

April 7, 2008

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TOWN OF CORNWALL

PLANNING BOARD

April 7, 2008

MEMBERS PRESENT: NEIL NOVESKY, CHAIRMAN  
JANE DEANS  
KENNETH BRODMERKEL  
WYNN GOLD  
LED KLOSKY  
WILLIAM GRABE

ALSO PRESENT: DOMINIC CORDISCO, ESQ.  
PLANNING BOARD ATTORNEY

JOHN R. SZAROWSKI, P.E.  
PLANNING BOARD ENGINEER

LESLIE DOTSON  
PLANNING BOARD CONSULTANT

GARY VINSON  
BUILDING INSPECTOR

REGULAR\_MEETING \_\_\_\_\_

MR. NOVESKY: I'd like to call to order at 7:35 the April 7, 2008 meeting. We remain missing one member of the board, we anticipate the appointment in the very near future. Is that right, Mr. Brodmerkel?

MR. BRODMERKEL: We hope.

MR. NOVESKY: Correspondence, Fran, we'll get the stuff over to you.

BRADY\_-\_ (04-14) \_\_\_\_\_

MR. NOVESKY: But in the correspondence leading into discussion is Mr. Brady's request to extend six months, Dominic, do you want to address that?

MR. CORDISCO: Yes, they recently were granted preliminary approval and they are here seeking the six month extension which they are entitled to, they are still before the Department of Health.

MR. NOVESKY: With that in mind, I don't think we have an objection to the extension but I'd like a vote by the board to allow for six month extension on the project unless there's any questions.

MRS. DEANS: Is this letter? He's not asking for 60, he's asking--

MR. CORDISCO: He's asking for two 90 day extensions which is a mistake, the two 90 days is really applicable when you have a final approval and it would be your last period of time for final but for preliminary it's just a six month extension.

MRS. DEANS: Okay.

MR. NOVESKY: Any issues with that? Take a voice vote.

MR. BRODMERKEL: Make a motion we accept or allow that.

MRS. DEANS: Second it.

ROLL CALL

MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MR. BRODMERKEL	AYE

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MR. NOVESKY

AYE

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APPROVAL\_OF\_MINUTES\_DATED\_FEBRUARY\_4,\_2008

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MR. NOVESKY: Everybody have a chance to look at the minutes from the February 4 meeting?

MRS. DEANS: We have February and March.

MR. NOVESKY: Any problems with the minutes? Take a motion.

MR. GOLD: So moved.

MR. KLOSKY: Second it.

ROLL CALL

MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

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PUBLIC\_HEARING \_\_\_\_\_

BUTTERHILL\_DAY\_CARE\_#2008-01 \_\_\_\_\_

MR. NOVESKY: We have a public hearing scheduled and a resolution, Butterhill Day Care. Hello, Helen.

Ms. Helen Bunt appeared before the board for this proposal.

MS. BUNT: I'm Helen Bunt from Butterhill Holdings and I'm here for a special use permit for Butterhill Day Care on the same property where Butterhill Day School is located. I have submitted my proof of mailing and proof of publication in The Cornwall Local. I have revised maps that Leslie and Mark requested. I believe I have all the notations that are necessary, basically, the day care center will go in the building where the yarn shop was, it's right behind my main building and the playground that I use for my school will be used for the day care.

MR. NOVESKY: Any member of the public wishing to be heard on this? Hearing none, I think we can move it along. Dominic, what's your recommendation?

MR. CORDISCO: At this point would you need to close the public hearing.

MR. KLOSKY: So moved.

MRS. DEANS: Second it.

ROLL CALL

MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MR. BRODMERKEL	AYE

MR. NOVESKY                    AYE

MR. CORDISCO: I'd also went ahead and prepared resolutions that would adopt the negative declaration prepared by Leslie and one that would grant special use permit and site plan approval.

MR. NOVESKY: So we have that all in the same resolution?

MR. CORDISCO: It should be two resolutions.

MR. NOVESKY: I indeed have two resolutions then I will ask for a motion adopting negative dec.

MR. GOLD: So moved.

MRS. DEANS: Second it.

ROLL CALL

MR. KLOSKY                    AYE

MRS. DEANS                    AYE

MR. GRABE                     AYE

MR. GOLD                      AYE

MR. BRODMERKEL               AYE

MR. NOVESKY                   AYE

MR. CORDISCO: Regarding the special use permit the one term that we have included in the draft decision or resolution is that the original special use permit was tied in length to your lease and this one would run at the same term.

MS. BUNT: Right with the playground.

MR. CORDISCO: That's correct.

MS. BUNT: I have a copy of that lease with me if anyone needs it.

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MR. CORDISCO: No, we already had one from the last application so we should be all set. When you're up for renewal you'll be up for renewal for both.

MS. BUNT: That's fine with me.

MR. NOVESKY: Any questions? Okay, motion.

MR. GOLD: So moved.

MR. BRODMERKEL: Second it.

ROLL CALL

MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

MS. BUNT: Thank you.

MR. NOVESKY: Thank you.

NANCY\_NOSHIE\_#2008-04 \_\_\_\_\_

MR. NOVESKY: Nancy Noshie.

Mr. James Clearwater appeared before the board for this proposal.

MR. CLEARWATER: My name is James Clearwater, I'm a land surveyor with MJS Engineering and I'm here with the applicant, Mrs. Noshie. Mrs. Noshie owns a lot over on Mailler Avenue across the street from the intersection with Murry which is where she lives. This application proposes to divide that parcel to create one new single family lot. The application needs a couple variances, area variance on each lot and a lot width variance on each lot. And we need to be referred to the Zoning Board of Appeals so we can address those variance requests and presumably if that recommendation is positively granted the variance is granted we'd be back here for the technical issues at that time.

MR. NOVESKY: Good enough for us, James. Any comments from the board? Just a referral to the Zoning Board so barring comments, I will take a motion.

MR. BRODMERKEL: Make a motion we refer to the Zoning Board.

MRS. DEANS: Second it.

ROLL CALL

MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

MR. NOVESKY: Thank you very much.

JEHOVAH'S\_WITNESSES\_#2008-05

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MR. NOVESKY: Jehovah's Witnesses.

MR. PENDERGRAFT: Good evening Mr. Chairman, the board, my name is Jim Pendergraft representing the Cornwall Congregation of the Jehovah's Witnesses. What we're endeavoring to do is modernize and upgrade our facility on Beakes Road in the Town of Cornwall. The existing building was built sometime in the mid 1960's and they had a major renovation about 1984 so wood frame construction and it has full basement the existing building. What we wanted to do was to we're proposing the project be moved to the north end of our property and thereby create a circular drive and overhang our canopy so it would make it easier for elderly ones and disabled ones to enter and exit the building.

Likewise, we have done some preliminary work with our civil engineer, he's not here this evening with us but we'll find the best percable ground and that was another reason for moving it to the north side the way we have shown it on the current site plan. So essentially we have met with several workshop sessions with the planning board to determine what they wanted to give us attention to with the site plan so we're interested in hearing your comments.

MS. NOVESKY: Leslie, this would be a referral to the Zoning Board?

MS. DOTSON: This is a referral to the Zoning Board of Appeals. We do have some comments that will need to get looked at before the public hearing notices could be drawn up for the ZBA because for some things it's a little unclear as to where certain lines are and what certain deductions may be, particularly also the strip of land that you're proposing to dedicate to the town, the road dedication along Beakes Road we just need to make sure how some things are deducted or whether they are deducted or not, so just to make sure that

everything is correct so Gary can publish the correct notice is important. And there are a few little things missing on the zoning compliance table, I mean other than that, it's really pretty much a straightforward referral. There a few elements of the plan that things are a little bit squiggy (sic.) that need to be cleaned up so but ultimately you can't do anything with this.

MR. KLOSKY: Are we allowed to provide guidance?

MR. NOVESKY: We can as soon as they are done talking.

MR. SZAROWSKI: Again, Mark's comments are here one of his comments is that I guess it's not going to be just a site plan that you're combining two lots so it's going to be a subdivision as well and he's prepared a number of comments for you.

MR. PENDERGRAFT: Okay.

MR. NOVESKY: Dominic, do you have any comments?

MR. CORDISCO: Not at this time.

MR. KLOSKY: Just one quick thing that might speed up the process in the next step there's an area you've got marked lawn out in front of the parking lot, this is a mostly residential area, you have been back there, I think it would be appropriate to provide some screening of that somewhat industrial looking lot from the neighbors across the street. You don't show any of this, doesn't mean you don't intend to do it but it's not on the plan, I think it would be a nice thing to mitigate the impact of the project on your adjacent properties.

MR. PENDERGRAFT: The area that you're referring to that's where we have our septic field, there are some areas adjacent to that that we can incorporate some additional landscaping.

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MR. KLOSKY: In the next work session you can work with our planner, I'm sure you can come up with some good solutions.

MS. DOTSON: Although it is interesting just to note that their proposed plan actually increases the setback of the parking area from the property line so they are improving things.

MR. NOVESKY: Any other comments? I will take a motion to refer to the Zoning Board of Appeals.

MR. BRODMERKEL: So moved.

MR. GOLD: Second it.

ROLL CALL

MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

ORANGE\_COUNTY\_RADIATION\_ONCOLOGY\_#2007-11)

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MR. NOVESKY: Orange County Radiology and Oncology.

Mr. Mark Lukasik, P.E. appeared before the board for this proposal.

MR. LUKASIK: Mark Lukasik from Tectonic for Jim Sullivan. Tectonic previously represented the project back in October. Previously, we had appeared before this board, received a referral to the ZBA to obtain two variances, one for a rear setback, the other for parking. Both of those variances were obtained from the ZBA. We have revised the plans to address planning and engineering comments, we submitted those. The proposal as it's currently put before the board contains 23 parking spaces incorporated in the suggestions of the board and the professionals to provide some amount of additional parking which was essentially in a re-configured portion of the existing handicapped parking area adjacent to the front of the office. At this point, not having seen all of the comments but our desire would be I get some feedback from the board, obviously from your professionals, take a look and see if you would consider the public hearing that was held on the ZBA as the public hearing that isn't necessarily required for the project but obviously your discretion whether you want to go that route or not and if not whether the board would be willing to move forward at this point subject to your professionals' comments.

MS. DOTSON: Can we ask whether or not there were any significant comments made at the public hearing for the ZBA?

MR. LUKASIK: There was.

MR. CORDISCO: You can ask.

MS. DOTSON: I'm asking.

MR. LUKASIK: There was commentary made by one member of the public who's not adjacent to the project or within the noticed distance for the project. He did have some commentary on specifically as relates to this project and the potential hospital project on the other side of the highway.

MS. DOTSON: Okay, that's fine. In that case, I do have to point out he's correct, it is optional for the planning board to hold a public hearing on site plan. And I am suggesting that you should consider whether or not you feel it's necessary bearing in mind that there was already the public hearing for the variance. But either way he would suggest that you could direct that an approval resolution be drafted for next month so as to avoid inconveniencing the applicant. Just on my specific comments he's correct these plans do show some of the changes we previously asked. I think that actually an error that's been introduced into this or certainly something that you don't want my comment number 2 I think that the zoning boundary is actually in error as it's shown on this parcel. And in any case they do whether it's an error or not they have the flexibility to change it to the rear lot line and that's what I'm suggesting that that be done. I don't know that you particularly need to do that right now, if you want to do it as condition of approval.

MR. LUKASIK: Correct, we're talking about a map which is prepared at insufficient resolution and as you're referring to your, the code for the Town of Cornwall does give us options, you're essentially referring to the bifurcation of the property by a zoning boundary which it's impossible to say for sure where exactly it is, we're scaling off and representing to the best of our ability where that zoning boundary occurs. For what it's worth Chasen got it on one side of the line on Willow Woods, we've got it on another. I don't want

to open a can of worms either but it does appear and your planner can confirm that the flexibility exists that it does not impact.

MS. DOTSON: They can move it to the property line, it's their flexibility, I can't see why they would not.

MR. CORDISCO: Do they have to actually move it? The code gives--

MS. DOTSON: It's showing it on the plan.

MR. LUKASIK: The interpretation gives us the option to apply.

MS. DOTSON: It's where it's depicted makes me, so that's it, so that's my only major comments, I think they have been very responsive.

MR. KLOSKEY: The dumpster doesn't I don't think show an existing enclosure.

MR. LUKASIK: It's currently not enclosed.

MR. KLOSKEY: I would think as part of this revision to the site plan it might make sense to enclose the dumpster as that's sort of typical practice in the rest of the community.

MS. DOTSON: That's fine.

MR. LUKASIK: We have no objection to making it a condition of approval.

MR. KLOSKEY: With some, and fencing, whatever you can get with Leslie to see what's appropriate.

MS. DOTSON: Mark has one that will probably hold up to plowing better.

MR. NOVESKY: Do you guys have any comments?

MR. EDSALL: Mark has a few comments noting that the slopes in the parking area need significant improvement. He's asking that you add a detail for the handicapped parking.

MR. LUKASIK: Not a problem.

MR. SZAROWSKI: And that you should prepare or the board should require to prepare a bond estimate.

MR. LUKASIK: We'll contact your office for the current 2008 pricing and prepare same.

MR. EDSALL: Thank you.

MR. NOVESKY: Thank you. Dominic, do you have anything?

MR. CORDISCO: I have no comments.

MR. NOVESKY: With that, I'm asking for a motion to waive the public hearing unless the board wants to discuss it.

MR. BRODMERKEL: So moved.

MRS. DEANS: Second it.

ROLL CALL

MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

MR. NOVESKY: Now I guess we want to see if we should

direct Dominic to prepare a resolution for approval.

MR. BRODMERKEL: There's nothing else to discuss if I'm not correct?

MS. DOTSON: Correct.

MR. CORDISCO: Correct.

MR. GOLD: So moved.

MR. BRODMERKEL: Second it.

ROLL CALL

MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

MR. LUKASIK: Thank you, appreciate the board's time.

MILL\_POND\_SUBDIVISION\_#2005-12

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MR. NOVESKY: Mill Pond subdivision.

Mr. Andy Atzl appeared before the board for this proposal.

MR. ATZL: My name is Andy Atzl, I'm here for the applicant. I believe Gerry's upstairs with the Town Board right now, he's supposed to be here also. Okay, so I'm going to introduce Mr. Jacobowitz.

MR. JACOBOWITZ: I can say that the NCAA finals should be every first Monday of the month. We believe we have satisfied the various comments of all the consultants and that the plan at this point is ready to be considered for public hearing. So if the board feels satisfied that the plan as now presented is satisfactory, that's what we'd like to have happen so we can move forward with the subdivision.

MR. NOVESKY: Thank you, Mr. Jacobowitz. Leslie?

MS. DOTSON: One of the questions that was asked earlier in the pre-meeting workshop was whether or not lead agency has been declared and Gerry I have been looking in my files and I'm not sure that I see a record that we have so unless it's in the other Mill Pond file.

MR. CORDISCO: It was circulated I believe so but I could be wrong.

MS. DOTSON: Typically but for SEQRA purposes originally it was put together as one so that's why I didn't bring both files, but if it was circulated then--

MR. CORDISCO: What I would suggest to the board then is that you have the board's consultants confirm

whether or not lead agency has been circulated. If it has not you authorize them to circulate for lead agency and if it already has been circulated for lead agency you can declare yourselves lead agent.

MR. BRODMERKEL: So moved.

MR. KLOSKY: Can we move to a public hearing next month?

MR. NOVESKY: Well, let's take a second on the motion first.

MR. GOLD: Second it.

ROLL CALL

MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

MR. NOVESKY: Now you can ask your question.

MR. KLOSKY: That's germane then to moving to public hearing if we have not yet declared lead agency?

MR. CORDISCO: Well, you're not exactly tied, you can have a public hearing without this issue being resolved, you couldn't take action unless the 30 days has run. So in the scenario that you have not circulated for the lead agency that would be done before the public hearing would be held, if 30 days hasn't run well then you might not be able to take action at the May public hearing.

MR. NOVESKY: Okay, that's fine. I'm pretty sure all that's been taken care of. So the issue is whether or

not we should schedule a public hearing.

MS. DOTSON: Right, for my purposes I believe that they have addressed all the outstanding issues and the plans are now in a very satisfactory condition so I have nothing that would preclude a hearing.

MR. NOVESKY: Mr. Edsall's surrogate?

MR. SZAROWSKI: Yes, well, the issue that we had previously discussed regarding the retaining wall and the storm water management have been resolved and most of our comments that we have provided they are technical in nature and easily cleaned up moving forward.

MR. NOVESKY: I will take a motion for public hearing.

MR. GOLD: So moved.

MR. GRABE: Second it.

MRS. DEANS: Before we vote on this in the letter from the State Environmental Conservation there's a little paragraph there at the bottom that I want to know if we have to put a trail on it. It says the preliminary site assessment report indicated that the hazardous waste previously disposed at the site do not represent a significant threat. However, the lagoon sediments are above the AGM 40-46 levels and require removal or solidification in place. Now, there's a, they say they enclose a copy of the New York State Department of Environmental Conservation Inactive Hazardous Waste Disposal record owner and/or operator of a site listed in the registry to petition the Commissioner of New York State Department of Environmental Conservation for deletion of such site, modification of site classification or modification of any information regarding such site by submitting a written statement setting forth grounds of the petition and then it gives

you an address where you can send the petition. Do you know is this something that we should--

MR. JACOBOWITZ: No, we have done that, there's a submission at DEC with respect to that pending their, they did an inspection 28 months ago and they made a few comments and the engineer who's working on that but going on assumption is responding to the DEC so we are, but those lagoons are not anyplace near these properties, the lagoons are the most northerly, northeasterly end of the property. This subdivision is on the most southeasterly end of the property divided by a public highway.

MR. GRABE: Is that the same property, same owner?

MS. DOTSON: Yes.

MR. JACOBOWITZ: It's a condominium and the lagoons are owned by Unit P and they're owned by a company called Moodna Creek Development LTD. The place that the subdivision is is a common element of the condominium which is not owned by Moodna Creek except they have a 25 percent interest in it as common area.

MR. GRABE: What she's making reference to is that like a Phase 2 environmental study?

MR. JACOBOWITZ: No, we've way passed that, this property was reclassified from a 2A to a 3 and now it's pending before them to go to a 4 which is unlisted or to release the property from the Class 3 designation.

MR. GRABE: I'm not familiar with any of the classes.

MR. JACOBOWITZ: One is the worst, 2 is bad, 2A is bad but you're okay, 3 means no imminent danger to the public and 4 means we take you off the list, there's no problem, this is between the 3 and 4 all at this point.

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MR. NOVESKY: We have a motion and a second in favor and approved by the board. We'll schedule a public hearing for next month.

MR. CORDISCO: Yes.

MR. NOVESKY: Thank you.

MR. CORDISCO: Unless you want it later.

MR. JACOBOWITZ: No.

CORNWALL\_COMMONS \_\_\_\_\_

MR. NOVESKY: Next is Cornwall Commons.

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

MR. JACOBOWITZ: Since the time we were here last meeting in an effort to address the issue of paved width of roads which was one of two issues that needed to be addressed, we attempted to refine the plan. As you remember the plan that's before you in the submission is that all the roads that are private roads, are 24 foot paved, 40 foot wide right-of-ways. The exception to that is the main loop road that comes in here that's going to be a public road and will be built to the public road requirements. But all the other roads that are in lot 10, the residential component were shown as 24 foot paved which is what the local law expressly provides and all of our design work, the engineering work, the storm water management plan were all done based on roads 24 feet paved. If that width is different it affects many things, it affects setbacks, it affects buffer area it affects the storm water plan, it affects the improvements that must be made, it affects the location of the sewer and water lines. And so what you have in front of you as the SEIS with the supporting site plan submission is based on the 24 foot roads. We read the statute we thought that applied, you had received comment from the fire department saying appears that the roads appear to be 9 paved roads appears to be too narrow. We didn't like that, we thought our rights were that we could stick to the statute, that your power was subordinate to the power of the Town Board's local law. Dominic sent you a fast forward through the summer to two months ago Dominic's given you his opinion that you have the power to vary what the Town Board legislated. He did a memorandum to you, he provided us a copy, we examined the issue, we read the statute, we read cases, we read

the history of everything. We provided a memo. Dominic was not persuaded and so at the last meeting the issue came up what are we going to do about these roads. And the question then came up what if they're not private roads, what if they're going to be public roads. If they're public roads then they have to be 50 foot wide right-of-ways and not 40 and then of course the specifications are a whole other set of specifications for the roads. Since that meeting, we decided to see if we could come up with a plan that would satisfy the legitimate concerns with respect to fire vehicle and emergency vehicle services. And the plan that's here on the board is what we came up with first. Now this is not the one that's in your package, let me just check the one in the package is alternate one, that's this one, okay, right, you got this one in your package. This was an attempt to find a common ground to satisfy the concerns and this is what we put in the package that you got. And I'm just going to explain it briefly because what we have tonight since that time we have reviewed it again and come up with a further revision that we think is closer to what it is that we think might be satisfactory. This plan is color coded, the gold are 28 foot roads, the green is 26 and the blue is 24. There are numerous considerations that go into what the road widths are as we show them on here, I don't know that it makes a lot of sense to give you the detail of this process because the next plan is different than this and we think is better and I think I can make the explanation there. But generally, the bigger loops will carry more traffic, therefore, there's more risk involved in traffic issues that could affect emergency vehicles so we're going to, we went to 28 feet for the most part. Over here we kept it smaller because there's multiple accessways and not as much traffic. Similarly here, over here is the multiple residence and this is 26 feet widths in here but there's no parking on this road from here back no parking. All the other roads would allow parking on one side. Okay, what we did is re-evaluate

the circumstances and for the most part what happened is we went to more 28 foot wide roads, we went to more 26 foot wide roads instead of 24 and the number of 24 widths are just minor ones, they're the glues, 1, 2, 3, and 4, green is 26, gold is 28. No parking on the entrances into the cul-de-sacs, no parking at all, one way on roads P and O, traffic there one-way traffic, no parking in this area throughout the whole project 26 feet and no parking on any of the streets. That's multiple residence area so and 26 feet is the New York State Code for buildings that are 30 feet or higher and we have made all of these roads here 26 feet to satisfy the State Code without any parking. So there's no issue that a vehicle will be on the street taking up space that can some way involve the emergency vehicles. And the same logic this will carry more traffic here because it's the way into all of these areas, the 26 feet here there's three ways in, we have the emergency exit over here, we've got an entrance here, we've got an entrance here, we've got a connecting road there. We felt that that would adequately provide access, meet access needs for emergency vehicles. This required that we change the storm water plan to shift storm water from this area this direction and we have done that and we have done the computations and the calculations and we provided a set of those to Mark's office with this plan and our engineers feel that the storm water plan now will still work, okay, even though we've had to shift some of the direction of the flows and so on. So this is the plan that we would hope would be acceptable to the board. We think it does meet the requirements of, definitely meets the statutory requirements, doesn't meet the general standard that it is consistent with what your view is on public safety and that's what it comes down to, what's your view of what's adequate access for public safety. There are no standards, it's pretty much a subjective determination because the issue comes up, there's no issue with a 24 foot road parking on one side, there's no issue about access or ability for

emergency vehicles. It comes up when somebody has done something contrary to that, parked on two sides of the road, obstructed the road or something of that nature. Twenty feet provides a 4 feet wider area than the 24 by definition and 26 is two more. What it does though is it increases impervious surface 16 percent from 24 to 28 and 8 percent from 24 to 26. So we've got a significantly larger impervious area now that we had to deal with and it will be even greater if we have to go 28 foot all over. If you recall, our original plan we were much closer to the boundary of the property that was a subject of concern that those buildings would be viewed from the west and the north and from people down in the ravine and so we moved everything in, we got rid of the cul-de-sacs if you recall and we shrunk everything in. The result is a larger buffer area along the boundary, a larger undisturbed area in that, in those areas everything shrunk into the center more so we would have more of those open areas and if we make the roads, excuse me, so the 40 foot roads allow us to accomplish that, the paved area doesn't affect that part but it does affect where the sewer and water lines go because those lines are within the bounds of the streets and if the street is wider and you want the water and sewer line closer to the edge we now have to design the water and sewer lines closer to the edge of the road than they are now. So we have to redesign all of those aspects of it based on this revised paved road network. The other issue that came up is are these going to be private roads. The Town Board's decision to give you, to give this property PAC designation was based on their resolution and determination which included numerous references to the roads being private roads. I don't know why we have an issue now about whether they're going to be private or public roads but that came up. The suggestion was we should study public roads, they are as part of our EIS. Well, the study of public roads raises a whole host of things that I have just enumerated plus because if we go from 40 to 50 everything I said still applies to the changes

plus more changes because we're now going to take 10 feet more for every one of these roads, everything gets changed.

(Whereupon, Mr. Edsall entered the room.)

MR. JACOBOWITZ: So the question of public or private roads needs to get addressed. Now, Dominic had suggested two months ago why don't you go to the Town Board. I resisted that because I didn't agree with him on the underlying issue. We have discussed this with our client, Joe's preference is not to have a fight and so we're acceding to the recommendations that Dominic has made to the board as to the interpretation that the road widths are subject to being changed from the statute and in order for us to go forward and not get blindsided, we need to get an answer from the Town Board that's clear enough for you folks because obviously you're not satisfied that the Town Board has already said that they want private roads here. I went to their board tonight and I explained everything I have just explained to you and asked them to please confirm to you that they want these as private roads. Their response is they want you to refer the request to them for them to answer the question.

MR. BRODMERKEL: If we want to.

MR. JACOBOWITZ: Yeah, if you say you won't refer it to them I think that leaves us kind of in a worse limbo because if we go through this whole process and then the Town Board says no, we don't want private roads, we have gone through a long process of wasted effort, energy, money because we'll have a plan that isn't a plan that anybody wants. So we're kind of in a point where we need to clarify these things. I don't know why we have to because I believe the Town Board already said that they should be private roads but at this point I can't, I don't control what advice you get and what the Town Board may or may not have in their mind. I think the whole thing revolves around leverage to make us do something with the paved portion of these

roads, that's the way I'm reading this because I feel like a ping pong ball running back and forth and forth and back. So we do need to get an answer to the issue of these roads because everything hinges on it, public, private one, second width of pavement. This is our best shot to increase the paved widths of these roads to higher widths and the standard we believe is that your concern is public safety and we don't want this unsafe either so but we think this is safe, there are plenty of places where roads are 20 foot wide paved and there is no greater risk to the public.

MR. BRODMERKEL: I don't remember there being a question of public or private.

MR. CORDISCO: Well, I'd like to address that issue. I mean, I have been listening to Mr. Jacobowitz and I'm not going to debate with him his viewpoint on various issues. I would just point out to the board that what I recollect in terms of what the Town Board has done, the Town Board has granted a special use permit for a Planned Adult Community for this project and that application actually had the one sheet colored sketch plan which I think some board members have referred to as a cartoon and it didn't have any dimensions on it and that I think was the only thing that was submitted in support of that special use permit. I actually pulled it out because there was reference by Mr. Jacobowitz to detailed plans being submitted in support of that application and I'm looking at those plans and like I said there is no dimensions on it and in fact by my eye it looks as if as the way it's drawn that the supposed private roads on that plan are actually wider than the public roads. So I don't think that the Town Board had before it nor do I think that the Town Board actually ever issued a declaration one way or the other that the roads could be private within this project.

MR. BRODMERKEL: But the Town Board did approve private roads for a PAC, the zoning calls for it.

MR. CORDISCO: Zoning says private roads may be allowed with the planning board, planning board engineer and the Town Board approval. I do not believe that the Town Board has issued any statements one way or another on the issue of whether or not these roads can be private yet.

MR. BRODMERKEL: So whatever we do they have to approve it, if we accepted this or didn't accept it they would have to approve it.

MR. CORDISCO: Yes, you're one of two necessary approvals.

MR. KLOSKY: Mr. Jacobowitz, you said your preference is to go to the Town Board first to get their judgment on whether they'd accept private roads for this development before proceeding further with the planning board.

MR. JACOBOWITZ: Well, actually, I was here first and because of these issues then I went to the Town Board because the question you heard Dominic, Dominic is saying that it is not clear that the, it's not clear, Dominic's saying the Town Board did not agree to private roads. My belief is they did agree to private roads, okay, so you're listening to what Dominic says and therefore I have to go back up to the Town Board and say guys, what did you say and would you please tell the planning board because until the planning board knows whether they want private road or public road all of this is an exercise in, just an exercise.

MR. GRAGE: Well, it could be anyway.

MR. CORDISCO: I don't see how they could have approved private roads, they didn't have detailed plans showing any widths at that time.

MR. JACOBOWITZ: The statute expressly says 24 foot wide parking on one side, it's expressly in the statute, Dom, and that was before them, they drew the law, they adopted that law so they knew what the widths we're going to be, I mean, I don't think the Town Board said no, we didn't know what our statute said. I think you presume that they did know what their own law said so that was in front of them when they decided to allow PAC, that it is 24 foot wide, 18 foot wide depending on I think it's 12 with no parking.

MR. GOLD: Dominic, am I correct that you don't agree with that statement?

MR. CORDISCO: That's correct.

MR. GOLD: Okay, at this point would the proper course of action then be for us to refer this to the Town Board for action?

MR. CORDISCO: I don't think you can.

MR. GOLD: Or for comment?

MR. CORDISCO: Perhaps for comment but action no because the board is in the middle of reviewing a Draft Supplemental Environmental Impact Statement that this has an affect on that, the resolution of this has an affect on when you're doing a coordinated SEQRA review, other agencies actually can't issue decisions until you have completed your SEQRA obligations. So I think it would be premature for the Town Board to say this is our final decision on road widths, on comments, sure, sure, they can give some comment, it would be non-binding, that would be one option at this point.

MR. NOVESKY: So we can understand what their intent was.

MR. CORDISCO: Right, but I think first, you know,

before the board actually makes that referral as you know you're seeing alternative 1A for the first time tonight and it certainly looks like an improvement that has to be noted increasing the road widths from 24 feet to 26 and 28 with limited amounts, I think there's only four areas that are shown with 24 feet, it's certainly a significant improvement. That should however be evaluated by the board and the board's consultants, you should have some time to digest that before taking any further action. I would encourage the applicant to submit copies of that as soon as possible so that Mr. Edsall can coordinate with the emergency services reviewers to see whether or not this addresses their concerns or whether additional work needs to be done.

MR. NOVESKY: Can that be done in conjunction with a referral to the Town Board for comment?

MR. CORDISCO: I don't see why not. Just if I may, Mr. Jacobowitz, I mean, you know, I understand your frustration but the board can evaluate, actually, it was suggested at last month's meeting that the referral be made at last month's meeting but I thought at your request they did not move forward with that referral.

MR. JACOBOWITZ: Yeah, that's true, I disagreed with you and I thought that we would be able to persuade that your interpretation is not correct, when the Town Board took an action to designate this as a PAC, they complied with SEQRA, they had to, so I don't see there's a SEQRA issue for the Town Board, they complied with it, they determined to have a PAC and before them was the statute. There was nothing else in front of them, 24 feet parking on one side, that was the law in effect and they are presumed to know the laws and they adopted a negative dec and they recommended to you a PAC. So how you can say that they really didn't know what they were doing? You know, I don't think this is a fair comment. They're presumed to know what they're doing, they know their law and they adopted a negative

dec with a 24 foot wide paved road. Now all of a sudden then say no, we want the planning board to discuss this question and now you're saying no, you're not going to ask them the question because we haven't complied with SEQRA here.

MR. CORDISCO: We have only reviewed this plan for I think the last 20 minutes.

MS. DOTSON: I would point out that the Town Board's negative declaration for the PAC designation have heavily relied on referring to what was going to be defined in the site plan. So, in other words, the Town Board made no pretense as I recall of stating that they knew the specific details, in fact, one of the arguments that had taken place at that time, at the time of the subdivision was gee, what level of SEQRA review needs to be done, it was agreed that nothing more specific could be determined until there was a real site plan and that it was, that it was going to change, so I have a problem with that.

MR. BRODMERKEL: In deference to Dominic's opinion I must say that I can see in what I have seen, the Town Board approved private roads at 24 foot width, they approved the zoning, they approved the plans that go with the zoning that designated a PAC to have 24 foot wide roads.

MR. NOVESKY: In the interest of time on this does anyone have an objection and I direct this to our legal counsel as well to referring this to the Town Board for the clarification if nothing else so that we do know what in fact they did say and what their intent was?

MR. BRODMERKEL: We may be able to do what we want here and have a month in limbo where we can refer it to them to get things moving along.

MR. NOVESKY: But what's the issue with referring them?

MR. BRODMERKEL: I don't have an issue.

MR. NOVESKY: Dominic or Leslie or Mark?

MR. CORDISCO: I think you're being presented a plan that's significant and perhaps beneficial alteration, I think you should have the courtesy and advantage of a month to evaluate that and to hear from the board's consultants and emergency services coordinators so they can provide some meaningful input to the board before you take further action.

MR. NOVESKY: Does that include referral to the Town Board for their opinion?

MR. CORDISCO: Certainly.

MR. NOVESKY: Anybody have an opinion?

MR. GRABE: I thought they're waiting for our opinion.

MR. CORDISCO: Right, so how can you give them an opinion on a plan that you have only seen for the past 20 minutes?

MR. GRABE: Not the plan, I thought it was our opinion whether we wanted private or public roads and we apparently don't object to either. Our objection is to health and safety, getting fire trucks and ambulances in so it's not a question of public or private, it's a question of public safety.

MR. CORDISCO: It's a question of width, correct, it's a question of width and when we're referring to public roads it's shorthand for saying 28 foot wide roads. I understand that the right-of-way would be different from 40 feet to 50 foot so that would be a right-of-way issue as well but as I understand what's driving the bus or driving the fire truck perhaps I should say is

the issue of whether or not the roads are 28 feet wide which would be required in any subdivision in the town of more than six lots.

MR. GOLD: Dominic, how does this issue impact whether or not we accept the DEIS as either complete or reject?

MR. CORDISCO: Well, as far as the Draft Supplemental Environmental Impact Study is concerned, there's several issues. First one is Mr. Jacobowitz pointed out having wider roads impacts the storm water pollution prevention plan, that's typically being completed at the time that the draft supplemental is completed. So it's made available for public review that would have to be revised depending on the board's determination as to what's going to be acceptable road widths. The second issue is that at the end of last month's meeting the board as I recall had asked for alternative analysis including an alternative showing the project laid out with public roads. What's been provided is a compromise but does not meet the full intent I think of what the board was requesting.

MR. NOVESKY: Led, do you have a comment?

MR. KLOSKY: Only that I would be very troubled to accept the Draft Supplemental Environmental Impact Statement until our consultants and the fire chief are satisfied that we have examined all options with regard to public safety.

MR. NOVESKY: Does that include that option?

MR. KLOSKY: I don't know what this option is and I'm kind of with all deference to Mr. Jacobowitz he's trying to meet the deadlines of his client and as well trying to work with the board. And I very much appreciate that. But given the volume of submissions that I have had this evening my willingness to review in any detail a new plan of any kind is limited.

Additionally, I'm going to defer to the experts on this, the experts that I have at my disposal are the town engineer, Mr. Mark Edsall, and the Canterbury District fire chief. Those people know vastly more than I do about fire access. And until they're satisfied that we have provided an option which fully addresses public safety I'm not comfortable accepting the Environmental Impact Statement.

MR. JACOBOWITZ: We don't need to, you don't need to put everybody to that question. We're not asking, we don't expect that you will say it's complete tonight, there's too many changes that have to be made. What we're hoping is to get an answer to the underlying issue, private or public and paved width, that's what we really need. And when we get that, we then have to do revisions to satisfy what's necessary to be in the next plan so we're not looking for you to say yes, this is complete enough to circulate. We don't even suggest that.

MR. NOVESKY: I don't think that there's an issue with public or private as much as there's an issue with safety and width.

MR. EDSALL: I just want to, I apologize for being late, I appreciate John was able to do for me, but I want to add to Mr. Grabe's comment that really the issue isn't public or private, that's a secondary issue to the primary issue which is access, the 28 foot is the critical issue is 28 foot needed is it appropriate, does this project have less of a demand for emergency access than a seven lot subdivision with 490 units. Mr. Grabe's comment about 28 foot is the real heart of the issue, by saying town road public road it guarantees you 28 foot and guarantees you a level of service for maintenance of the emergency access, if they can provide a private road same width, same benefit of access then it probably doesn't matter if it's public or private. The issue comes down to safety

of access and Mr. Grabe hit the nail right on the head when he said 28 foot sounds like the more important issue than public or private. The point being we're not being offered all 28 foot private roads, so you can't compare that to public roads which has the higher level of service and the options in the law clearly are public and private, public meaning 28 foot and I still propose to the board that if the SEQRA document does not review that alternative if it has been agreed to in advance that is still a viable alternative and I don't think that the SEQRA document's complete.

MR. JACOBOWITZ: Well, to go through the whole thing based on a 28 foot, a 50 foot road right-of-way 28 foot as an alternate to study is a very expensive and lengthy procedure. If the paved width can be 28 feet whether the road is 50 foot wide right-of-way or 40 then why can't you decide public or private? The only reason you're not is because you want the leverage, I don't mean you personally, Mark is saying that he sees it as leverage that if you hold our feet to the fire whether we'll have public or private and we can end up with public, we have to have 28 feet, he's got leverage to accomplish his recommendation that he wants to accomplish. And I'm not trying to demean the merits of the whole issue cause this is a different, nobody wants something not safe.

MR. EDSALL: I have to object to Mr. Jacobowitz putting in that I used the word leverage. The point is I never used that. I said that there's a level of safety that's involved with the Planning Board's review of a 490 unit complex and that that's something the board has to analyze. If that in Mr. Jacobowitz's mind public safety and protecting the lives of the potential people who live here is leverage, that's his use of the word, I'm merely telling the board that you should be looking at the safety alternative because the law doesn't say that it will have private roads, it says public or private and it's an alternative.

MR. GOLD: Permit me one observation. When you raised the issue of expense of these studies is that more expensive than presenting us a series of interim studies which will ultimately get us to where we want to be? I mean we're looking at two alternatives right now, it's been pretty clear from what our consultants have said that 28 foot wide roads are what they think is safe and we're going to defer to their expertise. You have shown was 24, 26 and 28 now another one that has 24, 26, few 24, more 28, it seems to me that when you add up all the time and expense of going from point A to point B or point A to point Z through all the interim points.

MR. JACOBOWITZ: Your point's a good one but there's a difference in the expense level. These are conceptual plans. If we had to do a detailed plan using all these alternatives it's a much more extensive and expansive study than showing conceptual suggestions because I explained to you you have to move the water lines, the sewer lines, the storm drainage, the house locations, it's a much, Wynn, it's a much bigger job and we're not, we hope we don't have to do a multiplicity of those kind of plans. You've got a plan at 24 that's fully analyzed, there are issues about it, we're trying to ideal with the one issue that's the tail wagging the dog and that's the width of the paved area. You can have a 28 foot road width if it's a 40 foot right-of-way or a 50 foot right-of-way, so I don't understand why the issue of public private is an issue.

MR. BRODMERKEL: You're the only one that's bringing up that as an issue.

MR. JACOBOWITZ: I'm sorry?

MR. BRODMERKEL: You're the only one I've heard bring that question to point, public or private.

MR. JACOBOWITZ: I thought Mark just said.

MR. BRODMERKEL: No.

MR. JACOBOWITZ: I'm sorry, okay.

MR. EDSALL: Again, clarify, I indicated that the issue of access, a private road with proper maintenance 28 foot wide I believe the applicant with all the maintenance provisions in place and emergency access being available for the full width of the road, snow removal, could probably propose a 28 foot road that's private that would have the same safety level as a 28 foot private road or a public road. However, the board does not have a 28 foot alternative in front of them so a viable alternative if you deem that the roads that are proposed still are not adequate is to suggest that we should go with the other alternative identified in the law which the Town Board adopted as Mr. Jacobowitz indicated which has a public alternative and I personally believe that this board or the Town Board should not take that alternative off the table until you know that there's an alternative of equal safety and access proposed.

MR. NOVESKY: Mark, you're not precluding that alternative until you review it?

MR. EDSALL: I've seen it for less time than you have.

MR. NOVESKY: Right, but you're suggesting that we have the two alternatives on the road, one being the 28 foot for the entire project and the other alternative being this one that nobody's really reviewed yet.

MR. EDSALL: And I don't believe that we have ever asked the applicant to do as Mr. Jacobowitz indicated which is prepare completely new site plans with 28 foot roads with all new water lines. The only impact that would have to be analyzed would be the storm water

impact which we have heard numerous times to see what impact 28 foot roads would have on the storm water facilities. And in the meeting we had with the applicant we pointed out many alternative techniques in the State Code that they have not availed themselves of. So I don't think they have even given that a reasonable review.

MR. KLOSKY: Talking about impervious pavement, wet gardens, basically alternative storm water drainage?

MR. EDSALL: There's a memo attached to my comments Mr. Szarowski from my office prepared which lists numerous alternatives, I don't believe that they have fully analyzed those.

MR. KLOSKY: I thought that was an excellent memo and that would be an excellent project to consider these, we can't compel the applicant to consider these alternatives, storm water management processes, you have to meet the SWPPP requirements as Mark pointed out many times, but I do think I would encourage you, I can't compel you, but encourage you to think about those things mentioned in Mark's memo. It's a great opportunity especially given the sensitivity of the wetlands on this site so keeping more water on site to percolate into the ground naturally.

MR. JACOBOWITZ: Everything you have all just said can be done with a 40 foot wide road or 50 foot wide right-of-way and so therefore why delay that question answering that question is still the issue that I am raising, there's no reason to delay a decision on that except for the leverage effect which Mark didn't say, I'm saying it.

MR. NOVESKY: I'm sorry, are you still talking private public road?

MR. JACOBOWITZ: Yeah because that's a critical issue.

MR. BRODMERKEL: As a board member the issue of safety is the only issue that we might have here and if we went to the 28 foot private situation then we have accomplished what we want. I have no desire or need for me to declare public roads. I don't know how the board feels, you might want to poll them.

MR. NOVESKY: I'd prefer to poll the consultants first.

MR. EDSALL: If Mr. Jacobowitz cares to prepare an alternative 1B being or 1C whatever he cares to call it and have 28 foot roads with a 40 foot and private I think that's something that should be in front of you, he's asking you to make a determination that something may work but he's never offered it to you.

MR. NOVESKY: Does that sound like a reasonable proposal?

MR. CORDISCO: That's what we suggested at last month's meeting.

MR. EDSALL: That's what you talked about last month.

MR. JACOBOWITZ: Well, is the reasonable proposal is in effect you're saying that you're asserting the power that Dominic says you have to in your discretion require wider paved roads than the statute says? Okay, that's expensive, okay, I know that doesn't count for anything but it is expensive and we're trying to find a middle road here, no pun intended, to satisfy the safety issues and not drive up the cost of the project as I just simply gave you if you do two more feet, four more feet it's 16 percent increase in cost just for that item and whatever other impacts it has, if you add in rain gardens and you add in pavers, all of those are additional expense items to gain what so yes, it is a matter of what we have to do here to satisfy the public safety issue. I didn't expect tonight everybody is

going to say hallelujah and this is the greatest thing since sliced bread. I assumed it's going to be a matter for discussion and review and actually Mark you had this plan early last week, okay.

MR. CORDISCO: Not that one, the bottom one yes.

MR. JACOBOWITZ: Which one did Mark have?

MR. RUSSO: We left both with his office.

MR. JACOBOWITZ: Look, he wasn't, look, in all fairness let me explain the purpose of giving those two maps was to do a computation of storm drainage so I'm not saying he should of looked at something and he didn't and bad boy, it was for storm drainage calculation purposes. So now it's now here, it can be reviewed, if this satisfies the public safety issue that would be terrific, why it's less impervious surface, less runoff, less expense and those all beneficial affects here, so if this works then that would be wonderful. If it doesn't work then we're back to where we were, we'll have to say 28 feet wide and eat it or say no, we can't live with it and we'll then have to follow some other alternative.

MR. EDSALL: Just two items, I can fully appreciate the issue of increased costs because of the increased road width but unfortunately I hear the same story for every 10 lot subdivision, 15 lot subdivision, 18 lot subdivision, why do we need to put in a 28 foot road. Again, you're talking anything over 6 lots, it's a town road, has a 28 foot requirement. Clearly 490 units is a whole different ballgame but I still believe it's appropriate here as well. And as far as reviewing the the alternate plans, I still suggest that you have a 28 foot alternative and that that be part of the proposals on the table, at least ones that are analyzed under SEQRA cause that's an alternative in the law and I think the only issue that would need to be companion in

that analysis would be the storm water because again the water and the sewer all those things can be adjusted with the road width and I did review a rather thick roll of drawings and provided you with quite, eight pages of comments, so it's not like I was trying to avoid doing a review. I did like the courtesy of getting these things submitted so all of us have an opportunity to review it with all the alternatives submitted, not just one at a time and taking baby steps towards the two extremes of the alternatives.

MR. NOVESKY: With that, I'd just like to open it to the board to discuss.

MR. KLOSKY: My only comment remains that in my mind we're moving towards acceptance or accepting the DSEIS and if that's the main question then I remain desirous of an alternative which shows 28 foot road widths throughout the development. I think we need to analyze that option before we can judge the SEIS as complete. I have two other issues that I remain stuck on and the rest of the board can agree or disagree as they choose. The first is pedestrian connections to the rest of the community, I don't believe that this huge development should exist in a bubble. I think that there should be pedestrian connections between this site and the community and I believe that the plans still don't address that particular concern of mine, whether the rest of the board will, I mean, and in my mind the SEIS is not complete until that transportation mode being pedestrian bicycles is fully addressed in some detail rather than just a couple paragraphs within the SEIS. And the last issue is one that Leslie addresses in her letter, I will point out both our consultants, both Mark and Leslie say that they both recommend that the planning board deem the DSEIS incomplete. So Mr. Jacobowitz, I appreciate your willingness to hold over for another month if that's what I understand what you're doing. And the last issue is Leslie mentions the difference between mature and immature forests

within the site. Dr. Schuster also provided us some commentary that whether he's an interested party or an individual, Dominic, what's the, we had a short discussion about that.

MR. CORDISCO: Yeah, as I understand it he's a member of the Cornwall Conservation Advisory Committee which was created by the Town Board to advise Cornwall boards such as the planning board on environmental issues.

MR. KLOSKY: I would, so far the extent as near as I can tell of the look at the forest in detail involves the location of cabbage oaks within the piece of property, many of which are going to be lost as part of the development. I understand this is a development and that happens but it's something that we're supposed to be evaluating. What I can't tell from the SEIS which parts of the site are occupied by these sort of trash forests that are referred to in the SEIS and which parts might have more mature forests. I think there's probably forests within there and I'm paraphrasing Mr. Schuster's letter that are 100 to 150 years old rather than 60 or 70 and given that I'd like the DEIS to address that. Again, the rest of the board can have their own opinion, that's just my own thing.

MR. CORDISCO: If I can expand on the last comment in my read through of the materials submitted at last month's meeting, there was mention of a I think February 20 visit to the site by Mr. Torgeson by Mr. Rob Torgeson with an evaluation of habitat issues but there was no inclusion of a report from Mr. Torgeson, just technical conclusions about that site visit. It would be helpful and it would be indeed standard to have the board have that report so that you can evaluate it for yourselves.

MR. NOVESKY: Very good, thank you.

MRS. DEANS: I agree with Mark, no matter if it's a

private road with six houses, 10 houses or 400 units, I think we should explore the road situation and I'd like to see different renditions of what they can come up with.

MR. GRABE: I agree with that.

MR. GOLD: The only other point that I'd like to make related to that is I'd like to see them in a more timely fashion, I mean, I don't pretend to be an engineer but I'd like to be able to analyze this to the limits of my ability and that takes more time than the probably 30 minutes that we've seen this new plan and I'm also not going to be comfortable moving forward until we get a report back from emergency services people.

MR. NOVESKY: On the current submission?

MR. GOLD: On any submission of the road plan.

MR. NOVESKY: So are you asking for 28 foot wide analysis as well?

MR. GOLD: I am I think.

MR. BRODMERKEL: We can ask for if I could suggest we can ask them what their opinion of the plan A1 or whatever the hell it is.

MR. GOLD: It appears to me that the driving--

MR. NOVESKY: One B.

MR. GOLD: We're driving towards a recommendation of 28 foot wide roads and the point that I was trying to make before is if we get that analysis now we're done with it instead of next month getting an analysis on this and saying that we're not happy with it or they're not happy with it and then the following month getting one

where we've got a little bit more 28 road until ultimately we get all 28 foot road, just seems to me especially in light of what Mark shared in terms of the studies required we ought to just get it now and satisfy that requirement cause it seems like that's where we're headed.

MR. BRODMERKEL: Twenty-eight foot now we'll accept that's all we can demand is that he can accept, the question is would they accept something less, so if we want their opinion then it would be would you accept this one which is a little less.

MR. NOVESKY: There is no opinion on the 28 foot.

MR. BRODMERKEL: The second thing I'd like to add, Mark, public roads have parking on both sides, correct?

MR. EDSALL: Not all, there's a lot of public roads that have parking on just one side.

MR. NOVESKY: Downtown Cornwall.

MR. BRODMERKEL: There's no parking.

MR. NOVESKY: That's right, no available parking anyway.

MR. EDSALL: One example Mr. Brodmerkel when First Street was reconstructed because of access issues up on First Street they maximized the width but they restricted parking on one side. It looks when you go down the road it looks dramatically larger than the roads in the area but that was one of the roads the town reconstructed because they had access issues, they can't afford to do them all or maybe we'd have more new roads.

MR. JACOBOWITZ: I'd like to comment on one of the requests from Mr. Klosky which is the pedestrian

connection. I don't see that in the scoping outline, if it's in here somebody should point it out to me. We're bound by the scoping outline and that's not in it and most of what is in Mr. Schuster's letter which frankly shouldn't be a matter before the board now nothing in there goes to completeness. His comments deal with the adequacy of the EIS and mitigation issues but most of what's in his letter is not in the scoping outline. So I don't want people running, jumping to conclusion that everything and anything anybody thinks of is something we must deal with in the SEIS.

MS. DOTSON: Well, there's one thing that was in Mr. Schuster's letter with respect to following up on one of the issues in the original GEIS with respect to species, the only reason I bring this up is because this is not a public comment, this is an internal agency comment from the Conservation Commission, the only reason I even bring this up is because this is kind of a time is of the essence issue with respect to some of the specific amphibian tests that he's recommending be carried out. You have kind of a unique opportunity before you tonight in that he's here and also the applicant's consultants are here so if you'd like them to speak to this issue you may be able to resolve among yourselves as to whether or not you feel this is something that you should be asking for or not.

MR. NOVESKY: Well, Dominic, is that something that we're able to ask for?

MR. CORDISCO: Yes, I mean, issues regarding habitat and endangered species are certainly within the scope and this falls within that broad category. I also perhaps disagree with Mr. Jacobowitz regarding the issue of connectivity to existing town neighborhoods that I think falls within the broad outline of traffic and community character, they don't have to be specifically enumerated in the scope in order to fall within those categories.

MR. JACOBOWITZ: So anything is fair game, the scoping outline is worthless, okay.

MR. CORDISCO: I didn't say that.

MR. JACOBOWITZ: You said it kindly and politely but you said it.

MR. NOVESKY: Going back to the resolution as far as final resolution on where we're leaving Mr. Jacobowitz tonight.

MR. CORDISCO: Well, at this point, as it currently stands the board's timeframe to declare complete or incomplete unless it's going to be extended by the applicant at issue it expires tonight.

MR. NOVESKY: We're going to ask the applicant if he will accept a 30 day extension of our considerations or I will have to call for a vote as to whether to accept or reject.

MR. CORDISCO: I think that's correct, I think you should perhaps I think the board has at least a majority of the board has expressed some direction that they'd like to see an alternative with 28 foot wide roads, I think you should ask the applicant as to whether or not they intend to provide that alternative. In my mind, it's an issue of completeness as far as the draft supplemental is concerned. We've not yet gotten the statement from them as to whether or not they're willing to provide it.

MR. NOVESKY: The question is are you willing to provide a revised plan with 28 foot roads?

MR. JACOBOWITZ: No.

MR. CORDISCO: Then I think the board's option at this

point is the board's expressed a desire to see 28 foot wide roads which is an alternative that's actually called for by the law since private roads may be approved. The flip side of that is private roads may not be denied then I think that you need to declare the draft supplemental as incomplete.

MR. NOVESKY: Well, I would suggest as a majority of the board has determined that that's all true that I will call, I will poll the board as a matter of formality so it's on the record.

MR. KLOSKY: Are we voting on a motion?

MR. NOVESKY: No, not a formal motion, it's a poll.

MR. KLOSKY: I don't think that the supplemental environmental impact statement is complete.

MRS. DEANS: Incomplete.

MR. GRABE: Incomplete.

MR. GOLD: Incomplete.

MR. BRODMERKEL: Complete.

MR. NOVESKY: Irrelevant, okay, so therefore it's declared incomplete.

MR. CORDISCO: Well, actually, you didn't do it by resolution, that was a poll.

MR. NOVESKY: No, I will give Mr. Jacobowitz an option of allowing us to delay for a month for discussion.

MR. JACOBOWITZ: No.

MR. NOVESKY: At which point I will in the form of a resolution.

MR. CORDISCO: And just to be clear, you should specify the reasons why it is being declared incomplete, whether or not I would encourage you to incorporate the comments provided by Leslie and as well as by Mark as well as any other additional reasons that you find it could be incomplete that you can agree to as a board so I think you should try and provide a list.

MR. NOVESKY: I will ask you.

MR. KLOSKY: I mean, I think my earlier statement that stands on the record is fairly comprehensive in terms of my feelings as to why the Supplemental Environmental Impact Statement is incomplete, it certainly seems the 28 foot road is a, 28 foot road option should be contemplated by the SEIS. We have a clear statement from both of our consultants along those lines that they recommend we find the SEIS incomplete on that basis and so I'm not really, I'm not really too, I don't feel compelled to provide a long laundry list at this point. The consultants notes are clear and extensive, the 28 foot road is the principal issue and the only one that I was really ready to make a full determination.

MR. GRABE: Mark had an alternative to 28 foot roads whether a wider swing is necessary than a 28 foot road or is it the 28 foot road?

MR. EDSALL: Again, that's the purpose of SEQRA is to look at alternatives and if they have an intermediate proposal that could be one of the three road alternatives.

MR. GRABE: He wasn't asking for that.

MR. EDSALL: You have the extreme which is all 28 foot, you've got what they started which is quite minimal and then they have now proposed something in between,

there's nothing that keeps them from proposing those three alternatives and we can seek input from emergency services, it's my understanding that some of the roads that aren't 28 maybe one way those are mitigating issues that could make the less road possibly acceptable but again--

MR. GRABE: They weren't presented to him.

MR. EDSALL: The point is that we don't have a cohesive suggestion in the SEIS to look at alternatives.

MR. NOVESKY: I tend to agree on that point with Kenn.

MR. BRODMERKEL: It's presented.

MR. NOVESKY: They are in the process of presenting them.

MR. BRODMERKEL: We got one plan tonight.

MR. NOVESKY: Well, Mark's suggestion is that looking at the alternatives where there are some roads within the property that are less than 28 feet.

MR. EDSALL: I never said they should not make an effort to try alternatives that may be palatable. The point is they're asking you to accept a document as complete ignoring one of the alternatives that's referenced in the law and I believe that makes it incomplete. I'm not saying that all other alternatives should not be looked at and be wholesale rejected, I'm suggesting that this board under SEQRA I believe has an obligation to look at the alternatives identified in the Town Law and one of the alternatives is 28 foot public roads. If they propose 28 foot private roads and they say we can accomplish the same thing viable alternative SEQRA looks at the alternatives, that's what the law was written for.

MR. GRABE: My opinion is he has to decide whether he is going to give you an extension.

MR. GOLD: The roads are still the issue.

MR. NOVESKY: Okay, at that point we have--and Kenn?

MR. BRODMERKEL: I just question it's my understanding that if we deem the SEIS--

MR. NOVESKY: SEIS complete that does not mean we can't demand changes later after public input.

MR. EDSALL: You've got no basis for it if you didn't analyze it.

MR. CORDISCO: Yeah, the Final Environmental Impact Statement which will likely be required in this application is really to address comments that are raised throughout the public hearing process. It's really not meant to cure deficiencies in the draft supplemental. You're not supposed to put off until later what you can easily be provided now. I think the board has actually I think the chairman has asked Mr. Jacobowitz as to whether or not a 28 foot wide road proposal would be provided, I believe his answer was no. And so at this point the board has to decide whether the document is complete or incomplete. I don't understand what putting off another month will do.

MR. NOVESKY: The board is in the process of deciding that.

MR. GOLD: By resolution?

MR. NOVESKY: Yes.

MR. BRODMERKEL: I have no opinion.

MR. NOVESKY: Then I have a motion on the floor, I will ask for a motion to make the motion to approve or reject.

MR. CORDISCO: To declare it incomplete.

MR. NOVESKY: Ask for a motion to declare the SEIS incomplete.

MR. KLOSKY: I move that we declare the Supplemental Environmental Impact Statement incomplete.

MRS. DEANS: I will second the motion.

ROLL CALL

MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

MR. NOVESKY: Thus we have a rejection of the SEIS.

MR. CORDISCO: And you have given some clear direction to the applicant as to what they need to do, they can resubmit the draft and it will be considered.

MR. BRODMERKEL: I would like to, I don't know how, excuse me, Mr. Edsall, I would like to communicate with the fire chief and have him be given the proposal, the second proposal we saw this evening which has the higher more wide roads in it and to get his specific reaction to it.

MR. EDSALL: If we get sufficient copies we can have it referred to the fire district.

MR. BRODMERKEL: Gary does that.

MR. VINSON: I will if you'd like me to.

MR. EDSALL: I think it's appropriate if the board members don't have copies, personal opinion is that it's inappropriate that you refer something that you don't even have a copy of, so I would suggest that the applicant provide sufficient copies so that all the board members have them and a referral can be made.

MR. VINSON: I'm going to take seven, I'll distribute the one to the Canterbury Fire District.

MR. BRODMERKEL: Ask for his opinion.

MR. VINSON: I will ask for his comments for the board and whatever other board members would like them.

MR. NOVESKY: Motion to adjourn.

MR. BRODMERKEL: So moved.

MR. GOLD: Second it.

ROLL CALL

MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. GRABE	AYE
MR. GOLD	AYE
MR. BRODMERKEL	AYE
MR. NOVESKY	AYE

Respectfully Submitted By:

Frances Roth  
Stenographer