

June 2, 2008

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TOWN OF CORNWALL

PLANNING BOARD

JUNE 2, 2008

MEMBERS PRESENT: NEIL NOVESKY, CHAIRMAN  
JANE DEANS  
KENNETH BRODMERKEL  
WYNN GOLD  
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

ABSENT: LED KLOSKY

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

MR. NOVESKY: I'd like to call to order the June 2,  
2008 meeting of the Cornwall Planning Board.

CORRESPONDENCE \_\_\_\_\_

MR. NOVESKY: We have some correspondence, Fran, I'll send it over to you.

APPROVAL\_OF\_MINUTES \_\_\_\_\_

MR. NOVESKY: Approval of the minutes. Everybody get their minutes? Anybody have any problems with the minutes? I'll take a motion to accept the minutes.

MR. GOLD: So moved.

MRS. DEANS: Second it.

ROLL CALL

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

June 2, 2008

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RESOLUTION\_-\_MILL\_POND\_(05-12)

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MR. NOVESKY: We have a resolution on Mill Pond but we're holding that off until discussion.

MR. CORDISCO: Since the board received the County's 239 report and that's making certain recommendations I think that should be part of the discussion item tonight.

MR. NOVESKY: Okay, thank you. With that, we'll move on to public hearings.

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

KEITH\_&\_ROBERTA\_LEWIS\_#2008-06 \_\_\_\_\_

MR. NOVESKY: We have a public hearing for Keith and Roberta Lewis, 398 Angola Road, it's a 2 lot subdivision. Do you want to take how about three minute explanation?

Mr. Richard DeKay appeared before the board for this proposal.

MR. NOVESKY: I will note for the public that you will hold your comments to, Mr. Brodmerkel, what did we say?

MR. BRODMERKEL: Three minutes.

MR. NOVESKY: Mr. Brodmerkel is the official timekeeper, if there's time at the end of the public hearing we'll allow the individual to speak an additional three minutes if you so choose.

MR. DEKAY: I have the affidavit of mailing and affidavit of publication and these are the names of the people that received the notices.

MR. NOVESKY: Okay.

MR. DEKAY: I'm Richard DeKay, land surveyor, I'm speaking for this 2 lot subdivision, the owners are Keith and Roberta Lewis. It's on the north side of Angola Road and we're creating one new lot. There's an existing house on lot number 1, we're creating one new 2 plus acre lot conforming, it conforms to all the zoning requirements, everything is according to code. I have two sheets here that show the details how Sunset Drive will be used.

MR. NOVESKY: Mr. DeKay, if I might, it's difficult for the public to see what you're pointing at.

MR. DEKAY: I'm going to hold the map up when you open it up for them.

MR. BRODMERKEL: It is open for them now, Mr. DeKay.

MR. DEKAY: Sunset Drive is a private road that's been in existence for over 60 years to my knowledge, I can remember going here over 50 years ago to this property when it was owned by previous owners for special events. This property was subdivided in 1973 but the subdivision has been extinguished and now we're asking for a new lot just over two acres of ground, it has a T turnaround at its terminus. My son and I met with the town engineer last Friday along with some of the property owners that are going to be affected by the improvement of Sunset Drive. It's going to be paved and the detail is shown on the sheet number 2 as far as the specifications for that paving. I will answer any questions the public has, I will try to answer them to the best of my ability.

MR. NOVESKY: Thank you very much, Mr. DeKay. Okay, anyone from the public wishing to comment, if you would give your name and your address, keep your comments to three minutes. Any member of the public wishing to make a comment?

MR. GRABOFF: My name is Steve Graboff, 15 Sunset Drive at the current terminus of Sunset Drive. I'd like to know the dimensions cause the drawings that I saw in Gary's office a month ago showed 100 foot by 100 foot, the turnaround, I'd like to know if that's changed.

MR. DEKAY: No, it follows the specifications that we have done before for other subdivisions that have recently been passed by the planning board in the Town of Cornwall. If you want to come up and look at it, I can give you the dimensions. It's 50 feet this way, 50 feet, 50 feet that's all part of the frontage for this

lot and then it comes down here 50 feet and back 100, okay, so it would actually have 100 foot frontage on Sunset Drive.

MR. GRABOFF: Is it paved? That's all paved?

MR. NOVESKY: Just talk loud enough.

MR. GRABOFF: I wanted to know if the T turnaround is 100 foot frontage and 100 foot deep, if that's paved.

MR. DEKAY, JR.: That's just the box for it, the actual traveled way is these dimensions here. This is just like a block that the pavement fits in, its not all paved, it's not paved 100 by 100.

MR. GRABOFF: The actual dimension is 30 x 18?

MR. DEKAY: That's right.

MR. NOVESKY: Any other member wishing to speak? Sir?

MR. PATAK: My name is Chris Patak, I live at 11 Sunset Drive, which is right across from the T turnaround. I just wanted to express, I think it seems pretty acceptable, I mean, we're not talking about widening the roads, so my wife and I feel that's pretty acceptable. And the size of the turnaround has been reduced and it's been moved so people that are not turning around from that section, you know, wouldn't necessarily be glaring their headlights. I am a little concerned about preserving the natural environment and clearing for that area to be kept at a bare minimum as possible because, I mean, we have kind of a really natural nice environment back there. And my other comment is just I would just like some input or advice from the board as far as the road maintenance agreement goes to may be kind of make suggestions and bring it kind of up to what the current town standards are. I know it's going to be a private legal document but the

current road maintenance agreement is not that great so it would just be nice to have some sort of input from what is the current standard that we use so--

MR. NOVESKY: Okay, well, we'll discuss that with legal counsel after. Thank you. Sir?

MR. SCILEPPI: Thomas Scileppi from 6 JR Court. It's brought to my attention there may be a discrepancy on the surveys done and I wanted to see if it can be correlated to see if there are discrepancies between them.

MR. NOVESKY: Please do.

MR. SCILEPPI: Can you show me?

MR. NOVESKY: Are you suggesting that the map that they used is not consistent?

MR. SCILEPPI: It was brought to my attention, I don't know if it's true or not so I want to see if there are discrepancies or not.

MR. NOVESKY: Where are those?

MR. SCILEPPI: Along the road side where the road wall is from JR Court to the property. So it should be from the stone wall.

MR. DEKAY: Back this way, in other words, the line is back to the stone wall you're plenty safe away from the stone wall.

MR. SCILEPPI: The line is before the stone wall?

MR. DEKAY: That's correct, that won't be touched.

MR. SCILEPPI: It goes all the way down?

MR. DEKAY: Yes, we tied into the, all the corners that were, you know, on the final map, on your final map.

MR. SCILEPPI: My other concern--

MR. NOVESKY: Did you clear that discrepancy up?

MR. SCILEPPI: Yes, looks as if it's the same on the map. My other concern is that me being downhill from where the proposed subdivision is if a house is built there and there's a septic tank put there am I going to be the leach field for this property?

MR. DEKAY: Let me explain that to you. This indicates where the perc tests were done that were supervised by the town from your property.

MR. NOVESKY: Mark, what's the setback from the leach field?

MR. DEKAY: We're over 300 feet away from this septic to his property.

MR. NOVESKY: From his property and are you talking about the property--

MR. DEKAY: Where the turnaround is it shows the line going away where it says JR Court private court and this is a turnaround.

MR. BRODMERKEL: Does that answer your question, sir?

MR. DEKAY: The septic is on a slope away from this gentleman's land, there's higher land between him and where the septic is going, you see the contours how they go around, do you want me to show you that?

MR. BRODMERKEL: Did you get your question answered?

MR. SCILEPPI: I understand what you're saying, yes.

The third concern I have is if he's going to be drilling a well at this point there's already the house on 4 JR Court has problems with water and needs to provide water outside from the well system that's already there and is this going to be taking off water from myself and the other neighbors on JR Court? And if our wells run dry what are we going to do about this?

MR. CORDISCO: Well, actually, that's somewhat of an engineering question in terms of the fact that there are going to be mandatory setbacks.

MR. EDSALL: They meet all the required setbacks. Dick Dekay indicated the slope is away from Mr. Scileppi's property which would mean that it's only 100 foot required setback and it's well in excess of that. Relative to the well I don't know that I have an answer for the gentleman, I know that's a question that I have heard for 25 years.

MR. CORDISCO: And the purpose of course of the setback is to if not ensure then at least design the fact that the impacts to other neighboring wells are minimized so that's why those well wells are separated those distances.

MR. EDSALL: It's impossible to guarantee that the condition of a well even if no new subdivision lots were created nor determined if one well would have an impact on another.

MR. SCILEPPI: But it's very possible that we'll lose water pressure.

MR. EDSALL: I didn't say that. It's possible that you could have a problem with your well if nothing is done in the Town of Cornwall in the next 20 years. But what I am saying is that it's impossible to determine if the development of an additional single well would have an

impact. It happens all the time and we have even asked that question to Orange County Health Department and they don't have any usable answer.

MR. NOVESKY: My question from a Town Board point of view is to determine what the Town Code says regarding the setbacks of the wells.

MR. EDSALL: They are meeting state health department requirements.

MR. NOVESKY: Also the setback from the septic to the nearest well on adjacent property.

MR. EDSALL: They are meeting Department of Health requirements.

MR. NOVESKY: Which would mean therefore they meet the Town Code requirements, correct?

MR. EDSALL: Yes.

MR. SCILEPPI: Thank you.

MR. NOVESKY: Anyone else?

MR. DUGAN: Chris Dugan, 2 JR Court. I guess my question is similar in the setback for my property is directly behind this proposed property and I would like to know what the exact distance is between the proposed leach field septic and my well.

MR. DEKAY: Over 200 feet.

MR. DUGAN: Do you know, you've measured from my well?

MR. DEKAY: Yes.

MR. BRODMERKEL: No, excuse me, Mr. DeKay, you have the distance from the property line to the well and you say

that was 200 feet the leach fields?

MR. DUGAN: I'd like to see my well on the map.

MR. DEKAY: Well, we certified that there's no wells within 200 feet of this septic system.

MR. DUGAN: But I'm looking at this map, I didn't see my property at all.

MR. DEKAY: Well, wait a minute.

MR. DUGAN: But I do see other properties.

MR. DEKAY: Oh, you're over here, you're on the sketch.

MR. BRODMERKEL: They meet the health requirements as they exist.

MR. DEKAY, JR.: It's 180 feet to the center of the road.

MR. DUGAN: There's 180 feet, okay.

MR. DEKAY, JR.: Across JR Court and your well has to be 150 feet from there but we in order to certify that it is safe we had to locate it.

MR. DUGAN: What's the Town Code for that distance?

MR. DEKAY: Two hundred feet.

MR. EDSALL: It's 200 foot if the well is downgrade of the septic system. If it's not it's only 100 foot and it's well over 100 feet to your property line so it's, although it's--

MR. NOVESKY: From the leach field to the property line is well over 100 feet.

MR. EDSALL: Well over 100.

MR. DUGAN: So if it was, if the house was down from that it would still be within limits?

MR. EDSALL: Correct.

MR. DUGAN: Thank you.

MR. NOVESKY: Thank you, Mr. Dugan. Any other member of the general public wishing to comment on this?

MR. GRABOFF: Steve Graboff, 15 Sunset Drive. I'll try to be within the three minutes.

MR. NOVESKY: That's okay.

MR. GRABOFF: Thanks. First of all, our home is right next to the Lewis' home or the property and it must have been grandfathered in because we're very close to the property line.

MR. NOVESKY: On which street?

MR. GRABOFF: On 15 Sunset Drive right at the very end and our house is all the way to the one side of our property borders against the Lewis' property so our well, our foundation is probably about 35 feet from the property line and so my concerns are privacy, that's a very heavily wooded lot. When we purchased the home, we understood that the property that the Lewis' had was an estate, it had more than one home on it, there was a guest house, two barns and a main home and we didn't think that subdivision was very likely at that time based on the number of foundations already on the property. So I was really surprised when I heard about this proposal. We purchased the home as I said based on the serenity, the quietness, privacy of having all the original old woods right there and now we understand that there's probably going to be a home

somewhere between 850 square foot to who knows what built right there. So that does create a concern for us, we will be losing our view, there will be additional noise and we're right now in a very quiet area.

MR. DEKAY: What does this say here?

MR. GRABOFF: Area not to be cleared.

MR. DEKAY: That's for your benefit.

MR. GRABOFF: Some of the areas have already been cleared, sir, and I understand that was possibly discussed at the last meeting.

MR. DEKAY: So I could get a machine in there.

MR. GRABOFF: Well, my point is right now in the direction to the Lewis' property we have, there's beautiful woods and there's not going to be beautiful woods soon if this is passed. So I'm asking, I'm urging the board to not allow this to happen. What's going to happen is we're going to end up with a home there and no privacy and noise and lights and comings and goings all night long. I have a child who's eight years old, he has special needs as determined by the town and he has difficulty sleeping at night and I can tell you we don't have air conditioning at that side of the house, his windows are open and they are facing the Lewis' property and right now he's able to sleep and I am extremely concerned about what's going to happen once there's construction.

MR. DEKAY: This house will be built approximate 150 feet from the property line so you built next to the property line.

MR. GRABOFF: I didn't build there, I bought the place and the first thing I said sir and I'm 100 percent in

agreement with you is the house is way too close to the Lewis' property line.

MR. DEKAY: That's not their problem.

MR. GRABOFF: I wish I could have picked it up and moved it. So I understand that I am close to their property line. We have 19 windows currently that are facing that direction or down the road and the increased traffic I think is going to be disruptive. We've had the luxury of having all this privacy and I just hate to see it go away. I don't think it's right, I don't think it's fair. We have a huge concern about our well--

MR. BRODMERKEL: You have 30 seconds.

MR. GRABOFF: --which is built on the side of our home towards the Lewis' property, it's about 25 feet from their property line and I would love to know what the distance is of that, if you can measure that?

MR. DEKAY: It's over 200 feet from the septic.

MR. GRABOFF: Again, I will just point out I know we talked about the well and town guidelines and all that great stuff, but the bottom line is it's 6 out of 8, 6 out of 8 of my neighbors have had well problems and I don't believe that adding an additional well is going to decrease future problems that we're going to have, it's going to increase it and I have a problem with that. I have gone to a lot of expense in reducing the water usage in my home, making sure I don't irrigate, I don't water the lawn or the plants with well water and new appliances are Energy Star and trying to just use as little water as I can to avoid future problems. I want to go on record saying I'm extremely concerned about this.

MR. NOVESKY: Thank you very much. Any other members

of the general public?

MR. DUGAN: May I make a second comment?

MR. NOVESKY: Yes.

MR. DUGAN: Chris Dugan, 2 JR Court. I have to take exception to Mr. DeKay's comment that he cleared the lot related to having to get a machine in there because if you're telling me that you're going to be working 180 feet from the JR Court property line you cleared right up to that property line.

MR. DEKAY: The machine had to come in through the property so there was other clearing done.

MR. DUGAN: The machine is coming in on the JR Court side?

MR. DEKAY: No, it came in off Sunset.

MR. DUGAN: But my point is that the clearing is all the way back to JR Court.

MR. DEKAY: I think that was done before this application was made.

MR. DUGAN: And again the point is is that prior to you they were doing the clearing.

MR. DEKAY: No, the trees you're talking about were not of any significance, I mean, we're talking about--

MR. DUGAN: It's significant to us because again we purchased this property again as that lot was one lot, a lot by the way that you have already said that originally was two lots and was changed back to one lot. So why was it changed back to one lot? Obviously, you didn't want it to be two lots. Why do you want it to be two lots now?

MR. DEKAY: They receive two tax bills, it was done in '73 and they decided that they would combine that it was a substandard lot.

MR. DUGAN: No, I think would you say it's possible that you have changed the size of the lots?

MR. DEKAY: Yeah, I brought it up to code over two acres.

MR. DUGAN: Again so the lot sizes were changed?

MR. DEKAY: Yeah, right, it was upgraded.

MR. CORDISCO: The comments should be addressed to the board.

MR. DUGAN: Again, I'm in severe disagreement as well, I think that if the lots were two lots at one time and that was the subdivision the Lewises if they wanted that subdivision they should of kept that subdivision, they let that subdivision go. Now they want to come back and say no, no, no, we want that subdivision. If the excuse is that we receive two tax bills, I think that's pretty ridiculous and it doesn't make any sense. I think that there's probably more to this in the fact that the lot size of the second lot which they want to sell they changed the size of that lot to benefit them.

MR. GRABE: They have a perfect right to do that.

MR. DUGAN: I'm not saying that but the point is they had a subdivision at one time which they decided that they no longer wanted. When we purchased the home we understood that was one lot, a wooded lot.

MR. NOVESKY: Thank you, Mr. Dugan. Any other member of the general public wishing to make comment on this? Hearing none, I'll accept a motion to close the public

hearing.

MR. BRODMERKEL: Motion we close the public hearing.

MRS. DEANS: Second it.

ROLL CALL

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

MR. NOVESKY: Thank you, Mr. DeKay. We have some, I'll open it up to the board for some discussion, if you want.

MR. BRODMERKEL: We want to hear from the engineer.

MR. NOVESKY: Yes, I do but he has a question.

MR. GRABE: Well, Mr. Patak asked about a road maintenance agreement but I think Mark is addressing that they haven't made an agreement on the road.

MR. EDSALL: No, there is an existing private road maintenance agreement, what two items that we're suggesting is one that the usage of the road be documented on the plan on a table which is a normal thing we ask for. In our review it's clear to me that the proposed additional lot would not create a situation where the private road is being overutilized based on the Town Code, so that's not a problem. We just wanted it documented so its, on the record, on the plan. Relative to the maintenance agreement what I suggested to the applicant is that they consider having a new maintenance agreement created with some of the new provisions that are common in private road

maintenance agreements that's before the attorney.

MR. NOVESKY: With that, I will hear from the consultants. We do have a matter of discussion from the board, so if I go to Leslie for comments, do you have any comments?

MS. DOTSON: Yes, just one comment number 1 just mentions that the building envelope is depicted on the plat still has some errors in it, I'm just suggesting how Dick can fix that. Two just mentions the table for the private road use count. Three just notes that this was referred to the Orange County Planning Department under Section 239 but they have not had their time to respond expire yet so you can't take action yet. Four just mentions with respect to the requirement of showing existing trees over 12 inches in diameter, the subdivision regulations do require that those be shown on the plan. The board does not always require every person to show every single tree over 12 inches, often times you just address it by asking someone to show an area that's going to be protected by a clearing limit. I suggested that might be appropriate for this particular site. There are a lot of trees certainly still in the vicinity of JR Court that did appear to be important to the community character and it would be nice just to protect those, it's kind of interesting just to contrast with this Oak Park because the large trees that were retained on the subdivision really do add to the character. That's it.

MR. NOVESKY: Thank you, Leslie. Mark?

MR. EDSALL: We discussed the road, the applicant has provided a proposed private road improvement detail on the plans. One of the suggestions from my field meeting was that the turnaround be somewhat increased for convenience of any larger vehicles that may come down the private road. It was noted that the turnaround, the branch portion heading towards the

proposed lot was in fact shifted to the south so that it would not conflict with the residents immediately opposite it and not create a nuisance. That seemed to be acceptable to Mr. Patak based on our field meeting. Obviously, they are proposing to pave the existing private road. I'm suggesting that wherever possible to show enhanced so we get full width that currently exists as paved and then additional shoulders where possible. The sanitary disposal system shown on the plan based on the field testing which our office witnessed and the design meets Department of Health guidelines, so we have no issue with that. And I believe Gary has already coordinated the 911 address numbering that I referred to. Comment 2 just noting that obviously it's referred to Orange County Department of Planning but the referral to Orange County DPW would only be necessary in my mind if there's a significant change in construction of the roadway. I do not believe from past discussions with DPW that they would have a problem with the resurfacing of the road although clearly they'd want a permit provided for when the work was done so I don't see that as an issue at this point. That's all I have.

MR. CORDISCO: Mr. Chairman, as Leslie had mentioned, this matter had to be referred to the Orange County Planning Department and the Planning Department has 30 days to review it and that 30 days is not up yet. So the board cannot make a decision tonight until that 30 days has passed. It will pass however at the next meeting and the board--

MR. NOVESKY: It will be discussed at the next meeting?

MR. CORDISCO: No, well, the 30 days will be up by the time of the board's July meeting and so if the board wished you could direct me to prepare a draft decision for this matter.

MR. NOVESKY: And if we don't?

MR. CORDISCO: Well, you closed the public hearing and you have 62 days to make a decision on the application and so if they aren't prepared for the July meeting then they should be prepared for the August meeting. I think the consultants have advised you that apart from their fairly limited comments the plans do meet the town's requirements as far as subdivision is concerned.

MR. NOVESKY: Comments from the board?

MR. GOLD: I sympathize with the neighbors with their concerns about the change in the character of the neighborhood but I believe that the applicant has the right to his property, if his property complies with all the existing town and county requirements to develop his property. I mean, I also live on a private road, I understand where you're coming from but based on what our consultants are telling us it seems to me that the only issue that's open and I don't know the answer to this is the width of the road whether that needs to be addressed or whether it can be left as is, maybe Mark knows, I will defer to you for guidance on that.

MR. EDSALL: Well, given the current volume of use I don't believe that the road width is a problem. But as I indicated, I think the width of the pavement so that it is a usable surface that would be free from some of the potholes that apparently from what I'm told develop quite frequently and development of shoulders wherever possible and clearing of some of the overhanging branches creates a usable width that would be greater.

MR. GOLD: Current Town Code?

MR. EDSALL: New private road would be 18 foot wide and in the traveled way but you also have the setbacks that go with that and currently some of the building setbacks are drastically smaller than what's required

by code. So if you, I think if you widen one section to its full width with swales and shoulders you'd be on Mr. Patak's front porch. So it just doesn't work with the current, so we have shifted in discussions we have shifted the widening way away. One note from the field meeting that's been proposed it's an existing private road, one of the discussions was that the, my understanding, correct me if I'm wrong, that the applicant has offered to take the setback area toward the, and have that become a no-clearing area, an area not to be disturbed, so I think they have made the offer to try to soften the impact, that was a field discussion.

MR. DEKAY: That's correct.

MR. CORDISCO: And that could be incorporated as a deed restriction, that would be in the chain of title so future owners of that property would be restricted from clearing that area as well.

MR. NOVESKY: Thank you, Dominic.

MR. GRABE: Would the neighbors accept that?

MR. NOVESKY: That's a very, let's leave that question till the end. Jane?

MRS. DEANS: I also sympathize with your problems, I'm sitting here but I have the same problem with a private water line that what's cost me many, many dollars over the years because we have to repair it ourselves. But we can only go according to our restrictions, we can all sit here and make our own opinions, we have rules and laws that we have to go by and we have to abide by them if they meet the restrictions.

MR. BRODMERKEL: The road this will be grandfathered in under private roads that were in effect at the time of its being produced.

MR. EDSALL: The road existed probably four decades before the private road law went into effect. So what we have historically done is we have looked at the intensity of the proposed increase, in other words, if you only had one user and creating three more lots that's a heck of an increase, whereas this is one lot on a lot that currently has I believe five total, four total users.

MR. BRODMERKEL: It's currently unpaved.

MR. EDSALL: Currently unpaved gravel driveway width near the front all the users use and there are two users interior all the way that will go to three and that's somewhat narrow. And I have suggested some improvements in that area and the final plans would include those to my understanding they have proposed to pave the whole road.

MR. BRODMERKEL: So there's in essence no road width restriction on the property?

MR. EDSALL: There's no provision in the Town Law to tell you how to handle existing paved roads. Since each of the people have a right to use the property and the right to use the road it's always been historically the board's discretion on what's appropriate for the application.

MR. CORDISCO: With one key difference, if I might add, if they were exceeding the number of homes that they could have on the private road then the road actually would have to be improved to town public road standards and we have seen that on other applications as well. Here they are still within the number that they could have on the private road.

MR. EDSALL: Maximum number of lots on a private road are four interior, two additional fronting on public

road, if this went to seven lots it would require a 28 foot public road.

MR. NOVESKY: Before I forget, formal welcoming to Helen Bunt, the newest addition and a welcome addition to the board.

MS. BUNT: Mostly what I'm going to say will echo my fellow board members. I do sympathize with what's going on and the concerns that you have. The only thing that I just want to make sure that turnaround thing is okay for emergency vehicles.

MR. EDSALL: Yes.

MS. BUNT: Okay, and we're okay with the private road and that's been settled. I don't know if we can speculate as to whether you'll have enough water. That's not within what we do. And as long as the Lewises comply with the Town Code I can't see why we shouldn't let them develop their land that they've paying taxes on.

MR. NOVESKY: I think that with regard to the setbacks on the sewer and water issues they're complying with the Town Code, there's little anyone can do. I'm deeply troubled by the road issue, although I'm not disagreeing with Dick nor Mark, it seems as though we're offering an additional subdivision on an existing road thus creating an additional house and I can see if there was a agreement among all of the residents on the road, however, in light of the fact that there have been on this specific road at least one person speaking out against it I'm concerned, Dominic, that we're leaving ourselves open to a legitimate challenge with regard to the application of Town Law on an additional residence on an existing private road. It's not that you have an existing private road without any additional houses being built, you have an existing private road with an additional house being built and

you have a point of contention regarding the quote unquote invasion of privacy because of the subdivision and leaching. I think the potential and I'm concerned about it because of our recent history that if there's a point of contention that the rules are not being applied equally, be it one house or 495 houses so I'm deeply troubled by that. I'm not suggesting an 18 foot road width but I do see that there's some contention with regard to the road maintenance agreement. And if there's a contentious issue on a private road and there's an interpretation of Town Code regarding what is allowed in terms of the width of a town road with additional houses on it, I am concerned about legal action potentially being taken unless I can be completely satisfied on that and I'm basing it on my most recent experience.

MR. CORDISCO: Would you like me to respond?

MR. NOVESKY: Absolutely.

MR. CORDISCO: Couple issues there. I understand the comparison that you're making and whether this was one lot as it's being proposed or 490 lots, the 490 lots is being designed and what you're dealing with is an existing private road and so what you have there is whether or not this applicant is proposing improvements to an existing private road that can be made to the greatest extent possible without of course creating a new private road standard which would not work at this particular location. To require the applicant to obtain the signoff of every other user of that private road could potentially hold him hostage just by the mere fact of someone not wanting to have another house on that private road regardless of whether there was legitimate issues or not, I'm not suggesting that the issues are not legitimate but under that scenario that someone could be held hostage, that's why the Town Law which you have to abide by the Town Law does not make it a requirement that you get the consent of everyone

else because there'd be scenarios that you couldn't get the consent of everyone else.

MR. NOVESKY: Historically we required a road maintenance agreement on private roads.

MR. CORDISCO: That's for the applicant at their own expense to upgrade the road which is what they're being offered to do here. So in a sense all the other users of this private road are going to have a significant upgrade which of course is not going to cost them anything to this private road, it's going to be an improvement.

MR. NOVESKY: Would that, excuse me for interrupting, but would that require them to sign onto the road maintenance agreement?

MR. CORDISCO: No, it would not.

MR. NOVESKY: Regardless of what the improvements are?

MR. CORDISCO: The improvements are a condition of the board's approval. There is a draft road maintenance agreement which is required but that's for ongoing issues or ongoing maintenance of the road, it's not for the cost or sharing the cost or spreading out the cost amongst the other drivers on that road of the cost of the improvements that would be borne solely by the applicant.

MR. NOVESKY: Okay, you're always very good at explaining things, Dominic, but I'm still deeply troubled by the prospects of a new house being built. I have driven down that road and I'm most uncomfortable at the thought of even an additional house on the road does make me a little bit concerned regarding the application of Town Law. So with that, any action need to be taken?

MR. CORDISCO: Well, the board could if you wish authorize as I said before authorize preparation of resolutions for next month. If you don't take any action next month and the County's 30 days of course will have run you'll have to take action either approving or denying it at the August meeting.

MR. NOVESKY: Okay.

MR. BRODMERKEL: Do we have, you referenced a road improvement agreement?

MR. CORDISCO: There's been a draft that's been delivered to my office but it was delivered and I have been out of my office for several days.

MR. BRODMERKEL: We don't have it.

MR. CORDISCO: I have it, I can circulate one to the board if you'd like.

MR. BRODMERKEL: Yes.

MR. NOVESKY: Okay, thank you for that comment. Comments by the board? We should take a position as to whether or not we want to accept it or reject it at which point we'd have 62 days in order to take action, am I correct?

MR. CORDISCO: That's correct. You know, at this point, I mean, it would be fairly simple enough for us to at least prepare the resolutions so that you can consider them next month in which case if you're ready to act next month you can act on them, if we don't prepare them at all then you'll be forced to consider them at the August meeting.

MR. GOLD: I'll move that Dominic be authorized to prepare the resolutions for next month's meeting.

MRS. DEANS: I'll second it.

MR. BRODMERKEL: I'm, without seeing that road agreement I'm not totally comfortable with what's going on.

MR. NOVESKY: That will come out in the vote, I expect. Okay, all in favor?

ROLL CALL

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

MR. CORDISCO: Perhaps just so you understand I will circulate the draft maintenance, road maintenance agreement and the vote that you're taking now does not bind the board to any particular course of action.

MR. BRODMERKEL: Would not.

MR. CORDISCO: Just by preparing the resolutions doesn't mean that you have to adopt them.

MR. NOVESKY: We have already taken a vote, no offense intended and it's voted 3-3 which kills it.

SEVINCH\_BRIDGES\_#2008-02 \_\_\_\_\_

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

MR. NOVESKY: Next is Sevinch Bridges.

MR. RAAB: Jim Raab from Vincent J. Doce Associates engineering surveying firm located in Newburgh. A couple months ago we were here before you and we were given a list of items we needed to take care of by both Leslie and Mark. And what we have done is we have done, we have gone and done the field inspection with representative of Mr. Edsall's office, we did the perc tests, deep holes. One thing Mark mentioned to me already is that we left off the data from one of the perc tests but I will discuss that with him further a little bit but we did field locate the stream and shoot the grades around up the driveway and around where the house location for both the proposed house on lot 2. And we have got all the data necessary for the existing septic on the existing house on lot 1 and that pretty much wraps up the big items anyway.

MR. NOVESKY: There was a question if I might jump right to the issue here, Mr. Edsall, are you concerned about the nature of the maps topo, do you want--

MR. EDSALL: Yeah, there's still a note on the plan indicating that the topo was based on Orange County Water Authority data. Mr. Raab has indicated they did in fact do field verification in key areas, so we really need to note that on the plan where that occurred. I'm glad they did do it, it's important that we have that data in the area of sanitary systems in the areas where the storm water was an issue with the stream, the driveway areas just so that we know we're dealing with the real data rather than interpolated Orange County Water Authority data.

MR. RAAB: We even located the old stream or actually the drainage course to the far corner right near the house location to the south so those, the locations have been verified but it wasn't properly noted on the map and we can take care of that.

MR. NOVESKY: Okay, Leslie?

MS. DOTSON: Well, given that Mark's issues have been resolved--

MR. NOVESKY: No, just that one particular one.

MS. DOTSON: Start with Mark then because it may--

MR. EDSALL: Well, again, I don't know whether it's resolved but I need to see the plan corrected so I understand what in fact they really did that would impact on the driveway slope. So that's an open issue that I'm going to wait to make sure we can verify within the proper guidelines, the sanitary system design as Mr. Raab indicated we witnessed the testing, there were test results that weren't reflected on the plans. Fortunately, the numbers that were not reflected were the worst case so you really need to design around the worst case, not the best case. So we need to make sure that's corrected. And the last technical issue which I note is that the overhead service utility line of the understanding now that there's no easement it's my suggestion that it either be benefited with an easement or that if the line has no reason to cross by the property they should get a service directly to their own property.

MR. RAAB: I will let Henry Christenson suggest that.

MR. CHRISTENSON: At the suggestion of the work session of Mr. Vinson I have dictated a letter for Central Hudson asking them to please get their service off their property and connect directly into the house next

to it.

MR. NOVESKY: Very impressive.

MR. EDSALL: That's all my comments. Obviously, we have some verifications to be made.

MR. RAAB: I just want to reiterate we have verified it's just not noted properly on the map. I don't have any issue with what Mark said but that we did follow what they asked us to do and I take full responsibility for it not being noted properly on the map but we did do the work that Mark asked us to do.

MR. NOVESKY: Well, maybe would they be fully noted by the work section?

MR. RAAB: Sure.

MS. DOTSON: Because one of my questions was whether or not the Planning Board's in a position to consider setting public hearing, perhaps it would be conditioned on satisfying Mark that those issues are--

MR. EDSALL: If we get a plan that responds to the issues then fine.

MR. RAAB: Fine with me.

MS. DOTSON: I also questioned again the subdivision regulations require that existing trees over 12 inches in diameter be preserved, actually, it's waiveable but does need some consideration for this property. I thought you showed some of the existing trees.

MR. RAAB: We did but almost all the trees that are, we'll look, but I don't think we have any trees on this side in the area of what we're disturbing here.

MS. DOTSON: Right, most of the large trees there was

some very grand ones near the homestead, there are also some on this side of the stream and going up in some of the steepest areas that are very inaccessible and would not be touched anyway.

MR. RAAB: But we have verified there is none in the location of the driveway or the house.

MS. DOTSON: Maybe a note to that effect because I do note in my comments that the front of that lot is more sparsely wooded but I think that there needs to be something shown to satisfy everyone just noting the previous draft of the plan has been submitted to Orange County Planning Department that was for the one that had required variance. They did respond, I don't know if we have provided you with a copy of those responses. They suggested things that really related to further subdivision like limiting the further development of lot 2 to a maximum of three lots.

MR. RAAB: We're okay with that.

MS. DOTSON: They are noting that the existing water course should remain undisturbed and they want to include restrictions of any drives or roads being built across it in the future. My comment on that is that in the absence of a specific subdivision layout which is not actually before you at this time I thought it was difficult to determine rationale for a preemptive restriction, particularly given that the town road already crosses the stream. I understand what they are trying to do, I think in general it's a good idea to avoid stream crossings, it's also the purpose of SEQRA to weigh and balance the impacts. So I think it's actually kind of prejudging whether to impose such a restriction at this point. Because it's so contrary to SEQRA I'm suggesting that in the absence of an actual future subdivision that you not go along with their comment. And the third one we have already complied with.

MR. NOVESKY: Second that motion.

MR. CORDISCO: As Leslie and Mark suggested it may very well be possible if the board's inclined to authorize a public hearing assuming that the plans are going to be revised as Mr. Raab's indicated, they were, and I'm sure that they will be, the board could authorize public hearing perhaps for even the July meeting assuming that Mr., depends on Mr. Raab's turnaround time of getting the plans in and getting them reviewed. There is a little bit of extra time because the July meeting is on July 7 instead of four weeks it's closer to five because of the holiday so I think it's up to the board at this point, it sounds like the items can be addressed and rather than having them addressed and then come back just to authorize a public hearing that would be one option for you at this point.

MR. NOVESKY: Any board comments?

MR. GOLD: Mark, in your comments you've got a note about the sanitary disposal system design being unacceptable?

MR. EDSALL: That's because the one result that wasn't reflected is in fact is an accurate test within the sanitary area, the system in my opinion is too small that has to be resolved based on the actual testing location.

MR. RAAB: Let me explain it then you and I can work out whatever we need to work out. We went to a certain depth, we were into a refuseable soil so to speak, we got a 40 minute perc. We then raised the elevations of all the perc tests from 30 inches to 20 inches okay and perced in a more permeable soil, okay, basically we're in soil we wouldn't have a system in any way with the first perc but if we need to enlarge the system we'll enlarge the system, it's not a big deal.

MR. NOVESKY: Is it not a big deal?

MR. EDSALL: We can resolve it.

MR. GOLD: Thank you.

MR. NOVESKY: Not that I doubt your big deal, it's all relative.

MR. RAAB: I like to gloss things over.

MR. BRODMERKEL: If I can understand your statement and Mark if you would listen also you verified the contours shown on this map?

MR. RAAB: We verified them in the area of the new house location and the driveway for lot 2 and the stream and the stream, two stream locations.

MR. BRODMERKEL: But you didn't certify this on the map?

MR. RAAB: Well--

MR. EDSALL: A note but also somehow or another they've got to give us an indication on what is Orange County Water Authority survey and what is actual field survey. I don't know how they want to do that but it needs to reflect it on the plan.

MR. RAAB: That's not a problem.

MR. EDSALL: Just so we know what is I'll call real survey and what's computer survey.

MS. BUNT: No, as long as it appears that the issues that Mark had you feel Mark are going to be okay and if not then the public hearing doesn't go through?

MR. EDSALL: Yes, if it's not resolved I'll let you know.

MR. NOVESKY: Any other comments?

MR. BRODMERKEL: Make a motion we schedule a public hearing with a condition to satisfying the needs of the town engineer.

MR. NOVESKY: Pretty broad statement.

MR. BRODMERKEL: Trying to think how to rephrase that. On the contours being correct and shown in the correct area.

MR. GOLD: Second it.

ROLL CALL

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

MR. RAAB: Thank you.

MR. NOVESKY: I will take a bit of a program note here with the consent of the board I'm asking to move the Lands of Comito discussion to executive session at the end of this meeting.

MR. DORFMAN: I'm Burt Dorfman for Lands of Comito. This has been properly placed on the agenda and my clients want this to be in public meeting. This has, there's, this is an application before the board, court has ordered this board to abide by the provisions of the law prior to June 19, 2005. As far as I'm concerned, my client's application has to be heard first, if you want to go into executive session later that's your prerogative but my client has an application before the board.

MR. NOVESKY: Well, you have spoken.

MR. CORDISCO: The actual answer from my perspective, Mr. Chairman is no and that everything that Mr. Dorfman said belies the fact that while there has been a decision in the underlying case that order has not been served and a stay is still in effect. So there's no obligation on this board to process any application and in addition what's been submitted to the board is under review for potential settlement of the litigation and settlement into any discussion of litigation and is appropriate topic for an executive session. And it's my recommendation that all discussions regarding the Comito application be done in executive session and the board is under no timeframe nor is the board under any obligation to do anything in connection with the submission that was made.

MR. NOVESKY: I'll accept discussion from the board.

MR. BRODMERKEL: Are you telling us we cannot hear what these gentlemen have to say?

MR. CORDISCO: I'm saying that you do not hear what the

gentleman has to say because it involves pending litigation which the litigation of course has not yet been settled, so there's no obligation by the board to take any action at this point.

MR. BRODMERKEL: Would it be inappropriate to have our meeting our executive session and then come back and listen to them?

MR. CORDISCO: It would be appropriate first of all when you have the executive session you do have to come out of the executive session, there may be actions to be taken after that executive session and that will be an appropriate time.

MR. BRODMERKEL: Okay.

MR. NOVESKY: Any other members wishing to comment? With that, we'll continue.

LANDS\_OF\_PEA\_BRIDGE\_REALTY\_#2008-03

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MR. NOVESKY: Okay Lands of Pea Bridge Realty.

Richard Brooks of Brooks & Brooks Surveyors appeared before the board for this proposal.

MR. BROOKS: You last saw this application three months ago, it's a 34 acre lot at the intersection of Taylor Road and Otterkill Road, it has three existing homes, three existing wells, septic, support systems. We didn't meet our net lot area definition of zoning code because of a conservation easement placed on the property in 2003, you referred us to the ZBA, ZBA held their meetings, their public hearing and they have granted us the waivers necessary for lot area. So this application is back over to you now. The maps have been revised somewhat since you have seen them, we're still dealing with the same three lots, lot 1 of 8.56 acres, lot 2 of the 1.59 acres and lot 3 of the 10.07 acres.

MR. NOVESKY: Okay, thank you. Comments, Leslie?

MS. DOTSON: I'm just noting that they have received their variance, very simple subdivision. Number 3 this plan had been referred to the Orange County Planning Department, the department responded noting the importance of the site for wildlife habitat and they have recommended minimizing the impact of land development, specifically recommended that the driveway serving lot 2 be built with pervious materials, concrete, stone dust or grasscrete. However, the modified plans make it clear that the area that had been indicated previously as a proposed driveway is really an existing derelict asphalt driveway so it's already as impermeable as it's going to be. There really is no new impermeable area being created and no new disturbance and no new clearing. So I think that that's really inapplicable and we can just note that.

Four is the applicant's going to be seeking a public hearing. This is not waiveable even though he already had one before the Zoning Board. I don't know how many people, did anyone show before the ZBA?

MR. BROOKS: There was a ZBA, we had one person show up who spoke in favor of the subdivision, he was Mr. Clayton Conklin, the southerly adjoiner and then somebody wrote a letter to the ZBA expressing a concern about the subdivision having a negative impact on the visual feel of the agricultural property.

MS. DOTSON: Which again is irrelevant because you're not changing the development area whatsoever. The reason I'm raising this is that I'm suggesting that you might if you're so inclined also recommend while setting a hearing that decisions be drawn up because--

MR. NOVESKY: As in resolutions?

MS. DOTSON: Yes because I don't see anything that would prevent you from taking action after next meeting and given that the fact that this is relatively pro forma if you were so inclined there's no reason to make them wait.

MR. EDSALL: As was indicated it's pretty straightforward, it's all existing other than the lot lines that are being created. One of the concerns that I had was just the fact that there were existing sanitary locations and well locations, obviously, the wells are easy to find, septic systems are difficult to locate and the applicant's surveyor has done the best thing possible which is to verify the best extent possible from field data the locations from the systems are from the owner. I note that at least it seems to me that lot 1 has a spacing problem between the well and the septic, I don't know how you want to handle it, if you thought the private road existing was confusing, this one's worse cause this can make you ill. You may want

to have them show an alternate well location so that and then recommend that they appropriately test the well and if in fact there's a problem with the well they would have an alternate location to put a well in that would be verified on the plan as meeting requirements for spacing to all systems, kind of reserving a spot, probably the best suggestion I can come up with. I don't know if that's appropriate. We can hear from the applicant's consultant.

MR. BROOKS: We would agree to it, certainly the size and the terrain of the lots will allow an engineer to design a new septic well supply anyplace within the lots, again, the proposed subdivision lines have no affect on the land use, everything is in existence and everything is working well but absolutely we can do that.

MR. EDSALL: It's more for the potential purchaser realizing that there is in fact a spacing problem.

MR. NOVESKY: So you're recommending that an alternate well site be identified?

MR. EDSALL: Or alternate septic so an unknowing buyer can recognize it and if there's provisions made to address it if a contamination is identified.

MR. BROOKS: And if I may, Mark, your concern is lot 1, correct?

MR. EDSALL: Lot 1 I think is the only one that seemed to have the problem. You could look at the other ones but I believe that's the only one.

MR. NOVESKY: Okay.

MR. BROOKS: We'll do that.

MR. EDSALL: That's it.

MR. CORDISCO: Just echo Leslie's comments that the board can authorize that resolutions be prepared for next month's meeting.

MR. NOVESKY: I will turn to the board and ask your opinion and comments.

MS. BUNT: I don't have a problem with setting the public hearing, I think the engineer and planner and the attorney have resolved the issues that I would have.

MR. GOLD: No problem.

MR. GRABE: No.

MRS. DEANS: No.

MR. BRODMERKEL: No.

MR. NOVESKY: Do you want to make a motion to schedule a public hearing?

MR. BRODMERKEL: So moved.

MR. GRABE: Second it.

ROLL CALL

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

MR. NOVESKY: Schedule a public hearing now we'll ask for a resolution if you would be so inclined to ask that resolutions be prepared.

MR. GOLD: So moved.

MRS. DEANS: Second it.

MS. BUNT: Will the resolution have that verbiage about the alternate well?

MR. NOVESKY: About the alternate well, yes. With that, that's a proposal to the, to have the resolution prepared with the contingency of that second alternate well, correct, Helen?

MS. BUNT: Yes, please.

MRS. DEANS: Second it.

ROLL CALL

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

MR. BROOKS: Thank you very much.

HENNESSY\_&\_LOPRESTI\_#2008-07

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Mr. Steve Drabick appeared before the for this proposal.

(Whereupon, Mrs. Deans left the room.)

MR. NOVESKY: This is going to the Zoning Board of Appeals, am I correct?

MR. DRABICK: Yes, that's correct.

MR. NOVESKY: We can do that.

MR. DRABICK: Basically, it's, we're taking a piece of property involves a 2 lot subdivision, separate the two existing dwellings that are on the property and also incorporates a lot line change whereby lot 2 will acquire a portion of the property currently owned by Robert and Jacqueline Funk. That portion of the property that's looking to be exchanged just includes the existing driveway which accesses the property that we're looking to develop and also a small portion of the property which has a small portion of the Funk property that lies northeasterly of the Idlewild Creek and all of that will be incorporated into lot number 2.

(Whereupon, Mrs. Deans entered the room.)

MR. NOVESKY: We'll do a quick review. Leslie?

MS. DOTSON: Basically he's explained it pretty well, this is a really confusing map and Steve did a masterful job trying to show it.

MR. NOVESKY: He's a master of his trade.

MS. DOTSON: He really is. I'm glad he's working on this one. The odd thing technically speaking this creates a non-conformancy where one does not exist

right now because you're taking away road frontage that exists already for the Funk parcel. The fact is is that that frontage does the Funk parcel no good whatsoever because it's really steep land on the opposite side of the creek. So it remains up to you to make your case before the Zoning Board. From the Funk point of view liability is an issue and I can't blame them for wanting to divest themselves of this cause it makes more use to this but there's some other little corrections and so forth that he needs to make but the big issue is we have identified the one thing so Gary can make up the ZBA notice and we have referred to County Planning.

MR. EDSALL: The first comment is just noting an inconsistency in the tax lot numbers, just ask that that be cleaned up. Comment 2 it's an existing private road, you're creating no new structures but you're creating a new lot but we have the confusion about creating lots. Next item I asked for detail for the turnaround and that the plan mentions the improvements. There's an existing sewer that runs through the property, Steve has very accurately identified the easement that was created many, many years ago which was I hate to say it rather poorly done so I'm suggesting if possible we establish a defined width so there's something definitive that the town can protect or at least restrict development over. And I'm raising the issue of a private road maintenance declaration which I think is beneficial even though it's I believe only two users which provides some rights to the two property owners, fairly straightforward but complicated in some ways.

MR. NOVESKY: Okay, well, we just need a referral, Dominic?

MR. CORDISCO: That's the only action you can take would be a referral to the Zoning Board of Appeals.

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

MR. BRODMERKEL: So moved.

MR. GOLD: Second it.

ROLL CALL

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

MRS. DEANS: Steve, may I address Steve a minute, not that it matters but for Goshen or whoever is going to get these maps the name of Beauregard Robinson, Beauregard is not spelled correctly.

MR. DRABICK: Duly noted.

MILL\_POND\_SUBDIVISION\_#2005-12

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

MR. CORDISCO: If I could address the board. At last month's meeting you opened and closed the public hearing on this application and you also directed that resolutions be prepared in draft form for consideration at tonight's meeting. In the intervening time, since last month's meeting, the Orange County Planning Department provided its 239 review report which made certain recommendations that the board should consider. It did recommend I believe approval subject to adherence to their comments. So the board has to determine whether or not it wants to incorporate the County's suggestions or override them. Remind the board that to override the County's suggestions you have to do so by a super majority vote and with that I will turn it over of course to the board and I think the board's planner can provide additional comments regarding the County's comments.

MR. NOVESKY: For the record, Dominic, it's not uncommon practice for planning boards on the town level to override a decision by the county, recommendations of the County Planning Department in this regard.

MR. CORDISCO: I don't know whether it's common or uncommon but you have the right to do so, some boards it's very common and I just don't have any information.

MR. NOVESKY: That was a very poorly worded legal question, I know.

MS. DOTSON: It's not really a legal question so much as a question of practice. I find that boards often override in part but the bottom line is because you have to report to them what your final actions are there has to be a reason so I view this as being part

of a dialogue and oftentimes if I'm aware of what the County's comments are before they submit them I'm able to interact with them and explain to them what the practical realities are behind some of their comments.

MR. CORDISCO: Actually a very good comment in the sense that the county is typically reviewing these things and responding and providing comments regarding good planning practice and sometimes it's more theoretical than practical and of course the local board knows the actual ground and the area around it.

MR. NOVESKY: Well, we do come with exceptional experience. We have two former supervisors on board who are very familiar with town responsibilities when it comes to sidewalk maintenance and we'll get that stuff on the record, that's an unusual asset for our planning board. So we'll talk about that. Okay, Leslie, comments?

MS. DOTSON: Comment number 1 just noting that there's two old sheets that are from a previous version of plans in the submission, just a little technical error. Two gets into the County's specific recommendations, they recommended approval subject to modification of the plans to address these items, the first one is sidewalks, they want to include sidewalks in front of the site to connect to these in the vicinity of the site on Willow Avenue. My comments from that is that Mark Edsall coordinated with the town highway superintendent and the Town Board on this issue but it's really not the Planning Board's bailiwick to require sidewalks ultimately because it's a Town Board responsibility. So I'll just let Mark jump in on this one.

MR. EDSALL: I had a discussion with the Town Supervisor and I have discussed many times with the highway superintendent proposed sidewalks in various areas of the town and specific to this case the Town

Supervisor did not believe that as it might be cost benefit ratio of putting sidewalks along the low area of Mill Street opposite the factory serving a limited number of houses was something that benefited the town to the extent that made it worthwhile that they would pick up the ownership of maintaining the actual concrete, snow removal and so on of the sidewalks. It was his position that the town would not want the sidewalks. However, he did indicate that being that Mill is a county road if County Planning Department convinced the DPW to approve the sidewalks and they cared to own them and maintain them he would have no objection. So in any case and I fully concur and I in fact can tell you that it is consistent with the highway superintendent's opinion on remote sidewalks that they just create a terrific burden on the town staff and just don't have the manpower to maintain remote sidewalks where it's not heavily traveled areas.

MR. BRODMERKEL: Can I, Dominic, if the sidewalks were put up at the request of the county on a county road would the Town Law of maintenance apply or not?

MR. CORDISCO: I believe it would.

MR. BRODMERKEL: Thank you.

MR. EDSALL: The way it works is that with the county or the state if the sidewalk is going to be put in that particular entity wants to know who is going to own and maintain it. If they're doing it obviously it's no issue. If they do not want them as far as maintenance burden they require that the municipality have the legislative body, the Town Board pass a resolution saying yes, we're accepting the sidewalks and we acknowledge that we have to maintain them, they're our ownership, our liability and our responsibility to keep clear of so and so on, it's a very common practice and we, I believe if the County DPW doesn't want to own them and maintain them they're not going to go in

unless the Town Board passes a resolution.

MR. NOVESKY: Does that satisfy you?

MR. BRODMERKEL: I'm good.

MR. NOVESKY: Okay, Leslie, do you have anymore comments?

MS. DOTSON: Yes, the second one that they're requiring because the site has steep slopes and drains into the Moodna they wanted to recommend that all existing possible vegetation be preserved and to require landscaping provisions for full buildout and incorporate rain gardens. My comment on that is just that the erosion control plan already shows the clearing limit line which is required to be delineated in the field with orange construction fence prior to construction starting. Vegetation outside this line would not be anticipated for disturbance and I note with some of the lots by the way it consists of more than half the lot that would be kept open as you go closer towards Quaker Avenue. In any case apart from any provisions made in the erosion control plan, the zoning code doesn't specifically require a landscaping plan for residential projects, so I'm not clear by what authority the planning board could require these plan elements if they're not otherwise incorporated on the plans. So I thought Mark may have some further comments about the ability to incorporate any additional drainage features in the plans but I thought that a slope was probably not the best place to put these.

MR. EDSALL: I will comment on the drainage issue but the board obviously with the original version of the plans had an objection to many of the common elements because of the difficulty in having the common elements maintained by an entity and again the County DPW has been consistent that they want no easements off their

roads unless there's a reason that they're an easement that they need, so they would not take an easement off Mill. The highway superintendent indicated he had no interest in any easements or maintenance of the county road. He has a hard enough time keeping up with the town roads. So we met with the applicant's engineer and the entire layout was revised so that it was individual improvements on individual properties that are not high tech, they're straightforward improvements easy to maintain, there's no common ownership, no common maintenance and in fact it meets the state regulations.

MR. NOVESKY: That's last month.

MR. EDSALL: So I think what they're proposing is acceptable at this point.

MR. NOVESKY: Thank you, Mark. Dominic?

MR. CORDISCO: At this point the board has draft resolutions prepared, one that, one adopting a negative declaration and one granting preliminary subdivision approval. You also have a draft negative dec that's been prepared and that was also provided to counsel for the applicant and at this point you're free to consider those.

MR. NOVESKY: Did you prepare the resolutions?

MR. CORDISCO: I prepared the resolutions.

MR. NOVESKY: You anticipated my absence and Deke Hazirjuan as being present. Should I cross those things out?

MR. CORDISCO: That was an error.

MR. NOVESKY: I'll put Helen's name in. With that, I will take a motion to adopt negative dec for the

subdivision.

MR. BRODMERKEL: So moved.

MRS. DEANS: Second it.

ROLL CALL

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

MR. BRODMERKEL: We need to, how do we incorporate a reaction to the county as to rationale as to why?

MR. CORDISCO: There's a number of different ways of cutting that.

MR. BRODMERKEL: Simplest way.

MR. CORDISCO: Simply to adopt the, excuse me, grant preliminary approval based on the current plans and also authorize a report back to the county saying, explaining the rationale for why their suggestions--

MR. BRODMERKEL: From Mark or yourself?

MR. CORDISCO: I believe it would be from Leslie.

MR. NOVESKY: Doesn't virtue of a six to nothing vote constitute a super majority necessary for that anyway?

MR. CORDISCO: Well, it does and the only additional thing that you need to do is authorize the report back.

MR. NOVESKY: Take a motion granting preliminary subdivision approval for Mill Pond Condominium

subdivision.

MR. GOLD: So moved.

MRS. DEANS: Second it.

MS. BUNT: Authorizing Leslie?

MR. NOVESKY: Yes.

ROLL CALL

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

MR. NOVESKY: Now we're looking for a motion Dominic pursuant to what your--

MR. CORDISCO: Yes, it would be a motion authorizing the Planning Board's consulting planner to report back to the county and provide a rationale for the reasons why their suggestions were not incorporated in the plans.

MR. GOLD: So moved.

MRS. DEANS: Second it.

ROLL CALL

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

MR. EDSALL: After you're done just a reminder to the applicant now that they have preliminary approval we remind the applicant and the board that as you might recall this particular property was in the sewer district and what they have done is they have worked out with the Town Board the ability for them to have district extend it and in line with same they have worked with the town toward the replacement of the sewage pump station in the area that also includes some force main work, some gravity sewer main work. The applicant should understand that number one, they should include in their plans therefore before they're ready to go out to the agencies the corrections requested by the Orange County Department of Public Works and number 2, that before applications are sent out obviously Supervisor Quigley has to sign the application and if they could be so kind as to get a draft copy of the package to us so we can review them and suggest to Mr. Quigley that they're okay to sign.

MR. NOVESKY: Okay, very good.

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

MR. NOVESKY: Just a motion that we're acknowledging Mr. Jacobowitz as the recipient of the Humanitarian Award.

MRS. DEANS: So moved.

MR. GOLD: Second it.

ROLL CALL

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

MR. NOVESKY: The board unanimously just consented to acknowledge you and congratulate you on being a humanitarian, we've heard that you received a very nice award and we acknowledge you for it.

MR. JACOBOWITZ: That's very nice, thank you. I'm going to double the length of time I talked as I did on the last matter that was before you.

MR. BRODMERKEL: You're not making friends.

MR. JACOBOWITZ: I didn't say anything.

MR. CORDISCO: If that's the case then perhaps I should go.

MR. JACOBOWITZ: Whichever way you'd like. I heard conversation during the pre-meeting work session and to

try to move it along we heard Dominic's suggestions about a disclaimer with respect to the language with respect to the choice of the roads and we have no problem with that understanding that that's our words. At this moment you get the last word and you want to put something on the record to disclaim that that would be fine. I'd make a similar suggestion with reference to the developer's agreement. I understand Dominic's point, I think we have a point on our side of it but I think for your purposes if you similarly disclaim that that agreement was between the Town Board and the applicant and therefore is not necessarily binding on your board, I think you have covered what you may need to do with respect to that to satisfy Dominic's caution about what that says and what that may or may not mean with respect to your power. So that would be one way of dealing with it because there are things in there that are relevant to the Town Board, the sewer arrangement, which is relevant to the SEQRA, and some other things, I don't want to get into detail but if Dominic could feel that that's a satisfactory way of dealing with it we don't object to that or to the disclaimer with respect to the roads.

MR. CORDISCO: Yeah, I have no particular problem with that. I think actually a broad disclaimer would be appropriate because this as Mr. Jacobowitz said it's the applicant's document and the point of when you're accepting it as complete you're not necessarily adopting the positions that are taken in the document, you're just saying that there's enough analysis there that opens it up to the public and makes it available for public review, public comment and other agencies' comments as well and as Mr. Jacobowitz said that the Final Environmental Impact Statement will be your document so that will be the positions and the opinions and conclusions that are expressed in that are really at the point where you get to say that so if there are a number of conclusions and suggestions and implications that are set forth in the draft

supplemental, so if you accept it with stating on the record that you are accepting it as far as completeness is concerned but that you don't necessarily adopt or well with a disclaimer that you don't necessarily adopt the conclusions that are reached in the document then I think you're in good shape.

MR. BRODMERKEL: Make a motion we include the statement Dominic just said into the--

MR. CORDISCO: Procedurally at this point they have resubmitted the document, the board has 30 days to determine completeness as to whether or not it is complete and acceptable for public review and if it is then the counterpart would be scheduling a public hearing so your resolution that you'd be looking for at this point would be to accept the draft supplemental as complete and ready for a public hearing, authorize the public hearing and then also add your disclaimer that the conclusions that are reached in the draft supplemental are the applicant's conclusions.

MR. BRODMERKEL: Three steps.

MR. CORDISCO: Within one motion.

MS. DOTSON: The one thing if I can jump in here just to clarify as to what the hearing would be on, whether it would be just the DSEIS or would it also be on the site plan itself, previously I did want to mention that I had objected to combining the hearings, I'm withdrawing these concerns so long as it's understood if the final plans differ significantly from the plans that have been submitted to date that the board can opt to have another hearing and I don't think that Gerry has any objection.

MR. JACOBOWITZ: I think that's the law.

MR. CORDISCO: We need to hear from the applicant, do

they want to have a combined public hearing on the draft supplemental and on the site plan?

MR. JACOBOWITZ: The answer to that is yes, we'd like to have a combined hearing. I think it will be more meaningful for people to be looking at a document of environmental impact and be able to see plans that try to implement what it is said in words in that document so I think that would be most helpful for everyone including us to be able to move forward.

MR. NOVESKY: Okay.

MR. GOLD: I have a question, I guess it's a more functional question than anything else. I have half an office full of binders and maps, I'm in the printing business so I'm a big fan of production lots of binders and maps, I'm just not a big fan of them being in my office. When the public wants to review this document, are they going to be reviewing what's in my office is the six binders and big sheet of maps or are you going to come up with a better way for the public to wrap their arms around this thing?

MR. JACOBOWITZ: It will definitely not be all of what's in your office, that's something that I think we can discuss. Right now, volume 1 is revised and that's a document that people are going to want to see and it's the one you're saying you have decided is complete if you make that motion, okay. The storm water management plan has not changed so that volume is going to stay. We're going to get rid of 4 and instead have 3 and that 3 will have the plans as last revised to reflect all of the comments that Mr. Edsall came up with and is reflected in the rolled plan. Okay, now, to make life easier about the rolled plan they're being done to 11 x 17 and this is three quarters, right, John, yeah, we've got another quarter to go to make this a full package so what will be available is the volume 1, volume 2 and this package of maps which are

in effect 3.

MR. GOLD: Has any consideration been given to put this on a disk?

MR. CORDISCO: It would have to be available online, the new regulation requirements provide that a draft environmental statement including all the maps are all available online.

MR. NOVESKY: Any other questions?

MR. EDSALL: I just want to comment that question came as to holding a public hearing. Obviously, at the last review I indicated to the board that the site plan has taken terrific moves forward toward being what we might call a more legible and usable set and I believe that the site plan is now in acceptable form for public review. Again, like everything, God knows what's going to happen along the way after that with agency reviews and so on DEC, Department of Health but the plans I believe now are in acceptable form for a public hearing.

MR. NOVESKY: That being said.

MR. BRODMERKEL: I'd like to make a motion that we accept the document and that we schedule a public hearing for next month and that the document be, have an addendum put in it amounting to--Dominic, if you can restate?

MR. CORDISCO: Well, it would be a disclaimer that the conclusions and the statements that are made in the draft supplemental are the applicant's and that the board will have the Final Environmental Impact Statement and the findings statement to reach its own conclusions.

MR. BRODMERKEL: Let that be included as part of the

motion.

MR. JACOBOWITZ: That's part of the motion actually.

MR. BRODMERKEL: Yes.

MR. CORDISCO: If I may make a suggestion before you second the motion.

MR. BRODMERKEL: We need a second.

MS. BUNT: Second it.

MR. BRODMERKEL: Discussion.

MR. CORDISCO: Yes, I realize you're looking to schedule a public hearing for the July meeting. I believe currently just by virtue of tonight you have three other public hearings at the July meeting, there might be some merit to scheduling a separate meeting solely for the Cornwall Commons public hearing.

MR. VINSON: Or limiting to just hearings that night and any other items push off till August. You saw tonight's agenda, you have new applications as well as all the others, I mean, you could be looking at, I mean, is it fair to have applicants wait three hours?

MR. BRODMERKEL: I don't know, some public hearings take five minutes.

MR. NOVESKY: We can always leave it, we can leave a public hearing open if we didn't have adequate time to finish it.

MR. CORDISCO: Just a comment.

MR. BRODMERKEL: It's a good comment. What public hearings do we have?

MS. DOTSON: Sevinch Bridges which is short, Pea Bridge Realty will be five minutes because there's nothing to do.

MR. CORDISCO: It's two, I take it back.

MR. BRODMERKEL: I don't see a problem.

MR. CORDISCO: I withdraw my concern.

MR. EDSALL: I suggest that you authorize the building department to have some flexibility that if you have minor applications that you can dispose of early in the agenda before the public hearings start that you may want to break from the norm so that the poor soul who may have a five minute application doesn't have to sit for four hours to get there.

MR. NOVESKY: How does the board feel about that?

MR. GOLD: Sounds like a plan.

MR. BRODMERKEL: Not a problem.

MR. EDSALL: Seems to be fair.

MR. VINSON: We have always done public hearings first but if I have that flexibility.

MR. BRODMERKEL: You do.

MR. NOVESKY: With that.

MR. BRODMERKEL: Make a motion we go into executive session.

MR. CORDISCO: No, no, motion on the floor for the approval.

MS. DOTSON: Can I clarify that the motion's just to

clarify that the hearing is on site plan for lot 10 and the DSEIS jointly.

MR. NOVESKY: That's my understanding.

MR. BRODMERKEL: That's correct.

MR. NOVESKY: With that, all in favor?

ROLL CALL

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

MR. NOVESKY: Thank you, Gerry.

MR. JACOBOWITZ: Thank you all very much. See you next month.

LANDS\_OF\_COMITO\_#2004-06 \_\_\_\_\_

MR. NOVESKY: We'll ask for a vote to--

MR. CORDISCO: Actually, at this point we're reaching a matter on the agenda Lands of Comito and it's my recommendation to the board that because it's dealing with ongoing litigation that the board go into executive session to discuss it.

MR. NOVESKY: Hearing that, I will take a motion to enter into executive session.

MS. BUNT: So moved.

MRS. DEANS: Second it.

ROLL CALL

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

(Whereupon, the board went into executive session)

(Discussion was held off the record)

(Whereupon, Mrs. Deans left the meeting)

MR. NOVESKY: I will accept a motion to come out of executive session.

MR. GOLD: So moved.

MS. BUNT: Second it.

ROLL CALL

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

MR. NOVESKY: For the record, Jane Deans I asked her to excuse herself, she was really not feeling well and was willing to sit through everything but I think enough is enough. We value her presence for the next meeting so we sent her home. I will look for a motion to prepare updated resolutions for the next meeting.

MR. CORDISCO: Those will be resolutions adopting negative declaration based on a prior draft update for the current proposal and also granting preliminary approval.

MR. GOLD: So moved.

MR. GRABE: Second it.

MR. BRODMERKEL: Can you say that again Dominic?

MR. CORDISCO: Could I say what, what the resolution was or the motion?

MR. BRODMERKEL: The motion.

MR. CORDISCO: The motion was authorizing the board's consultants to prepare updated resolutions for adopting a negative declaration and granting preliminary approval on the revised proposal.

MR. BRODMERKEL: Are we also asking for updated set of

plans?

MR. CORDISCO: Well, that's, we need to work that out but that's not part of the resolution.

MR. BRODMERKEL: Okay.

MR. NOVESKY: We have a motion and a second in favor.

ROLL CALL

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

MR. CORDISCO: Second resolution.

MR. NOVESKY: Second resolution pertaining to the board authorizing me to sign documents related to the litigation.

MR. CORDISCO: Yes, the settlement of the litigation in particular.

MR. BRODMERKEL: So moved.

MR. GOLD: Second it.

ROLL CALL

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

DISCUSSION

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MR. EDSALL: Just for the minutes and for the board members' benefit, Gary had an assistant building inspector, John Brown, who was with him for five years. John passed away on Sunday. John was in my experience from 25 plus years working with a lot of municipalities was probably one of the nicest and knowledgeable guys and just was a terrific person to work with out in the field because he was very cordial and worked with the public very well. And it's a shame that John passed away, just wanted it in the record how great a job he did.

MR. NOVESKY: Certainly acknowledge that and express our condolences to John's family and also to Gary, I know you worked closely with him. The few contacts I had with him he was a pretty nice guy.

MS. BUNT: Yes, wonderful person.

MR. NOVESKY: Our condolences. Any other issues?

MR. CORDISCO: You need a motion to adjourn.

MR. BRODMERKEL: So moved.

MR. GOLD: Second it.

ROLL CALL

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

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MR. NOVESKY

AYE

Respectfully Submitted By:

Frances Roth  
Stenographer