

TOWN OF WALLKILL PLANNING BOARD

MEETING

JUNE 20, 2007

MEMBERS PRESENT: T. Hamilton, W. Capozella, A. Dulgarian, C. Najac, H. Ross

MEMBERS ABSENT: G. Lake, R. Carr

OTHERS PRESENT: J. Bacon, D. McGoey

1. PUBLIC HEARING 7:30 P.M. - **RING** (Retail) - SITE PLAN/SPECIAL USE PERMIT - Dunning Road (78-1-55) #87-06

T. Hamilton: Public Hearing started at 7:32 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 99 Tower Drive, Building A, Middletown, New York in said Town on the 20th day of June, 2007 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Eric Ring for approval of Site Plan for retail at 40 Dunning Road, near the intersection with East Main Street under Section 249-28 (PID) 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. Hamilton: Mr. Lake isn't in Town so, I'm trying to fill in for him tonight. Your name for the record, please.

K. Duggan: My name is Kevin Duggan from Fellenzer Engineering.

T. Hamilton: Give us a little description of the project.

K. Duggan: What we're looking for tonight is Mr. Ring is looking to open a retail establishment on Dunning Road, the old Yegidis Accounting Firm building. It's been vacant for a number of years. What he's looking to do is a sporting retail establishment in there. We were in front of you and sent to the Zoning Board of Appeals due to the size of the building and a couple of other variances. We were given those variances and came back to you. One of the variances was for parking and such in front of the building. You were not too happy with that so we have, this current plan shows that the parking was taken out of the front. We've put in a sidewalk and a handicap ramp to the front of the building with the handicap parking spaced down along the driveway there on what would be the south side of

the building. That's the biggest change in the your request to remove that parking from the front of the building. Basically that's pretty much the project at this point and time. We're looking to, as I said, maintain a retail establishment for sporting goods. That's where we're at.

T. Hamilton: Do you have Mr. McGoey's latest comments?

K. Duggan: Yes I do.

T. Hamilton: Mr. McGoey, any problems on any of those?

D. McGoey: Well, I think he needs to explain item #2, the lighting which is the biggest issue with the Planning Board. It doesn't seem to be consistent. You have four hundred watt lights, you have one hundred seventy watt lights and they all shed the same amount of light.

T. Hamilton: Hold up a minute, Mr. McGoey. Let me go through the Board.

A. Dulgarian: After the Public.

H. Ross: I will wait.

W. Capozella: After.

C. Najac: After.

K. Duggan: The way those are shown in the very front of the building we're proposing two (2) one hundred seventy watt poles with downward lighting. The curves that are shown. The one foot candle is the darker line, the one further out is a half foot candle. The ones that you see on the stairs and the ramp, basically one foot candle is what is required for safety in walkways and things of that nature. Where the poles have been separated the half foot candles come together giving us a one foot candle there. I think in the back there's three larger four hundred watt lights. As you can tell, those circles are much bigger so the four hundred watts throw the light much further. We tried to cover as much of the parking area and keeping the light from really throwing over the back and the sides.

D. McGoey: What you're not showing us and what the foot candles are under the lights.

K. Duggan: We can do that.

D. McGoey: A four hundred watt light, I think is going to be a lot.

K. Duggan: I can do that. Typically with most Boards I deal with don't get it too far out. Of course, I can come back and show. That's something I can work out with Mr. McGoey I think. If he wants them reduced a little bit we can certainly do that.

T. Hamilton: We're just looking to not have a glow.

K. Duggan: I understand. That's why these lights are all what they call shoe box style. They're all downward thrusting lights. Basically a lot of the perception is you can see the actual bulb even though it might not be the right, it looks brighter. So, these are styles that point directly down so you don't have that far out glow. I understand Mr. McGoey's concern that it might be brighter than probably than the five or seven foot candles. We can certainly work with Mr. McGoey and lower that if necessary.

A. Dulgarian: I think it has to be consistent to what we just approved across the street. Mr. McGoey, do you remember what that was?

D. McGoey: I don't but we try to keep it down to three foot candles.

T. Hamilton: That was for Millet?

K. Duggan: You want three foot candles, is what you're looking for?

D. McGoey: Yes.

K. Duggan: I'm sure we can work it out.

D. McGoey: Item #4.

K. Duggan: Items #4 and #6 kind of go together. One of the things we were just talking about, Mr. Ring and myself in the back, the combination, the way we did it, we had a sidewalk close to the building with steps and then the handicap ramp following almost the same path. What we're going to propose is to just basically have the ramp with no stairs because they're following the same path. Usually you put stairs when your going to have a

shorter path for walking but in this case it's the same path. We're going to propose to doing a ramp there and working the grades with that.

D. McGoey: And you're not going to need a retaining wall?

K. Duggan: I don't think if we. We'll adjust it so that we can the proper grade but probably split the difference where the ramp and the sidewalk go right now. We will be able to grade that so that it won't be too close to the building and get a grade to eliminate the retaining the wall and any problems related to a retaining wall.

D. McGoey: Item #7.

K. Duggan: The deficiency there was to the left side of the property or the south side of the property as you're looking from the property. We have to get with the County on that and it would be in their right-of-way cutting down some of the bushes in their right-of-way. I have a call in to them. I haven't gotten their response on the whole plan yet so that might be part of what they're looking at.

A. Dulgarian: Did you make a determination what was the prevailing speed there?

K. Duggan: No. I did not. I went with the posted speed.

A. Dulgarian: That's going to affect your plan.

K. Duggan: I will work with the County.

T. Hamilton: We ask for the prevailing speed.

K. Duggan: I will talk to the County and the Police Chief from the Town and see what they want as the prevailing speed.

T. Hamilton: Anything else, Mr. McGoey?

D. McGoey: There was a discrepancy in the property line.

K. Duggan: I have our surveyor working on that along with tying in the vertical and horizontal datum.

D. McGoey: And, we need the details from the Orange County Department of Public Works.

K. Duggan: Correct.

T. Hamilton: That's all of Mr. McGoey's comments then?

K. Duggan: Yes.

T. Hamilton: Is there anybody from the Public who wishes to comment on this application?

MOTION to close this PUBLIC HEARING at 7:43 P.M. made by A. Dulgarian and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

A. Dulgarian: Mr. Hamilton, I have nothing additional other than Mr. McGoey's comments. I think it fits on that portion of the corridor. I have one follow up question but most of the things are technical in nature including that left hand turn. There is nothing on this site that's going to be outside in that huge backyard. I know you're selling paint balls but then there's not going to be any kind of practice or anything like that out there?

Mr. Ring: None at all.

A. Dulgarian: Nothing behind that parking lot?

Mr. Ring: No.

A. Dulgarian: I have nothing else then.

H. Ross: Nothing other than Mr. McGoey's comments and the internal lighting.

W. Capozella: The only item that I have is some of the foot candles.

K. Duggan: It's kind of hard where that line is and stuff. I think it's in. I have to confirm with the County. I believe it's in the County right-of-way. I will get my Land Surveyor to

check that also because obviously I wouldn't want to be interfering. I want to make sure. I think with the proper cutting down and stuff I think we will be able to get the site distance. I have nothing else.

C. Najac: I'm also concerned about the lighting. I just want to make sure that it's angled properly and that it can be off after hours.

K. Duggan: You want to maybe have one small.

Mr. Ring: Maybe one or two of the lots.

K. Duggan: We can turn the back lights off and just keep the ones along the front.

C. Najac: I asked for sidewalks across the street and I'm known for that.

T Hamilton: That would be something you would want to check with the County on.

K. Duggan: Yes. The County will determine whether they want it or not.

A. Dulgarian: Well, the County will determine if they'll let you and not if they want it.

C. Najac: The County has already determined that on a County Road you can have sidewalks. They don't have to decide that. If I can ask the people across the street for sidewalks, I should also ask you. It wouldn't be fair if I asked somebody else and not you. It's very simple. If you drive down there and look on the edge of the road and you see worn out part of the grass along the road that means somebody is walking and if somebody is walking there then you need to put in sidewalks.

K. Duggan: Understandable.

D. McGoey: One more thing that Mr. Bacon just pointed out to me. The existing tree in the front yard which is fairly significant. You still say it's to be removed but I hope that it won't be removed since the driveway is now out of there.

K. Duggan: We'll probably be able to keep that now. We probably will be able now to keep that.

T. Hamilton: Mr. McGoey, any reason to have them back to you?

D. McGoey: Yes. We're going to have to see the details and the site distance and how he's going to trim the trees. He needs from easements from RAL.

K. Duggan: These are all pretty much technical in nature.

T. Hamilton: I was just to get a feel from Mr. McGoey.

H. Ross: What about the landscaping?

D. McGoey: I believe he showed pictures didn't he?

K. Duggan: Yes. We had the pictures before and we were pretty much keeping the bushes and stuff as they were.

T. Hamilton: We usually ask to beef it up.

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

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

MOTION for SITE PLAN/SPECIAL USE PERMIT subject to all of Mr. McGoey's comments and this Board's comments made by A. Dulgarian and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

2. PUBLIC HEARING 7:35 P.M. - **MOSLEM** (Two Family) - SITE PLAN/SPECIAL USE PERMIT - 2276-2280 Route 302 (10-1-15) #17-07

T. Hamilton: Public Hearing started at 7:49 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 99 Tower Drive, Building A, Middletown, New York in said Town on the 20th day of June, 2007 at 7:30 P.M. or as soon thereafter as the matter can be heard that day on the application of Sased Moslem 2276 Route 302, Middletown, New York 10940 for approval of a two-family residence under Section R2 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. Hamilton: Your name for the record, please.

S. Moslem: My name is Sased Moslem.

T. Hamilton: Give us a brief description of this project.

S. Moslem: The last time I got up here, I was really intimidated. Let me give you a general basis on what happened to my property. I'm looking to propose a two-family. Like I said before, let me get back to what I was saying. I got up here the first time with the plan. I was very intimidated and kind of got struck off. Basically I had the house rented. It caught on fire and burned down. The insurance ended up not paying me for the house and I got stuck with the mortgage and no house. So, basically what I'm trying to do is to get a Special Use Permit to put a two-family up there and kind of save my rear end from what's left over there.

Now, I think were basically putting it there where the house was other than moving it over a touch. I'm not doing anything very major. I think there was a comment from Mr. McGoey about the line of sight which we looked at. I looked at it personally and in my opinion I believe the driveway was put there just to get more line of sight. My Engineer also believes by grading the hill we can achieve the line of sight in that area.

D. McGoey: Did he do the survey work and the details?

S. Moslem: No. They have not been done.

D. McGoey: I think it's required by removing that stone wall. Your Engineer is going to have to evaluate that.

T. Hamilton: He's not here?

S. Moslem: No. I'm kind of representing myself because he's a good friend mine and I'm just trying to get by.

T. Hamilton: Sometimes what you waste in time or sending you back and forth to him is it might have helped you to have him here where he could answer us the first time.

S. Moslem: Correct.

T. Hamilton: He might have answered some of our comments the first time. The number of bedrooms?

S. Moslem: Two (2) three bedroom units.

T. Hamilton: The septic design.

D. McGoey: Eustance & Horowitz will have to review it.

MOTION to close this PUBLIC HEARING at 7:52 P.M. made by A. Dulgarian and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

A. Dulgarian: I have a question for you Sir. What is your street address here?

S. Moslem: 2276 Route 302.

A. Dulgarian: What would be the street address for the newest two-family home on Route 302?

S. Moslem: The nearest two-family home, I think. I think they're all down basically. I don't know if you know Route 302. There's a couple of two families down a ways and a single family right next to each other.

A. Dulgarian: Where is there a two-family right now?

S. Moslem: Right before the Circleville Fire Department on the right hand side there.

A. Dulgarian: Mr. Hamilton, my only concern or my main concern with this and with any two-family home is does it change the characteristic of that neighborhood. If we have a neighborhood that consistently has single family homes are we doing an injustice to those homeowners by putting in a two-family that doesn't necessarily have to be owner/occupied that may be two rentals down the road and what it does to their property values as well as what precedence it sets for them to domino in the future to turn everything there into a two-family for rental purposes. When it's in an existing neighborhood that has two-family homes it really doesn't bother me. I know this area fairly well and I don't see two-family homes prevalent. What seems to be out there is single family well kept homes. Unless anybody else can change my mind here that is my problem with giving a Special Use Permit on this. To me, it changes the characteristics of that neighborhood. That's all I have to say.

H. Ross: I have similar concerns as Mr. Dulgarian. If we make this change then obviously the number of people needing driveway cuts on Route 302 which is a dangerous situation already.

W. Capozella: Yes I agree. I think it would open up that area if we approve it as a two-

family home. We would like to have seen you come in with a single family. Even though we're out there doing our homework basically we're looking at it right now as saying there really aren't two-family houses in that proximity. If you had come in here and said here's where they are and the numbers that might have helped. Right now, we really don't like two-family homes in that area.

C. Najac: I go along with the rest of the Board.

S. Moslem: Like I said it's going to be brand new. I personally think it would make it look nice. What you have there are kind of shoddy looking ranches off to the right. You have a broken down buildings over on the left. I know there's a multi-family down the way. It's going to be a spectacular new building and I personally think it would make Route 302 look better. It's going to be brand new construction, two beautiful units. I know there's not many two-families there but I don't know that it's really altering the changes to the neighborhood.

C. Najac: One more question (not clear).

S. Moslem: On that aspect I started building with broken houses. My actual first project was on East Main Street and that was one of the best ones. I don't want to sway you this way or that way but I'm just telling you my experience. This home will be brand new with everything.

T. Hamilton: The fact of not having your own consultant here tonight I doubt if we had more people from the area from the Route 302 neighborhood in here they wouldn't appreciate the remarks of shoddy homes on either side and rundown shacks and whatever else. I don't think your Engineer would have even mentioned that. I take offense to that myself. I don't live there but I feel that the people who do live there and have lived there for years in this Town for somebody to come in and calls somebody else's shoddy.

S. Moslem: The house I'm referring to is a broken down shed. Nobody lives in it.

T. Hamilton: You didn't say one. You said in the area both sides and down the road. Mr. McGoey, anything else?

D. McGoey: No.

MOTION for two-family residence for a Special Use Permit made by A. Dulgarian and seconded by T. Hamilton.

A. Dulgarian: Nay

H. Ross: Nay

W. Capozella: Nay

C. Najac: Nay

T. Hamilton: Nay

MOTION CARRIED. 5 NAYS

3. **BOWENS AUTOMOTIVE** (Final) - SITE PLAN/SPECIAL USE PERMIT - 766
Bloomingburg Road (3-1-73) #98-06

T. Hamilton: Your name for the record, please.

J. Nosek: My name is John Nosek with Roger Ferris Engineering & Surveying.

T. Hamilton: Go ahead.

J. Nosek: This has been before the Board a number of times. The last time we did have our Public Hearing. The major concern was the issue of drainage. The Town Engineer and the Board felt that it would be very close to or outside the limits of disturbance and that the stormwater. The water quality and stormwater will be evaluated and included. The prepared revised plan shows a fairly large stormwater detention pond and water quality pond at the southern end of the property which will be through a culvert and any new drainage collecting system will be discharged into the existing culvert pipe on York Road. There were some other minor issues. I believe that was the major one. I think we've addressed the concept and prepared a stormwater management report. I did get Mr. McGoey's comments. There are some questions regarding or some concerns regarding the stormwater pond itself. There are some comments regarding the intensity that are used for the one hundred year storm which I think can be readily addressed. The comment regarding Eustance & Horowitz approval on the septic system we understand that. I did submit the plans to the Department of Public Works showing the revised plan. I did not get back to him. I believe there was one comment pertaining to a note regarding the drainage details which I have no objection to. A couple of other comments regarding some detail on the dumpster enclosure and the no

parking sign. I have no objections and hoping that this Board feels the comments are minor and can take action for a possible Conditional Final approval tonight.

T. Hamilton: Did you reference note #9 that Mr. Lippert has a question on?

J. Nosek: Yes. We have no problem adding that note.

T. Hamilton: Mr. McGoey, anything outstanding on your comments?

D. McGoey: Not on my comments. I have one that Mr. Bacon needs to address in regard to the twenty five foot landscape buffer.

J. Bacon: Mr. McGoey brought that to my attention and that section of the code that I referenced in my comments where there's supposed to be a fifty foot landscape setback from the front line and also on each of the side lines because it's in the PID zone. There is not a specific definition for landscaped areas in the zoning code but there is one in the subdivision code and it doesn't reference stormwater detention basin as being a landscaped area. I think that is a question that is really out of the Planning Board, it's more of a Zoning Board of Appeals interpretation.

A. Dulgarian: That wouldn't be a use, it would be an area.

J. Bacon: An area variance?

A. Dulgarian: Right.

J. Nosek: We had through the whole process including the first submittal our understanding and it's the first time it's being brought up was that the Board was going to allow us to do the twenty five landscape buffer vegetation to remain which has been shown on the plan since we started the project. In fact, it was approved as such when we had received the original approval for R & R. I was under the understanding that the Board had granted us the waiver to move down to the twenty five foot level.

D. McGoey: Historically the Board has required a fifty foot buffer twenty five feet of which must be landscaped. That has always been and you can allow parking in the other twenty five feet.

A. Dulgarian: I have to give the applicant and their engineer credit. They've went and done what we've asked for. I don't believe that first plan showed any sort of retention on it. That was our big issue. With all these plans there's some give and take. I don't believe we can

accomplish the maximum buffer landscape and retention pond but I do believe this is a very good effort and as long as all of Mr. McGoey's technical comments are met, I really don't have any further issues.

H. Ross: I also go along with Mr. Dulgarian. As long as Mr. McGoey is satisfied. I can live with it.

W. Capozella: I'm still a little confused with this buffer. Usually it includes the parking lot.

D. McGoey: On the parking lot side we do have a twenty five foot landscape. It's the stormwater management pond.

J. Nosek: We will agree to certainly beef up a little bit more landscaping on that side of the pond.

J. Bacon: In defense, the subdivision code is not exactly clear. It does say man made berm's or slabs. It doesn't say a stormwater detention basin.

W. Capozella: I've looked at it and really don't have an issue with it.

C. Najac: I concur.

T. Hamilton: Mr. McGoey, everything can be worked out?

D. McGoey: No problem.

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

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

MOTION for SITE PLAN/SPECIAL USE PERMIT subject to all of Mr. McGoey's comments and this Board's comments made by H. Ross and seconded by W. Capozella.

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

4. **COUNTRYSIDE MEADOWS** - 13 LOT SUBDIVISION (Final) - Shawangunk Road (3-1-23.2) #26-04

T. Hamilton: Your name for the record, please.

L. Torro: My name is Lawrence Torro with J. L. Consulting. I have Mr. McGoey's comments dated June 13th. The first item regarding the drainage and lighting district with the Town Board. They approved the drainage district and did not accept the lighting district. Item #2 the Board had previously requested that if the lighting district was turned down that we would comply in the event in the future the lighting was approved. Item #3 regarding the Highway Superintendent comments. We were issued a memo that all his comments have been addressed. Item #4. It's just a clarification for more detail which will be on the final plan and have been addressed. Item #5. The Orange County Health Department. They have issued their technical review. We're just waiting to finalize their comments. Item #6. Was just a comment on lot #13 to move the clearing line away from the right-of-way or the property line. That would be noted on the final plan.

T. Hamilton: I will go through the Board.

A. Dulgarian: Sir, can you briefly talk about what is different from this plan now and what

you initially came in with? I know there has been some changes along the way. Tell me how we got to this point.

L. Torro: Prior to Preliminary we have a fourteen (14) lot subdivision and got caught up in the moratorium. When we came back the zoning had changed to three acre zoning. At that point we reduced it down to a thirteen (13) lot subdivision. It's basically the same plan from day one with the exception of thirteen (13) lots as opposed to fourteen (14) lots. It's the same road pattern configuration.

A. Dulgarian: Where did we have changes, on the two front lots or something?

D. McGoey: Yes. I'm looking for the original plan now.

L. Torro: There was also one point we also had widened the lot widths, that was a comment.

A. Dulgarian: When did he get Preliminary on this?

D. McGoey: He got Preliminary on July 7, 2006.

A. Dulgarian: You know what, Mr. McGoey, don't even bother. Mr. Hamilton, I have nothing else. I just was trying to recall.

T. Hamilton: I think we were trying to get him to move them back off the main road.

L. Torro: I think we did pull them off. Originally they were on the setback line and the lot size.

A. Dulgarian: In order to keep . . .

L. Torro: Lots #2, #3, #4, and #5 we pulled them off the setback line.

A. Dulgarian: So, Mr. McGoey, you're comfortable with everything that's done between Preliminary and now he's ready for final?

D. McGoey: Yes. I recommend final.

T. Hamilton: I will go through the Board.

A. Dulgarian: I don't see anything that will stop it.

H. Ross: I have nothing further.

W. Capozella: Mr. McGoey, the cul-de-sac, that's okay the length of that?

D. McGoey: Yes.

W. Capozella: Okay. I like the change of the width of some of these lots. That part of it I do like. Nothing else.

C. Najac: No problem.

T. Hamilton: Mr. McGoey, the site distances at prevailing speeds and not posted?

D. McGoey: Yes, that should be on there.

L. Torro: It's on the first sheet.

D. McGoey: We did have a question on the length of the cul-de-sac, seventeen hundred feet.

L. Torro: It was grand-fathered in

D. McGoey: The Preliminary was approved before the moratorium?

L. Torro: I don't know but the length of the cul-de-sac was by the Planning Board by virtue of their requests that lots be made wider.

J. Bacon: You mean as part of the conservation subdivision?

L. Torro: No. It was part of the conventional subdivision. This came up after the moratorium.

D. McGoey: Too many months have gone by.

T. Hamilton: Are you researching that question?

J. Bacon: I think the reason that actually got grandfathered was because the cul-de-sac law in 2005 says that it will apply to all new applications permitted on or after that date.

T. Hamilton: So, that . . .

J. Bacon: It predated that date.

T. Hamilton: Mr. McGoey, so the only thing is the Board of Health?

D. McGoey: Yes.

L. Torro: Just to clarify that. The Board of Health issued and finalized their review. They just haven't signed the maps until the Planning Board finished with any comments.

D. McGoey: He's okay.

T. Hamilton: So, we can do it subject-to then?

D. McGoey: Yes.

MOTION to grant FINAL on a thirteen (13) lot subdivision subject to all of Mr. McGoey's comments and this Board's comments made by A. Dulgarian and seconded by W. Capozella.

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

T. Hamilton: One more thing. We would like the piping and the wiring for the lights. It's something we're asking for now.

L. Torro: I will review it.

5. **LAST LICKS** (Extension to Final) - SITE PLAN/SPECIAL USE PERMIT - 2097
Route 302 (9-2-1) #50-06

T. Hamilton: Your name for the record, please.

D. Yanosh: My name is Dan Yanosh representing the applicant.

T. Hamilton: Go ahead.

D. Yanosh: This was approved back in December for a Chinese take-out restaurant. After that meeting, the client who wanted to move in there decided not to move in. The applicant is seeking another tenant for the building. He's found somebody for a coffee shop, specialty coffee, pastry inside. No baking on the premises. Just making the coffee and serving it. The Site Plan stayed the same with the exception of, we worked with the Department of Transportation in the last couple of months preparing the sidewalk in front. We're going to put it on the State right-of-way. There won't be any road taking. They met with me in the field and discussed the whole site. Sidewalk comes around the corner with handicap access on the Route 302 side to the southwest. There won't be any handicap access across Berry Lane. They want that to be there. It's going to be curved around through there. The new plans, I do show the grass strip. We just haven't finalize the review yet but you gave me five items to change and in a couple of weeks I should have it done. We're in the process of getting the Health Department to approve our septic system and our water system. Mr. Aiello Jr., is working on that. We will be getting a comment letter from them. We need some adjacent wells and some additional information for the site. Really, that's about it. The parking stays the same. We really have twenty one (21) spaces instead of the twenty (20) that I showed before. We do have enough parking. The Site really stays the same from what it was. We're just changing it from a Chinese take-out to a coffee shop which again, we weren't too sure whether we needed approval again.

T. Hamilton: The one comment from Mr. McGoey on the mulch.

D. Yanosh: Right. I see that.

T. Hamilton: I know that most of the Fire Department's are asking for the non-flammable type of mulch to put down.

Unidentified Person: Absolutely.

D. Yanosh: The one small detail has the mulch on there.

T. Hamilton: Well, it says non-combustible but Mr. Lippert was wondering.

D. McGoey: One other issue. When we approved this as a Chinese restaurant there were three conditions that the applicant had agreed to. To put a speed bump in to keep all traffic between the two properties.

D. Yanosh: Right.

D. McGoey: That he have one light to be removed towards Berry Lane. I guess there were exterior lights shown.

Unidentified Person: They had one large light on that side which I think was a State requirement for the canopy for the ATM machine.

D. McGoey: Right.

Unidentified Person: Which we can certainly remove or come down.

D. McGoey: And the other one was there was to be a left turn only sign out onto Berry Lane.

Unidentified Person: That was something that was a recommendation from the Board. It was a concern at the last meeting.

D. McGoey: You don't have a problem with any of those issues?

D. Yanosh: That left hand turn only is minor. We can put a sign up.

A. Dulgarian: I don't have an issue with being able to ingress and egress.

Unidentified Person: The comment was more about people, that they were concerned about people cutting through the back of that area to beat the light and that's why I agreed to put the speed bump in.

A. Dulgarian: I think he's covered.

T. Hamilton: Mr. Dulgarian, do you have anything else?

A. Dulgarian: I like the project. I think he's dressing up that corner. I think it's going to be fine. I don't really see any drawbacks or any impacts at all I wish him luck

H. Ross: I basically concur with Mr. Dulgarian. I'm glad to see that the use has been changed. I like the idea of preserving the stone wall. I'm concerned about the hours of operation and the traffic in the eight parking spaces along Berry Lane, they're going to be backing out onto Berry Lane, is that the way it's going to work?

D. Yanosh: They've done it for years since the bank was there.

H. Ross: I'm assuming that it's more for the traffic that drives through and you do have parking spaces on both sides.

Unidentified Person: Most of your entrances to the building is in the front so I think primarily most of the parking will probably take place in the front.

A. Dulgarian: What are your estimated hours?

Unidentified Person: I don't know. I don't imagine it's going to be a late evening operation. Probably, if I had to guess, maybe six to eight. I don't think it's something that will be open until midnight or anything like that. I don't think so. It's a gourmet coffee shop.

A. Dulgarian: Are you willing to put anything on the plan like nothing after ten o'clock

D. Yanosh: We have on about no alcohol. That was one of the statements from the Board for the Chinese restaurant.

Unidentified Person: I can't imagine a coffee shop as being an issue about being opened late.

H. Ross: The use has changed and now there won't be alcohol.

Unidentified Person: Yes. I think that was actually one of your comments though that if we were going to do any alcohol I would have to revisit the Planning Board.

W. Capozella: I really don't have anything.

C. Najac: Thank you for my sidewalk. Otherwise, I accept.

T. Hamilton: Mr. McGoey, was there anything else on that for you?

D. McGoey: There's a couple of minor issues Mr. Yanosh can take care of.

MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's

comments and comments from this Board made by A. Dulgarian and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

MOTION for SITE PLAN/SPECIAL USE PERMIT subject to all of Mr. McGoey's comments and comments from this Board made by A. Dulgarian and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

6. **DRAGO** - 2 LOT SUBDIVISION - Boorman Road (32-1-40.222) #30-07

T. Hamilton: Your name for the record, please.

A. Fusco: My name is Al Fusco with Fusco Engineering representing Mr. Drago for a two lot

subdivision. Basically what we have is a six plus acre piece of property 6.33 on Boorman Road. It is being a request that we have a two lot subdivision. Towards that end they're basically about three acres plus each. We have gone through and I believe we had appropriate work sessions. We have comments which I don't have any problems except for one that needed some additional clarification in relationship to the size of the lots. I'll discuss that as you wish during the comments. Basically what was made note of is that because of the swale classifications that under a conventional subdivision that this would require four and a half acres for each lot. What we have is one is 3.2 and one is 3.1. However, Section 249-19 does have a section relating to property of ten acres or less and in that instance where there is ten acres or less that we would go under a Type II conventional or conservation subdivision. Under that classification three acres is allowable. That is the only item that I believe is something that you need to discuss. The rest of the items are things that we can work out. The only one that represents a little bit of a problem is in relationship to if it was created from a previous subdivision within the last ten years. We don't believe it was. However, we have been having difficulty with Orange County Tax Map Department in being able to identify that it was or it wasn't. From all the information that we've been able to put together we are in compliance. We have been at Tax Map twice and we are looking into the Title Insurance Company to see if we can answer that. So, that's a little bit of an open question only because Tax Map does not have any record of that subdivision when it was. It appears that we are in compliance. I don't have absolute verification of that. The rest are items are things that we can work out in relationship to types of pipes and sit distance, things of that nature that we will be able to comply with.

T. Hamilton: Mr. McGoey, it looks like an awful lot of comments here.

D. McGoey: First of all I agree with Mr. Fusco in regard to comment #3. He's right and I was wrong. He can use the three acres. Besides which I think we have to straighten out the subdivision before you subdivide it otherwise we would have to hold a Public Hearing. This definitely was subdivided because it's got a point number.

A. Fusco: Right.

D. McGoey: 40.222. I can't understand why Real Property doesn't know when it was subdivided.

A. Fusco: I agree with Mr. McGoey on that. We've been to Tax Map twice because of the number it does appear to be in a subdivided parcel. We've had difficulty but I believe it was over the ten year period. Again, we need to do some title work in order to determine that.

D. McGoey: What you may want to do and in the interest and time for your client ask the Board to schedule you with a Public Hearing and when you appear that night if we find that between now and then you don't need the Public Hearing, don't advertise it and we will hold the Planning Board meeting and approve the project if you can provide that information.

A. Fusco: I would agree with that and I will take Mr. McGoey's advise and request a Public Hearing date.

A. Dulgarian: While they're doing that, how did you come up with thirty seven (37) miles per hour?

A. Fusco: What we did is, we had one of our inspectors there and we him testing some of them to see what the average speed was.

A. Dulgarian: With a gun or something?

A. Fusco: Yes. What it was, you're familiar with Boorman Road. It's a very secondary rural road and basically there are some curves on either side of it and then just past the property there is an intersection. The intersection is pretty much a four-way stop so when you're coming in an eastbound direction, you're coming from the stop. That has something to do with it.

A. Dulgarian: So, the answer is it's under the speed limit.

A. Fusco: That's correct.

A. Dulgarian: Okay.

A. Fusco: We met that verification from . . .

A. Dulgarian: Mr. Hamilton, I have nothing additional I as well have no problem with scheduling a Public Hearing date.

H. Ross: I agree.

W. Capozella: Mr. McGoey, comment #10 about grading. I mean, I don't have a problem with grading. I do agree that if they do grade . . .

D. McGoey: I think they should provide some use of the backyard and some drainage improvements.

A. Fusco: We will work that out.

C. Najac: The only question I have is can you tap into the City water line that is in the area?

A. Fusco: There is one but this property does not have any rights as of the present to do so and it's also a well water line. It's not a chlorinated water line.

C. Najac: That's all.

T. Hamilton: Mr. McGoey, your comment for Mr. Bacon?

J. Bacon: Is there a dam on the Ferrier property which would indicate some type of permanent stream as an outlet from a pond which does not appear on the plans?

A. Fusco: There's a small dam.

J. Bacon: Is that dotted line that you have there, does that represent the stream?

A. Fusco: What's that?

D. McGoey: I made that comment. The contours don't make sense. There's a stream that crosses the site.

A. Fusco: I will re-identify that for that next meeting.

T. Hamilton: Mr. McGoey, do you want him in for another work session?

D. McGoey: Yes.

MOTION to schedule a PUBLIC HEARING for September 5, 2007 made by A. Dulgarian and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

7. **FLUFFY PUPS** (Boarding Use) - SITE PLAN/SPECIAL USE PERMIT - Goshen Turnpike (44-1-38) #35-07

T. Hamilton: Your name for the record, please.

D. Wieboldt: Good evening. My name is David Wieboldt the Architect for the project.

T. Hamilton: Go ahead.

D. Weiboldt: The project is a two thousand one hundred square foot addition to the existing building on Goshen Turnpike. The building is currently used for Fluffy Pups for dog grooming and the proposal is to increase the space for the dog grooming and a small little space to sell accessories and also to do boarding for dogs. We meet the majority of the requirements in the M-1 zone with the exception of the front yard and side yard setbacks. The proposal has the addition in the same location as the current deck on the rear of the property so the setbacks do not decrease on the side yards than what they already are now and the front will still be maintained as it is now. We went to a work session and have some technical comments from Mr. McGoey and I see no problem with not meeting any of those requirements.

T. Hamilton: Any of them Mr. McGoey, are they all simple?

D. McGoey: Yes. I think Mr. Bacon has an issue with some of the variances. Other than that, I think there are some technical issues to be resolved.

J. Bacon: Mr. McGoey had mentioned in his comments #13 and #14 that this may require variances.

T. Hamilton: He has to go before the Zoning Board of Appeals then?

J. Bacon: Yes.

T. Hamilton: I will go through the Board.

A. Dulgarian: I have probably a little dumb question. The addition we're looking at, that's this shaded area on page 2?

D. Weiboldt: Yes it is.

A. Dulgarian: What is the square footage of this?

D. Weiboldt: Two thousand one hundred square feet for the addition and nine hundred square feet of the existing building making the total project three thousand square feet.

A. Dulgarian: Okay. I thought you were telling me that the existing was three and you were adding twenty one and that looked out to be doubled. I have nothing additional. So, the dog business is busy?

C. Strommer: Yes it is. Thank you.

A. Dulgarian: It looks like you do a nice job out there. I have nothing further.

H. Ross: As long as Mr. McGoey's comments are resolved I have no problem.

W. Capozella: Mr. McGoey, do they have enough parking? I see they added.

D. McGoey: They need to show all the parking on the Site Plan.

D. Weiboldt: Mr. McGoey if you look in the bulk requirements, it's one space for two hundred square feet.

C. Najac: Refer to the Zoning Board of Appeals.

MOTION to refer applicant to the ZONING BOARD OF APPEALS for setback requirements made by H. Ross and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

8. **SMITH** - 2 LOT SUBDIVISION - 212 Watkins Avenue (38-12-6) #67-06

T. Hamilton: Your name for the record, please.

J. Dillin: My name is James Dillin representing Mr. Smith.

T. Hamilton: Go ahead.

J. Dillin: I have Mr. McGoey's comments. The first comment about the zoning variance, we've been granted that about two months ago.

D. McGoey: Well, I'm wrong again. That's happened twice tonight.

J. Dillin: I've revised this plan a little bit. The variances were for area and (not clear). I don't believe there are any other variances required. We do have an existing driveway on lot #2. It's a common driveway of which the adjoining owner will share with the applicant. We're proposing to be an easement around it.

A. Dulgarian: What do you mean?

J. Dillin: This is the driveway is for the neighbor that's on this property and he intends to let him use the driveway and give an easement for that.. This is on the right hand side.

A. Dulgarian: Oh, does it go over the line?

J. Dillin: Yes, it's over the line.

A. Dulgarian: Who owns that property where the existing dwelling is, is that where you're talking about?

J. Dillin: Probably it's owned by Mr. Starr.

A. Dulgarian: Alright.

T. Hamilton: We will need the paperwork on that easement.

J. Bacon: (Not clear). It's not on this?

J. Dillin: The easement would be in favor of the adjoining owner.

T. Hamilton: Will it always go with that lot?

J. Dillin: It will always go with that lot.

T. Hamilton: Mr. Bacon will have to review that.

J. Bacon: Yes. That would be fine. We do that all the time.

T. Hamilton: Anything else on this Mr. McGoey?

D. McGoey: No. Have you looked at my comments?

J. Dillin: Yes. I have looked at everything and it's just mostly details. The only thing I can say about drainage is if you want to in a case like this we could put a dry well in for the roof drainage.

D. McGoey: Yes. We just can't have you discharging water from one lot to the other.

J. Dillin: So, we can do that?

D. McGoey: Yes. I will put in a dry well with gutter drains.

T. Hamilton: I will go back to the Board.

A. Dulgarian: Basically I'm comfortable with this. Washington Heights and Mechanicstown have a lot of forty and fifty foot lots. These were three combined fifty foot lots. What we've had in the past if you recall there was one in Mechanicstown on Fairfax where the guy had the exact same thing with a one hundred fifty foot lot and he wanted to divide it up three ways and we told him no even though it was pre-existing fifty foot lots, we felt that dividing it in half would be a good compromise. That's basically what he's doing. We've done it before. I have no qualms with it. It does not change the characteristic of that neighborhood.

H. Ross: I agree.

W. Capozella: Nothing.

C. Najac: Nothing.

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

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

MOTION for TWO (2) LOT SUBDIVISION approval subject to all of Mr. McGoey's comments and this Board's comments made by C. Najac and seconded by A. Dulgarian.

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

9. **SILVER LAKE DELI** (Re-approval) - Silver Lake Scotchtown Road (24-1-36.21)
#42-04

T. Hamilton: Your name for the record, please.

D. Yanosh: My name is Dan Yanosh, Surveyor for Silver Lake Deli.

T. Hamilton: Go ahead.

D. Yanosh: This was approved by this Board back in June 2005. We got variances from the Zoning Board of Appeals for the size of the building in January 2005 and were back before the Board in June. It was never finished and the project died from lack of funding and stuff like that. So, now the applicant wants to do it again. One of Mr. McGoey's comments was the size of the eating and drinking establishment area. I stopped and bought a bottle of water before I came. They took the wall out between where it says the storage area and the deli itself, that wall is gone. It will all be probably space for groceries and deli stuff back through there. It seems that the Highway Department wants to make sure that I have a fifty foot right-of-way through there also. I will have to do additional survey work across the street to find out where that subdivision is on both sides of Freezer and Silver Lake Scotchtown Road to provide and make sure we can put a right-of-way through there. Mr. McGoey is also questioning whether the variances received are still valid.

T. Hamilton: Have they run out Mr. McGoey?

D. McGoey: Yes.

D. Yanosh: What we will have to do is to go back before the Zoning Board of Appeals. The size of the building is too big for the requirement. We had no problem with the variance the last time.

T. Hamilton: What about the Special Use Permit for this?

D. McGoey: He already has the use.

D. Yanosh: It was a Special Permitted Use as a neighborhood grocery store.

D. McGoey: It is probably pre-existing and non-conforming.

A. Dulgarian: Once he has it, he has it correct?

D. Yanosh: It was a Special Permitted Use as a neighborhood grocery store.

A. Dulgarian: Well, it was pre-existing and once you have it, it's not changing the use.

D. Yanosh: We tried years ago to put a liquor store in the storage room area. That didn't work. The beauty shop, that never worked.

T. Hamilton: The Zoning Board of Appeals is for what now?

D. McGoey: Floor area variance.

A. Dulgarian: He doesn't have five thousand square feet.

D. Yanosh: Actually what's required for a neighborhood grocery store is fifteen hundred square feet.

D. McGoey: A retail store which requires a minimum of five thousand square feet.

D. Yanosh: Looking in the code for a neighborhood grocery store.

T. Hamilton: Mr. McGoey, we will send him to the Zoning Board of Appeals and then back to us to work out the rest?

D. McGoey: He probably should have a work session.

D. Yanosh: I have to work on the right-of-way and the rest of it also. Sidewalk?

C. Najac: Yes.

D. Yanosh: We have just a sign here in the front here where the deli is and where the driveway comes in. Is it okay to put it where my curb is going in front?

C. Najac: On Freezer?

D. Yanosh: Yes, Freezer to where the end of my parking lot is.

MOTION to refer the applicant to the ZONING BOARD OF APPEALS for relief from the oversized square foot area made by A. Dulgarian and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

MOTION to TABLE for further review made by A. Dulgarian and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

10. NYLIND ASSOCIATES - SITE PLAN/SPECIAL USE PERMIT - 357 Route 211 East (50-1-33.2) #27-07

T. Hamilton: Your name for the record, please.

T. DePuy: My name is Thomas DePuy with DePuy Engineering & Surveying.

T. Hamilton: Go ahead.

T. DePuy: Nylind Associates is proposing where the Hooter's Restaurant was supposed to

go. They pulled out of the project. So, we're looking to put in some proposed retail and also there's some existing square footage underneath the building that we're showing as storage. We redid the parking lot calculations and we do have to add about nine spaces and then re-stripe some of the other areas so that the parking meets the criteria. We basically matched the landscaping that we had shown on the previous Site Plan that was approved.

T. Hamilton: Wasn't there a spot in there that is grass now that was going to be a big parking lot? Is that still happening or no?

T. DePuy: On the backside?

T. Hamilton: Over in the front?

T. DePuy: That was when we were doing the Hooter's project but we don't need that much parking for retail. That was when it was for eating and drinking establishment. That will remain. We had developed the whole back area for the necessary parking but now we only need about nine spaces on the back portion to meet the criteria.

T. Hamilton: In the back area, you're keeping the grass there and no other landscaping?

T. DePuy: Yes. There would be grass in that area and we're planting the street down the right-of-way line.

T. Hamilton: Mr. McGoey anything with your comments?

D. McGoey: Well, I just want to make sure that the dumpster issue is going to be straightened out. Right now, everybody has their own dumpster and no enclosures. If you can get that straightened out. I think the other issues are pretty straight forward. The comment from the Town Supervisor and the continuing use and ownership of Fitzgerald Drive.

T. DePuy: Yes.

D. McGoey: We should talk about that. There have been a lot of discussions about whether the Town wants to keep Fitzgerald Drive open as a Town Road. It's mainly a dirt road, isn't it?

T. DePuy: No. Actually, this section here is the paved area. For some reason when we did the research we don't think it ever got dedicated. Originally we re-did the survey and had gotten the title report and that still shows up in ownership.

D. McGoey: Of who?

T. DePuy: Nylind Associates and should be dedicated I believe.

D. McGoey: Maybe we should try to square that away as part of the approval.

T. DePuy: Okay. We can do that.

T. Hamilton: How does the landscaping here compare to when Hooter's was approved?

T. DePuy: We matched exactly what we had originally done except for around this area that we're not developing. I think we had sent that up and she had gone over it.

T. Hamilton: What about the architectural rendering of the building? There were some changes when Hooter's came in and they were going to re-face the whole front. What's happening now?

T. DePuy: At this time they were looking to get the site done. They were waiting until they had a tenant.

T. Hamilton: I remember they were re-doing the building to make it more presentable. When Hooter's was in they were re-doing that whole front. I don't see why we can't get that done now.

D. McGoey: In the back also, I raised also.

T. DePuy: I think we still have a note on here about the back.

D. McGoey: You don't know what they want to do in the front?

T. DePuy: No.

T. Hamilton: Mr. McGoey, how did we work out the lighting, any changes you want to make on that lighting?

D. McGoey: I don't think the lighting is too severe out there.

T. DePuy: We're only proposing one additional light.

D. McGoey: And, it's a shoe box?

T. DePuy: Yes on the back side.

T. Hamilton: Can we check the Hooter lighting to see what we did on that?

D. McGoey: Yes.

T. Hamilton: I will go through the Board.

A. Dulgarian: You're, Mr. McGoey, hoping to give him Site Plan approval tonight?

D. McGoey: It's up to the Board.

A. Dulgarian: Well, I would like to know what it is and what it's going to look like first.

D. McGoey: Okay.

A. Dulgarian: I think that facade is going to be very important and depending on what type of business will be in there to have a better idea on what it's going to look like. I think that's fairly important for the project. I have problems just giving them carte blanche and throw it in your lap when I believe it's a Planning Board issue. That's my only stumbling block. I still think it is very good to get that building used but I still I am reluctant to give up the final approval without knowing what it would look like.

H. Ross: I would also like to see that. Do you know what the retail will be?

T. DePuy: Not at this time. They said they had several retail outfits that were looking at it.

A. Dulgarian: Tell them we would like to get a retail in there and when they know what it is give us an idea what it's going to look like. It's real tough for them to wait on us. They will have to wait on you. You will have to come up with some kind of an idea.

T. DePuy: Well, I can have them do an architectural rendering of the building. If they need to come back in and adjust it later we will have to come back to the Board. I know you want the front of the building to be done. I understand that and the client wants to it anyway.

H. Ross: Nothing further.

W. Capozella: I like the idea of doing the back. I would like to see the rendering. I thought we had talked about the front before.

T. DePuy: We did but they weren't sure they were going to match that.

A. Dulgarian: I doubt if it's going to be Orange now.

T. DePuy: Yes.

C. Najac: I think it's been covered. My sidewalk, is it on the plan?

T. DePuy: We're giving a walkway back through the parking lot also.

T. Hamilton: Mr. McGoey, shall we table this and have them get back to a work session?

D. McGoey: Yes.

MOTION to TABLE for further review made by C. Najac and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

11. **WALLKILL TOWN CENTER** (Restaurant to Bank Use & Office) - SITE PLAN REVISION - Dunning Road (50-2-58.2) #25-07

T. Hamilton: Your name for the record, please.

J. O'Rourke: My name is John O'Rourke with Lanc & Tully Engineering.

T. Hamilton: Go ahead.

J. O'Rourke: If the Board will recall we were in front of you last month with this application where we took the previously approved restaurant and now proposing a bank with lease-able rent area. At that time the outstanding issue was whether the Public Hearing was required for the use of the bank. We scheduled a Public Hearing at which time it was determined that the issue was resolved and we're back before you this evening for approval.

T. Hamilton: One quick question. On the overall Site Plan.

J. O'Rourke: Yes.

T. Hamilton: Maybe I've missing something at one of the meetings. You showed a kiosk before us.

J. O'Rourke: That's correct.

T. Hamilton: Was that approved?

J. Bacon: The bank kiosk?

T. Hamilton: Yes because it was an accessory to a different bank.

J. O'Rourke: That was previously approved along with the sandwich shop as well.

W. Capozella: Is that what you called it?

J. O'Rourke: Previously when we were before you the last time, the project before this one when we had a drive-in ATM approved and the sandwich shop. Those were previously approved. I think that was your question.

T. Hamilton: I remember when the kiosk was in. I didn't remember the sandwich shop. Do you remember this kiosk and how can it be an accessory use to a different bank.

J. Bacon: Not clear.

A. Dulgarian: That was an accessory to TD Banknorth, right or no?

J. O'Rourke: No. The previously approved ATM kiosk drive-thru was basically the Bank of America. Yes, it's own bank.

T. Hamilton: And, a different bank was inside.

J. O'Rourke: It was previously approved by this Board.

J. Bacon: It was established as a bank.

T. Hamilton: As a bank yes, but the kiosk couldn't have been accessory to a completely different bank company. That was my question.

J. O'Rourke: And it wasn't. I believe that night it wasn't approved as an accessory use. It was just approved as a Site Plan amendment. It was not specific as to an accessory use. Specifically we had this conversation at that time.

A. Dulgarian: It's gone, right?

T. Hamilton: I guess.

J. Bacon: It's not part of this Site Plan now, right?

J. O'Rourke: No.

T. Hamilton: It's part of the overall plan.

J. O'Rourke: One of Mr. McGoey's comments is basically to show all the previously approved projects, which we did.

A. Dulgarian: So, it is not on the Site Plan?

T. Hamilton: Not on this one. It's down further in the parking lot.

J. O'Rourke: It's on, if you look on the overall plan on sheet #1 we show the approved office building, Circuit City, Price Chopper. The recently approved sandwich shop, the retail, the furniture store, Groo's, Charlie Brown and then the ATM drive-thru.

A. Dulgarian: Okay.

J. O'Rourke: These were all previously approved.

A. Dulgarian: Now that ATM is for this bank?

J. O'Rourke: No. That ATM is completely separate. The existing approved ATM is completely separate.

T. Hamilton: Let's get back to this.

J. O'Rourke: Seeing that the bank use has been on the site a Public Hearing is not required. We're basically in front of you to approve this amended Site Plan again replacing the previously approved restaurant and the bank. We have seen the comments and have no problem with any of them.

T. Hamilton: The lighting and whatever, Mr. McGoey?

D. McGoey: Yes. He just has to number the sheets and make them part of the set. There was a note on E 0.2 which required a time clock to provide to turn off the type K lights before dawn. That probably should be looked at.

J. O'Rourke: No. Actually I checked with the lighting company the people who did that. That's required for the ATM. They have to have both lights on to meet the New York State regulations.

D. McGoey: Okay. We discussed whether the lights should be turned off at closing at least in areas such as under the canopy.

J. O'Rourke: Under the canopy is where the ATM machine is and that's based on the New York State regulations for lighting in and around the area for an ATM.

J. Bacon: Can you provide lighting until eleven?

J. O'Rourke: We did submit previously the regulations governing.

D. McGoey: Yes. They did submit the regulations on the lighting.

J. O'Rourke: Which also relates to the other comment concerning candle height. The new

regulations require ATM's to be a five foot elevation for the light. We can clarify that better for you.

T. Hamilton: I will go through the Board.

A. Dulgarian: This has been approved already and the important thing to me on this site was the snow storage and the footprint is the same and I know it's all been addressed. But I just want to reintegrate with how important it is because this is the same project that knocked down all the trees out by Schutt Road when they put the snow up there. It was never replaced and all that. I'm still reeling that we've lost a Currabba's and now a Hooter's also. This is going to be a nice project though.

H. Ross: Nothing further.

W. Capozella: Nothing further.

C. Najac: Nothing further. The ATM will be by the drive-thru?

J. O'Rourke: That is my understanding, yes.

C. Najac: You're going to need all that extra lighting on the other side of the building? It seems like an awful lot of lighting.

J. O'Rourke: I can confirm that with the bank people. They basically have stated that they've limited the lighting to the minimum bank requirements for an ATM machine.

C. Najac: I did read the letter and it does concern the ATM and you need certain lighting requirements.

J. O'Rourke: We will limit the lighting to the typical requirements unless it's exceeded by the State regulations.

T. Hamilton: Mr. McGoey, on the canopy are the lights all recessed?

D. McGoey: I believe.

J. O'Rourke: Yes they are.

C. Najac: All fixtures?

J. O'Rourke: All are recessed into the canopy.

C. Najac: Limiting the lighting in the parking lot.

J. O'Rourke: Those are matching.

C. Najac: All are shining down.

J. O'Rourke: I believe one and I think one is a directional light.

D. McGoey: Had a discussion with Mr. O'Rourke.

J. O'Rourke: We will remove the directional light.

T. Hamilton: Anything else, Mr. Najac?

C. Najac: That's it.

T. Hamilton: The landscaping we went over the last time.

D. McGoey: Yes.

J. O'Rourke: We just modified for the configuration but everything stayed the same. Sidewalks were previously . . . There's no question on sidewalks. We have sidewalks across the entire frontage.

T. Hamilton: Mr. Bacon, do you have anything?

J. Bacon: No.

MOTION for a NEGATIVE DECLARATION subject to all of Mr. McGoey's comments and this Board's comments made by H. Ross and seconded by W. Capozella.

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

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

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

12. **FAIRGROUND PLAZA** (Chase Bank) - SITE PLAN REVISION - 360 Route 211 East (50-2-36) #34-07

T. Hamilton: Your name for the record, please.

P. Anderson: My name is Paul Anderson with Carling Associates. I'm the engineer on the project. I'm here representing Chase Bank. Fairground Plaza was previously approved as a Site Plan and they had a pad "D" which is located on our exhibit. It's a ten thousand square foot building of proposed retail. Chase Bank is leasing that pad and they propose to put a forty two hundred and twelve square foot bank with a drive-up around the back. The dash line around the perimeter, you might be able to see from where you are, is the lease line. So everything that we're doing is inside of that lease line. We've taken essentially a block of square of a ten thousand square foot lot and added some extra space so with that extra space we're able to reduce some pervious. We've been able to plant some trees. All the parking and other features outside of that which was previously approved will all remain the same and because there was a reduction of square footage of the building itself there's actually less parking required than what was originally approved but we're showing the same amount. There's no deficiency in parking in fact, there's an abundance of parking.

A. Dulgarian: And, the carpet store?

P. Anderson: No. The carpet store is located here. Showed on the map.

T. Hamilton: Between the carpet store and Stop & Shop?

P. Anderson: Yes. If you look at it here you may be able to see it better. This is the carpet store and this is Stop & Shop. The little ten thousand square foot pad is here. So, this is a site change from the previous use. It's a reduction in intensity. A nice upgrade and we're able to provide some landscaping. We did receive some comments. We responded to these back. I'm not sure if Mr. McGoey saw our revised plan set that was sent in. We went over all of these at a work session. We have provided the overall plan and the zoning table and all the things. Certainly we have problem with providing any of these things. One thing they did ask us to discuss was the queuing for the parking. The drive-up windows are right in this area here. He is the canopy for it and there is space for four (4) cars parked behind in each aisle. What we've found is three or four cars stacked is the standard at this point and time because with on-line banking and all night ATM's and so people there shouldn't be more than four (4) cars lining up although during peak hours the bank with this many drive-up windows will open up a little bit more of the use and try to get everybody in. We don't anticipate any cars backing up into the parking lot.

A. Dulgarian: Is this your third bank on this overall site?

P. Anderson: I don't know the answer to that.

T. Hamilton: They have two credit unions and a bank.

P. Anderson: I don't evaluate that.

A. Dulgarian: I understand and we're not allowed to look at it either.

P. Anderson: This was taken from the original Site Plan.

T. Hamilton: Mr. McGoey, any comments?

D. McGoey: One issue is that the Site Plan on sheet shows a limit of Chase Bank proposed site work. You need to clarify that there are other site improvements outside of those limits.

P. Anderson: I believe you're talking about the overall plan. We're representing Chase Bank for this pad and I don't know that we can really keep to the other deficiencies that were done..

D. McGoey: What I'm trying to do representing this Board is that as a condition of this approval that we get these problems resolved and would need a commitment from the owner of the mall.

A. Dulgarian: Which problems are we talking about? Are we talking about trees?

D. McGoey: We have some dead trees. We have some erosion problems.

A. Dulgarian: There is a major erosion problem.

D. McGoey: Right.

P. Anderson: As far as sidewalks that was all done along Route 211 here. As I indicated we're here representing Chase Bank. If we were able to get approval of this plan and it is subject to those things I would think that our client would be going back to the landlord and trying to get those items done. I don't know why they should.

T. Hamilton: It's one site. The whole thing is one big parcel. That's why it's connected.

Unidentified Person: We discussed this issue and he informed me he met with the Building Inspector and Stop & Shop was present and a deal was made that Stop & Shop would replace everything. Chase will do our pad site.

A. Dulgarian: I'm going to comment on that. I know that's not your responsibility. This is our opportunity to get some wrongs right. That road that goes out to Carpenter Avenue, the erosion control was never done on that. It's run right down into the road. It's clogged those storm drains. There's no erosion control measures there whatsoever and nobody has addressed it. They just don't care. Now, they're back with you this is our opportunity to get

it corrected and I have a problem approving anything that's connected to this project until they give us what we're supposed to have right up front.

Unidentified Person: With all due respect, I think this is not fair for my client because I spoke to the owner today and he said that he has the issue with the Town and it's not going to be soon. So we are sitting with this property like a long time.

P. Anderson: Let me ask how it works. Put in your resolution of approval that several items have to be done, how would we complete?

D. McGoey: You wouldn't get a Building Permit until it was corrected or a Certificate of Occupancy until it was corrected.

P. Anderson: Okay. So, there's two things that can happen during that time. Chase can discuss it with their landlord and then they can deal to make sure that it gets done or they can undertake the bill.

T. Hamilton: Mr. McGoey, our problem is this is Fairground Plaza, not Chase Plaza. We need some kind of paper work or a representative in here from the Fairground Plaza owners and to verify they are willing to accomplish everything that has to be straightened out that isn't up to the approved Site Plan and so forth. Chase Bank can't answer for them. There is nobody here from the Fairground Plaza to say yes, they're willing to do that and to get it on record. They should come in and represent themselves and say yes, or bond it whatever we have to do to get it. Granted, the bank wants their approval but we have a bigger problem with getting the rest of that whole plaza site brought up to code. It goes to the Owner's Endorsement papers we always have to have on who can do what. Chase would get stuck with maybe no getting their Certificate of Occupancy, a Building Permit or whatever until we do get the site done. It's taking longer and longer and nothing is happening.

A. Dulgarian: Yes. Do we have a laundry list of what needs to be accomplished on this site?

D. McGoey: Yes there is a punch list between our office and the Building Department and they did meet with the plaza owners out there.

A. Dulgarian: I okay.

D. McGoey: But I agree with you.

A. Dulgarian: I have no problem with moving forward for this applicant but like you said, maybe a condition to their Certificate of Occupancy. I can't see it being a condition to issuing of a Building Permit. If they have a tenant that can't move in because they haven't done something now we have some motivation to get what need accomplished done. I think we're helping this applicant and helping the Town by granting this subject to these things being performed before issuance of a Certificate of Occupancy.

T. Hamilton: I just like telling you have to do this and that without them here knowing it. I mean it will be in our minutes but they should have been involved and here tonight or somehow.

A. Dulgarian: Well, it will come back to the minutes.

T. Hamilton: Yes.

A. Dulgarian: This is our opportunity to get these issues resolved and Mr. McGoey said he has the laundry list so we're good.

T. Hamilton: One item where you talked about where people would backing up into the drive-thru and so forth.

P. Anderson: Yes.

T. Hamilton: You have four different spots to pull up plus a couple of other ones. You have two tellers. I see that the banks all over here most of them have only one teller that handles it.

P. Anderson: What we would have, one of them is the ATM machine. So, that one is on it's own and the other three are tellers.

T. Hamilton: We see that they back up because they don't have the manpower to move these cars through, even inside. I go to the banks all the time every other day. Every one of them, you have four teller windows and two tellers and one of them runs to the drive-thru window.

Unidentified Person: The tellers help each other.

T. Hamilton: The other question with your interior layout. I don't see the safe.

P. Anderson: We don't give information on the vault.

T. Hamilton: I'm just telling you the way it is. It might be funny but if I go in there and you have a desk and computer station in every one of these rooms but yet you walk into any bank and you see that vault door.

H. Ross: I agree with Mr. Dulgarian.

W. Capozella: I'm going to agree. I would like to see exactly what it would look like. We had a problem with a car wash on the color.

Unidentified Person: Chase does have a blue color, typical and more natural. The two color bricks are basically natural color bricks so that it will dominant from the building. The stucco coat is the gray and the only blue color is the roof with a low pitch. Basically looking from down below it looks smaller.

T. Hamilton: You have a lot of mirrored fronts on that. The whole front is the gray.

Unidentified Person: It is all gray stucco and clear glass. It is basically clear glass and two colors of brick.

T. Hamilton: I see their light fixtures will all be recessed?

Unidentified Person: Yes. On the canopy we show night lighting that is a new banking system where they don't have any lights in the bridge, only a few by the tellers. They're amber in color and the only lighting is under the canopy.

D. McGoey: I didn't see the lighting detail sheet in this plan. You should make that part of these plans.

A. Dulgarian: Is that something you can work out subject to?

C. Najac: Do it as specified in the code, straight down so there is no glare.

T. Hamilton: Mr. McGoey, we can do it as a subject to and before the plans are signed?

D. McGoey: We need to see those foot candles. We need to see the Site Plan showing them.

P. Anderson: We can work that out.

C. Najac: I just wanted to make sure that one more thing is added on to the punch list for the owner of the lot and that is the sidewalk on Route 211. The sidewalk presently ends at the light by (not clear). I'm almost tempted to ask for a sidewalk on the drive going out of the parking lot because people are walking there but I don't by that area that often.

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

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

MOTION for SITE PLAN REVISION subject to all of Mr. McGoey's comments and this Board's comments and the list of what has to be done to bring the complete site up to the code and prior to a Certificate of Occupancy made by A. Dulgarian and seconded by H. Ross.

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES

13. **TOWER RIDGE** (Revision) - SITE PLAN/SPECIAL USE PERMIT - Tower Drive (40-1-64) #30-97

T. Hamilton: Your name for the record, please.

M. Blustein: I was hoping I could watch the proceeding. I was told someone else would be here. I'm familiar with this. I was down here for the April approval and we had a meeting with Mr. Bacon, the Building Department and Mr. McGoey about the developer's intent to convert rental units into condominium units. There he is, right here. Just in the nick of time.

J. Weinberger: I'm sorry and I apologize for being so late. I did prepare an abbreviated map version of what we did hand in for your review of what we're intending to do. What we are trying to do is not like a condominium project. What we have here is, we have. My name is Jeff Weinberger. I'm a principal in Caliper Builders, the applicant here and also principal in Tower Ridge Associates LLC. We previously appeared before this Board many times in the past and have received Final Site Plan Approval to construct one hundred ninety two (192) dwelling units on the property. As we had stated previously in our previous presentation that we intended that this project would be a rental project, all one hundred and ninety two units. Subsequent to that time we decided that market conditions being what they are we wanted to a mixed project. A project that comprises of some condominium units and some rental units. To that end, what we have determined is and decided for planning is that there is a total of nine buildings. The first four buildings, those are numbered #6, #7, #8, and #9 would contain a total of one hundred and twelve condominium units. Those are condominium units that we kind of understand that the entire property is a condominium association and would consist of one hundred and twelve individual condominium dwelling units and then five whole buildings are which by themselves are full condominium units. So, when we file our declaration of condominium in the County Clerk's Office we will have a total of one hundred seventeen condominiums. One hundred and twelve being one hundred and twelve (112) individual owners and then five other unit owners or five other buildings, each building being it's own unit. Now, the one hundred and twelve condominium owners would be like the regular condominium association. The five buildings would be held out for rental. They would be owned by one entity. Here's where it gets tricky. The entire project will not be managed by the Condominium Association. In fact, the Condominium Associations specifically delegate all of their responsibilities from the management to the confirmation of this project to a Home Owner's Association. Under the Home Owner's Association Law a membership association. With a membership association we can treat the condominium owners differently than we can treat the owners of the rental units. Home Owner's Association is charged with the responsibility of managing all the common areas. That includes all the parking areas, the landscaping, the clubhouse, the pool and the tennis courts. The common areas within the condominium buildings, those four buildings with one hundred twelve condominium units will always (not clear). It has nothing to do with the rental units themselves except for the maintenance and services provided for rental units. The Home Owner's Association has no responsibility. If you're a renter you're expected to get levels of services than you are if you're a condominium owner. Your benefit is if your refrigerator breaks, you're expected to be compensated. If you're a condominium owner, if your refrigerator breaks, an association does not repair anything within a unit. So, it's because of that reason that we have condominium owners on one side and then renters on the other side. We have opted to go with a Home Owner's Association. The Home Owner's Association has a membership association and it creates two different classes of members. Condominium

owners on one network of a membership and the owners of the full building units are of a different class of membership. With a membership association, the members. It doesn't matter how many units. If you're a member you get one vote. So, as far as the end of the day and sell all one hundred twelve (112) units and I own the five (5) full buildings left, I get five votes even though I own technically eighty (80) units, I only have five (5) votes. The condominium centers own one hundred twelve (112) votes. With respect to who has control and who is going to make sure that the standards for the maintenance and the common areas are held up that are totally the purview of the condominium owners. Basically in the nutshell that's how it goes. Specifically with the memo of your Engineer which I received yesterday, I did bring some answers in. With respect to question 2A. They're technically a Condominium Board of Managers. As a matter of fact, the condominium unit owners will elect one manager and all the business with the applications will be delegated to the Home Owner's Association. Really it's one association in management and operation of the condominium Home Owner's Association. The Condominium Board of Managers is almost like a carbon copy and has all the powers that the Condominium Board of Managers would have are now delegated to the Home Owner's Association. That's under the Condominium Declaration filed with the condominium. All obligations and functions of the Board of Managers in respect to the condominium and the property are hereby delegated to and shall be discharged by the association. So, rather than have a condominium association that is managing the Home Owner's Association. The condominium board really is just a conduit where everything flows into the Home Owner's Association. Now, every member of the condominium association, everybody who owns a unit, is now a member in it's membership population. As a member they have one vote. It's not a question of how big your unit is. If you're a member of the association you have one vote.

J. Bacon: The Home Owner Association is given the initial blanket?

J. Weinberger: No. The Condominium Association is the Tower Ridge Home Owner's Association. It's a membership ownership. The Home Owner's Association like you understand that many developers don't opt their property into the condominium law. They opt to make it a subdivision and then they put a hold under the association on top of the management.

J. Bacon: So, the condominium owner would be a member of the Home Owner's Association?

J. Weinberger: Yes. That's correct. They would have the right to vote for the Board of Managers of the Home Owner's Association. It's a little complicated because there are a total of five members of the Board of Directors of the Home Owner's Association. Two of

them have to be elected exclusively by the owners of the one hundred twelve (112) units. Two more are elected by exclusively the owners of the one hundred twelve units as the owner and a sponsor and the owner of the five building units which happens to be myself right now. And then one member is elected by one hundred twelve unit owners and myself as a unit.

J. Bacon: And, do the Board of Directors have to be nominated by the owners?

J. Weinberger: No, they do not have to be. Anybody can be elected. Generally our experience is that they are.

J. Bacon: How many members?

J. Weinberger: There will be a total of one hundred seventeen (117) members or one hundred and seventeen units.

J. Bacon: And the Board of Directors?

J. Weinberger: On the Board of Directors there would be five. And the management of control is turned over to the identical way as a condominium. So, when you sell the first twenty to seventy units you have to elect one member, elected by the unit owners and then when we sell seventy five percent of these units you have to elect two members on the Board of Directors. After than after a year after that you have to turn over (not clear). So, in many ways the Home Owner's Association is matching exactly and identically as a Condominium Association.

J. Bacon: And that's all you're offering?

J. Weinberger: That's all the offers of which I happen to have a copy for you to review and file. I did go to a seminar on condominium laws and they had this previously in a project. The management issues are very well thought out. Certainly we are concerned about that as well but the bottom line is it's going to be condominium unit owners. Myself as a sponsor, the management contractor, the condominium association for a limited period of time. After that if they don't like us at any time they can void the contract.

J. Bacon: How many of these (not clear).

J. Weinberger: This type of hybrid situation was approved previously on another project in New York State.

T. Hamilton: One.

J. Bacon: Where?

J. Weinberger: I think it was in Westchester. But that's not saying that the (not clear) it's very similar to what you would apply to the normal condominium. The only twist is that the condominium association is not responsible to provide high a higher level of services for the members. In that matter the Home Owner's Association would be able to differentiate between the rental units and the condominium units otherwise they would have to treat all the units the same and you wouldn't be able to provide the extra level of services that the renters . . .

T. Hamilton: Just for the Board Members I had a conversation with our Assessor today and she's trying to hash through some of these items, it's new to us. We've never seen it before and she's going through some of the paperwork to see how it's going to be worked out.

J. Bacon: Would it have been Dutchess County or Westchester County?

J. Weinberger: It was Fishkill but I just want to say that this is a condominium. It's a condominium filed under 90 (not clear) just like every other condominium that has been proposed and gone through in the Town of Wallkill. It's nothing unlike anything you've seen before. The only twist is the management of the condominium not by the Condominium Board of Directors but by a Home Owner's Association which is elected by the condominium units. That's the only twist with respect to the filing requirements, with respect to the issues under the subdivision law and issues with respect to Real Property Tax law. It's all the same and there's no difference.

T. Hamilton: I'm waiting to find out from the people we hire to tell me that, yes, this is. You know, we've heard . . . I'm looking to get information from the Town's side.

J. Weinberger: Actually, I'm all for getting more information. I think we did meet with the Real Property Tax Assessor. We also met with the County Tax Department. Under the Real Property Act, they're only duty with respect to condominiums is to determine the filing fee. That's their only function. Once they establish what that filing fee is we can go to the County Clerk. That is under the Condominium Law. That is an absolute subdivision regulations and the right to sell property and the lots and blocks are divided. Under the Condominium Act, the provisions apply to everything that goes under Section 9 of the Real Property Law. There's no subdivision going on here. This is a condominium. There are no subdivision approval lots here.

T. Hamilton: I will go through the Board.

A. Dulgarian: Well, I think that this is obviously new to me and it's a lot to digest. I think we need more input from our professionals but I will say we're going from one hundred ninety two rentals to eighty rentals. It could be interesting. It could be another option to affordable housing in our Town. It would be interesting to see. My question to this gentleman is in the SEQRA document that was filed, part of the questions that were answered were regarding financial impact and tax revenues. How will this document be changed by your changing your plan?

J. Weinberger: If anything the Town will receive more tax revenue by virtue of making it a condominium.

A. Dulgarian: And, how is that?

J. Weinberger: Well, because it's the way the assessment rules work when you have a rental property the property is valued on it's income value. How much money it makes? On a condominium basis it's valued on what it's sale price is. So, typically the condominium project or a for sale figure.

M. Blustein: Every owner will pay a mortgage tax.

J. Weinberger: The big money will be the real estate taxes and actually will increase the debt real estate taxes because condominiums and sold properties based upon their sale price.

A. Dulgarian: Mr. McGoey, there's different forms of ownership that affect the tax rate. What would be in our best interest?

D. McGoey: I just know, for example, the Fairways project. If they were fee simple the tax generated would be much greater than a condominium. I don't know how different this type of ownership would be.

A. Dulgarian: My follow-up question is, does SEQRA need to be revised?

D. McGoey: Not clear.

A. Dulgarian: Those are my concerns and again, I don't know what we're looking to accomplish tonight but it sure is an awful lot to digest and it's all new to me and I would like to have a lot more input and have some more discussion.

M. Blustein: If I could just briefly. We really take a position we don't have any need to be here. We got approval for one hundred ninety two multiple dwelling unit and it says right in your zoning law that either rental units, condominium ownership, etc. We're here because we were asked to come in and explain to the Board what we're doing but we don't really feel that the Planning Board has any jurisdiction right now because this project is approved and the offering plan being approved by the Attorney General, that's what a Condominium Association is about. We've got approval but are not specific to rental units or condominium units. We have approval for one hundred ninety two units. Nothing changes. The footprints aren't changing. The parking spots. Nothing in the whole Site Plan approved is changing. We took a position that as good neighbors we would come to the Planning Board and explain what we're doing and we think it's a good project for the Town. In terms of revising documents and revising SEQRA, we're not interested in doing that at all because I don't think the Planning Board has any jurisdiction right now to do anything. We have approval and we're proceeding with the approval. What we're really doing is we're giving the Attorney General a filed offering plan or accept an offering plan for a condominium association that merely affects how the property is owned by Tower Ridge Associates. It's not going to be owned in fee simple and broken up by the condominium filing plan that's approved by the Attorney General and then filed with the Orange County Clerk's Office. It's just like any other condominium plan. The approvals are for a multiple dwelling unit and nothing has changed. So, in terms of revising SEQRA. The fact that the Town could have more taxes or less taxes, I don't know the answer to that question but it is irrelevant.

A. Dulgarian: I know you know what you're talking about. I'm just asking questions that I feel that . . .

M. Blustein: And, that's why we're here.

A. Dulgarian: If the ownership changes, the revenue generated on this project is still going to affect the SEQRA document?

M. Blustein: No. SEQRA is for the environmental impacts.

J. Bacon: Yes. I appreciate Mr. Blustein taking his stand for his client. I think they're making good progress here, there's no doubt about it and I think he's done well. SEQRA, if there was some type of significant adverse impacts that was created by what they're doing then the Board has to take the position.

A. Dulgarian: I'm not saying there is. I'm just asking.

J. Bacon: It's usually strictly economic issues in terms of whether there's going to be an increase or decrease in terms of the tax revenues to the Town, it's not really a SEQRA issue. I do disagree with Mr. Blustein in that there are Site Plan requirements you need to follow here like changes to the meets and bounds and description of the Site Plan has to be approved by the Planning Board.

T. Hamilton: Mr. Bacon, you can put that on paper and get it to us so the rest of the Board.

J. Weinberger: I think there's some filing requirements.

J. Bacon: 339 actually requires . . .

J. Weinberger: I have 339 and honestly it's not really applicable to a condominium.

T. Hamilton: I think we should have another work session.

J. Weinberger: We're here as an informational thing to tell you what we intend and instead of one hundred ninety two bedrooms, we would like to do one hundred twelve (112) owners and eighty (80) rentals. I think it's going to be good for the Town and it's going to be good for the project. We don't think that there's any change on the ground. It's going to be exactly as you previously approved it. It's just that it's going to be one owner of one hundred ninety two units. There's going to be a multiple of owners and a multiple benefit to the Town.

H. Ross: I'm a little confused.

J. Weinberger: We do not believe that there is any approval required by this Board in order for us to file a Declaration under the Condominium Act with the State of New York.

H. Ross: To assure that (not clear).

J. Weinberger: Yes. We're going to work toward that end.

H. Ross: Okay.

W. Capozzella: Basically the developer is going from rental to ownership. I kind of understand the Home Owner thing and a way to regulate it. The fact that it's still a change I

would have to refer to our Attorney to verify that.

C. Najac: Yes. What you're saying sounds pretty good but I think we need to refer to our Attorney. It does make sense having people have ownership to take better care of it.

J. Weinberger: They will be watching my every move because if you're an owner and across the way you have renters that's where . . .

C. Najac: That was my next question.

J. Weinberger: Well, that's where it's going to be so now I'm going to hear from my customers. It's going to be kind of a self regulating thing but ultimately the common areas are going to be managed and controlled by the Home Owner's Association which by the majority will be elected and appointed by the condominium owners. The renters have no votes and the owners of the five buildings they have one vote and if I own all five buildings that's still one vote. I've got to deal with the condominium owners and make them happy.

C. Najac: Wouldn't it be better to have all the condominium owner buildings all in a row?

J. Weinberger: Well, it was because the four buildings are identical practically. They're all three and four story buildings with elevators. They all have the same unit types. There are three models that are spread out over the one hundred twelve units as opposed to the eighty units where there are five different rental types. So, it just seemed liked it was a more standardized program going with those first four buildings as the same type of cookie cutter type of thing as opposed to the other buildings of which three buildings are low-rise, one is a mid-rise, one is a semi-mid rise. Those buildings will be better suited as rentals and the four buildings the same would set the standard for maintenance, elevator contracts and all of those things just seemed to work better in those four buildings.

T. Hamilton: One question for you. Wasn't there a problem with the Developer's Agreement time line or something?

D. McGoey: The time lines for the Developer's Agreement are kind of out the window. Some of the problems are related to the Town Hall and the need to modify the traffic signal. Some of them are related to the slowness of the construction and the position of the pool and the other amenities. So, what I would suggest is maybe you modify the Developer's Agreement at some point and bring it up to date to get back on track.

J. Weinberger: The signal we will come to grips with that. The clubhouse is ninety five

percent complete and we're expecting to actually scheduling furniture in for next month and the rest of the pool and tennis courts we're hoping to have that in. The clubhouse will open when we first open.

M. Blustein: I think that was the Board's biggest issue was that the units would be built but the clubhouse wouldn't be ready.

J. Weinberger: The clubhouse will be ready.

M. Blustein: Nobody will be moving in until the clubhouse is done anyway.

J. Weinberger: We're hoping to break down on the pool structure within a month or so.

T. Hamilton: I, myself, am looking to get more information. Everything that they've presented to us . . . One item I did find out for us speaking to the Assessor is asking her what happens with taxing between condominiums and rentals and whatever. She kind of spelled it out to me that Town wise, the money is the same. The only person that usually benefits when it changes like that is the individual owner but the Town, no matter which way it is, it all works out the same at the end. It's just all the legal concerns in between that I, myself, need a little more thought, information and guidance from our people.

J. Weinberger: Mr. Chairman, you very well might be right. The Town has not done a re-valuation since 1978. The condominiums are assessed at the same rate as rental values.

T. Hamilton: The common parts . . .

J. Weinberg: She, very well, might be right.

T. Hamilton: That it almost evens out.

J. Weinberger: Some communities that have better use of recent re-values, that they treat condominiums differently than co-ops so they can do it on partial value. Your community may not have done that re-val and that's why.

T. Hamilton: I want to double check it. That's what she had said to me.

J. Bacon: In my mind the theory of what they want to do sounds reasonable and doable.

T. Hamilton: It's just something new and it's difficult to just jump in and . . .

J. Weinberger: It's a lot to digest here because I don't think you have a project like this in the community but we feel very confident that based upon what we seek from the condominium Attorney that the management can work very well.

J. Bacon: The thing that I understood really when we sat down with the County was I think that in order for a condominium Site Plan to get filed with the County is that they require that the meets and bounds of each condominium unit be included on the filed map.

J. Weinberger: That's a problem. Under the Condominium Act Law the only role that the Real Property Tax Service Department has is determining the filing fees. Under the Condominium Act, that is they're sole requirement. There is no map being filed with the County. There's nothing in the Condominium Act that requires me to file anything with the County Planning Board. The only thing that I need to file is a Declaration of Condominium and the floor plans of the buildings and the statement by the Real Property Tax Assessor of the County that I have paid the required fees. That is what is contained in the Real Property section on the condominiums which also states that whatever you do under the Condominium Act is that under Section 9 of the Real Property Law which is the subdivision law. We're not subdividing into a lot, a plat or a section.

M. Blustein: I think that what will happen is the plat 33.2 will become -1, etc. It will be the same section, block and lot and it's going to say -1, -1 right up to -117.

J. Weinberger: Yes. There's no subdivision to divide the units into a three dimensional aspect. The floor plans are filed with the County Clerk's Office along with the Declaration.

J. Bacon: And, this Board doesn't have to approve?

J. Weinberger: The floor plan?

M. Blustein: It would be filed with the Attorney General.

J. Weinberger: We did hand in floor plans. They are identical to what we planned and the shape of these buildings are identical to what the floor plans would be.

J. Bacon: In order to, the County had to enforce the taxes, that was one . . .

J. Weinberger: They have the right to do that.

J. Bacon: And, they do that with the floor plans that you file?

J. Weinberger: Yes. In other words part of the Declaration of the Condominium has a floor plan. The Declaration lists the unit numbers and the tax identification numbers as condominiums. That all gets filed so when somebody asks what's the legal authority for me, Jeff Weinberger as part of Tower Ridge Associates to convey this unit. They don't look for a subdivision. They look for the Declaration of the Condominium that's filed in the County Clerk's Office. By acceptance of that Declaration of the floor plans you've met the authority of the Condominium Act to convey this unit as if it were a subdivided unit. That's what the Condominium Act provides.

M. Blustein: The deed will be just like any other.

J. Weinberger: Think about it in New York City when they file a condominium for a high-rise. They don't file a subdivision map that shows all this section on the fifty first floor in the middle of the air as a subdivided unit on a subdivision map. It's described in the Declaration of Condominium that says so many feet above sea level that's where this unit will be and that's where they get the meets and bounds and description. It's on the fifty first floor of this floor plan that's filed in the County Clerk's Office. It's not a subdivision like you think of, like your subdividing land into plats and you want sections. That's not what the Condominium Act has contemplated.

T. Hamilton: What's our next step?

J. Bacon: There are other issues that have to be dealt with on the Developer's Agreement and then the traffic light.

J. Weinberger: I will have all these issues worked out especially the traffic light and the schedule.

D. McGoey: We should be able to discuss this at a work session.

J. Weinberger: Very much likely toward the end of Summer that will all be done.

D. McGoey: I think Mr. Bacon for some kind of an opinion.

J. Bacon: Do you have your set of floor plans?

J. Weinberger: Yes I do. Had a conversation with Mr. Bacon (not audible).

M. Blustein: I think with respect to the light, I think we will the light will be put in.

D. McGoey: Yes. This is an issue between the Council People and the intersection.

MOTION to TABLE this until we get our Attorney to give us a legal opinion made by H. Ross and seconded by C. Najac.

A. Dulgarian: Aye

H. Ross: Aye

W. Capozella: Aye

C. Najac: Aye

T. Hamilton: Aye

MOTION CARRIED. 5 AYES