

February 2, 2009

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TOWN OF CORNWALL

PLANNING BOARD

FEBRUARY 2, 2009

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

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 the February 2, 2009 meeting of the Cornwall Planning Board to order. It is now 7:30. First order of business, Fran, for the record I want to welcome Mike Loblanco, our new board member, congratulations and welcome aboard. And also thank the Town Board for re-appointing one of our articulate members, Mr. Brodmerkel, for another what is

it a ten year term?

MR. BRODMERKEL: Life sentence.

MR. NOVESKY: With that in mind, all members are here and accounted for.

CORRESPONDENCE _____

MR. NOVESKY: Fran, I'm going to forward to you a bunch of correspondence, one from the Orange County Department of Planning, one from Tectonic Engineering, Karen Arent, et cetera, for the record.

APPROVAL_OF_MINUTES _____

MR. NOVESKY: Everybody receive their minutes? Anybody have any questions? Anybody want to make a motion to accept them?

MS. BUNT: So moved.

MR. GRABE: Second it.

ROLL CALL

MR. BRODMERKEL	ABSTAIN
MS. BUNT	AYE
MR. GOLD	AYE
MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. NOVESKY	AYE

STURGESS_AND_DUELL_-_RESOLUTION

MR. NOVESKY: We do have two resolutions that we approved last month, the Sturges Duell resolutions, one resolution adopting a negative dec for a site plan and special use permit application. We did ask our attorney to prepare this resolution last month, I think all discussions we needed to hold were held. Then may I have a motion?

MR. KLOSKY: Move we adopt the resolution adopting a negative declaration for Sturgess and Duell.

MR. CORDISCO: You're going to have a brief presentation on Sturgess and Duell.

MR. NOVESKY: You're right, I apologize, my urgency to move it along. There are very minor changes.

MR. HAVILAND: My name is Terry Haviland from J.T. McManus, I'm the builder on Sturgess. Just to recap, you have already recapped in a sense the public hearing was waived and I was ordered to get the paperwork in for the final resolution. Since then, there have been a couple developments, I just wanted to bring to the board's attention and that was two developments, one that we had to move the structure more forward than we would have liked because since our last meeting we have had consultations with geotechnical, and we decided that it was untenable to build the house into the rock face. So we ended up moving it out a distance of another 20 feet or 25 feet which puts us about into 30 feet using 30 feet of our variance that we had obtained from the ZBA instead of the full 55 feet. So we're not as far back as we'd like with the footprint of the house but we're still further back than we were originally in the 2006 map. The second development was since we aren't going to integrate the structure into the rock face we redesigned it slightly and the

footprint has increased from 75 feet to 105 feet but that's mostly because in the redesign we took some second story portions and relocated it to the first floor so in a sense we lowered the net profile of it height-wise. So we think these are relatively minor things and we hope that approvals positive--

MR. NOVESKY: With that in mind also I believe Leslie has comments.

MS. DOTSON: I just wanted to mention I did look at this, it seems entirely consistent with the variance and it's also consistent with the view protection regulations, it's consistent with what you had previously expected to see. It's actually probably less of an impact because it's lower also although it seems like more of an impact cause it's wider, it's lower so it won't be seen so I have no problem with that.

MR. NOVESKY: Mark?

MR. EDSALL: I think it's a net improvement given the structural reasons why they couldn't push it back, it just makes sense to be safe rather than sorry with the design of the residence.

MR. NOVESKY: Dominic?

MR. CORDISCO: The board has before it two resolutions, the first one would be to adopt a negative declaration under SEQRA that was prepared by Leslie and the second one would be granting approval.

MR. NOVESKY: Okay, with that in mind, does the board have any comments? Okay then we'll go back to where we were. Thank you for your reminding me Dominic, I'll take a motion for the negative dec.

MR. KLOSKY: So moved.

MR. GOLD: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. NOVESKY	AYE

MR. NOVESKY: Second order of business.

MR. CORDISCO: Do you have a resolution for final approval?

MR. NOVESKY: Yes, I have a resolution granting site plan approval and special use permit for a single family residence as discussed.

MR. BRODMERKEL: So moved.

MR. GOLD: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. NOVESKY	AYE

STONE_HOLLOW_-_RESOLUTION

MR. CORDISCO: Mr. Chairman, the other resolution that you can act on or at least consider now relates to the Stone Hollow resubdivision, that resolution has been prepared, that's two resolutions actually it's the adoption of a negative declaration and also granting of preliminary and final subdivision approval to Stone Hollow.

MR. NOVESKY: This has been previously discussed. Any board member have any questions? Mr. Brodmerkel?

MR. BRODMERKEL: No.

MR. NOVESKY: Anyone else need an explanation of what we're talking about here? Okay, hearing none, I'll take a motion.

MS. BUNT: So moved.

MR. GOLD: Second it.

MR. CORDISCO: That's for the negative dec, correct?

MR. NOVESKY: For the negative dec, yes. All in favor?

ROLL CALL

MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. NOVESKY	AYE

MR. NOVESKY: Okay, and then I have a resolution granting preliminary and final approval for the 29 lot subdivision. Any questions? Okay, motion.

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MS. BUNT: So moved.

MR. GOLD: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. NOVESKY	AYE.

MR. NOVESKY: Dominic, Mr. Cordisco, thank you very much.

LAPIDUS/LAPIDUS_&_KOCH_#2007-12

MR. NOVESKY: Next item on the agenda we have a public hearing scheduled on Lapidus and Koch. Time is 7:36, and we'll take a brief presentation.

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. SHAW: Good evening, for the record, my name is Greg Shaw and I'm with Shaw Engineering and I am representing the subdivision for Peggy Lapidus.

MR. NOVESKY: Mr. Shaw, excuse me, but do you have all the affidavits and stuff like that?

MR. SHAW: I have not received the published legal notice yet, all cards were received back except one.

MR. VINSON: Everything is there except the affidavit of publication in the newspaper and I know I saw it in the paper, I do not have a copy with me.

MR. NOVESKY: And one little green card, thank you, Greg.

MR. SHAW: Thank you. As I mentioned, I'm here tonight representing the subdivision of Lapidus and Lapidus and Koch, we're talking about two parcels of land that have frontage on Waterview Terrace and Lakeview Trail, the two parcels in their present state are 3.37 acres and that parcel is in the R-1 zone and the second parcel is a 5.85 acre parcel and that is in the SLR zone which is a 2 acre zone. Very simply, what we're doing we're taking these two parcels of land much when you contains a home, combining them and with that creating two additional lots for a total of four lots when we're done, again, the two existing and the two new lots. In order to access the home sites we're proposing to construct a private road approximately 300 feet in

length coming off Waterview Terrace. That will provide access to three of the lots. The existing lot which has, which accesses onto Lakeview Trail will continue to do that, again, but that will be the only lot that will be accessing Lakeview Trail and it presently accesses it now. With respect to the infrastructure we're proposing that the two new lots be serviced by individual wells and we will be petitioning the Town Board for an outside user's agreement to service three of the four lots with town sewer. Presently, the Lapidus property which exists and has frontage on Waterview Terrace is connected into the town sewer system through a pump station, it's a low pressure force main throughout Waterview Terrace and we're proposing to take the other three proposed lots and install a pumping station on each lot in order to service them with town sewer. They would each have a pump station, an individual force main which would be installed within the private road and would make its connection onto Waterview Terrace. With respect to the storm drainage system, again, we're creating 300 feet of impervious road, what we're proposing to do realizing that we're under the five acre threshold of the New York State DEC for the preparation of a, form water pollution prevention plan we're still trying to do the best job possible with respect to the collection of the storm water and treating it before it gets into Beaver Dam Lake. The first thing we're doing is on our private road not only are we putting catch basins and piping but at the base of the catch basins we're putting in seepage pits with the idea during periods of water flow water will enter into the catch basins, fall into the seepage pits and be absorbed into the ground and not be received by Beaver Dam Lake. Once the pits get filled, they'll enter a storm drainage pipe and that pipe will be flowing towards Beaver Dam Lake. We have made that pipe perforated with a lot of gravel around it again for the purpose of taking the storm water, letting it infiltrate into the ground from the gravel into the ground minimizing the flow that goes

into Beaver Dam Lake. The third aspect is when we stop our piping we're going to have a vegetated swale which is going to be grass lined which is going to allow again storm water to move towards Beaver Dam Lake and we're going to be relying upon the infiltration of storm water into the ground through the grass vegetated swale an accepted measure in storm water pollution. And then finally on lot number 2, we're going to have a large grass depression with a little berm around it with the idea of the storm water now once it's, it goes through the drainage system through the vegetative swale it's going to hit the slow depression, going to build up to about six inches in depth and again it's going to flow, it's going to infiltrate into the ground during times of higher flow. Once that six inches is obtained, it's going to flow through the six inch berm around the depression and flow directly into Beaver Dam Lake. So with that, that's a brief overview, very simply two existing lots, we're creating two additional lots, 300 feet of private road accessing off Waterview Terrace, the one lot that accesses off Lakeview Trail will continue to do so, individual wells going to the town sewer, with respect to sewer service and in my opinion an elaborate storm drainage system to try and treat the storm water as best we can before it discharges into Beaver Dam Lake. Thank you.

MR. NOVESKY: Thank you, Greg. Members of the public wishing to comment will have a three minute timeframe, please state your name, your address and make your, keep your comments to three minutes.

MR. LAGUARDIA: Hi, my name is Andy LaGuardia, 75 Waterview Terrace. You can probably see me to the right of the Lapidus property. Representative from Shaw Engineering a couple times in this presentation mentioned water flow into Beaver Dam Lake. Seems as if all storm waters in this area flow into Beaver Dam Lake seem to go through my back yard. I live at the metaphorical and literal bottom of the bowl in this

particular area, learned this from not from buying the house from the previous owner, I had to put curtain drains and other drains and even with the system in place I have standing water in my back yard upwards of ankle deep. This particular subdivision is causing my family a bit of concern that this water problem that's existing now will only be exacerbated by this particular setup here so I'm hoping that my fears can be allayed.

MR. NOVESKY: Thank you.

MS. LARSON: My name is Val Larson, 30 Lakeview Trail and I'm going to read a statement from my neighbor, Gary DeFazio who could not be here tonight.

MR. NOVESKY: That's one of the individuals who contacted me.

MS. LARSON: He's at 35 Lakeview Trail. Okay, I'm a resident of this area since 1989, my previous house was located off Skyline Trail on the other side of Lapidus property and I now reside at 35 Lakeview Trail adjacent to lot number 2 of the proposed subdivision. Over the years we have seen many variations but the one common thread that sticks out is that there's a lot of water that comes off the hill from the proposed lots 3 and 4 as well as neighboring lands. This water all drains to the lowest spot which happens to be the proposed lot 2, water sits on this property nine to ten months out of the year forming a pond and rarely goes dry even during extended drought times. My concern is that if the upper lot is developed it will create more runoff and channel water to the lower lot of the proposal and my property as well. There's also water that's channeled from the existing roadway, Lakeview Trail through culverts and drainage pipes that crosses part of my property on its way to the lake and the rest of it ends up on proposed lot 2. I have reviewed the plans and I share some of the same concerns that the Commissioner

of Planning for Orange County has written, the environmental impact of this proposal should be fully evaluated. Thank you.

MR. NOVESKY: Thank you. Any other member of the public?

MR. RIEMER: My name is Giles with a G Riemer, I live on 7 Lakeview Trail. I was not privy to this by a certified letter yet my property does in fact border the property of 39 Lakeview Trail because Lakeview Trail the road the private road itself is part of the existing structure now. A few questions that I have are we building a subdivision of a subdivision of a subdivision? As Mr. DeFazio's statement says I have been residing since 1988 in this area in this development and it seems that the original plans of this area was for a rather large lot to prevent the possible contamination of the aquifer. Since we have moved in the area we have seen three buildings go up and we can tell that there's a change in our aquifer. It is not to the point that we're running dry but I have seen aquifers, buildings on Route 94 which are still part of the same aquifer have had to go out and drill new wells. I'm concerned about lot 2 for if you look at the vegetation that's existing currently on that lot it is classified as wetlands vegetation. As previously stated, the road drainage is horrific. With more impervious surfaces we're allowing a high rate of runoff, in fact, in the past which is stated here on the plan that a gravel drive it is no longer a gravel drive, it is a paved drive, more impervious surface. There has been an occasion when the rain was so bad that the water got to the height that knocked out one of the transformer boxes within our little subdivision. I question whether or not this has been presented to the Beaver Dam Lake Protection and Rehabilitation District which we're part of which is under Orange County DPW. If this is to occur my last concern is the construction vehicles, the last time we had

construction on this road we had significant damage to the road and some culverts, therefore, those culverts had to be replaced. So I'm concerned with the condition of the existing road and on my deed.

MR. BRODMERKEL: Specifically what road are you speaking of sir?

MR. RIEMER: Lakeview Trail. And on my deed, it has a statement something to the effect that to keep the road passable in all conditions. So those are some of my current concerns with the existing plan.

MR. NOVESKY: Thank you very much. Other members of the general public wishing to comment?

MR. SHALIS: Mr. Shalis (phonetic), from 53 Stony Acres Trail, we're the current residents of Gary DeFazio, he sold this house to us and now he lives at the mentioned lot but our concern is that mostly--

MR. VINSON: Address?

MR. SHALIS: It's 53 Stony Acres Drive so it's going to be this lot to the right, our concern is mostly the proximity of this.

MR. NOVESKY: What's your name again?

MR. SHALIS: Patrick Shalis and Santiago. Our concern is the proximity to this lot but where it looks, you know, when we purchased the property we had a fairly unobstructed view of the lake, obviously in the winter when the leaves aren't on the trees and there is a fair amount of wood area between the borderline and again I'm not questioning what kind of structure is going to go there, large, flat, big, small, am I going to see it, am I not going to see it, how many trees are going to be taken out, so just kind of like the, when we bought the property it was the seclusion, all that kind

of stuff, the aesthetics of the area was a big consideration. So the big idea now is how much of that is going to be destroyed, preserved.

MR. NOVESKY: Thank you very much. Anybody else?

MS. LARSON: Can I speak for me? Val Larson, 30 Lakeview Trail. As a resident there, I do want to point out that the drainage issue is significant. What I wish I would have is photographs of the amount of water that comes down and it's literally at times inches deep and it can easily be 25 feet wide, the amount of water is enormous. The erosion power that is created and the trees and the roots going down there is significant. The other thing that's important to know is the aquifer at least at my house we have an hour and a half worth of water and then it goes dry and if I remember correctly, my well is 523 feet deep. That means an hour and a half of water for dishwasher, washing machine, showers, washing of the cars, et cetera and then you have to sit and wait for an hour and a half before it fills up again. Please take these things into consideration when looking at that, the environment with regard to the water runoff.

MR. NOVESKY: Thank you very much. Sir?

MR. LARSON: Can I speak, I'm Val's other half, on the drainage issue, Berend, B-E-R-E-N-D B-A-A-S, I'm at 30 Lakeview Trail. The drainage issue there I've been watching very, very closely, and it's extremely dynamic, you can't really plan a swale that's going to fill up with leaves in the fall, make its own dam because there's twigs and the water's going to fly off in a different direction, this happens every year, every year it's different, we first moved there and we had a good yard during the springtime, during the snow thaws and now we have at one end of our back yard we have two inches of flowing river with holes in the ground that have water shooting up out of them like a

spring.

MR. NOVESKY: Excuse me, where are you?

MR. BAAS: 30 Lakeview Trail, we're across Lakeview Trail from DeFazio.

MR. NOVESKY: I know where it is.

MR. BAAS: And it's not really anything that you can sit and look at and say this is going to happen forever because it's not and that flat area below I believe is all filled and probably part of either the lake or river, I don't know that for sure but I have gone down there looking around, I use a little metal detector, I've found flatware, table flatware, I've found pieces of hospital bed painted olive drab which tells me that that fill came from either the air field or came from West Point, how long ago I'm not sure, there's chunks of metal coming up every spring, the stuff leeches to the surface, you've probably been through there and seen the broken glass, no, there's broken glass coming through there all the time. That's a very dynamic piece of property and I don't see how a septic system would work but you're going to bring sewer in which is good but drilling a well, I don't know what kind of water you're going to get, okay.

MR. NOVESKY: Did you say your well was 540?

MR. BAAS: It's well below what's being planned here and it stinks, I don't drink the water and we've had some pretty nasty sicknesses in this area, fatal sicknesses.

MR. NOVESKY: Fatal?

MR. BAAS: Don't shake your head, we've had in the past year we've had three.

MS. LARSON: Yes, fatal, two cancer. And I'm a cancer survivor.

MR. BAAS: So I think there's more to look at to be done here.

MR. NOVESKY: Duly noted. Any other member of the general public? Yes, please?

MS. FELIX: I'm Denise Felix and our property seems to be the one--

MR. NOVESKY: For the record, your husband I believe is the other one who e-mailed me so this is good.

MS. FELIX: This is his e-mail, do you want me to read it? Our concerns are everything that's been said so far plus the environmental concerns. What is the impact of this proposed subdivision on the increase of silt and eventual septic drainage into the lake? What is the impact of the proposed subdivision on the drainage of the natural runoff? Currently runoff collects in temporary large pools or small ponds on this property adjacent to the lake. Will the spring peepers, including the spotted salamander that frequents the area be able to sustain during this proposed development? What is the impact of the proposed subdivision on the three types of turtles that lay eggs on the shore of the lake in this area, the snapping turtle, the painted turtle and box turtle? What is the impact of the proposed subdivision on the species of large birds that nest in the treetops in the area, the great blue heron, green heron and red tail hawk. What is the impact of the proposed subdivision on the large mouth bass and other fish species that form egg beds in the shallow surrounding on the islands adjacent to the proposed subdivision? What is the impact of the proposed subdivision on the water table? Is this proposed subdivision reviewed by the, at the county level? If so, what are the county's concerns?

Will the proposed subdivision honor all the right-of-ways and easements currently in place? And will the proposed subdivision allow for the ingress-egress of people bringing small boats to Beaver Dam Lake and prevent the owners of said subdivision from erecting fences, rock walls, hedges, et cetera on those right-of-ways and easements? Regarding the aesthetics of the plan, we were told by Cornwall officials when we purchased the property 1988 that the lots contiguous to our property were not able to be subdivided. That was a great source of comfort to us and it was definitely a major contributing factor to our purchase of the property. How has that ability to subdivide changed since our purchase in 1988? How will this subdivision make the Town of Cornwall and Beaver Dam Lake a better place? In the absence of compelling evidence in this proposed subdivision will it improve the Town of Cornwall? We respectfully object to the proposed subdivision.

MR. NOVESKY: Thank you. Just for the record, 1988 was there a different zone out there?

MR. BRODMERKEL: We don't know the answer to that. Gary, do you know, has zoning been changed there?

MR. VINSON: Years ago I believe it was one acre.

MR. BRODMERKEL: What is it now?

MR. VINSON: Well, you're looking at properties that are split by two zone lines, part of it's with the SR-1 with municipal water and sewer can get half acre but they're doing wells then folks on Lakeview Trail are in the SLR which is I believe two acres now.

MR. NOVESKY: So it's more restrictive?

MR. VINSON: It's more restrictive now.

MS. DOTSON: I think someone may have not assumed that someone would be able to build a private road in there, there would be no more development on that if you were building a town road.

MR. NOVESKY: Okay, well, thank you very much, ma'am. Other members of the general public wishing to make comment tonight? Okay, hearing none, I will defer to our consultants or I will take a motion to close the public hearing if there's no objection.

MR. GOLD: So moved.

MR. BRODMERKEL: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. NOVESKY	AYE

MR. NOVESKY: I'd like to hear consultants' comments and recommendations. Mark?

MR. EDSALL: Comment number two, first comments relate to the private road and details. The easement that he's, Mr. Shaw's created for the private road is actually to be shown as a single 50 foot wide private road utility easement, the lot 1, 2 and 4 share the maintenance of the road and drainage and lots 2, 3 and 4 would have privately owned sewer force mains, the drainage--

MR. BRODMERKEL: Can you repeat that?

MR. EDSALL: The 50 foot wide easement it's a private

road easement and utility easement, what I'm suggesting is that lots 1, 2 and 4 share use of the private road as for access purposes and lots 2, 3 and 4 share the 50 foot wide easement for utilities to get tied into the sewer. So I'm just structuring this for Mr. Shaw and the attorney who are preparing the private road documents cause it's a little fragmented right now on the plan but I'm just working to clean it up. Relative to the drainage easements that runoff to the side those I'm suggesting not be individual easements serving particular lots but be a common easement and be linked to the private road so that the drainage facilities are maintained as part of the private road maintenance agreement so it's not one property owner, it becomes the collective group. I have a comment regarding the catch basin detail Mr. Shaw can resolve. The next group deals with my meeting with the town highway superintendent, he reviewed it and the access onto Waterview Terrace he has no objection, the normal configuration is to have a minus 2 percent slope off the town road, this particular one comes off with a 4 percent slope positive that normally is a problem because drainage would be directed onto the town road. Here Mr. Shaw has included two catch basins to capture the drainage before it goes onto the town road so Mr. Conley with that in mind said that he has no issue with the slopes. Relative to the individual sanitary sewer pump stations, as Mr. Shaw indicated, each of the lots should the board approve the subdivision would be served with pump stations to tie into the town common force main out on Waterview. They have done that at our request because we don't want any new septic systems near Beaver Dam and in fact they would be abandoning the sanitary system that exists on what's proposed as lot 3 and tying that into the municipal sewer. I have provided a note that needs to be included on the plans, that note is specifically written pursuant to my discussions with the state DEC regarding privately owned pump stations. The second bullet asked that the controls and alarm be in the

garage area of the residence. And I have also suggested that the applicant ensure that there's some storage available in the case of a pump failure, normally, we try to get a days storage in the wet lock so Mr. Shaw can work on that. The fact that they are proposing to tie lots 3 and 4 into the sewer and that is currently out of the sewer district would require an outside user agreement, inasmuch as we're trying to protect the environment rather than run down a course of potentially contaminating Beaver Dam, it's a positive thing, the town supervisor indicates that he did not foresee any problems issuing or negotiating an outside user agreement. So that's just a technicality you have to work on. So the soil erosion plans have been added at our request, as Mr. Shaw indicated, they are under the 5 acre threshold but notwithstanding that situation they have enhanced the provisions on the plan to exceed the code requirements that added some things such as seepage pit catch basins to reintroduce some of the water into the soils, recharge the ground water as it may be rather than run off land and create erosion. Those are things that we requested be considered and he has, it's more expensive but we think it's a positive improvement. Beyond that, my last few comments are just noting that a private road maintenance declaration consistent with my previous comments should be prepared. There will be a completion guarantee or a bond that will need to be worked out with the attorney. Last but not least a private road needs to have and Gary's got to approve the name and the numbering. That's it.

MR. NOVESKY: Thank you, Mark. Leslie?

MS. DOTSON: I'm going to work backwards on mine. I wondered if there's going to be a mechanism to protect the remainder of the storm water quality swale outside the utility easement, I was just concerned that this be maintained in a routine manner. Four notes that they submitted a corrected application and full EAF

describing the project as it was revised from the original configuration. The applicant did actually complete Part 2 which is the responsibility of the lead agency. Number 3 just notes that the plan was referred to Orange County Planning Department and the department did respond November 7 and basically they point out the importance of Beaver Dam Lake is a county and municipally important aquatic resource, they noted that the proposed construction on lot 2 would require cutting and grading through a steeply sloped area and that they basically recommended that lot 2 be eliminated and they pointed out that if lot 2 were eliminated then the need for expanding Waterview Terrace would be reduced. It does not appear that the county understood that it's a private road, it's not actually expandable. So they recommended approval of the subdivision but only subject to modification on the plan as commented which is to eliminate lot 2, shorten the cul-de-sac and bring lot 4 closer into the cul-de-sac. So you need to determine whether or not you choose to comply with these recommendations. If you disagree with them, you have to override them by a majority plus one vote and you need to give them a reason for having done so.

MR. KLOSKY: Can I ask a question that the advisability notwithstanding of the county's recommendation I had trouble ferreting out exactly where they're referring to the restrictions in the code which would actually compel the loss of that lot. Am I misunderstanding? I mean--

MS. DOTSON: I think they're suggesting that SEQRA reasons should do it.

MR. CORDISCO: Yeah, I think that it's somewhat implicit that that would be the only grounds that the board would have to reduce the number of lots would be based on some clear environmental negative impact, the code, I mean as you understand and certainly know that

you design your projects according to requirements, the bulk area requirements of the code and if based on bulk area requirements you can get X number of lots the board is not really in a position absent any significant environmental issues to tell someone that no, you would actually prefer X minus two lots for a particular project.

MR. KLOSKY: Then I have a question for the engineer. As laid out, do you anticipate any significant degradation in the drainage characteristics of the area in and around the new private road Waterview Terrace due to the construction of this project?

MR. EDSALL: Not with the provisions that they have added in. The initial plan didn't include all the provisions that are now on the plans. Obviously, the final version may have some sequencing enhancements, some protection of the slopes but at this point they have added in quite a bit of improvement so that the storm water will be captured and controlled versus letting it run which could in fact create the erosion problems that were alluded to by the public. We somewhat anticipated that and Mr. Shaw has addressed that in his revisions to the plan up tonight.

MR. GRABE: Do you see it as an improvement, Mark?

MR. EDSALL: This plan versus--

MR. GRABE: What they're talking about?

MR. EDSALL: Well, I don't know that the improvements that Mr. Shaw is proposing for this subdivision will correct problems on Lakeview out toward 94. Clearly, that's a separate issue. This won't make it any worse, this won't make it any better. I am somewhat interested in Mr. LaGuardia's drainage problems since that's immediately adjacent to the private road. There might be a way of providing him some relief by allowing

a connection into basin number one. Mr. Shaw would have to let us know if that's going to upset the apple cart with his design but maybe if it's just a matter of providing an overflow or relief point that might work. I don't know that the other areas that are to the south will either be harmed or benefited by this, it's a separate issue. The point being is that the areas that are to the south clearly would not drain horizontally, the areas such as Shalis are actually upgrade of this. If anything, their drainage would run downhill as it normally does and run onto this property so as long as Mr. Shaw's diverting the drainage to a collection point he would be picking up what's running off their properties.

MR. KLOSKY: Mark, on the advisability of potentially locating another catch basin on lot number 4 at approximately where the lot number 4 driveway intersects the private road, I mean, it might be, that might be another location, I would just ask you to talk with the applicant about that location that might provide significant relief to LaGuardia.

MR. GOLD: I have a question specifically related to the drainage system that's being put in in terms of maintenance enforcement, you put in a drainage system and four years from now, five years from now who makes sure it's still working? And if it isn't working, how is the enforcement dealt with?

MR. EDSALL: Well, there's no high tech facilities on this plan, it's not as if we have storm receptors or other maintenance intensive facilities. It's the same as you would maintain a private road if you bring in for plowing surface, maintenance, one benefit of having it all in a combined agreement is it doesn't make one specific person responsible, they share the cost. If you're talking about cleaning out the catch basin that's quite minor versus other facilities.

MR. BRODMERKEL: Would there be any other outside inspection other than the people who live on this or part of this?

MR. EDSALL: No.

MR. BRODMERKEL: Would Gary get involved if they called someone off the property called and said it's not working, it's draining onto my property?

MR. EDSALL: You know, like anything we get complaints, we go out and look at it, but just might be a matter of pointing out to the persons in the maintenance agreement that they do have some maintenance to perform but again there's nothing high tech here.

MR. BRODMERKEL: I understand that.

MR. EDSALL: There's probably I won't say a thousand private roads in the area but there's quite a few and this has nothing special on it. Drainage pipes and the only difference here is there's some seepage pit basins in an attempt to not have everything run over lands if those seepage pits even slow down in their performance just means it's going to run along the grass swale so there's kind of a dual approach.

MR. GOLD: Mark, I live on Long Hill Road, the town put in drainage that doesn't work, nobody's responsible for maintaining or fixing the drainage, it doesn't work, the answer is Bobby Conley sends out a sand truck every time the road freezes because the drainage that the town put in doesn't work. Okay, so and there's nothing complex about it, it's pipes, stone and catch basins.

MR. EDSALL: I can't speak to Long Hill Road, I'm looking at this private road.

MR. GOLD: I understand but that's what precipitated my question.

MR. EDSALL: And knowing Long Hill Road in all honesty there are some--

MR. GOLD: Issues.

MR. EDSALL: --deficiencies because of the shape of the road, the age of the road, the available width here, it's a brand new facility so it can be put in correctly.

MR. GOLD: As long as my concern is noted.

MR. NOVESKY: Duly noted.

MR. SHAW: A lot of time was spent tonight with respect to the impact on Lakeview Trail and I would defer to your engineer but I can say whatever exists, deficiencies that exist on there will continue to exist there but we're not impacting Lakeview Trail whatsoever, all right. Our drainage is in such a fashion that it's draining to the lake, we're not going to be draining on Lakeview Trail whatsoever, we're not going to fix their problems but we're not going to be adding to them. And one other point that was brought out with respect to construction vehicles, that's a very valid point, the three lots, let met back up, the private road is going to be off Waterview, the two new lots are going to be off Waterview, there's no reason for construction vehicles to be on Lakeview Trail, just that simple. So if the board wants to make this a condition of approval, if you would consider approval we can certainly do that but with respect to the drainage water is draining on us, we're not draining on anybody and we're not compounding anybody's drainage shortcomings and I would defer to your engineer to confirm that.

MR. NOVESKY: I'll ask for comments from the board.

MR. KLOSKY: My principal concern and Mark we've discussed this a little bit, lot number 2 the house at the bottom of lot number 2 at the bottom of about a 36, 37 foot drop coming down their driveway I think that that house location could be significantly enhanced by perhaps turning the house and moving it slightly uphill, that might also do better in terms of preserving that grass depression that you've got out there. The main thing I'm saying is that the drainage is basically pointing straight at the garage of this house as it stands right now so some sort of minor turn or reorientation of the house to 90 degrees of its current setting might be a significant improvement.

MR. EDSALL: Well or offset the driveway.

MR. KLOSKY: Right, so that during periods of heavy rainfall the water that's coming down that relatively steep drive will be the, that way emergency vehicle access we don't have freezing on that driveway, et cetera.

MR. EDSALL: Exactly.

MR. KLOSKY: I guess I was talking about the catch basin, I was thinking about, I don't know how to describe where I'm at about elevation 378 on the east side of the little turnaround, right there you see where I'm talking about, that I think with some minor regrading it might be possible to catch most of the water coming from the clearing which will be taking place on lot number 4 right there, lot number 4 there will be some clearing and some increase in impervious area and it might be good to catch some of material before it gets to that private road, might help to prevent some of the erosion problems as well. But I'll leave that to your judgment of course. Leslie, there was some comments made about various potential species being endangered by construction on lot 2, I'd like to get your opinion on that.

MS. DOTSON: None of the species that are mentioned certainly I'd have to doublecheck some amphibian species, certainly snapping turtles where you find snapping turtles they tend to crowd out some of the other species because they outbreed them and they eat everything.

MR. KLOSKY: Just wondering were there any species of concern or other regulatory concerns?

MS. DOTSON: I'll doublecheck. They were not mentioned. When I did my site visit, I didn't notice anything in particular, I'll doublecheck the DEC references, I would not have that off the top of my head.

MR. LOBLANCO: No comments.

MR. GRABE: I had a question that Mark said they can relieve one of the neighbors with water situations by hooking up to a drain.

MR. EDSALL: It would be LaGuardia might be able to get some relief because there's catch basin number one just to the west of his property.

MR. GRABE: How do you feel about doing that?

MR. SHAW: I'd have to ask whether we're looking at picking up overland from or his curtain drain flow, all right, there's a difference in volume, I mean, we could stub out a pipe out of that catch basin and whatever he can get from it by regrading his property just by the natural contours of his property we can accommodate him in that respect.

MR. GRABE: How does that sound, Mark?

MR. EDSALL: It sounds fair, I mean, the bottom line is

just nearby if Mr. LaGuardia has water ponding in his back yard he's got at least a ten foot elevation difference across the back of the property so easily he could swale it to reach catch basin one, I would think, so if they're willing to accommodate the neighbor by providing an inlet that may solve at least one problem that's immediately adjacent.

MR. SHAW: We can provide the inlet and he would just have to put in a cutoff ditch across his property as long as it's flowing downgrade to tie into our inlet to go into our catch basin.

MR. GRABE: How do you feel about that?

MR. LAGUARDIA: I'm not an engineer by trade now so I'm going to be honest some of the terms being used here are not familiar to me, I think it was mentioned before by the engineer that the way my back yard is shaped right now we're at the, where the bottom of the bowl is not towards my neighbor's property, it's more towards the other way, so any regrading of that that would be done would be pretty significant in terms of because there's a hill that's right there and everything sort of flows this way rather than that way.

MR. SHAW: So you're saying that the low point is not by the private road, it's on the other side of the lot?

MR. LAGUARDIA: May I come up there?

MR. SHAW: Please come up. Very simply what we're talking about doing is giving you an open pipe.

MR. VINSON: Show him where the catch basin is.

MR. SHAW: We'll give you an open pipe, you're going to have to get your storm water to that open pipe basically cut it off and divert it over to that open pipe before it affects the rest of your property or if

there's any low spots drain that into the open pipe, that's what we're proposing.

MR. CORDISCO: That's designed to improve the conditions on your property.

MR. SHAW: Correct, solely for your benefit.

MR. LAGUARDIA: Okay.

MR. SHAW: This is the catch basin that goes to this catch basin which takes the water down in this fashion so we'd give you an open pipe here, whatever water you can get to that open pipe would be to your benefit but we can't lower it at all so it's going to be three feet below the ground surface at that point.

MR. LAGUARDIA: So it would have to be an underground system?

MR. SHAW: No, no, if you can reshape your land and create a cut off ditch to take the overland from or any ponding and divert it to there it's to your benefit. If you, if this was a ponding area right here then you'd just be able to take that and drain it into your pipe.

MR. LAGUARDIA: I guess it's for me to really make a decision, at least at this proposal right now it's really difficult for me to say yeah.

MR. BRODMERKEL: He's offering you some help.

MR. LAGUARDIA: Obviously it would be good to have some help but how difficult or how costly?

MR. VINSON: But the opportunity would be there.

MR. NOVESKY: Okay, fine.

MR. GRABE: That was my question.

MR. GOLD: No, I already asked my question.

MS. BUNT: First on Mr. LaGuardia, Mark, as it is now we're being told he has a water problem.

MR. EDSALL: That's what I'm understanding.

MS. BUNT: And your opinion, I mean, I don't see how myself but how is this development going to make his worse?

MR. EDSALL: I don't know how it could because the drainage that's coming diagonally from kind of a northwest direction will be intercepted by the private road facilities, collected and discharged towards the lake, treated and discharged. Everything is downhill toward the lake, there's nothing running from this site towards anyone else because everyone else is upgrade, water doesn't flow uphill.

MS. BUNT: The only other concern is lot number 2, I mean, I had in the past people complain because we allowed certain things to be done and built and then later there were drainage problems, there were water problems and they always want to blame the town, in your opinion if that house is built there they're going to build it in such a way that they're not going to end up with a house under water or more problems with all that's around there with drainage, just seems like it's kind of like--

MR. EDSALL: Obviously, it's a clear candidate for a restriction on any basement it should be elevated so they've got a finished floor that's 3 1/2 feet above the grade in front of the house but clearly it's one you'd eliminate a basement, so you may want to impose that restriction.

MR. BRODMERKEL: A couple questions, Mark, the flow into the Beaver Dam Lake as it currently stands and after this subdivision was built, would you say that the flow into the lake would be less later than it is now?

MR. EDSALL: With the provisions that Mr. Shaw has provided we're trying to simulate re-charge into the ground as if it was undeveloped, so I would anticipate it would be fairly equal tradeoff because of the way he's approaching it. If it was just collected and discharged, I wouldn't give the same answer because you'd be concentrating and discharging at one point.

MR. BRODMERKEL: So you're sure there will be no increase?

MR. EDSALL: I can't see how there could be and in any case whatever flow instead of maybe being sheet flow if it's partially concentrated he's addressed the treatment of the storm water and there's nobody in between the development and the lake to be impacted.

MR. BRODMERKEL: Dom, two questions for you, if I could, Beaver Dam Protection Group or whatever was cited, I don't know.

MR. CORDISCO: Yeah, there's no review authority that they have. They of course are welcome to participate and appear at the public hearing and review plans but they did not.

MR. BRODMERKEL: The other question I have for you is going back to this private road agreement regarding and in deference to Mark's answer to me before I would ask you if the system for whatever reason and even though it's very simple and unlikely to happen failed, what's the, and caused a problem to one of the neighbors, do they have any rights?

MR. CORDISCO: Well, there's a couple issues. The first answer is that first of all, we have not yet seen the draft private maintenance agreement and that maintenance agreement will in my mind as Mark had suggested will cover not only road maintenance but also storm water facility maintenance as well. And it will put a joint and several burden on the various lot owners to have the responsibility and the ability to go in to each others lots to make sure that it's working properly. And as Mark had just finished explaining, these particular lots of course are draining downhill towards the lake, not towards any of their adjoining properties or adjoining landowners so it's difficult to foresee how problems with maintaining the facilities on these particular lots would cause a problem upstream, however, if they did in the very slim likelihood that they did--

MR. BRODMERKEL: I agree.

MR. CORDISCO: --there would be a private cause of action from the adjoining landowner because if it would perhaps back up onto the adjoining property and there was a failure to maintain a manmade structure that would give them the right to try and enforce their neighbors to take care of the structures on the property.

MR. BRODMERKEL: So there's some action that could be taken?

MR. CORDISCO: Correct.

MR. BRODMERKEL: Okay, and Mark, if there was, the gentleman referred to what's marked on this as a gravel road and is actually a macadam road, I don't know what road we're talking about.

MR. EDSALL: That's the end of Lakeview serving the existing house on lot 3.

MR. BRODMERKEL: I'm showing macadam driveway here.

MR. EDSALL: You'll note that lot 3 has no development proposed other than abandoning the septic and putting in a pump station.

MR. BRODMERKEL: That's all I have.

MR. NOVESKY: Thank you, Kenn. I'll be lying to say that I'm not deeply troubled by lot 2 and the drainage situation, that's really my only comment, just seems like we're building a house in the middle of a lake potentially just going in from an engineering point of view, not being able to construct a basement just strikes me as difficult to accept.

MR. BRODMERKEL: Which frankly is not an unusual problem when building a house next to a lake.

MR. NOVESKY: I have a friend with a house on a lake that has a basement but this seems like it's pre-destined.

MR. EDSALL: There's been cases one along the stream on Continental where the board imposed a no basement requirement because of the varying ground water levels so it's consistent with prior actions of the board.

MR. KLOSKY: Do you think a slab on grade is advisable in this case? I think that elevated slab--

MR. EDSALL: I'm not going to design their house, I'm sure that whoever does will.

MR. SHAW: If you'd allow me to point out that the first floor of the residence is approximately ten feet above the water elevation of the lake so it's not like we're sitting close to the water elevation so whether it can take a basement or not, okay, it's kind of in a

gray area, maybe it can, maybe it can't, but to have a beautiful view of the lake and forego a basement that's not the end of the world either.

MR. NOVESKY: Well, the issue, I might have, I don't know if it's an issue or not, I'm not sure if I can legally have an issue is the imposition of a raised house on the border of a lake in order to preserve to create a view and eliminate the need for a basement yet impose a shall we say a blockage of everyone else's view in order to prevent the water into the basement? That's just an anesthetic concern, I don't know whether I can legally have that concern though.

MR. BRODMERKEL: Did you hear Greg was saying the house is going to be raised up more?

MR. SHAW: No, what I was saying is what the drawing shows is that the finished floor of our, the elevation of our first floor is about ten feet above the water surface of the lake as proposed on this plan.

MR. BRODMERKEL: That's the ground level now you're saying?

MR. SHAW: Correct, so if you say fine, let's go down 9 feet, okay, one foot of framing for the first floor, eight foot of clearance in the basement that would be the slab of your elevation but you're still a foot above the water surface, is that good or not good or maybe we can take it and raise it another foot and give you two feet, it's something that really the end line user should I get approved is going to make that decision.

MR. NOVESKY: We have to make a SEQRA determination.

MR. KLOSKY: Can I ask one more question? Leslie, I believe in neither of these zones does the code allow us to consider viewshed impacts, am I correct?

MS. DOTSON: That's correct, private views are not typically something that zoning laws protect.

MR. KLOSKY: There were a number of comments about that and I just wanted to make sure that we're clear on the code.

MR. NOVESKY: And I acknowledged that concern in my comments.

MR. CORDISCO: At this point, if I may suggest Mr. Chairman before you move on to take any further action I think that the plans need to be revised to accommodate both the consultant's comments and the comments and discussion that was had here tonight. And I think that the plans should be revised and then they can return and based on those plans the board can consider taking further action, although you have closed your public hearing, the 62 day timeframe to make a decision does not start to run because you have not closed out SEQRA, so there's no impending doom or default approval on this application until such time that you make a SEQRA determination.

MR. NOVESKY: Okay, thank you. With that, I don't think we can take any action at all.

MR. BRODMERKEL: Well, I have one possible action we ask that the documents be prepared in case we're ready to approve next month, would that be out of line?

MS. DOTSON: Without seeing the plans, I don't know.

MR. GOLD: I can't imagine how we'd do approval without seeing the plans and there's still SEQRA.

MR. NOVESKY: We can vote on that.

MR. CORDISCO: You can vote on that and if the board

adopts that resolution we can begin preparing resolutions but they may be bare bones and may have to change as a result of revised plans that of course are going to depend on the applicant.

MR. BRODMERKEL: So you would think it's a probability of having to be changed?

MR. CORDISCO: It may be.

MR. NOVESKY: With that, we'll hold off unless there's a motion and a second.

MR. BRODMERKEL: No.

MR. NOVESKY: Okay, with that, thank you.

MR. SHAW: Good evening.

MR. VINSON: Workshop is the 12th this month, it's early.

JOHN_LATIMER_#2006-16 _____

Mr. John Queenan and Mr. John Latimer appeared before the board for this proposal.

MR. NOVESKY: We have a, you can do a brief thing, I see there's a large contingent of public representation.

MR. QUEENAN: Good evening, my name is John Queenan from Lanc & Tully Engineering representing the applicant who's also here with me tonight, Mr. John Latimer. We're before you tonight with a 2 lot subdivision of an existing 5.7 acre parcel located in the SLR zone situated between three existing roads, two private, one public, it's located along New York State Route 32 about 800 feet east of Angola Road. And the property's basically between two private roads, one being Sugar Maples Drive, the other Roaring Brook Road. The proposal is to subdivide the property into two lots, lot 1 containing the existing house and its well and septic, lot number 2 would be the proposed lot and that would contain individual septic and well. The plan has been currently designed basically for lot number 2, we have done all the soil testing with the board's engineer, we have well location and the plan is basically before you tonight.

MR. NOVESKY: Thank you. I will by way of opening the public hearing at 8:34 approximately 36 minutes behind schedule, so sorry for that and there is no member of the public hearing to comment so therefore--

MR. BRODMERKEL: Make a motion we close the public hearing.

MR. LOBLANCO: Second it.

ROLL CALL

MR. BRODMERKEL AYE
MS. BUNT AYE
MR. GOLD AYE
MR. KLOSKY AYE
MR. LOBLANCO AYE
MR. GRABE AYE
MR. NOVESKY AYE

MR. NOVESKY: Public hearing is closed at 8:36.
Leslie, comments?

MS. DOTSON: They did what I asked them to do and I
drafted a negative dec.

MR. NOVESKY: That's perfect, Leslie. Mark?

MR. EDSALL: Everything has been corrected. My one
final request is that note 10 which references when
they need to have their DOT permit be corrected to say
prior to building permit rather than prior to
Certificate of Occupancy. Other than that, everything
we've asked for they've done, everything seems to be in
wonderful order.

MR. NOVESKY: Thank you, Mark. Dominic?

MR. CORDISCO: You have resolutions prepared, one which
would adopt the negative dec prepared by Leslie and the
other one would grant both preliminary and final
approval for this 2 lot subdivision.

MR. NOVESKY: Did everyone receive that information?
Okay, with that in mind, I will ask for a motion for
negative dec.

MR. GOLD: So moved.

MR. GRABE: Second it.

ROLL CALL

MR. BRODMERKEL AYE
MS. BUNT AYE
MR. GOLD AYE
MR. KLOSKY AYE
MR. LOBLANCO AYE
MR. GRABE AYE
MR. NOVESKY AYE

MR. NOVESKY: And then we'll have resolution adopting, granting preliminary and final subdivision approval.

MR. BRODMERKEL: So moved.

MS. BUNT: Second it.

ROLL CALL

MR. BRODMERKEL AYE
MS. BUNT AYE
MR. GOLD AYE
MR. KLOSKY AYE
MR. LOBLANCO AYE
MR. GRABE AYE
MR. NOVESKY AYE

MR. CORDISCO: Just so that you're aware the resolution provides that you get the full 360 days for final approval so you don't need to come in for any extensions, you have 360 days before it expires. But that's all you get, you know, because that is pursuant to state law.

MR. LATIMER: Thank you very much, everybody, it's been a long time coming.

MR. NOVESKY: No further business, motion to adjourn?

MR. BRODMERKEL: So moved.

February 2, 2009

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MR. GRABE: Second it.

ROLL CALL

MR. BRODMERKEL	AYE
MS. BUNT	AYE
MR. GOLD	AYE
MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MR. NOVESKY	AYE

Respectfully Submitted By:

Frances Roth
Stenographer