a problem with a few more trees.

R. Carr: The only other place that I was looking at the landscaping and buffering on the other because this is a major change to that little area. This is not an inappropriate use. You have two houses that are tucked away and that house in the back.

A. Fusco: We will thicken up that boundary also.

R. Carr: I would like that.

A. Fusco: It is not a problem.

R. Carr: Is this a berm here?

T. Hamilton: Can some planting be put on top of the berm?

A. Fusco: This is actually out in the road. One of the things we've also requested is the elimination of the necessity of the tot lot. This is going to be a condominium development and if in fact, the condominium association feels the need or want one in a particular location then they would proceed on that basis. This is basically the only spot we have if we were to put one. So, in lieu of that, what I will do is I will thicken up this corner with landscaping which will do two things. It would be a buffer and it would also replace a lot of the green. Again, one of the things we are asking for is to waive the tot lot.

R. Carr: What type of fence, is it a chain link?

A. Fusco: Yes it is.

R. Carr: Will it have the privacy slats?

T. Hamilton: Slats or the pine?

A. Fusco: Evergreen pine.

G. Lake: You will have to pay the difference in the recreation fee for the elimination of the tot lot.

A. Fusco: Which we actually put in the resolution and left it blank because we didn't know what that number would be.

G. Lake: I thought it was five hundred or one thousand a unit.

A. Fusco: We left it blank in the resolution proposed. We can fill that number in.

G. Luenzmann: I have nothing. I think it's a good project. This started off as apartments, right?

A. Fusco: Yes, it did.

G. Luenzmann: And now it's condominiums.

A. Fusco: That's correct.

W. Capozella: I like the project. I was concerned about the landscaping.

T. Hamilton: I am always looking for visitor parking.

A. Fusco: We have six spaces, eight total. Basically that's what we're able to fit in through there. We do have obviously parking in the garage and parking in the driveway in addition to that.

G. Lake: Anything else, Mr. Hamilton?

T. Hamilton: No.

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

A. Fusco: No, like I said. We're planning on complying with each and everyone of those and we have with the exception of the condominium documents which will be forwarded. We

met with Special Counsel today and started. We really can't do too much with the documents until we get further into the approval process. We will send drafts as they are developed.

G. Lake: Okay. So, you're looking for a Negative Declaration and Preliminary Approval so that you can move on, right?

A. Fusco: Yes please.

MOTION for a NEGATIVE DECLARATION subject to all comments of the Board and Dick's comments made by G. Luenzmann and seconded by A. Dulgarian.

A. Dulgarian: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

MOTION for PRELIMINARY APPROVAL subject to all comments of the Board and Dick's comments made by G. Luenzmann and seconded by A. Dulgarian.

A. Dulgarian: Aye

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 6 AYES

10. **CELLULAR ONE** - SITE PLAN/SPECIAL USE PERMIT - 131 Tarbell Road -
(3-1-8) #028-004

T. Stalloto: I am Clough Harbour Engineers & Associates for the applicant. What we have tonight is a site plan for a co-location on an existing communications tower. The project's been before the Board before. The original application for the communications facility.

K. Brenna: It wasn't before the Board. It needed to come to the Chairman and Mr. McGoey.

T. Stalloto: The original project is the construction of the original communications facility contemplated multiple carriers, which we are simply here filling one of those spots. The only complexity that was not contemplated in the original approval was the fact that the fenced area is being increased slightly. We've received comments from Mr. McGoey. Comments have been addressed on the plans. I can quickly go through them if you would like. His first comment discusses adding the additional fenced area and questions whether the lease has been secured. It has, in fact, been secured. Mr. McGoey makes reference to the fact that the Public Hearing was held on the original approval. It's also our understanding that the Board could proceed tonight with site plan approval on that basis because what we really have is an application to expand the fenced area. There is additional room within the fenced in area for at least one more carrier and should additional

carriers be brought on, I understand that there is an understanding with the landlord.

K. Brenna: Do you want me to address that?

T. Stalloto: Sure.

K. Brenna: Since your intervention on that with the Town Attorney, the wireless carrier got permission and they extended the original leased area so that co-locators could go there. The way it was set up was that there agreement is that as each co-locator comes on, they would break off that piece of property. What the original problem was even though the Board approved it with the intent of co-locators to go there. When we went to go last year, we had made and we had wanted to move forward but the people that owned the tower didn't have any land space left inside. There were only two carriers and no room for anyone else. So, we had come back to the Chairman and Mr. McGoey and you people had approved it for co-locators and you were under the impression and if you looked at the original site, you would have had the impression that there was much more room for co-locators than what actually existed.

A. Dulgarian: So, we were misled.

K. Brenna: The landowner would not allow us any space and wanted five thousand dollars for a twenty by twenty space. It was impossible and we had gone to the Chairman and Mr. McGoey who helped us resolve that whole issue. Now we're here trying to get this resolved so we can move forward. We're not extending, expanding the tower. I had seen on Mr. McGoey's comments something about expanding the whole area I think it was.

D. McGoey: I wanted to make sure that the fenced area.

K. Brenna: The fenced area that we are going to extend is twenty five just to tie it in because the agreement that was made with the landowner and the tower company

G. Lake: So your application is for twenty by twenty?

K. Brenna: Right, and then each person if someone else comes, we've already entered an agreement that . . .

T. Stalloto: The fenced area covers the entirety of the existing leased area. If additional leased areas were required, it would be secured.

K. Brenna: Which it will be. That's why we have to extend.

D. McGoey: In other words, the next user that comes in has to contend with the property owner?

T. Stalloto: There's room I think within the existing fence for at least one more. It depends upon what the next person really wants. It's hard for us to contemplate that and it doesn't make sense for Cellular One to secure the ground space for a potential user that we don't know what it is. Provisions have been made by the landlord to allow that to happen should another carrier.

D. McGoey: What are those arrangements?

K. Brenna: The provisions are very simple. They will make available space with the tower owner for a future co-locator one at a time.

D. McGoey: Yes, but are they going to scalp them like they tried to do to you?

K. Brenna: We're still paying an additional five hundred dollars a month just for that but it was better than five thousand.

T. Stalloto: It's not something that we can control.

K. Brenna: We can't control it. They have entered into an agreement that allows them to continue as people come forward for those spots.

N. Alexander: We're somewhat constrained. The owner now knows what they can and cannot get away with.

K. Brenna: I think they actually have an agreement in hand for that whole area.

D. McGoey: Can they forward that to the Board and the Town Attorney?

T. Stalloto: It's not really relevant to this application. It's really something that occurred as far as the original approval. We're here for an application to add Cellular One.

D. McGoey: The next person that wants to co-locate . . .

N. Alexander: You received from us an authorization from the tower company to go on the property prior to the letters of authorization.

D. McGoey: I'm not questioning the application.

N. Alexander: I understand that but I'm saying we can only reach so far.

K. Brenna: I can give you a direct answer. It can be provided as a condition of approval.

G. Lake: But we want to know if the next carrier that comes in if there is going to be a slug match again or if you have the agreement, that's all we're asking.

T. Stalloto: We're not going to secure and pay for the ground space for the next carrier.

G. Lake: We didn't say that. All we're asking for right now is somebody shows us the agreement so we have it in the file that the next carrier that walks in has room.

K. Brenna: I can give you a direct answer to that. That was not done by this Board when Verizon was approved and took up the whole balance. We went out of way and paid the additional. We were the ones that intervened with all of this. I can't control what the landlord is doing with the next person.

G. Lake: You just said that you had that agreement.

N. Alexander: We have authorization.

T. Hamilton: What, to slap on another twenty by twenty.

N. Alexander: That's just for us. We're not leasing the entire . . . There's no lack of willingness to provide information. I think what's going on here is the tower owner has an agreement directly with the property owner for a certain area. We negotiated the rights to have Cellular One to co-locate on the property that the owner owns. We needed additional ground spacing which the landlord was able to secure that ground space for us. I think what you all did when you interceded was you sent a very direct message to the property owner as to what's expected of them in the future so you don't wind up. I think the landlord now understands.

G. Lake: Okay. I misunderstood what was going on.

T. Hamilton: I think what we're going to have to look at the next time we have an application on the towers that the original applicant for the tower comes in and that tower can't handle five co-locators, we want that space for five.

T. Stalloto: In this case you thought that through on the tower because if you noticed the structure and foundations that you have, it were for five or six towers.

N. Alexander: And then the last point to be made is we did add a note on sheet #201 about the pavement as requested.

G. Lake: Let me go through the Board.

A. Dulgarian: No problem at all.

R. Carr: Nothing.

G. Luenzmann: No problems.

W. Capozella: No.

T. Hamilton: Nothing.

G. Lake: Are we going to need a Public Hearing for this?

D. Brodsky: I think you will. I think the Special Use Permit was only for one although that it was contemplated that more would be added on later. I think each one has to have a Public Hearing.

T. Hamilton: I disagree.

D. Brodsky: I didn't find anything.

T. Hamilton: When the applicant came in for the Special Use, we stipulated that we want that tower to go up and be able to be co-located on. We set the standard right in the beginning.

D. Brodsky: Granted but you didn't have the ability to approve the second, third, fourth, and fifth uses at that time. As it turns out, a Special Use Permit is only applicable to that portion of the property that you approved. Now, their expanding the fence.

T. Hamilton: Minor site plan modification.

D. Brodsky: Conceptually for me, it's not much different that the mining permit where the miner wants to go a portion of the property for mining after permission was granted for another portion of the site and shifting over to another. That's really what you're doing. In my opinion, it's more prudent to do the Public Hearing. Other than that, it's up to the Board.

G. Lake: I agree with Mr. Hamilton.

R. Carr: Did we do a Public Hearing when Verizon came in?

G. Lake: No.

K. Brenna: That's why we assumed . . .

MOTION for a NEGATIVE DECLARATION subject to all comments made by T. Hamilton and seconded by G. Luenzmann.

A. Dulgarian: Nay

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES, 1 NAY

MOTION for SITE PLAN MODIFICATION subject to all comments made by T. Hamilton and seconded by G. Luenzmann.

A. Dulgarian: Nay

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES, 1 NAY

11. **DUNKELMAN** - MEDICAL OFFICE - SITE PLAN/SPECIAL USE PERMIT - Rykowski Lane (60-1-86 & 87) #038-004

J. O'Rourke: I am from Lanc & Tully Engineers. We're here with Dr. Dunkelman's proposal for a medical office space on Rykowski Lane, better known as Wallkill Industrial Park. He's combining lots #4 and #5 into approximately twenty one thousand square feet of medical office building. Dr. Dunkelman is a Physical Therapist. He is going to have the first floor and the second story is going to be leased out to medical offices. The parking and layout have been designed for that. As you're aware, it's a previously approved subdivision for this type of use. You have water and sewer. We have Mr. McGoey's comments. We've actually addressed most of them on this plan. I think it's fairly straight forward. We're here basically to request a Public Hearing.

G. Lake: Let me go through the Board.

R. Carr: Nothing.

G. Luenzmann: I'm familiar with the location. I think it's a good project. I have no problems.

W. Capozella: Nothing.

T. Hamilton: Nothing.

G. Lake: No problem with any of Mr. McGoey's comments or anything?

J. O'Rourke: No.

G. Lake: Have you had a work session?

J. O'Rourke: We've already been through a work session and I have actually addressed most of these. The only thing that is outstanding is the Fire Department comments.

G. Lake: Have you seen them yet?

J. O'Rourke: No.

G. Lake: Dick, are you going to need another work session for this?

D. McGoey: I don't think so.

MOTION to schedule a PUBLIC HEARING for July 21, 2004 made by R. Carr and seconded by G. Luenzmann.

R. Carr: Aye

T. Hamilton: Aye

W. Capozella: Aye

G. Luenzmann: Aye

G. Lake: Aye

MOTION CARRIED. 5 AYES

12. **FOXWOOD ENTERPRISES** - 9 LOT SUBDIVISION - Mt. Hope Road & Reinhardt Road
(62-1-6) #039-004

P. Grady: I'm the Engineer for the applicant, Foxwood Enterprises. The project you're looking at is on the west side of Mount Hope Road just outside of Reinhardt Road. We had met in February at a work session. We had been asked at that time to present two sketch plan layouts. The lots show nine but it can yield ten lots. The house locations are similar in both sketches however, it is a matter of how the lots will be divided. The property consists of seventy seven acres and there's a stream that comes through with a substantial amount of wetlands. The property also has an environmental sensitive area. The difference between the two layouts is there's an existing house that has frontage along Mount Hope Road. One layout shows the bulk of the property being retained by the existing lot. The second sketch shows property that tries to evenly distribute the remainder of the property amongst all the owners. What we're here tonight is to see basically what the Board would like to see for the development of the property, whether we leave the bulk of the property with one parcel or distribute it amongst equally as best we can to the other parcels. Since our work session we have had the wetlands delineated. We've done the soil testing and percolation tests and we

are scheduled for another work session on Monday. Based on information from the Board tonight we could prepare the drawings and submit them for Preliminary Approval.

G. Lake: On your second sketch, all these lots meet the two hundred?

P. Grady: Yes. They're two to three acre parcels. They have two hundred foot lot width. There's approximately seven lots that have frontage along Reinhardt Road and two lots that would have frontage on Mount Hope. There would be two additional parcels on Mount Hope.

G. Lake: Let me go through the Board to see what they think between the two. I have one other question. The lots on the second sketch, is most of this use-able land?

P. Grady: Yes.

G. Lake: The house that remains with the rest of this land, carries the bulk of the wetlands?

P. Grady: Correct. One of the sheets does show the soils and we have the soil calculation shown. We missed it.

D. McGoey: Yes. I didn't see both of them.

P. Grady: It should be on . . .

G. Lake: I will go through the Board.

R. Carr: I agree with you. I prefer the lots with the width.

G. Luenzmann: I like the second one because the lots are more proportioned. The wetlands are off by themselves. There's no development on the second?

P. Grady: The existing wells which has frontage on Mount Hope.

G. Luenzmann: Okay.

W. Capozella: I'm in favor of the second sketch.

T. Hamilton: Nothing.

G. Lake: Okay, so you know how the Board feels. I think the second has the better proportion of the lots.

P. Grady: As I said, we are scheduled for a work session on Monday. Can we get scheduled for the next Planning Board meeting?

G. Lake: Let's get through the work session and when that's done, we will do that.

P. Grady: Thank you.

TABLED for further review.