

December 1, 2008

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TOWN OF CORNWALL

PLANNING BOARD

DECEMBER 1, 2008

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

ALSO PRESENT: DOMINIC CORDISCO, ESQ.
PLANNING BOARD ATTORNEY

MARK EDSALL, 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 the December 1, 2008 meeting of the Cornwall Planning Board, open the meeting at 7:35, all present and accounted for.

First and foremost as a matter of record let's make a point that this is Jane Deans last meeting, she's been one of the best members of the board I've ever served with and I'm not happy to see Jane leave us. But I think as a matter of course we should all

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express our gratitude to the wonderful service she's provided. But in any case thank you personally, Jane, and I'm sure from all members of the board and all consultants who have had a good working relationship over the years, you are extraordinary and we'll miss you very much.

MRS. DEANS: Thank you. I'll come down and check on you once in a while.

MR. NOVESKY: I hope I'm here. I'll miss you, she's a real representative of the institutional history in the literal sense and it's really a pleasure to have Jane constantly remind us of what it was like. Her husband was a great soccer player too.

MRS. DEANS: Thanks.

PUBLIC_HEARING_MAILINGS

MR. NOVESKY: We do have two resolutions, they're not really resolutions, are they, Dominic?

MR. CORDISCO: No, they're reports back to the Town Board, the Town Board has started the process to make amendments to the zoning law to make the mailings for public hearings to be consistent and require certified mailings for public hearings. Because these are technically they're amendments to the town's zoning law they require that planning board's comments or at least an opportunity for comment and resolutions have been prepared that would comment favorably on both of the changes, one is in regards to the planning board's procedure for public hearing mailings and one's in regard to the zoning board's procedure for public hearing mailings.

MR. NOVESKY: With that, I will ask for a motion to acknowledge that we recognize the Town Board should amend Chapter 125, Section 125-5 (f) of the Town Code of the Town of Cornwall. Can we do them at the same time?

MR. CORDISCO: Yes.

MR. NOVESKY: And also Local Law Chapter 158, Section 158-39 (a) and 158-41 (a) Subsection 8. I'll take a motion.

MR. GOLD: So moved.

MRS. DEANS: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE

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

MR. NOVESKY: Dominic, does that make you happy?

MR. CORDISCO: It would make me very happy if you would sign both of the reports.

DOWNEY_FARMS

MR. CORDISCO: You can acknowledge that the releases in regards to the Downey Farms litigation have been released from escrow and have been sent to the board members for their files.

OLD_BUSINESS

ADOPTION_OF_2009_PLANNING_BOARD_MEETING_DATES

MR. NOVESKY: Also under old business we have the adoption of the 2008 planning board meeting dates. Does anyone have a problem or issue with that?

MR. BRODMERKEL: The what?

MR. NOVESKY: With the 2009 planning board meeting dates.

MR. BRODMERKEL: I have no problem.

MR. NOVESKY: Duly noted and acknowledged planning board's been advised. I will ask for a motion to approve the schedule of 2009 planning board meeting.

MS. BUNT: So moved.

MR. GOLD: Second it.

ROLL CALL

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

APPROVAL_OF_MINUTES

MR. NOVESKY: Did everyone receive the minutes from last month's meeting? Are there any questions, issues? I'll have a motion to accept.

MS. BUNT: So moved.

MRS. DEANS: Second it.

ROLL CALL

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

RESOLUTIONS

MR. NOVESKY: Okay, our resolutions for tonight, Dominic, I gather we'll take the resolution--

MR. CORDISCO: If you'd withhold action on the Cornwall Commons resolution we'll discuss that and take action during the discussion.

STONE_HOLLOW_AT_CORNWALL_#2008-10

MR. NOVESKY: At this point at 7:40 we have a public hearing scheduled for Stone Hollow at Cornwall, a representative is here. We understand that you will explain this, that we'll continue the public hearing through next month. Good evening.

MR. LUKASIK: Mark Lukasik, Tectonic Engineering for the applicant. And we've resubmitted for this evening's public hearing, as we have indicated in the covering correspondence, there's one change to the plan that's substantive in nature in what we presented one month ago and that was essentially to remove from the application the consolidation of two lots at the rear of the project at the cul-de-sac. When we originally came before this board with this application, these two lots were proposed to be put together and we were as a result of that under the code we did have more options with respect to development of that particular lot in terms of floor plan options, size of the unit, et cetera. Over the course of time, quite simply--

MR. NOVESKY: Is there any, are there any members of the general public here for this public hearing? Okay, with that I was just going to ask you to turn around and explain it to them. Okay.

MR. LUKASIK: Essentially, the contract that the applicant had in place for that particular property has come apart in time and rather than progress with the application as has been initially presented, go through and then come back with yet another modification at some future date to split that lot back apart again we just basically entered a rat race at the last minute to cobble together and amend the application to essentially remove that consolidation of the two lots so everything else stands as is. Essentially, in short, you originally approved once upon a time 29 lots and the lot count remains the same at this time.

MR. NOVESKY: Okay, are there any members of the general public wishing to make a comment on this plan as presented? Seeing none, I think we can ask if the board has any comments or would you rather hold your comments till you get a plan prior to the closing of the public hearing next month?

MR. CORDISCO: No, the plan has been submitted actually Mr. Chairman it was made by his submission deadline. One of the points however though is that because this is technically a change and it's not an immaterial change in larger scope of things perhaps it is perhaps it is not but in any event the revised plans need to go to the County Planning Department and their time has not yet run so the board has at this point the option of whether or not to keep the public hearing open for another month or to close it.

MR. NOVESKY: I gather your recommendation is that the board continue the public hearing for next month?

MR. CORDISCO: I think that because the plans have been changed and there are some outstanding technical comments, given the unique circumstances of this one I recognize that there's no one here from the public to speak but I think that it would be prudent to keep the public hearing open while the board and the board's consultants digest this revised plan and they can come back for the January meeting and public hearing can be closed at that time.

MR. NOVESKY: With that in mind, would I require a motion to keep the public hearing open?

MR. CORDISCO: Yes, adjourn it to January essentially.

MR. KLOSKY: So moved.

MR. GOLD: Second it.

MR. BRODMERKEL: If we have no public input, why are we keeping the public hearing open?

MR. NOVESKY: That's actually a good question, Mr. Brodmerkel.

MR. CORDISCO: Comments from the county in particular and alternatively technically it is possible that you could close the public hearing provided that the applicant was willing to suspend the timeframes for a default approval because the plans have been changed.

MR. NOVESKY: So we'd actually be keeping the public hearing open at the request of the applicant?

MR. CORDISCO: No, no, what I am suggesting is that as an alternative you could close the public hearing but I think you closing the public hearing should be conditioned on the applicant suspending the timeframes for a default approval.

MR. BRODMERKEL: I'd rather do the second option, seems more procedurally correct.

MR. KLOSKY: I don't think we impair the timeframe of the applicant by holding at public hearing open and additionally we haven't gotten comments from the county which might materially affect the public input although unlikely.

MR. NOVESKY: Led's suggestion is we keep the public hearing open and Mr. Brodmerkel's suggestion is that we not.

MR. KLOSKY: I'd like to hear from the applicant what their opinion is and whether it has a material affect.

MR. CORDISCO: Before you do so, I will add that as the applicant has pointed out they're going back to a

previously approved plan, 29 lot subdivision was previously reviewed by this board subject to public hearing and that plat has actually been filed so there's 29 lots that are right now, technically, this revised plan that you have before you right now adjusts the lot line slightly on one side of the road but it still would keep the same number of lots.

MS. DOTSON: It does revise the drainage though.

MR. KLOSKY: Changes the drainage plan.

MR. CORDISCO: Certainly it does change that.

MR. NOVESKY: Okay.

MR. LUKASIK: We have no objection to holding it open.

MR. BRODMERKEL: Do you have an objection to holding to the length of time we're allowed to revolve if we close the meeting?

MR. LUKASIK: Not necessarily.

MR. BRODMERKEL: We'd prefer a yes or no.

MR. LUKASIK: No.

MR. CORDISCO: You can always withdraw it, you know, at some point after the public hearing is closed, you could withdraw it at that time.

MR. GOLD: Don't we have a motion on the table to hold the public hearing open?

MR. NOVESKY: Yes, we do so I'll take that again, roll call vote on leaving the public hearing open.

MR. KLOSKY: Was it seconded?

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MR. NOVESKY: Yes.

ROLL CALL

MR. BRODMERKEL	NO
MS. BUNT	AYE
MR. GOLD	AYE
MR. KLOSKY	AYE
MRS. DEANS	AYE
MR. GRABE	AYE
MR. NOVESKY	AYE

MR. NOVESKY: We'll be leaving it open.

MR. LUKASIK: We do have the affidavit of publication, mailings, et cetera as a matter of course.

JEHOVAH'S_WITNESSES-CORNWALL_CONGREGATION_#2008-05

MR. NOVESKY: Next we have Jehovah's Witnesses-Cornwall Congregation.

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

MR. NOVESKY: Okay, hello.

MR. PENDERGRAFT: Good evening, my name is James Pendergraft representing Cornwall Congregation and again we appreciate you permitting us to review some aspects of our project with you this evening. Since we met with you, I believe it was back in April, we received zoning board approval for the project and we have also received comments from McGoey, Hauser & Edsall as well as the comments from Garling Associates, they have been incorporated into the plans and we have also submitted our SWPPP plan to the town with the last submission.

MR. NOVESKY: Thank you very much. Leslie?

MS. DOTSON: This matter did return from the ZBA, they were granted the requested variances. The only thing that was not approved was the pillars on the sign. The ZBA specifically had wanted to request that the planning board review the proposed and existing side yard screening on both side yards for adequacy and adjust it where you deemed it appropriate. I think they were quite concerned about that but they didn't feel that it was their job to focus on the landscaping but they did want to flag that for your attention. So what I did in order to assist your review of that was to take some photos which were taken Tuesday before Thanksgiving, these are probably ideal for doing any kind of visual impact analysis because they're absolute worst case leaf off, nothing left so you can get a good sense of whatever deciduous and whatever evergreen

cover there is. The first two figures are of the north property, that's the one where the building's going to be closest to that structure and that was the one where the property owner had come to the ZBA public hearing and had expressed some concerns about that. So the north side of the building is definitely much more exposed but I did also want to point out to you that they have included elevations of the building on different sides and please note that the front building and elevation does have no windows and it's not going to be lighted. The other concern was the south side, the driveway as you may be aware right now there's a common curb cut for this property and for the property that's to the south of this it forks off once you enter this common curb cut, they're proposing to separate that so that the residential property on the south has its own discreet curb cut that's separated by a vegetated island from their driveway. I think overall it would be safer and it would probably be preferable for them. There's not a whole lot of screening on the south side, although I do have to note again in fairness that the proposed parking lot is actually going to be slightly less pavement than is there currently but because there's so little space to vegetate along the side, it's still pretty open. On figure 7 you can see that there's really nothing between the parking lot and the Decker property. The plan does appear to meet the code's landscaping requirements for trees in the areas of preserved trees. On count of the proposed new ones it's short, it's substantially short of the suggested shrub or low planting count. I think that I have suggested a few things that they could do, I don't know if you got these.

MR. PENDERGRAFT: Yes.

MS. DOTSON: I suggested a few things that they might do to accommodate some of the open spaces on the south property line and I think that they can also

accommodate some additional plantings on the northern side yard. I suggested some changes to some of the landscaped choices that they have made, also just reminding you on comment 3 that I'm suggesting that they should seek special permit just to bring all the permits up to date on this.

MR. BRODMERKEL: Can you repeat that?

MS. DOTSON: I'm suggesting that they should be seeking a special permit because I don't think they have one previously for the church. Normally, churches are special permit uses, I'd like to bring all the permits up to date if possible.

MR. BRODMERKEL: Do you know if you have one?

MR. PENDERGRAFT: The building has existed here for over 40 years in its current use so we're not aware of any, it may have predated any requirements.

MS. DOTSON: It may have predated any requirements.

MR. BRODMERKEL: But we're not sure.

MS. DOTSON: No, that's the problem, I wasn't able to track that back far enough. In any case, even just for the site plan I have the sense I would recommend a public hearing just because of the interest from the surrounding property owners from the landscaping and so forth. I think that that would be, that there'd be advantages to having a public hearing. Comment 4 just mentions some consistency issues on the zoning information. Comment 5 I wasn't sure at the last planning board technical workshop there had been some discussion about the applicant wanting to gate the parking lot entry. I wasn't sure if that was still being proposed because it wasn't shown on the plan. I know in the Newburgh facility it's gated but I notice when I drive passed the Newburgh facility the gates are

open. So I wasn't sure how much good that does. Actually comment 6 is kind of superseded, after I wrote this, I had actually called the Orange County Planning Department and it seems that they are not interested in seeing this again because they feel that their previous comments provide all the input that we need.

MR. NOVESKY: Was that a yes on the gate just out of curiosity?

MR. PENDERGRAFT: Yeah, the gate, what's happening right now and the neighbors have commented when the building is not in use children come into the lot and spend time there inappropriately. So the suggestion was made that we put some gates there, not lockable gates and if they drive by and they see a gate with a latch they are not going to want to go in the facility. You mentioned the Newburgh South Hall has a double gate in front of it but it is not locked, there's no lock, it's just a latch, this way if the fire department needs to get in or the police or someone needs to get in they can open the gate and have free access so it's more of a deterrent than anything else.

MS. DOTSON: The Newburgh ones were wide open when I drove passed the other day.

MR. NOVESKY: Mark?

MR. EDSALL: I won't go through all my comments because given the applicant returning back to the ZBA I took the time to go through sheet by sheet and do a detailed review but I will give a quick synopsis of the areas that we're concerned about resolving before the board has the public hearing. Two primary issues are the sanitary disposal system having all the soils testing complete, I'm not sure if that's been scheduled or done, a lot of times it's done through our office and I have been out for recreational surgery, I wasn't there every day, I wasn't sure if it's occurred or been

arranged.

MR. PENDERGRAFT: I called your office and requested an appointment for that so we had a civil engineer do a perc test on it but we were informed at our last meeting of course that your office needs to observe that so we have requested that it be scheduled.

MR. EDSALL: So that needs to be resolved and more importantly we have comments we provided on the storm water pollution prevention plan, those issues need to be addressed to the extent that we know that the layout or the corrections will not impact the layout of the site plan. Some other comments that really should be addressed on the plans for the public hearing include some things as the grading and the utility plan, some clean-up of the plan so that it's easier to follow contours and grading and so obviously the public would have the benefit of plans that were fully legible and usable for review. So I would suggest if the board sees fit to authorize the public hearing that you would do it subject to the plan being upgraded consistent with my comments.

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

MR. CORDISCO: Nothing at this time.

MR. KLOSKY: I will only reiterate Mark that my principal concern on the site actually occurs before the issuing of the C.O. that being the drainage during construction itself, given the proximity of Route 32 and the steep slope to the east, it's going to be very important that during construction some very careful measures be taken to keep from, let's say we open the parking lot and we get a real gully washer when the parking lot's open we can have a problem on 32 that's not tolerable. So we need to be careful on this particular site, the regular silt fence and hay bail

approach might have to be augmented in this case.

MR. PENDERGRAFT: We did not have an opportunity to review McGoey, Hauser & Edsall's comments on the SWPPP plan, but we have endeavored to address those and look forward to receiving those comments and that will be something that we're going to, we had intended to give attention to and we note that in our narrative.

MR. KLOSKY: Good.

MRS. DEANS: That was my main worry too about having a cascade coming over onto 32 and freezing on that turn in the winter or something. And I do think that you have to do some landscaping to the south there near Decker where it's so open to sort of keep that so it's not looking like it's just thrown there behind your place.

MR. GRABE: They have all been addressed.

MS. BUNT: I'm also going to be interested in seeing additional screening on the north side to mitigate whatever intrusion there will be on the property. Was there some question, Leslie, about the size of the building and whether it was two story or not? You weren't clear.

MS. DOTSON: I think I was more confused about the existing building cause the existing building was labeled as a two story but sure as heck didn't really look like it.

MR. PENDERGRAFT: Right, there's a, it's a split level entry in the back so there's two.

MR. BRODMERKEL: How many square feet?

MR. PENDERGRAFT: The existing build is 6,000 square feet, the proposed is about 4,500, so actually smaller

in square footage but it's on a single level, this permits elderly, infirmed or handicapped individuals to have great accessibility to the building.

MR. BRODMERKEL: I would agree with what was mentioned before that screening would be needed on both ends of the property. One there's almost none, the other one the screening tree is a cedar tree shown there, it looks to be within five feet of the building, it will be dead by the time construction is done so it has to be replaced at the very least.

MR. PENDERGRAFT: If I may?

MR. BRODMERKEL: Shows a cedar tree fairly large.

MR. PENDERGRAFT: We went out there with a specialist and looked at the root ball proximity to the building just to confirm that we did not encroach on the root ball so that has been addressed and the location, the current location and I appreciate that comment because we were concerned about that.

MR. BRODMERKEL: Mark, you had a note here that says that there's no isolux plan here, just to educate me C1-6 is that not an isolux or is that something just approximating it or what?

MR. EDSALL: There was, I think it was a matter of the fixtures not matching, there's more.

MR. BRODMERKEL: You mentioned that also.

MR. EDSALL: A matter of coordinating, make sure that all the fixtures depicted have an individual detail and are called out, they've got isolux curves on top of the grid which is fine but it's a matter of consistency.

MR. BRODMERKEL: You don't want the adjustable kind for obvious reasons.

MR. EDSALL: A lot of times there's a problem where the isolux curve changes depending on the mounting height of the fixture.

MR. BRODMERKEL: One other question, you asked for a double white and blue line on the edge of handicapped parking, is that new? I think it's a great idea.

MR. EDSALL: No, it's not something new, it's something that a fella named Mike Babcock in New Windsor and I invented because of people who come into a space that has a blue line on one side and a white line on the other and become very confused so we kind of we improved the state law a little bit.

MR. NOVESKY: With that I'll entertain a motion to schedule a public hearing or discussion thereof.

MR. GOLD: So moved.

MR. KLOSKY: Second it.

ROLL CALL

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

MR. CORDISCO: The motion should be conditional on the comments being addressed from Mark.

MR. NOVESKY: Subject to the engineer's comments, let me revise it, I'll take a motion again.

MR. GOLD: So moved.

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MR. KLOSKY: Second it.

ROLL CALL

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

MR. PENDERGRAFT: Thank you very much.

ELMES_SUBDIVISION_#2007-13

MR. NOVESKY: Elmes subdivision.

Michele Babcock, Esq. appeared before the board for this proposal.

MS. BABCOCK: Good evening. As you all know, this application has been referred back to this board from the ZBA asking for a recommendation on this application. Just as a bit of background, this application was before the board in December of 2007, this is a 5.3 acre parcel, the application was for a two lot subdivision. The property is located in the SLR zoning district and located off Angola Road. At that time, the board had determined that the proposed lot number 2 would require a lot width variance and this board referred the application to the ZBA. The application was before the ZBA in January and February of 2008 for a public hearing, yet the ZBA would not close the public hearing until the Orange County Department of Public Works determined whether the access which was shown for proposed lot number 2 directly on Angola Road was satisfactory. The county has since come back with a letter saying that they are recommending that the access be relocated for proposed lot number 2 to directly access Deerfield Lane onto Angola Road. The first letter we had received from the county required us to access Deerfield Lane 50 feet above Angola Road. The Town Code requires that if more than six lots access a private road the applicant would need to construct the road to town specifications over the road to the town and have the Town Board accept the road. We in turn went and met with the County DPW and informed them of this Town Law and also asked that the restriction of the 50 foot right-of-way be deleted or the 50 feet above Angola Road, I'm sorry. The county said that based on the site distance concerns that this was the safest location and therefore would recommend that we use Deerfield Lane. However, they did delete

that restriction for the 50 feet above Angola Road so the current plan that you have before you shows the applicant using a driveway that accesses Deerfield Lane 23 feet above Angola Road. The application was then revised and resubmitted back to the Zoning Board which you all have a copy of requesting a variance of the private road requirements contained in the Town Code. Like I had previously said, the code requires the application to construct the road to town specifications over it and have it accepted by the Town Board. That provision is excessive and unfair to the applicant, the private road is over 1,000 feet in length, the Town Code would require the applicant to pave this roadway to town specifications for the entire thousand feet of the roadway when the applicant is only using the first 23 feet of the road. This would be unfair to the applicant. The second problem that we have is the right-of-way of a private road is only 24 feet and the Town Code requires a 50 foot right-of-way, therefore, the applicant has no other alternative but to seek a variance from the ZBA. Accordingly, the ZBA has referred the application back to this board and is requesting the board make a recommendation to the Zoning Board.

MR. NOVESKY: Curious question. Leslie?

MS. DOTSON: I appreciate the fact that the ZBA asked for some input on the matter just because I think that that was a very carefully written section of Town of Cornwall Code that's in play here. I think that the code was very explicit about the solution to having more than the allowed four internal, two with frontage, the relief the code offers it's stated that the solution is to improve it to a current town road spec to get dedicated to the town, have it accepted by the town or others at a public hearing in which case it ceases to be a private road. It seemed to me that the specific solution to the problem is laid out in the code and the language was written very purposefully,

the affect of granting the requested variance would be very sweepingly broad and almost legislative in character due to the erosive effect on the purpose of the restriction. Because basically there are lots of private roads throughout the town and I think that there are many potential people who could be seeking relief to that. So my feeling is that the strong precedential effects of that variance could completely undercut the effects of the zoning restrictions and further beyond these concerns I think that there are additional important reasons to be concerned about this namely being that the sight distance is so important for any means of access, this lot would have even for Deerfield Lane residents it would be contrary to public health, safety and welfare concerns of the code to recommend in favor of the same. So I am recommending that the board convey these concerns to the Zoning Board of Appeals to consider in its evaluation.

MR. NOVESKY: Thank you, Leslie. Mark?

MS. BABCOCK: If I may address those issues. First the purpose of the ZBA of course is to grant a variance of the zoning code. And this is an issue for the ZBA and in this case I don't believe there's any precedence under the law where an application can be distinguished and this application can be less distinguished because there is no alternative access here. Here the applicant is seeking to use 23 feet of a privates road that's over 1,000 feet long. The other point that I don't believe I had pointed out is that the county actually issued a letter stating that they were in favor of the ZBA granting this application and that the letter is part of the package that I did submit to this board. Because they did believe that this was the safest access for this property.

MR. NOVESKY: Does that render without the variance does that render this lot unbuildable?

MS. DOTSON: No, it's already--

MR. CORDISCO: The lot is already built upon, they're looking to subdivide further.

MR. NOVESKY: Unless they restructure.

MS. BABCOCK: Based on the lot configuration actually no way to reconstruct this lot.

MR. CORDISCO: To subdivide it.

MS. BABCOCK: To subdivide the lot.

MS. DOTSON: Yeah, I'm concerned about the fact that the DPW comments may be emphasized differently from what the DPW actually means them to be read, as in my opinion, the DPW does not recommend for or against any specific, against approval or disapproval, they're just speaking to the area that their agency is asked to address, in other words, their approvals. So they're saying between these two options neither of which is great, both of which have poor sight distance and one of which would have inadequate separation from another intersection that has poor sight distance we prefer this one but it doesn't mean that they're saying we love this, we think you should go ahead and grant the variance.

MR. BRODMERKEL: Michele, you made a statement--

MS. BABCOCK: If I could briefly just address that. I actually met with Patrick Kennedy and Caesar Rotundo of the County DPW and they specifically told me as well as their letter states the department supports the applicant's request for a variance for access to Deerfield Lane as the safest possible access to the county road must be achieved and that's the plan that you are currently looking at tonight.

MR. BRODMERKEL: But that just said they consider it as safest way to access the county road, they don't say that this is a, that they have advised us to approve a variance.

MS. BABCOCK: This department supports the applicant's request for the variance is the beginning of the sentence.

MR. BRODMERKEL: What are you looking at?

MS. BABCOCK: This is Exhibit A, it's in the second to last paragraph.

MR. KLOSKY: To be clear, we're being asked to only make a recommendation to the ZBA. The applicants can certainly pursue the application through the ZBA and regardless of our recommendation the ZBA can just one way or the other do it. So I don't think we're here to judge the merits of the application to the Zoning Board but rather to state the board's general opinion about this sort of a variance.

MR. CORDISCO: Yes, and as Miss Babcock had mentioned earlier, this is a question of first impression I believe for the Zoning Board of Appeals and since it deals with the section of the code which this board has to live with all the time they have asked for your opinion as to what you think about a variance that would effectively allow seven homes on a private road.

MR. NOVESKY: Let's ask what the engineer's opinion is on that since he's been intimately involved in various road issues.

MR. EDSALL: The restriction on number of lots has to my understanding been one that has existed since the '80s previously in the form of a policy and then I assisted the board back in the I believe it was late '80s to adopt the current town code, it was written as

a response to problems with what the board deemed to be overutilized private roads that had less than adequate structural capacity, both width and road structure. The board, I think the Town Board made a determination that the upset number was six, maximum was six lots using it. To my knowledge, there have been no cases since the '80s where more than six lots had been permitted if they existed already. Obviously, it wasn't taken away but have been permitted, since that time, many, many applicants have been told no for the seventh lot and they have been given the same opportunity to develop the seventh lot but bringing it up to town standards which is an option that the law created. My concern is that the town created a law to allow flexibility for very small subdivisions six and smaller and there's been no to my knowledge waivers or variances or releases from that restriction for the last 25 years or so. I have a concern that it would that granting a variance would be inconsistent with everything that's happened for the last quarter century on a variety of individual cases that all had their own merits. And secondly, I would be very concerned that it would create a precedence in some, for applicants for the next 25 years or until they decide to rewrite the law.

MR. KLOSKY: At some number of lots there must be a trigger which pops us over to an upgraded road, better access to the sixth--what I'm saying is that regardless of what, speaking rhetorically, at some point there must be some point at which we kick over, the Town Board has directed us that that number through the code that that number is six. I feel that that's relatively prescriptive and also it's worked well, we have as Mark pointed out turned down numerous requests in the past to add additional stems to existing private roads and to create new private roads which had more than six lots on them. So my recommendation to the Zoning Board of Appeals would be that we stay with the, with what's been done in the past.

MRS. DEANS: I agree with Led and I do think with more traffic going out onto that section of Angola Road it's a twisty-turny, hilly road anyway, no, I don't think we should set a precedent by doing this.

MR. GRABE: Well, it's basically up to the ZBA anyway and if the client has, does have any alternative I don't see any alternative that the Zoning Board has but that's only our opinion. And our opinion is we really don't want to set a precedent but that's our opinion, we don't have the final say.

MR. NOVESKY: I think that we're addressing the zoning board making a recommendation.

MR. GRABE: They don't have any other choice but to do it.

MS. DOTSON: You can say no.

MR. NOVESKY: I think that the zoning board is asking for our opinion as to whether or not they should grant the variance then do you have an opinion on that?

MR. GRABE: Well, I don't think we should.

MR. GOLD: Dominic, just for clarification, are we going to be passing some sort of resolution or are we just giving them a sense of--

MR. CORDISCO: The options are fairly open. If you come to some conclusion as a board the minutes could be sent to the ZBA so they could read the full discussion. Another alternative would be to authorize me to prepare a report or authorize Leslie to prepare a report to the ZBA. I think it depends on which direction and what your concerns are. That said, I think the minutes as Mark is whispering in my ear the minutes would be the best because this is a fairly elaborate discussion.

MR. NOVESKY: Agreed.

MR. CORDISCO: It can be, would probably not be encapsulated in a letter from the board's consultants.

MR. GOLD: I just in the interest of disclosure Karen happens to be a close friend of mine and I think I'm going to not participate in this discussion as a result.

MR. NOVESKY: I thank you for your integrity, Wynn, very impressive. Helen?

MS. BUNT: I wouldn't be in favor of breaking from our zoning and with the Orange County letter I think they're saying that that's the best option but only if it's allowed and it's not allowed by our code. So I don't think that the county letter, obviously, they're going to say that's the best option but we have the final, it's our zoning that says no.

MR. BRODMERKEL: I don't think that this, the applicant didn't have something thrust upon them that said the current land you have you can't use the way you thought the way the land is or has been for a long time, says you can't do what you're trying to do, therefore, it's not a hardship, it's just a no, you can't do that. So I would vote we say no.

MR. NOVESKY: Not even requiring a vote, I will just direct that the minutes of this discussion be forwarded to the zoning board for their information.

MR. CORDISCO: You should do it in the form of a motion.

MR. NOVESKY: I will take a motion to forward this section of the minutes to the Zoning Board of Appeals in the form of recommendation.

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MR. BRODMERKEL: So moved.

MR. KLOSKY: Second it.

ROLL CALL

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

MS. BABCOCK: Thank you.

CORNWALL_COMMONS_#2004-01_&_#2006-19

MR. NOVESKY: Cornwall Commons.

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

MR. JACOBOWITZ: Good evening, Mr. Chairman, members of the board, Gerry Jacobowitz with Jacobowitz and Gubits, we're the attorneys for the Cornwall Commons. Joe Amato is here in the audience tonight. And we want to try to bring this to a conclusion. And first though what I'd like to do is deliver to Gary for the official record the confirmation of receipt of the SEIS that was sent out to the required list, those that were sent out by Fed-Ex, the Fed-Ex receipts and then the affidavit of service by mail on those that were on the distribution list. So I'm going to give those to Gary as part of the file. Also we had sent through on November 11 a letter addressed to the board that extended the time open ended of the 90 day timeframe that commenced July 7, 2008 which was the date the public hearing was closed. So that letter should have been received also as part of your file as per your request at the last meeting and as per our agreement that we would do that. I'm a little chagrined to talk to you about substantive issues that are in the findings because we spent a lot of time and effort, Leslie spent a lot of time and effort, Dominic did, Michele did to try to work out the language so that we didn't have to talk to you tonight about some of these things. But, unfortunately, we weren't completely successful, we were pretty close but not totally successful in resolving some of the language issues.

MR. NOVESKY: Are you referring to the memorandum?

MR. JACOBOWITZ: Yes, so what we did last week after we went over things with Leslie and she heard us and we heard her and there still were a couple items we

thought the best thing to do would be to put them in writing, get them to Leslie, ask her to send them out to all of you last week so you would have a chance to take a look at it and in anticipation of our appearance here tonight to discuss these with you. It's the memorandum of November 26 and there are seven numbered paragraphs and if I could go through that with you now, Mr. Chairman and the board, I hope it will be productive and beneficial.

MR. NOVESKY: I think we can do that very expeditiously.

MR. CORDISCO: I believe some of the items have already been agreed to so we can touch on the ones that we need to.

MR. JACOBOWITZ: Well, except that there's nothing in the record about the ones that you agreed to earlier I guess so--

MR. NOVESKY: If I might join you in reviewing these we can do that.

MR. JACOBOWITZ: I'm going to go through very quickly, particularly where you have agreed with me. Why do I want to take a chance, make a big speech?

MR. BRODMERKEL: You're starting to learn.

MR. JACOBOWITZ: Okay, so number 1, we have agreed and the threshold is 300 and it's certificates of occupancy and that clarifies what the trigger should be which wasn't set forth. Number 2 here I think we have a little bit of a misunderstanding of facts with Leslie, the plan we cite to the plan that was the hearing, on the hearing of June 2, the plan that was the subject of that hearing, okay, that shows 15 foot curb cut. Leslie said it didn't but we suggest reference to it and we believe it shows it and in addition your own

code requires 15 feet so, and also our engineer used the 15 feet to determine the impervious surface on which he did his calculations of the storm water plan. And I think what was suggested by Mark is that we, this issue can be reviewed again when the final storm water management plan is looked at to make sure we have calculated what we needed to and that the system is adequate for this but your code requires 15 feet as the curb cut so I don't know and we believe we followed the code. So what's important is that the findings reflect the 15 foot curb opening because otherwise we will not be in compliance with your code and we don't want that.

MR. NOVESKY: Leslie, am I correct about that?

MS. DOTSON: That's fine. I'm not sure the date of the plans that were the subject of the hearing, the plans that I believe were the subject of the hearing were the ones last revised March 24, 2008. Those were the ones that did show that the 12 foot stub. I just wanted to make sure that there was no unaccounted for drainage. Mark suggested I think a perfectly reasonable approach. I have no problem with making that change.

MR. NOVESKY: Very good.

MR. JACOBOWITZ: Okay.

MR. EDSALL: Just for the record, we will review with the applicant's engineer that the final dimensions have been incorporated and into their SWPPP and that the sizing of the storm water is correct.

MR. JACOBOWITZ: Number 3 deals with the size of the jog and Leslie's position is that the plan showed a five foot jog and to go to a two foot jog would be a significant change that would somehow adversely affect the notice that was given and the hearing and everybody's view of it. I submit to you that it is not substantial whether it's a five foot jog or a two, what

we're suggesting is that it be a range between five and two, not greater than five or less than two and that would give us a little flexibility. Now we don't create anymore impervious surface because if we have less roof which is what happens when you make the jog two instead of five we have less impervious surface so it's not a drainage issue, it's strictly an anesthetic issue that two looks better than five. But your code does not require five in the PAC zone so it's strictly an anesthetic issue. And the question of whether if it's not five and the plan showed five whether that somehow excuse the approval process that we all went through and I submit to you it's not substantial. And if you provide to allow us that flexibility I don't think it should be a problem from a legal standpoint. Now, what's the significance, with a five foot jog projects out we can only have a 9 foot deck to stay within our box 9 foot deck is not always the best deck size. If we can have less jog in the front we can have more deck in the back and stay within the box. And if you recall our discussion last time when we said you're locking us in here in a way that it's impossible to predict how we're going to always have a house fitting within the boxes exactly the same way each time for every model house that we're going to have we need some flexibility, if you do the two and the five it gives us additional flexibility to try to accommodate a house in size and deck size and aesthetics that will look, be appropriate.

MR. NOVESKY: Let's address, yes, number 3.

MS. DOTSON: I'm an agnostic, the reason I did not want to make that as a technical change is because I do believe that the public hearing had been held on a plan that showed the five foot jog and it is correct that the code for the PAC section does not require any specific dimensional offsets, it does require it for the seniors multi-attached section of code but it does not require it for this. The only people who would be

affected by this internally would be the people who live there. The intent of the five foot offset is to try to keep a really large attached building from looking like a barracks. So really it's more their own ox that's being gored to the extent, you know, if it does have a visual impact it would only be internal to them and, you know, either they have other ways of offsetting that or it's their choice, it doesn't affect anybody else.

MR. BRODMERKEL: Are we talking about single family units? Are we talking about attached units?

MS. DOTSON: Single family attached units, they're small, yes, attached.

MR. KLOSKY: Meaning duplexes only?

MS. DOTSON: No, they're, several of them are attached.

MR. BRODMERKEL: That's quite a number but--

MR. AMATO: Fourteen.

MS. DOTSON: You're not going to be getting walls and walls of these looking at anyone outside the project or even inside, there aren't that many relative to the number of units in the project.

MR. KLOSKY: I don't think given that there's nothing that specifically addresses this in the code and that the principal impacts would be borne by the applicant I'm not sure that this is something that we need to pursue in great depth.

MR. NOVESKY: Okay.

MR. BRODMERKEL: Here-here.

MS. DOTSON: That's fine. I just wanted it to be

discussed.

MR. JACOBOWITZ: Number 4, the reason that we had to raise this is because on page 15 of the findings we clearly identified as was asked us to do way back as one of the five reasons for an SEIS was the cuts and fills and the stockpiling. You remember back that far?

MR. BRODMERKEL: Hard to.

MR. JACOBOWITZ: And we've got 23,500 cubic yards of material that will be generated on lot 10 that we don't need on lot 10, we'll need on 1 through 9. Now, if we have to keep it on lot 10 throughout we're going to be moving the stuff around endlessly. There's a point at which putting this on not on lot 10 where we're building it makes more sense. Now, I think it was suggested that we'd have to have erosion control, seed it, recognize any impacts on the storm water management plan, fine, I mean, no objection to any of that. It's just that the way this language is here it excludes by inference being able to put this stuff any other place than on lot 10 throughout the time that we're building on lot 10 and until such time as we decide whether it's 1 through 9 where on 1 through 9 we need the material. It's gonna make it a very difficult logistical effort to do this. Now, as long as we satisfy the standards of the storm water management plan, erosion control, I don't see why it makes a difference.

MR. NOVESKY: Mark?

MR. EDSALL: We just ask in the final SWPPP they address the manner in which the amount and the manner in which they're going to store it. And if you want to leave it flexible 1 through 9 and identify how you're going to accomplish it then I don't mind that there was a requirement prior to placing the material where on 1 through 9 you want to put it, we get a plan to review and approve.

MR. NOVESKY: Is that a reasonable request?

MR. JACOBOWITZ: Yes, what that does is allows us to do a plan and deal with Mark, not come back to your board because you all may not be here and we're going to have then an issue of, I know Jane's leaving, you're not mad at us, Jane?

MRS. DEANS: No, not you anyway.

MR. JACOBOWITZ: We don't want to have to come back here on that kind of technical thing.

MR. NOVESKY: With that, I will open that for discussion with the board.

MR. KLOSKY: Yeah, I guess that my concern would be less with the actual stockpile than with the motion of the stockpile. I've seen a lot of things run around in circles, if it were a, say a scraper operation the haul roads could do considerable environmental damage so I don't, I think that if we can magically wish the fill from one place to another that would be beautiful but there's got to be access roads, those roads have to include significant timbering, they have to include significant disturbance over potentially these wetlands that we've been so carefully mapping out, as long as they're moving it around within site 10 we know exactly what that cat looks like, we've got a site plan for that, we know what we're doing, but as soon as we start marching it off site 10 I would absolutely want to know where the haul roads are going, how big they're going to be, how temporary, how they're going to vegetate them, there's a lot of issues related to moving cause this is big equipment.

MR. NOVESKY: Do you think Mark's recommendation would address it?

MR. KLOSKY: I don't know, I mean this, it seems to me like there's the opportunity for significant damage if this, if the haul roads aren't handled right.

MR. EDSALL: Again, we're asking that they address in the final SWPPP for lot 10 to show how and where but I understand that they want to have some flexibility between 1 and 9 but keep in mind I anticipate that their overall operations are going to create the loop road or at least a good portion of it anyway, my concern is that it get moved before they construct the town road so they don't have to move it across a town road, if they move it, stabilize it and make it a problem that goes away by stabilizing it then they can deal with it on 1 through 9.

MR. KLOSKY: We can see significant advantages by moving the fill onto lot 1 through 9, I'm only saying that how we position the haul roads associated with that is important to the damage or lack thereof. What do you timber out to do it, where does the--

MR. BRODMERKEL: That's why Mark is asking for a plan.

MR. KLOSKY: Now we're talking about us never seeing that plan.

MR. EDSALL: We'll look for it to be addressed in the final version of the SWPPP for lot 10.

MR. BRODMERKEL: Will this board see that?

MR. EDSALL: You'll have that opportunity because we'll have that finalized before you're even asked to grant a final approval which means you can look at it.

MR. CORDISCO: You're not being asked to grant final site plan approval tonight.

MR. KLOSKY: So we'll get a chance to look at the

positioning of the haul roads and stockpiles and the plan before making final site plan approval?

MR. EDSALL: For lot 10 I would say yes, it will be addressed, now as to whether or not they're going to give you a range of area in the 1 through 9 the lots where they could place it and then use the town road as their access for transportation that might be how they do it but it will be addressed so that it ensures that the route and the location is at least controlled to the extent that we avoid unnecessary or avoid damages.

MR. KLOSKY: I've seen, just so you know I'm not out on a limb, I've seen from logging operations the haul roads cause enormous environmental damage during heavy downpours you get a four inch cloud burst.

MR. BRODMERKEL: They have agreed to submit a plan and Mark will have a chance to review it, that's what you're asking for.

MR. NOVESKY: Are you satisfied with that?

MR. KLOSKY: Yeah, I'm satisfying.

MRS. DEANS: Unless initially what Mark was proposing that's what Mark was proposing he'll be on top of it.

MR. NOVESKY: Mark, you'll be on top of it?

MR. EDSALL: We'll be on top of it.

MR. GRABE: Nothing.

MR. GOLD: Led and Mark both addressed my concerns.

MS. BUNT: Nothing.

MR. BRODMERKEL: No.

MR. NOVESKY: Okay, we can move on to 5.

MR. JACOBOWITZ: Number 5 we heard Dominic's comment that the landscape, the naturalistic planting plan will be looked at prior to the final approval, okay, so that's in essence what the findings says so we'll go along with that and number 6 was Mark's point about the dumpster detail that there is a new dumpster detail coming out and that it's something that's going to be town applicable throughout the town and that that's the, what we're going to get and so we don't object to the language that says the dumpster detail is yet to be reviewed and approved. Number 7 I think Leslie said okay, that was just okay.

MR. NOVESKY: Thank you very much.

MR. JACOBOWITZ: I think there should be a motion hopefully Dominic's going to discuss that with you now that's going to adopt the findings.

MR. KLOSKY: We're now--

MR. NOVESKY: We're going to discuss it. Thank you. Okay, Leslie, any comments?

MS. DOTSON: No other comments unless the planning board has any questions about any of what's in here. It probably was easier to read if you were able to look at it on the computer because it's colors, this was all gray and black and white but yeah, I'm just here to answer any questions. I think most of the changes that are in here are either to show consistency with the FSEIS or just to clean up other inconsistencies so I don't think that you should object. Oh, yes, motion.

MR. NOVESKY: Mark?

MR. EDSALL: I have nothing to add.

MR. CORDISCO: I just want to remind the board that at the November meeting you did adopt the Final Supplemental Environmental Impact Statement. There are mandatory timeframes that kick in once you do that under the State Environmental Quality Review Act and that is to adopt a findings statement within 30 days and so you are within that timeframe by this meeting but it is something that you must consider at this meeting if you're going to meet the timeframes. That said, the SEQRA findings statement is obviously a very important document because it closes the SEQRA process for a project and by doing so for this particular project it will close SEQRA and the only remaining outstanding issues would be for the applicant to go off and get their outside agency permits and to come back with a final plan for site plan approval.

MR. NOVESKY: Thank you, Dominic. Comments from the board?

MR. KLOSKY: I only have on page 33 there's a new thing that talks about pedestrian traffic and connections which I have mentioned a number of times.

MR. NOVESKY: That would be where it says the three alternative pedestrian access routes?

MR. KLOSKY: That's correct, and I would only ask that the language be amended to say at least one of those pedestrian routes will be open by the time half of the C.O.A.s are issued, there should be some sort of trigger rather than the project completion which might take 10 years, I would ask Leslie if she has some other proposal for some kind of trigger for when the pedestrian accesses will actually be present.

MS. DOTSON: Actually, I think that each of these lends itself to be built at specific sections, like when certain sections are complete like, for example, Stone Hollow connection talks about it will be completed when

the multi-family portion of the Cornwall Commons site is built because unless you want to specify so that the connection will be made when half of the multi-family section is built.

MR. KLOSKY: I'm just concerned after watching what's going on next to the CVS it seems apparent half the project may be completed and the other half not for a significant period of time so I'm just worried about the sequencing of it all.

MS. DOTSON: But the thing is some of these it would make no sense to build them unless you were building right next to it so the Stone Hollow connection makes sense to go as part of the multi-family.

MR. KLOSKY: One of the three functional by the C.O.A.s.

MR. BRODMERKEL: I would disagree with Leslie on that point, if they're building 100 homes on the other side of the development then we should build a path to the Stone Hollow, however simple it might be, gravel path.

MR. NOVESKY: So you're agreeing with Led?

MR. BRODMERKEL: Absolutely, I always agree with Led.

MR. NOVESKY: How does your--

MR. BRODMERKEL: If I could ask do we have or are we going to get a buildout plan, i.e., sequencing of how we're going about this.

MR. JACOBOWITZ: Yes, it's in the plans, there's two, one is a phasing plan for purposes of construction and one is the plan of the sections.

MR. BRODMERKEL: Okay.

MR. KLOSKY: I was just trying to think of some kind of language we can insert tonight.

MS. DOTSON: Okay.

MR. EDSALL: I think the easy way for you to do it is the concern is noted and they have to come back for site plan approval, in their sequencing plan, they'll have to show you the pedestrian access as part of the sequence, that way, you get a chance to look at it.

MR. KLOSKY: Very good.

MR. NOVESKY: Is that acceptable?

MR. AMATO: It's already shown.

MR. JACOBOWITZ: Yeah.

MR. EDSALL: Final version.

MR. JACOBOWITZ: Yes, it will be depicted in the sequencing plan.

MR. EDSALL: Because you may adjust.

MR. KLOSKY: On page 37 at the bottom there was something that said maximum traffic at the intersection and insert which occurs during a.m. peak hour, I thought perhaps we'd just strike the words which occurs during the a.m. peak hour and let the project engineer decide when maximum traffic is.

MS. DOTSON: It says a.m. peak hour was the maximum.

MR. KLOSKY: That's as of right now, the buildout may, this may occur 10 years from now and it may or may not be true at that time. I don't know why we'd constrain ourselves in that way, I don't think it makes sense to constrain ourselves.

MS. DOTSON: Three lines up.

MR. NOVESKY: Yes, I see it.

MR. KLOSKY: Again, this is not an issue I'm passionate about, just something I thought if you'd strike that it might make it more palatable for the traffic engineer who's to come many years down the pike.

MR. JACOBOWITZ: The traffic report says the a.m. is the peak time that needs attention and we have triggered it here by when we have 300 units that's when we have to do it.

MS. DOTSON: But Gerry what he's saying is that maybe by the time 24 gets built the traffic generation patterns will change and the a.m. peak won't be the maximum.

MR. KLOSKY: That's what I'm saying.

MS. DOTSON: So he's just saying make it so that it refers to the, just say the maximum peak hour.

MR. CORDISCO: Based on the re-evaluation that may be done in the future.

MR. KLOSKY: Somebody gets out there and counts the traffic for the day.

MS. DOTSON: We thought we were doing a good thing.

MR. BRODMERKEL: The last phrase in the section on page 37.

MR. NOVESKY: You just want to eliminate a.m. and make it peak hour.

MR. KLOSKY: Whoever is doing the study down the road.

MR. JACOBOWITZ: I'm confused, okay, I'm not trying to be, I'm reading the language, this is only for the calculation of our share, the a.m. peak.

MR. CORDISCO: And your calculation for the share should be based on the peak hour at the time that your share comes due. Right now, the a.m. is the peak hour but Led's comment is that it may not be the peak hour the a.m. hour may not be the peak hour in the future.

MR. KLOSKY: I just don't see why we should constrain ourselves.

MR. BRODMERKEL: Strike out the last six words.

MR. KLOSKY: Just eliminate that constraint.

MS. DOTSON: If we just say peak hour, it would be whatever is the peak or the maximum peak hour.

MR. KLOSKY: I don't see it as a major substantive change, I will say that's the last of my comments.

MR. JACOBOWITZ: The share can only be a hundred percent whether it's a.m. peak, p.m. peak or otherwise peak, so as long as we're paying our share which is a percentage share and other people or others are going to pay their percentage share of that same standard there's nothing unfair about it, why do we have to make a decision about what the peak is 10 years from now?

MR. NOVESKY: So just eliminate a.m. and you're done.

MR. KLOSKY: The letters a.m. get struck out, that's it which occurs during the peak hour.

MR. CORDISCO: You're correct, it doesn't change your share, just changes what you're being measured against.

MS. DOTSON: Right, and realistically it's unlikely to change but in the event it does change--

MR. JACOBOWITZ: Okay, a.m. is out.

MRS. DEANS: Now, are we at a point yet where they could go for their necessary agency approvals?

MS. DOTSON: Once this is adopted and circulated amongst the other agencies, yes.

MR. EDSALL: The applicant's engineer and I have discussed the fact that they're going to prepare a package which we have to review because in the case of public facilities that are being dedicated, the supervisor has to sign the application and in the case of the water improvements, the village has to sign the application, we need to have an opportunity to look at it before it goes in. So they're not quite ready but they're working on it.

MR. CORDISCO: But this would open them up.

MR. EDSALL: They're free to start.

MR. AMATO: The answer to your question is yes, it better be yes and I don't mean that in any other way than we have done a lot of work here and you all have too.

MR. GRABE: I'm all set.

MR. GOLD: I've got nothing.

MS. BUNT: I have about 30 questions. No, actually no questions.

MR. BRODMERKEL: I have no questions other than some specific ones on these documents.

MR. NOVESKY: On the resolution?

MR. BRODMERKEL: Yeah.

MR. NOVESKY: Okay, I think that with that why don't you go ahead and ask the question on the resolution.

MR. BRODMERKEL: I don't know how to reference which one this is but it says--

MR. NOVESKY: I have one resolution Cornwall Commons lot 10 site plan application board number 06-19 resolution adopting a SEQRA findings statement.

MR. BRODMERKEL: I don't have that resolution.

MR. NOVESKY: Any questions?

MR. CORDISCO: If I may add given that there are a number of modifications that were discussed and agreed tonight the way that the resolution reads is that it's adopting a SEQRA findings statement that's attached to the resolution. My suggestion would be is that Leslie should make the changes that were discussed and agreed tonight and that the version that's actually attached to the resolution will be the one that's the final version that way we don't need to change the resolution at all, it's just you're changing the document to make it conform to tonight's discussion.

MR. NOVESKY: Right.

MR. GOLD: Just for clarification purposes, we're going to get another copy of this that incorporates all of the changes that we have discussed tonight, takes out all of the stuff that has been struck out, it's going to be a clean copy, it's only going to be the findings statement, not what we took out of the findings statement?

MR. CORDISCO: Correct, it will be a clean copy, no red line and it will be a final official copy.

MR. NOVESKY: In the interest of paperwork conservation can that be e-mailed?

MS. DOTSON: Yes.

MR. NOVESKY: And we want to copy it for prosperity, we may. With that, I'll take any questions related to the resolution adopting the SEQRA findings statement on Cornwall Commons. I'm listening very closely for a motion.

MR. GOLD: So moved.

MS. BUNT: Second for discussion.

MR. BRODMERKEL: I don't know what this is authorizing or not.

MR. NOVESKY: Dominic?

MR. CORDISCO: It's very simple, all it is adopting is the SEQRA findings statement which closes the SEQRA process but it's just adopting the document that we have been discussing tonight.

MR. BRODMERKEL: Okay. I can see that at the end but I wasn't sure.

MR. GOLD: For clarification we're adopting the document with the changes agreed on tonight?

MR. CORDISCO: Yes, sir.

MS. DOTSON: And with all these red lines taken out.

MR. NOVESKY: With that, I have a motion and second.

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MRS. DEANS: Second it.

ROLL CALL

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

LETTERS_FROM_DEPARTMENT_OF_PLANNING

MR. KLOSKY: We're in receipt of two letters from the Orange County Department of Planning, I'd be interested in hearing Mr. Cordisco's opinion on what our next action is based on those two letters.

MR. CORDISCO: Letters are interesting in the sense and this is on two specific applications, one is the Lapidus and the other one is Sturgess and Duell but before we get into any real substantive discussion to be honest, there's nothing pending before the board, I mean, the applications are pending but there hasn't been a re-submission yet so these comments should substantively be discussed when there's a re-submission and the applicant is here so the applicant can hear not only your discussion but has an opportunity to respond.

MS. DOTSON: Actually, if I may for Lapidus I e-mailed those comments to Greg Shaw who is the project engineer because they were suggesting some changes to the plan. He was naturally somewhat distressed to put it mildly, I suggested because he explained that making those changes would in effect make the subdivision not worthwhile so I have suggested that before he wanted to proceed with that he may just want to come in and poll the board and find out what the board's reaction was to that. I can't do that on his behalf, I think he really needs to represent himself but I did suggest that to him when I spoke with him after I peeled him off the ceiling after he read those comments.

MR. AMATO: May I interrupt you just to say thank you very much to all of you for working with us during this period of time and wish you all a very happy and healthy holiday and thanks again, I know you're going to miss seeing me but we'll be back.

MR. JACOBOWITZ: Ditto, thank you very much.

MR. NOVESKY: Just for the record, I want to again acknowledge Jane Deans, this is her final meeting after two centuries of service virtually.

MRS. DEANS: And it was the zoning board before this.

MR. NOVESKY: Motion to adjourn please?

MR. KLOSKY: Sounds like all action on the memos from the county will be deemed until such time as the applicants choose to resubmit.

MS. DOTSON: I'd encourage them to speak to the board.

MR. EDSALL: I have discussed Lapidus with Mr. Shaw before the county even realized that it was next to Beaver Dam Lake and I asked him to put in some water quality measures so we weren't asleep at the switch before the county helped us out.

DISCUSSION

MR. BRODMERKEL: Either at this point or at maybe the next meeting I would really like to get into a discussion of the actual mechanics of communications between the ZBA and us.

MR. NOVESKY: Next meeting I think.

MR. GRABE: I actually object to that because I had to take in the past few years I have had to take several courses that qualify me to be on this board and for me to waste my time learning what I have already learned I object to that. I think if you want to know what our response is you should do it on your own time.

MR. BRODMERKEL: No, I'm asking for their decision being communicated to us in a timely manner.

MR. GRABE: Well, usually is, I would think.

MR. BRODMERKEL: No, I disagree with that.

MR. NOVESKY: What Kenn's asking I believe is a better understanding of the whys and wherefores of this.

MR. BRODMERKEL: Somehow let's make it happen quickly.

MR. NOVESKY: We can have that discussion next meeting if that's acceptable?

MR. BRODMERKEL: We got communications but it was through a third party.

MRS. DEANS: Might be able to be a liaison between.

MR. BRODMERKEL: Some small letter from the attorney saying this is what was decided.

MR. NOVESKY: Okay, fair enough. Motion to adjourn?

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MR. BRODMERKEL: So moved.

MR. GOLD: Second it.

ROLL CALL

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

Respectfully Submitted By:

Frances Roth
Stenographer