

May 7, 2007

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TOWN OF CORNWALL

PLANNING BOARD

MAY 7, 2007

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

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

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MR. NOVESKY: I'd like to call to order the May 7, 2007 meeting of the Cornwall Planning Board. All present and accounted for. Fran, I have some correspondence to refer to you, Orange County Department of Public Works, 6 items for referral so I'll get them to you.

OLD\_BUSINESS

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MR. NOVESKY: Old business we do have one piece of old business and I will ask Mr. Edsall.

MR. EDSALL: Is that the Holloran Road?

MR. NOVESKY: Yes,

MR. EDSALL: Holloran Road application is requesting an extension to their approval. I'm looking for the date, it looks like he got approved and they're looking for their two, I would assume two 90 day extensions would be the most efficient way. The law allows 180 days for them to meet the conditions, they need their two 90 day extensions to obtain their approval so I'd recommend that you grant both 90 days. After that, they're out of luck.

MR. NOVESKY: We can just vote on it.

MR. CORDISCO: Just vote on it.

MR. NOVESKY: I'll call for a vote on it.

MR. HAZIRJIAN: Ninety or 180?

MR. EDSALL: Two 90 day extensions.

MR. GOLD: So moved.

MRS. DEANS: Second it.

ROLL CALL

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

MR. GRABE                    AYE  
MR. NOVESKY                 AYE

APPROVAL\_OF\_MINUTES\_DATED\_APRIL\_2,\_2007

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MR. NOVESKY: Approval of the minutes. Everyone had a chance to review last month's minutes? Any questions, problems, issues? Take a motion to accept them.

MR. KLOSKY: So moved.

MR. HAZIRJIAN: Second it.

ROLL CALL

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

RESOLUTIONS

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QUAKER\_&\_MAIN,\_LLC

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MR. NOVESKY: I have three resolutions, first I have--

MR. CORDISCO: Three sets.

MR. NOVESKY: I stand corrected, Dominic, however, one resolution Quaker & Main and we'll deal with that first, I'll make an amendment to our agenda, if you will note the first item after the public hearing is Quaker & Main and pursuant to the last meeting, we discussed the fact that there were some issues that needed to be cleared up and if we were cleared up Dominic our esteemed attorney would put a resolution in place, I assume all resolutions are cleaned up?

MR. CORDISCO: You can consider a motion to adopt a resolution which adopts the negative declaration and then motion for granting site plan approval.

MR. NOVESKY: For the record, Mr. Hazirjian has recused himself. I will take a motion.

MR. KLOSKY: I move we adopt the resolution for the negative declaration for Woody's All Natural Burgers.

MR. BRODMERKEL: Second it.

ROLL CALL

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

MR. NOVESKY: Do I have another resolution for Woody's?

MR. KLOSKY: I move we adopt the resolution granting site plan approval for Woody's All Natural Burgers and Bagels planning board 07-1.

MR. BRODMERKEL: Second it.

ROLL CALL

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

MR. NOVESKY: Dominic, I'm just going to take care of this paperwork.

MR. CORDISCO: Please.

VAILS\_GATE\_BUSINESS\_PARK

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MR. NOVESKY: We have a second resolution, Vails Gate Business Park. Mr. Hazirjian has unrecused himself, if there is such a word.

MR. CORDISCO: Well there is now.

MR. EDSALL: And it's part of the record now.

MR. NOVESKY: We have a second resolution, Vails Gate Business Park. We have a resolution adopting a negative dec, all these resolutions for those in attendance were discussed and our attorney was asked to prepare the resolution for this meeting. I have a resolution adopting a negative declaration for site plan application for Vails Gate Business Park.

MR. GOLD: So moved.

MR. HAZIRJIAN: Second it.

ROLL CALL

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

MR. KLOSKY: Is this the one marked draft negative dec?

MS. DOTSON: Yes.

MR. BRODMERKEL: Dominic, did you hand out new resolutions?

MR. CORDISCO: I handed out resolutions but the negative dec was prepared by Leslie and they just need to have whatever changes are necessary including taking off the draft.

MR. KLOSKY: We can adopt it pursuant to certain conditions then?

MS. DOTSON: Yeah, well, actually, cause Michele Babcock had e-mailed me, apparently I didn't get that, I'll probably get that first thing tomorrow morning, she did discuss with me some changes she wanted to make to the language on the water resources, if you want to mention that.

MS. BABCOCK: Just real brief, on page 4 of 10 there's a discussion of water resources and I think the board's clear that we have discussed the proposed uses and a breakdown of certain percentages for each use, percentage for warehouse, percentage for light manufacturing, at any time the applicant exceeds those thresholds he will be required to return for amended site plan approval. That section speaks to this, I just thought it wasn't necessarily clear from someone outside, either me, Leslie, the consultants or the board, so I just gave Leslie some revised language just to clarify that section. It says the exact same thing.

MR. NOVESKY: Is this contained in the resolution you gave me?

MR. CORDISCO: It's in the resolution in the negative dec.

MS. DOTSON: I have no objection to that, I think it's

just a clarification, so that's something you know to include that I can just put that in the final version.

MR. NOVESKY: I'm not comfortable unless it says it in the adoption of the negative dec.

MR. KLOSKY: Can we adopt it as conditionally?

MR. CORDISCO: Yes, of course.

MR. BRODMERKEL: Conditionally on what?

MR. KLOSKY: Striking off the word draft and including the language as proposed.

MR. CORDISCO: Yes.

MR. BRODMERKEL: What language is it?

MRS. DEANS: She just explained, no, I heard what you said.

MS. BABCOCK: Would you like me to read the exact?

MR. BRODMERKEL: Yes, I'd like to know what I'm approving.

MR. NOVESKY: I'm a little uncomfortable with approving a resolution that's been changed.

MS. DOTSON: It's in the minutes.

MS. BABCOCK: Warehouse and mini-warehouse uses consume incidental any water or sewer and light manufacturing uses are not characterized by significant water or sewer consumption. In any case, if the site specific interior uses in the Town of Cornwall other than the portion of the mini-warehouse building that's divided by the municipal boundary should exceed the use threshold approved by the planning board and based on

such use require greater water or sewer consumption than anticipated in this negative dec, the Town of Cornwall Planning Board has the opportunity to evaluate the specific individual future use through amended site plan approval.

MR. BRODMERKEL: Thank you. You're comfortable with that?

MS. DOTSON: Absolutely.

MR. CORDISCO: Yes

MR. BRODMERKEL: We've got it in the record.

MR. NOVESKY: I do have a resolution.

MR. KLOSKY: I'd like to modify the resolution to say that we adopted.

MR. CORDISCO: As amended, that's correct.

MR. NOVESKY: So we have to turn down the first resolution and then--

MR. CORDISCO: No, no, no, I think you have a motion.

MR. KLOSKY: Just was asking to amend the motion.

MR. CORDISCO: Yes.

MR. BRODMERKEL: I second the motion to amend the motion.

MR. NOVESKY: I'm going to say upon the motion as amended.

MR. BRODMERKEL: That's fine.

ROLL CALL

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

MR. NOVESKY: I have a resolution granting site plan approval for the Vails Gate Business Park 06-17. Everybody understand the resolution?

MR. KLOSKY: I move we adopt resolution granting site plan approval for the Business Park Vails Gate.

MRS. DEANS: Second it. That has a draft negative dec too.

MR. NOVESKY: Discussion? All in favor?

ROLL CALL

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

OMNIPPOINT

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MR. NOVESKY: We discussed all this last time. I now have a resolution adopting negative dec for Wireless Telecommunications Activity Omnipoint, we discussed that last meeting as well, okay.

MR. KLOSKY: This is also marked draft.

MS. DOTSON: Yes.

MR. NOVESKY: No, mine's not marked draft.

MR. CORDISCO: No, negative declaration.

MR. NOVESKY: I have the one that you prepared, Dominic. Okay, motion.

MR. BRODMERKEL: Should we call the our consultants on how these declarations, have the questions been answered?

MR. NOVESKY: Redirected them to prepare the resolution as discussed in great detail.

MS. DOTSON: Yes.

MR. BRODMERKEL: Am I misunderstanding that we had some concerns that had to be fixed or if I'm wrong just tell me?

MR. CORDISCO: Not on Omnipoint.

MR. BRODMERKEL: All right then.

MS. DOTSON: The only thing we need to make sure is that they paint the panels the same color as the ones that are up there but they offered that.

MS. BONOMOLO: Just to clarify, I don't know that the ones that are up there are painted, I think they might come that color.

MS. DOTSON: Intrinsically that color.

MS. BONOMOLO: Yes.

MR. NOVESKY: Dominic, would you clarify this resolution, I have a resolution adopting negative dec

for wireless telecommunications facility, I do not have it marked draft.

MR. CORDISCO: What's marked draft is the negative dec which should be attached but I gave you the latest version of the resolution so it doesn't have the draft negative dec attached to it.

MR. BRODMERKEL: Other than that, it's the same?

MR. CORDISCO: Yes, we'll take the word draft off, make sure that it gets filed in the Town Clerk's office.

MR. NOVESKY: Thank you.

MR. KLOSKY: I move we adopt the negative declaration as drafted.

MR. BRODMERKEL: Second it.

ROLL CALL

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

MR. NOVESKY: And then I have one last resolution granting site plan approval for a special use permit for Wireless Telecommunications.

MR. BRODMERKEL: So moved.

MR. GOLD: Second it.

ROLL CALL

May 7, 2007

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

PUBLIC\_HEARINGS:

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PENNINGS\_ENTERPRISES,\_INC.#2007-03

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MR. NOVESKY: Pennings Enterprises. At 7:39, we'll open the public hearing on Pennings. If you can just give us your name.

MS. YOUNIE: Laura Younie and I'm here for Pennings Enterprises, I work for the Pennings and I'm here to get permission for a lot line change.

MR. NOVESKY: This is a public hearing, ma'am, so you're just going to present roughly speaking your case.

MS. YOUNIE: This is the existing line right now and we'd just like to move it on the rear of the property over to here, this is all water and this is the only land that we'll be gaining to a part of this property and the reason for this is basically just for access to the back part of the property and for a boundary from the side line here and the back of that Pennings property.

MR. NOVESKY: Okay, very good. We're opening the public hearing, if there's any member of the public wishing to make a comment, please make your comments three minutes or less and Mr. Brodmerkel will do the timing. Thank you.

MR. DINARDO: Robert DiNardo, Jacobowitz & Gubits and I represent Joanna Pennings whose home is surrounded by the, by this proposal. First we thank the board real quickly for granting our request for a hearing. Very generally, there's been a lot of activity there which is impacted on Mrs. Pennings' quality of life which we don't think you're aware of, I'll try to go through them quickly. One, we believe there's been significant disturbance of wetlands. Two, there appears to have

been fill greatly in excess of the 1,500 cubic yards which I understand triggers a site plan requirement from the planning board. Next, there's outdoor storage of building materials and storage of what appears to be waste materials from the greenhouse operation. The import of all this we think essentially that you don't have all the information on what may occur, what we think is occurring, it runs contrary to SEQRA and that we think you're getting things segmented in pieces. It appears clear to us that there's a specific plan for the balance of the property, a lot has happened out there that you're not aware of it. We asked Art Tully to take a look at the property. He has submitted a report to us where he indicates it appears that fill has occurred to a depth of about ten feet and that federally protected wetlands have been disturbed in an uncontrolled fashion. Essentially, our request if you will is that if you feel there's anything to what we're saying and I have several copies of Mr. Tully's report that you consider continuing the hearing and looking into this matter with a view towards determining whether or not local ordinances have been violated with respect to fill, with respect to outdoor storage of materials, whether protected wetlands have been disturbed and whether the grading that should have been reviewed by the planning board gets reviewed by the planning board if there is a bigger agenda here. Essentially, what we ask is that that be put on the table. I'll leave one copy of Mr. Tully's report which has wetlands map and topographic map attached to it together with several photographs that were taken this past Friday.

MR. BRODMERKEL: May I ask a quick question? You're representing who, per se?

MR. DINARDO: Joanna Pennings, Mrs. Pennings lives in the home. If I may--

MR. BRODMERKEL: Is her single residence surrounded by

this property?

MR. DINARDO: Correct.

MR. BRODMERKEL: That's a different Pennings than the Pennings that presented in the beginning.

MR. DINARDO: Different people, related people but not the applicant certainly.

MR. BRODMERKEL: Wanted to clarify that.

MR. DINARDO: I may have rushed in my haste to get in under three minutes.

MR. NOVESKY: You have a lot to say.

MR. DINARDO: I hope I didn't miss it by rushing.

MR. BRODMERKEL: Thank you.

MR. DINARDO: Mrs. Pennings is here if you have any question of here, I'd be happy to answer any questions I think I can answer.

MR. NOVESKY: Please state your name and address.

MR. FLITCH: My name is Fred Flitch, I live at 25 Twin Ponds which is a neighboring property to the one at issue. I actually have something that you don't have to keep it but if I can give out a copy you can perhaps follow. Generally speaking, Pennings has been a good neighbor to us, is an industrial activity, there are occasions when at nighttime things are going on. However, recently and it's within the last year there's been a new building that has been put on the property, it essentially is something between 5 and 10,000 square foot freezer that has HVAC units behind it. I don't know exactly the process by which that building was able to be built and put in place.

MR. BRODMERKEL: Are you talking about the rooting room here?

MR. FLITCH: Rooting room.

MR. BRODMERKEL: That's what we call it, okay.

MR. FLITCH: Whatever it is, it's maintained at very cold temperatures, so it has a large number of HVAC units that turn on and off. A number of the neighbors around the property had a problem when it was running, it doesn't run all the year, it runs in the fall and wintertime and some of them brought it to the attention that there have been attempts to look at it. The concern that I bring here is that if these changes are made, does this allow, you know, additional building cause the actual placement of those HVAC units and the hearings associated with it were stuff that we weren't exactly aware of and I don't know what can be done if anything to deal with the problem that exists now? But if by extending the industrial area it's possible that more rooting rooms get built without looking at the placement of these, if you look on the second page there's a picture of the new building on the left an older building with the new HVAC units on the right side. Why don't I give you a copy. And then at the bottom just an aerial view that shows where that building is located and how the HVAC units are basically pointed away from the industrial activities of the site and towards the residences. And the attempt that was made was to put a temporary barrier up, I think one of the other neighbors will be commenting in a couple of minutes with limited success, there was an attempt though but now it's gone and there's a need for something. More separate issue is this extension of the industrial area going to create the potential that will further problems further for the residents in the area? Let me just make sure that and then I don't know if it affects anything but

there's, this is residential property that's being moved, there's the potential of it being developed, the entire land, property that's been filled flows into that pond that separates our properties and that pond flows into Beaver Dam Lake, if this decision affects any of the residential development aspects, it's just important.

MR. BRODMERKEL: Your time is about up.

MR. FLITCH: Just important to bring up the fact that anything would need to have town sewer or Beaver Dam Lake sewer associated with it. Thank you.

MR. NOVESKY: Thank you very much. Sir?

MR. CARBONE: My name is Lou Carbone, I live at 15 Twin Ponds Road. My question is is there going to be anymore HVAC condensing units on the property? About a year ago, seven or eight condensing units were installed on the residential side of Pennings commercial property as opposed to the commercial side. Every time those things kick on my whole house wakes up and there's one particular unit that trumpets 24-7 and this affects about 8 or 9 houses in the area, all, well, 1, 2, 3, about 6 houses. I just want to know is there going to be any other units on the residential side of the commercial space? That's my concern cause that really it's ruining my live. Thank you.

MR. NOVESKY: Thank you. Any other member of the general public wishing to make comments on this? Board?

MR. BRODMERKEL: When we close the public hearing I have a question.

MR. NOVESKY: Dominic, do you have an opinion?

MR. CORDISCO: If there's no more public comment you're

free to close it.

MR. NOVESKY: I'll take a motion.

MR. BRODMERKEL: So moved.

MR. GOLD: Second it.

ROLL CALL

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

MR. BRODMERKEL: Dominic, do we have any jurisdiction as to what has been brought to light here?

MR. CORDISCO: There's been some very interesting comments mentioned by the public but they raise a very good question because what's before the board at this point is merely a lot line change, two lots that are both owned by the applicant and no additional construction or disturbance are being proposed or would even be authorized, that's an important point is nothing is being authorized here other than changing the boundaries of these two tax lots.

MR. BRODMERKEL: What was mentioned was improper fill going on, wetlands being encroached upon, do we have any jurisdiction under the certain current circumstances?

MR. CORDISCO: No, not over those aspects of any enforcement issues because--

MR. BRODMERKEL: Can I ask, the piece of property

that's to be connected now to the main unit, is that also the same zoning?

MS. DOTSON: Yes.

MR. BRODMERKEL: So there's no zoning changes going on here?

MS. DOTSON: That's correct.

MR. CORDISCO: If there were to be any development after a lot line change if such is granted then that would require an amended site plan approval so they would have to come back before the board and there would be another opportunity for a public hearing where anyone interested could look at and comment on any additional development.

MR. BRODMERKEL: If I can ask Gary, are you aware of this rooting building?

MR. VINSON: Oh yeah, the planning board approved that last year about this time last year and they were quite anxious to get it up and running and they did very quickly. Some of the neighbors did approach me about some concerns with the air compressors, I gave them Laura's name at Pennings and suggested that they talk to her that Laura seemed most reasonable to concerns of that nature. Has anyone been to see you?

MS. YOUNIE: No, I was approached at the last meeting about it and two weeks later is when those units get shut down.

MR. KLOSKY: Just to be clear, the planning board doesn't really have any enforcement capabilities or duties?

MR. CORDISCO: That's correct.

MR. GRABE: Well, they know where to go when they have a complaint, you go to the Town Board, I would think when you have a complaint and if you had a complaint about the wetlands you'd see the DEC.

MR. DINARDO: Well, I have already inquired here of the building inspector in terms of the grading and filling cause it appears to be over 1,500 cubic yards which is--

MR. GRABE: Where does that concern us if you don't mind me asking can I?

MR. DINARDO: I'm trying to respond to your comment that I should of inquired elsewhere, I have, and nobody's gotten back to me. You have at least one, I think two or more but at least one local ordinance that's been violated, it's been brought to your attention, I guess your choice is either do something or do nothing. This is your opportunity to do something.

MR. NOVESKY: Bob, this is not, the board is not an enforcement authority, that would be a question that would be directed to the building inspector.

MR. DINARDO: I've tried.

MS. YOUNIE: We were, the DEC approved everything and I showed Leslie the letter and I'm sorry I did not bring it with me, she already had seen the letter that the DEC approved everything that we had done there.

MRS. DEANS: Leslie, am I wrong, one gentleman spoke about the residential part of the property and the commercial am I wrong that in the comprehensive plan that was all made commercial or am I wrong?

MS. DOTSON: Let me doublecheck on this, I believe this is actually a residential zone.

MR. VINSON: SR-1.

MS. DOTSON: It's SR-1, this is an agricultural use, and agricultural uses are allowed in that zone, you might want to ask Dominic to speak about the status that agricultural uses have in New York State law.

MR. KLOSKY: Is this, I'd like to ask the applicant a question if I could, is this lot line change part of a broader intention of expanding operations?

MS. YOUNIE: No, it's basically just so we can sell off that last parcel.

MR. DINARDO: May I ask what the building materials are that you see in the photographs?

MR. NOVESKY: We're still talking about a lot line change here.

MR. BRODMERKEL: That's all we're talking about.

MR. KLOSKY: I was asking if a lot line change is part of a broader plan, we have jurisdiction.

MR. NOVESKY: The question is on the table, this is a lot line change request, this is a public hearing, we're discussing it and we'll bring it, I assume that they'll come back next time for a proposal for a lot line change, am I correct about that?

MR. CORDISCO: Well, at this point, depends on what direction the board wants to take, you know, close the public hearing and if you're satisfied to move forward you can authorize resolutions be prepared or if there are other outstanding issues we can go through them. But at this point, the applicant has answered that the only thing that's before you is a lot line change and with the intention of selling off the remaining lot of

course that development of that lot may require additional planning board oversight and certainly any changes to the existing Pennings operation would require amended site plan approval.

MR. DINARDO: Can I ask is a lot line change effectively in large the parcel that has site plan approval?

MR. CORDISCO: Yes.

MR. DINARDO: Is that an amendment of the site plan approval?

MR. CORDISCO: There is not any additional proposed disturbances so to that--

MR. NOVESKY: Dominic, if the lot line change were approved, they would have to come back if they anticipated anymore construction on that site that's created by the lot line change?

MR. CORDISCO: That's correct.

MR. NOVESKY: So effectively just expanding the existing lot with no anticipated lot being done?

MR. CORDISCO: That's correct, if there was a decision made to put up an additional building now or in the future on the enlarged lot then that would require amended site plan.

MR. NOVESKY: Then the questions raised by the public regarding the issue on the table are moot unless there's a proposal to construct new buildings on the lot.

MR. EDSALL: Perhaps it would be beneficial that the, to let the applicant know that any current uses of the lands both on the parcel that's being added to the

Pennings operation and on the western end of the existing lot that are not part of the approved site plan are subject to site plan approval. So if they're stockpiling material or grading any such uses can't occur unless they come back for an amended site plan approval. So they would be cautioned on the record and if there are any storage areas that they should remove them or seek approval, i.e., if there's anything there that's not on the original site plan approval, it shouldn't be there, that's really the issue that I'm hearing and if that's not part of the original approval they should organize themselves and come back in and get those storage areas approved or whatever and clearly not doing any further grading.

MR. NOVESKY: Do you understand that?

MS. YOUNIE: Yes.

MR. NOVESKY: Any other questions from the board?

MR. KLOSKY: Gary, did we approve any grade changes as part of the rooting room approval?

MR. VINSON: Yes, in the rear.

MR. KLOSKY: But on the--okay, I see where you're talking about, okay.

MR. NOVESKY: So they can't do anything on the site, any fill without additional approvals?

MR. CORDISCO: That's correct. And the only thing that's being sought here is a lot line change so anything else if there's been something else that has taken place there then that's truly an enforcement issue.

MR. NOVESKY: Dominic, Wynn has one further question.

MR. GOLD: Can we direct Gary to go and inspect and make sure that they're in compliance?

MR. CORDISCO: No.

MR. VINSON: Gary knows how to take a hint though.

MR. GOLD: Maybe I worded that wrong, can we ask Gary to go take a look?

MR. CORDISCO: Yes, of course.

MR. EDSALL: The message was certainly heard.

MR. CORDISCO: Because the board lacks enforcement, your jurisdiction, you can't direct.

MR. NOVESKY: What's the will of the board?

MR. BRODMERKEL: Make a motion we approve the lot line change, I don't think we have any jurisdiction.

MR. NOVESKY: Ask Dominic to prepare a resolution.

MR. GRABE: I had a question with Dominic on the other application request for a lot line change, do they have to do a long EAF form, the long EAF form was because of the historical building on the property?

MS. DOTSON: Correct.

MR. CORDISCO: Yes.

MR. CORDISCO: That's on the Bennett application.

MR. GRABE: We can't request that on this application?

MS. DOTSON: Can't require it.

MR. CORDISCO: It's an unlisted action, you know, this

is an unlisted action, it's up to the board, you could require a long form EAF if you thought that that information would be helpful to the board in connection, long form EAF is supposed to evaluate the potential impacts of the action that's before you and that the only action that's before you at this time is a lot line change. So nothing else is being authorized. So there's very little information in the long form EAF in terms of air, water, quality impacts and all the whole host of range of impacts that are evaluated in the long form would really not apply to this situation.

MR. GRABE: Thank you.

MR. NOVESKY: Any other questions?

MR. HAZIRJIAN: No.

MR. NOVESKY: Mr. Brodmerkel had a motion to ask that you prepare a resolution, I don't have a second yet.

MR. HAZIRJIAN: Second it.

ROLL CALL

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

QUAKER\_&\_MAIN,\_LLC\_#2007-01

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MR. NOVESKY: Dominic will be asked to prepare a resolution for the lot line change for Quaker & Main.

MR. BRODMERKEL: I will just make a quick statement we do not have any jurisdiction on the points that were raised, therefore, we cannot take any action. Quaker & Main was already taken care of in the, and addressed.

OTTERBROOK\_SECTION\_III\_(ZBA\_REFERRAL)\_#1999-15

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MR. NOVESKY: We're going to Otterbrook Section III.

Mr. Ian Rieger appeared before the board for this proposal.

MR. RIEGER: We're here to get referred to the ZBA so we're asking for this is an older submittal, zoning has changed, we met with the consultants and we understand that we have to go to the Zoning Board because while we can meet side line and setback requirements, we don't meet the bulk requirements for a two lot subdivision.

MR. NOVESKY: Has to be referred to the ZBA so cut right to the chase on this.

MR. BRODMERKEL: Make a motion we refer this to the ZBA.

MR. HAZIRJIAN: Second it.

ROLL CALL

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

LORRAINE\_BENNETT\_#2007-04

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MR. NOVESKY: Lorraine Bennett, that would be a lot line change. Do we have anyone representing Mrs. Bennett?

MR. VINSON: She submitted a letter.

MR. NOVESKY: Asking for the waiving of a public hearing, I believe, and I think that we'll consider that with conditions.

MR. BRODMERKEL: I'd like to hear from our consultants.

MR. NOVESKY: Well--

MS. DOTSON: My only question with this was with respect to how to classify this under SEQRA, one of the lots contains a structure that's listed on the register of historic places and I understood that any action that was on or adjacent to such property would be classified as Type I. Dominic has stated that he does agree with me this means that she'd need to file a long form EAF.

MR. CORDISCO: With a Type I action, a long form EAF is mandatory.

MR. NOVESKY: For the record, Dominic is stating that the long form EAF is mandatory since there's a listed historic building on the property.

MS. DOTSON: Normally, a lot line change would be an unlisted action, as it was with Pennings, in this case, we do have to require the long form EAF, of course it doesn't give you anymore information but it is a procedural requirement and it needs to be fulfilled. Another procedural requirement that needed to be fulfilled with this is that it need to be referred to the Orange county Planning Department because it's

located on the state highway. We actually were surprised that we had not heard back from the department because they had responded on the variance so we didn't feel it was likely that they would object to it but we have not heard from them and their time has not run so that's it from me.

MR. NOVESKY: Thank you. Leslie? Mark?

MR. EDSALL: My only concern is that the plan be clear as to whether the lots are served by public utilities or if not then they have, and they have on-site sanitary disposal where the systems are located such that we're sure that the lot line change is not having a negative impact on the compliance of the sanitary systems.

MR. NOVESKY: So you just need to know where the septics are located?

MR. EDSALL: Or if they have public utilities which I don't believe they have.

MRS. DEANS: I think they do have water.

MR. EDSALL: Plan should tell me that and the plan should show me the septics, otherwise, we can end up with a new property line across the septic system which is not appropriate so again that's minor information to be added to the plan.

MR. CORDISCO: The first procedural question that the board has to concern itself with is whether or not to waive a public hearing.

MRS. DEANS: Well--

MR. NOVESKY: Just one second, that's it?

MR. CORDISCO: No, no, the second one is as Leslie had

mentioned a long form EAF is required, it's anticipated, it's likely that a long form EAF will contain next to no information that would show any additional chance for any environmental impacts here because you're creating, excuse me, you're approving a lot line change which does not create any new lots and no new structures are being proposed. So in fact the lot line change is moving further away from the historic structure giving more property to that lot which I think would be a benefit but nevertheless a long form EAF is necessary. The board could authorize resolutions be prepared, although seems to me that three things are outstanding, one, as Mr. Edsall pointed out, the location of the utilities whether public or private have yet to be shown on the plan. Second, a long form EAF is necessary and third, we have yet to have a response back from County Planning, however, in regards to that, it's a bit of a special circumstance because this lot line change also required a variance from the ZBA and the ZBA referred very same set of plans to County Planning Department and the County Planning Department came back with recommendation for approval. Technically, it has to go back to them again, they're going to see very same or similar set of plans, same issue that back on March 24 just recommended approval on. So I think given that the board is in somewhat of a unique circumstance where you could authorize not only the preparation of the resolutions but even authorize the chairman to sign them provided that those three conditions are met.

MR. NOVESKY: That would be Plan B?

MR. CORDISCO: Correct.

MR. NOVESKY: Okay.

MR. CORDISCO: Hold on, first of all, you have to take a motion to whether or not you're going to hold the public hearing.

MR. NOVESKY: First I'd like to open up discussion.

MRS. DEANS: Well, I don't want to go first. Led? The ZBA, no one came there to, no neighbors, anyone had any, so why would they probably come to a public hearing?

MR. CORDISCO: There was a mandatory public hearing on the variance, that's correct.

MR. BRODMERKEL: Do we have to ask for a long form or not? I'm confused.

MR. CORDISCO: You have to, you don't have the discretion with the Pennings because it was an unlisted action, that's the--

MR. BRODMERKEL: I understand we have to ask, we don't have one, so what are you saying we can--

MR. CORDISCO: Well, I think that subject to the receipt of a long form EAF which does not show that there's any significant environmental impact, I know--

MR. BRODMERKEL: That's a verbose document.

MR. CORDISCO: Long form EAF, yes, it is, but I think because of the nature--

MR. BRODMERKEL: Why would we want to authorize things until that's put together?

MR. CORDISCO: It's up to you.

MR. BRODMERKEL: I understand that but I'm just, it's a simple question that document takes time to prepare, takes a lot of effort to prepare, it's not going to be here next week.

MR. CORDISCO: Well, I would agree except for the fact since this is a lot line change almost every single question will be checked off as not applicable.

MR. BRODMERKEL: So it would be a very short long form?

MR. CORDISCO: Exactly.

MR. KLOSKY: I don't believe there will be any significant changes in information between the current short form we have in hand and the long form other than the long form is required under the law.

MR. CORDISCO: There's going to be a lot of blank spaces.

MS. DOTSON: Jsut procedural.

MR. NOVESKY: We have two issues, one, do we want to waive the public hearing?

MR. KLOSKY: So moved.

MR. GOLD: Second it.

MR. GRABE: Let's discuss that because I know Lorraine Bennett, I don't know if she'd want exposure without a public hearing.

MR. VINSON: She asked for it.

MR. NOVESKY: She has a letter request that she requested a waiver of the public hearing, I do have a letter that's from Lorraine Bennett asking for us to consider, it says to members and consultants. I'm requesting that public hearing not be required on the lot line change. This change involves property owned by me and is internal to the land I hold. Thanks for your consideration. Lorraine Bennett. So I do have a letter that she's personally asking for a waiver of the

public hearing.

MR. HAZIRJIAN: There's a line on this map, I don't quite understand it's within 2.3 feet of the driveway that's a different section and block number I think.

MS. DOTSON: Oh, actually a third parcel that's next to that, it's not involved in this, you're talking about the driveway, the gravel driveway that actually goes on to the next lot lot 14, that's somewhat odd, I mean, it's certainly an existing encroachment of the driveway but it's owned by the same person.

MR. HAZIRJIAN: That's a non-conforming lot?

MS. DOTSON: Yes, all of these lots are currently non-conforming, all three of them.

MR. BRODMERKEL: Will they remain non-conforming?

MS. DOTSON: Yes, that's why they had to go for the variances to do even what they're proposing which overall makes these two lots better.

MR. HAZIRJIAN: Is that the, is that line going away?

MS. DOTSON: No.

MR. HAZIRJIAN: So we end up with another non-conforming, we still have another non-conforming lot.

MS. DOTSON: No, that lot does not change, it still is what it is.

MR. NOVESKY: But we have two non-conforming lots.

MS. DOTSON: We have three.

MR. BRODMERKEL: We still have three?

MS. DOTSON: You still have three but you have two of which three that are actually the subject of this application are better than they were.

MR. NOVESKY: So why is she doing this?

MRS. DEANS: She wants to give more land to the stone house, the historic house she thinks it would enhance that because there's so much property between.

MR. HAZIRJIAN: Well at the same time can this other lot line go away?

MR. NOVESKY: Does that mean there's an existing building? Mr. DeKay, would you like to explain this to us?

MR. DEKAY: I'm here to represent Mrs. Bennett, if I can answer any questions.

MR. NOVESKY: Mr. Hazirjian had a question.

MR. HAZIRJIAN: This lot here that seems to cut through her driveway or her turnaround?

MR. MC GOEY: That's a separate parcel.

MR. HAZIRJIAN: That's a non-conforming parcel, it's real narrow but I guess the question is this is being shifted this way?

MR. DEKAY: Right, she wants to protect the stone house, she owns both of these and she just wants to add a little bit of footage on here about 25 feet, see this is only 75 and this of course would go with it, it's a separate deed, that's why it's written that way, it has a separate tax map. Does that help you?

MR. HAZIRJIAN: I understand it, sure.

MR. NOVESKY: Do you have any problems with it?

MR. HAZIRJIAN: No.

MR. NOVESKY: Still have a motion on the table and a second to waive the public hearing. Anymore discussion?

ROLL CALL

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

MR. NOVESKY: So we waive the public hearing. The second issue is one that you were going to take up?

MR. KLOSKY: I think it makes sense to go forward with the lot line change allowing for the minor technical details which need to be mopped up, the location of the septic system, the planning board--

MR. EDSALL: Perhaps we can.

MR. DEKAY: I can tell you about that.

MR. NOVESKY: Mr. Edsall?

MR. EDSALL: Dick, are we clear that with the line moved there's no compliance problem with the septic?

MR. DEKAY: That's right.

MR. EDSALL: So could you show on the final plan that the existing systems are ten foot from the new line?

MR. DEKAY: That's no problem.

MR. EDSALL: I just need to have that on the final plan.

MR. KLOSKY: The second issue is that we need to get final approval from County Planning. My understanding is there's already some form of approval has come forward but the final approval will need to come forward within the next month or so and the applicant needs to file a long form EAF which will in no material way vary from the short form that's already been filed and meeting all those conditions, I'd like to direct the attorney to prepare resolutions which the chairman can sign on behalf of board at a future date so we don't have to see this project back again.

MR. BRODMERKEL: I'd like to second the motion.

MR. NOVESKY: Any discussion?

ROLL CALL

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

MR. DEKAY: Can I mention one thing? As you know, this went before the Zoning Board of Appeals and they approved it, they had received communication back from the county.

MR. KLOSKY: We're aware.

MR. NOVESKY: With those conditions being met, you can

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prepare a resolution?

MR. CORDISCO: Yes.

MR. NOVESKY: Thank you very much.

CHESTNUT\_WOODS\_#2003-18

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MR. NOVESKY: Chestnut Woods.

Michael Donnelly, Esq. appeared before the board for this proposal.

MR. DONNELLY: Just when you thought you were going to go home early, we're back.

MR. BRODMERKEL: We're going home early.

MR. DONNELLY: We're back to continue the processing of our site plan application. Mike Donnelly, attorney for the applicant, by the way. There are a few things we want to update you on just so we can keep moving forward. First, we received our variances at the zoning board meeting last month, we needed a height variance, a story variance and a setback variance for sidewalks and dumpsters that were on the Knox Village side of the project and all of those variances were granted to us. We now want to update the changes we've made to the plans and Jim DeWinter will show you that in a moment. But one of the things we have done is removed one of the buildings. If you remember, we have all been seeking, both the board and the applicant, a way to make sure this project has enough parking to serve those who would live there. With the clear indication that the affordable housing component is not likely to be enacted into the ordinance any time soon that lowered the number of units and for economics and design we have decided to remove one of the buildings from the project. By doing that, we redistribute the parking increase, the parking ratio to over 1.7 places per unit which is significantly more than what's required and we think a better mix than I think your consultant team is likely to agree with that as well. Secondly, we want to show you the progress we've made on the commercial portion of the project which has been only two dimensional and schematic before this evening

and we want to show you the architectural presentation that we have on that and before I turn quickly to the engineer, the architect and the planned landscape architect, just to give you a quick update I want to cover a few other issues. Firstly, the plans are clearly incomplete and we're not asking for site plan approval tonight. We do recognize however that under your ordinance there's a period within which you must act following the closing of the public hearing and that's 45 days. And while it was arguably stayed while we were at the ZBA, we're back now and we think it's appropriate that we extend or waive that deadline because we're not looking to have you turn us down because our engineering isn't complete. So we announce this evening with formality and if you wish follow it up with a letter that we waive that 45 day deadline. We would like to reserve the right to insist upon action on the project on 62 days notice, if at some point in the future we think that it is ready for that so that the legitimate reasons why there should be some deadline come back into play, I don't think it's likely, I'd need to write a letter and I'm giving you 62 days because it's more in keeping with the changes to the state law, it also permits two meetings and that type of thing. Next, we also recognize that if we received our site plan approval you have 180 day expiration period for that approval and we have a number of other agency approvals depending upon which water source we use that could mean a water main extension so we're not at this point asking for site plan approval in any event. We would like any of those agencies and when our application is complete we have worked out the engineering details, if any of those agencies insist upon seeing an approval from this board before we can get their approvals, like the health department or the DEC would be likely to insist upon that with the water main or sewer main extension, we'd ask at that point that we receive a conditional approval, assuming of course that everything else is in order. Lastly, I have discussed things briefly with

Leslie and with Dominic beforehand and I know there's an issue that Leslie has raised regarding section of our property that borders Gym Kids where some years back there was a strip of land that was marked reserved for a future road, I think we might of talked about this way back at the beginning and we may even have offered it as a potential emergency accessway in addition to the boulevard that we have at the front. Leslie suggested that that be removed at this time and we have no objection to doing that, it's really only marked on the earliest set of the plans, I believe we would just like to make sure if we remove that and we don't provide for that that the issue of alternative emergency access has been resolved, I think we've talked to the emergency service organizations, we've made every effort to obtain other access points, we couldn't, we provided a boulevard entrance instead, so I think it's really an issue that's come to an end but we'd certainly remove that note if it even exists on the current plans.

MS. DOTSON: On some sheets it shows--

MR. DONNELLY: We just don't want to do that and face later on some need for emergency access, we don't need to decide that issue tonight. I just wanted to put it on the table. I'd like to ask Jim DeWinter to show you what we have done in terms of the plans and quickly show you our architectural and updated landscaped plans, particularly for the common area then answer any of your questions. Jim DeWinter.

MR. DEWINTER: Jim DeWinter, good evening. Just so that in your residential portion as Mike had mentioned we removed building one, we did not renumber the buildings so as not to have a confusion at this point on which building is which but we removed building one and we created additional parking that could be used either as for visitors and we have also added a gazebo at the end so there might be an area that the residents

can go and spend some time, more of a parkland area. That's what we did in the residential section. In the commercial section, the architect will be coming up and show you some renderings of the commercial sites, we have retail building which has been shifted forward still within all the setbacks and everything. What we have done instead of having four aisles of parking in the front as we had in the previous we took two aisles in the front and two aisles in the back and made it a loop with a drive-thru possibly like a bank.

MR. NOVESKY: Is that different?

MR. KLOSKY: Do we have that plan?

MR. DEWINTER: You don't have that, you're looking right there you're looking at the landscape, they just recently have looked at, if you look at your--

MR. KLOSKY: So you wish to shift the retail building towards the street?

MR. DEWINTER: That's right and two aisles of parking and put it to the back of the building rather than the front of the building and---

MR. NOVESKY: Don't have that.

MR. DEWINTER: No, this is just recently in the last couple weeks because they have done some architectural which you'll see.

MR. NOVESKY: Okay.

MR. DEWINTER: Also the clubhouse has taken on a little bit different shape and they're working on that. The gatehouse we have put an aisle in the middle of the access so that the gatehouse is actually in the middle of the access, we'll have one way on one side, one way on the other, that way they have control of the gate

easier and we have added a couple parking spaces there so people can pull off if they're waiting to get approval to go in. With that, I'll turn it over to--

MR. NOVESKY: What's that beneath the gatehouse?

MR. DEWINTER: That's tennis courts, that hasn't changed.

MR. DONNELLY: I just wanted to add one of the variances we asked for from the zoning board in the residential section was two dumpsters that were closer to that property line than 25 feet. Leslie points out and I think correctly that there are two dumpster areas here in the commercial section that are closer than 25 feet than to this lot line, we can, we did not present that to the zoning board, I'd like to tell you that we knew that we were not presenting it on purpose, we simply didn't pay much attention to it. I will point out it's in the HC Zone, not in the senior housing area section and we have, we're going to have to doublecheck the setback, the variance does not include these, if we need to, we'll move them back. We're just going to need to check what that dimension is, all right. Architecture, first I guess.

MR. SALPEPPI: I'm Mario Salpeppi from Coppola Associates. What I've got for you tonight is I'll hand out three small copies so you guys can pass them around and look at them closely, what I've got for you tonight is the other three buildings besides the residential buildings which have not been presented to date. Starting with the retail building fronting on the roadway which we just mentioned the recent revision we've made based on the depth of the building we cut the building down the middle and we're facing retail to the front and the rear of the building as it faces the road so now what we have is parking on each side of the building and 12 retail spaces.

MR. KLOSKY: Is any of the retail intended for the second floor?

MR. SALPEPPI: It's a one story building wood frame, no second floor intended at this time. Our footprint at this time is 12,887 square feet. The elevation of the building in keeping with the, it matches all the residential buildings which you have seen so far, finishes, colors, residential type of style, it happens to be a very large roof but it's just a one story retail building. The next building as you enter is the gatehouse a little bit smaller, approximately less than 300 square feet just a very small building which matches once again the textures and finishes of the rest of the site. The clubhouse which is accessory to the retail uses for the people who live here obviously 6,914 square feet is our current footprint, we have a lane pool sort of indoor pool area there, an outdoor patio, a combination of gym, exercise studio, community room, basically a multi-use room, lounge and other accessory spaces, restrooms, offices, that type of space. Once again, this is one story wood frame as are all of the buildings on the site and as you can see it's got the same finishes and styles as the rest of the buildings.

MR. DONNELLY: Frank McCue then.

MR. NOVESKY: Excuse me, does anybody have any question on architectural? Let's finish.

MR. MC CUE: Good evening, Frank McCue, landscape architect out of Washingtonville, New York just kind of give you a recap on how the landscaping is going to work on this project. Start with the impact, what I did in back what you see dark green the wetlands in the front and in the rear where that steep slope is actually the plans that I'm showing you are the exact same plans that I'm looking at.

MR. NOVESKY: But not with building number one becomes nonexistent.

MR. MC CUE: These plans are the same as the ones you're looking at, I have not updated the landscape plan on the front portion.

MR. DONNELLY: The style of landscaping won't change even though this design is not up to change.

MR. MC CUE: It does not have building one, I'm sorry, it is the same one as the 11 x 17. In terms of the commercial property, I said that that has not been updated in terms of the landscape plan, however, it is not, it's more of a foundation plan, we'll try to continue with the year round interest type of seasonal plants that will work best, salt tolerant, those kinds of things. In terms of overall project itself, what I did that you would see in the dark green is areas that will not be disturbed, areas in the lighter green are areas that will be disturbed. The major concerns that we have had since the beginning are the site impacts, visual impacts from the from off-site and on Jacqueline Avenue we'll have the evergreens, we'll have white pines and some spruces which is mixed in planting them a little closer than I normally would so gratification is a little quicker in coming, we're actually spec'ing a little larger trees than we normally would as well. In terms of building 7, we have, we're doing the same sort of treatment, we have the evergreens along the back there, we're not touching that wall, in fact, most of the other greens will be on the south side of that wall.

MR. BRODMERKEL: Can you point out the wall?

MR. MC CUE: Lines right along in here it's on your plan actually extends all the way out into that green area existing stone wall and what we wanted to do was utilize that wall.

MR. BRODMERKEL: From our vantage point the wall on the left side of the trees?

MR. MC CUE: Yes, on the left side of the trees. What we're also doing there we're actually putting in a chain link fence, the idea is a black vinyl clad, the idea being since it's a fairly steep slope and the wall is only a couple feet high we put in the 4 foot fence to ensure for safety reasons and eventually the evergreens will grow so fast you won't even notice that fence. We have the 26 feet in between the house or between building 7 and that wall than was asked for by the fire department to provide safe access in that regard so we have accomplished that. We're using evergreens not just as screening but also using as around the foundations of the buildings, sort of a backdrop so they highlight the specimen plants, whether they be shrubs or trees in the foreground so we're utilizing the best design methods that are available. We have a multitude of plants that you can see in the plant list, again, they'll provide year round interest no matter when you're out there, hopefully it will be something nice to see. The plants will also have a year warranty so once they're installed if anything were to happen within that year the contractor who put them in will be required to go back and transplant a new one. In terms of the lighting plan what we did on that was to ensure the less amount of lighting impact to the people on Jacqueline, we have the lighting along the roadway but not as you pass into the residential area there are no lights along this road so as to not provide, so as to not provide ambient lighting onto other people's property, it will be where the parking lot is and does provide a night candle which is what's asked for and we have that throughout the whole site. As we get, move up again back to the retail spot that's when I will come back to you but the thought of our team is that there will, at a work session we'll get some more input from you then after we get that input

then I'll change the front part of that plan to incorporate those changes, really the back side of the plan is the page 2 of the landscape plan that's before you, it doesn't, I don't foresee any changes in that unless there's something that hasn't been brought up in the past. Thank you. If there's any questions?

MR. BRODMERKEL: I think the basic question that several of us has is building 7 has it been moved in any way, shape or form from the last presentation that we received?

MR. MC CUE: It has not but it has been moved in the past.

MR. DONNELLY: Not since the last time.

MR. DEWINTER: Not since the last time you saw it.

MR. MC CUE: The thing about building 7 and I believe we brought this up, I know we did to the Zoning Board, you're talking about a couple close to 200 feet of change in elevation and when you're on that path at the bottom looking up not only are you going to be looking through what's existing vegetation but we have the screening there as well at the apex of this hill of the slope and the certain walls whether you'd be able to see that building at least foundation of the building and not only are we making, putting a veneer on that concrete portion of the foundation I think it would be really difficult to see that, I mean, it's a great distance and it's a pretty good slope that's not being changed and on top of that we have evergreens there too so I don't think a visual impact at the base of that slope is likely.

MR. HAZIRJIAN: When was the last time you were there on that site?

MR. MC CUE: On that site about two months ago.

MR. HAZIRJIAN: Have you been there since the heavy rains?

MR. MC CUE: Yes, I mean, I live on the Moodna myself.

MR. HAZIRJIAN: Two weeks ago?

MR. MC CUE: No.

MR. HAZIRJIAN: If you're going to not disturb this dark green area, how do you put those trees there?

MR. MC CUE: We're going to disturb the area up until where that existing wall is so there's an area that we'll be disturbing but the vast area at least in this drawing all that dark green that's not areas that will not be disturbed.

MR. HAZIRJIAN: Then I have a different drawing because my plants are in the dark green.

MR. MC CUE: This is our planting.

MR. HAZIRJIAN: So you're planting in the undisturbed area?

MR. MC CUE: Well, we're--

MR. HAZIRJIAN: On the slope?

MR. MC CUE: Yeah, that actually should be lighter.

MR. HAZIRJIAN: I don't know how you're going to stabilize trees on a slope that steep.

MR. MC CUE: Actually, it's done pretty often, mountains have--

MR. HAZIRJIAN: My question would be that they wouldn't

last a season that we just had, I don't know what you do to stabilize them but that would be a concern.

MR. MC CUE: Well, there's certainly techniques.

MR. HAZIRJIAN: I don't know if a year's worth of maintenance is enough to work with a storm like we just had, half the trees would be compromised probably.

MR. MC CUE: Well, I mean, it's a fairly, the area just behind the building is actually fairly flat and you would actually have the stone wall working to your advantage there, it would actually just be the water that falls on the south side of the wall to those trees.

MR. HAZIRJIAN: Stone walls typically carry water, don't they?

MR. MC CUE: Depending on the shape and the condition of them but typically, if I remember this wall correctly, they were meant to earmark, were typically done by farmers meant to earmark or demark where areas were more prone and less prone, so my thinking would be since you have that wall there it's really going to be the water that falls on the south side of that wall would be impacting.

MR. HAZIRJIAN: I think that single line of trees is a lot easier to see rather than a staggered line of trees both here and along this road.

MR. MC CUE: Typically, I like to stagger trees, however, it was also a question of how far down that slope do we want to, I wanted to minimize the impact of that slope, so if I stagger them I'd have to push further back in, disturb more land so my thought was try to keep it to a more linear form.

MR. DONNELLY: Can I address two things? I'll play

engineer for a moment. You may remember one of the things we did was capture most of the drainage coming this way and taking it to the storm water management so there's very little of the rain that falls in on the site that's going down this slope, I suspect, and I will ask Jim in a moment, probably less than currently exists, Frank was talking about the nurseryman's guarantee, the one year, if you think that maintenance security of some longer duration is appropriate we'd certainly be willing to discuss that. This is as you know rental housing, the developer's going to be here around, we're not going anywhere, we want to see those preserved so I'm sure we can work something out in that regard.

MR. HAZIRJIAN: Is this entire area connected by sidewalk and crosswalk?

MR. MC CUE: The entire area internally is connected.

MR. HAZIRJIAN: That will then lead to the--

MR. DEWINTER: There's a sidewalk that runs all the way to Route 32.

MR. HAZIRJIAN: So internally they can cross the street somewhere get on a sidewalk?

MR. MC CUE: Absolutely, that was a condition.

MR. KLOSKY: I guess our current plan doesn't show good pedestrian flow from the sidewalk side to the retail area.

MR. NOVESKY: That's the pink area.

MR. MC CUE: We can put crosswalks plus the one that you're looking at is not the most current one.

MR. NOVESKY: But the hint of pink constitutes a

sidewalk.

MR. DONNELLY: That's correct, Frank doesn't like to work in anything other than green so he found an old marker.

MR. NOVESKY: Was I correct a while ago you mentioned there was going to be a walk to Hannaford's?

MR. DEWINTER: I believe at one time there was talk as long as DOT allowed us to do along the front of our property or where the improvement was going to be that we would put a walk there that would be of course that's DOT.

MR. NOVESKY: It was conditioned on DOT, okay, anybody else have any questions?

MR. KLOSKY: I do. I guess that one of the issues that we face in some of the retail areas is these sorts of plantings which are excellent for screening the retail from the street are also to an extent screening the motorists from seeing left to right up and down the roadway so I'm concerned about these. I guess you're showing some deciduous trees marked right along the front right along Route 32 and I'd be particularly concerned about people making a left turn out of Gym Kids as they try to look up 32 there's always this temptation for the second car in the line to give it a try and I don't think they would be able to see anything.

MR. BRODMERKEL: There will be a widening of the road there.

MR. KLOSKY: Right, there's some lane improvements going on there at the same time, I understand that but I just wondered whether I just ask at the work session for you to take a very careful look at site plans.

MR. EDSALL: When we get a fully coordinated set of plans I'll look at that.

MR. KLOSKY: Out in front of Key Food, that Key Food right turn I look to the left and that's what I see is bushes.

MR. EDSALL: That's what you call maintenance problem which Gary reminds them on a weekly basis.

MS. DOTSON: Show adjoining developments.

MR. EDSALL: Check impacts on the site plans.

MR. KLOSKY: Yes, please. Additionally, this area is exceptionally prone to deer, the deer browsing through there is nothing short of intense and for instance my hemlock trees are supposed to be somewhat deer resistant, they have in the last two seasons they're not resistant so how are you planning on defending the existing screening from deer?

MR. MC CUE: I agree there's deer resistant and there's deer that are willing to eat anything when hungry, I haven't found anything that's foolproof but what we're doing as you can see on the second sheet is when we have certain evergreens that are prone to be eaten than others. I'm utilizing certain plants like forsythia and viburnums in the front, sort of circling around the evergreens because they don't like those and in order to reach over them to eat it's a little bit more of a struggle. So we have found that it's been effective in the past so they'll move on to something else so that was really my, that's what you'll see in here.

MR. KLOSKY: The particular line of trees that I'm concerned about is the same one as the rest of the board and that is this line of the trees next to the stone wall that faces the visual impact that we're trying to create along the future Moodna Creek path.

MR. MC CUE: I have it in the front of those in the front of the wall I have these shrubs that I am referring to, I didn't do it in the back, forsythia, those work pretty well in that they don't like 'em, even if they were to get into them in the early stages of development, they'll grow out and even if they did eat them it's hidden by those shrubs. The other thing we've done is considered putting them on the south side there but it was like that same question again did I want to disturb further along that slope on the south side and my thought was not to do it, I mean, I can but at the same time it's somewhere, this is all existing plantings here and how many people are going to be walking there versus looking up and is that really going to affect the view so of time and money I can do it, just one of the things where I thought best not to disturb more.

MR. DONNELLY: Frank, on the back side did we put a black vinyl fine mesh fence, like a deer fence with a few posts cause they're almost invisible to keep the deer away?

MR. MC CUE: You'll have a wall, you're going to have a chain link fence and this fence.

MR. KLOSKY: I guess in the interest of not going into a deep technical discussion on exactly how much and how what the deer will eat, Leslie kind of work with them on working towards how best to both provide the right screening and defend that screening from deer browsing cause I know it will be an issue back there, arborvitae, hemlock, all these typical species are highly prone to deer browsing.

MS. DOTSON: They do mention white spruce and I didn't think those were as open cause it's like--

MR. KLOSKY: Just in the last two years I've seen some

trees being eaten around the village that in the past ten years ago they never would have touched so--

MR. HAZIRJIAN: If we're going to try and keep that from being a visual impact then something in the maintenance agreement has to be longstanding.

MR. DONNELLY: We'll try to get back to you with a proposal.

MS. DOTSON: Also invoke the assistance of the tree warden which I believe that's in the findings, that's something that we were intending to do, she's very cooperative I know.

MR. NOVESKY: Very good. Any other questions?

MR. KLOSKY: The sequencing of the retail, the clubhouse and the residential, what's the developer's intent in terms of when the various structures will be completed? And I don't believe that's in our findings anywhere.

MS. DOTSON: No.

MR. KLOSKY: So clearly we'd like the clubhouse to be functional before residents begin occupying.

MR. DONNELLY: I'll ask Dave Haber to comment on the retail because I don't know where those discussions stand, it seems to me that the clubhouse because we have represented it's an amenity that's part of the project and I don't know what the appropriate time is and I think we should talk about it should be completed at some percentage of the units being completed. In other words, often planning boards say in a condo project that something like that not, that this is a condo project, that before the, if there's 100 units before the 60th C.O. or 50th C.O. was issued the clubhouse shall be constructed and operating. There's

something unfair about fitting it out completely when you only have ten tenants in the building and it's a lot easier when you start having tenants and revenue to complete that work. I think you should give some thought as to where that is in the sequence.

MR. BRODMERKEL: I think it might include both percentage of occupation and time to be fair to the tenants that move in if you don't sell them you still made a promise to them.

MR. HAZIRJIAN: Strictly rentals?

MR. DONNELLY: Yes, that's the proposal. Yes, Dave, do you have any idea where you stand in terms of the retail tenants?

MR. HABER: Too early to say, we're certainly going to market the ideal type of tenant for the project, deli, medical center, we're going to make sure we have the--

MR. DONNELLY: Liquor store?

MR. HABER: --proper tenants lined up.

MR. BRODMERKEL: Quick observation, a thousand square foot retail space, I don't know how you're going to get in there.

MR. DONNELLY: I think they can be divided up into other--

MR. SALPEPPI: What we're proposing is the 12 spaces 11, 1,200 square feet, we've been doing many recently that have gotten even smaller but these spaces could be combined or shifted in. Anyway, at this point, we're showing 12 spaces but they could be shifted.

MR. BRODMERKEL: Are you asking for a drive-thru?

MR. SALPEPPI: Yes, at one end we're showing drive-thru.

MR. DONNELLY: I suspect if a bank and pharmacy which would be two of the types of tenants both of them would want multiple thousand foot segments so I think it's unlikely that there will be 12 individual ones, I think the market will determine who and what and what sizes we need.

MR. KLOSKY: Mark, would there be any special concerns attached with if that drive-thru were to be associated with say a fast food restaurant because I'm already concerned about traffic movements in and out of this, I mean, the number of movements in and out is already a concern given where it's located on 32.

MR. EDSALL: Once I have a set of plans to show it since I haven't seen it yet I'll start looking at the cuing and traffic movements, we really don't have a complete application so I won't comment until we have it. Yes, this is a consideration.

MR. KLOSKY: So the final traffic study will have to consider one or more of the places might be used for fast food?

MR. EDSALL: I don't know that I'd call it a study but the evaluation internally of movements would take into account worst case for drive-thru.

MR. DONNELLY: Either that or we'd have to limit it to a bank with the drive-thru.

MR. EDSALL: Yes, that's a consideration.

MR. KLOSKY: I'm just seeing with the way the building's laid out I don't think there's currently anything in the zoning which forbids Subway on one end and McDonald's on the other or Burger King on the

other, is there?

MR. EDSALL: No.

MR. BRODMERKEL: It's not going to work here, Led, if it hasn't worked in town.

MR. DONNELLY: But the concern is real and fair and I think we should have to address that.

MR. HAZIRJIAN: This retail building it's a lot of roof, I mean, this is all hat and no cattle, it's more roof than retail, I don't know whether there's a way you can figure out how to do it, there's a development like this north on 32 that's got the same kind of hat, 20 gallon hat on a 20 pound kid, it's a massive structure for not a whole lot of retail. I know you're trying to cover a lot of footage but man, you've got to break up the roof somehow, it's huge.

MR. SALPEPPI: It's a three piece truss at least.

MR. HAZIRJIAN: I bet you'd love to rent just that air space.

MR. SALPEPPI: In keeping with the rest of the site hip roofs, shingled roofs.

MR. HAZIRJIAN: How about dividing it up so it appears to be not one building?

MR. SALPEPPI: We can look at something.

MR. HAZIRJIAN: It's very, you know, the one up on 32, you saw that roof.

MR. KLOSKY: When you climb Storm King and look back north again this project that's adjacent to this one is quite visible and this one will be as well so the bigger the roof is the worse that impact is going to be

in terms of the viewshed impact from trails that are used in the community. I'm with Deke.

MR. HAZIRJIAN: May also save you some money, I mean, you could spend more on the roof than the rest of the building. I also, I mean, I applaud you getting rid of building one but you got rid of the wrong building. If there's a way to shift this thing off of that ridge line which is great, you got rid of one and it's really made the site work but you guys got to make something to try and push it off the ridge. I know you're working on it and we're giving as many suggestions as you can to try and streamline your process, that's one of my suggestions.

MR. DONNELLY: Let me try to answer in two ways. One, we removed a building to try to fix the proximity of parking and the ratio of parking to existing buildings, removing building 7 would not have achieved that. We'll certainly continue to try to find ways to mitigate or buffer that visual impact to the extent that it exists. But in terms of location, I think we have done every wiggle and waggle and relocation of other things that's possible to make that fit and recognize it's hundreds and hundreds and hundreds of feet away from anything and though it's at the top of a slope it's a heavily wooded slope and we're adding plantings to it.

MR. HAZIRJIAN: Well, I ask, I'm sure we'll get a chance to look at that slope after the last rain and see what kind of conditions we're dealing with, I'm sure engineering will report back to us as well as doing a visual on it.

MR. GOLD: I'd just like to point out that the one thing that it's not hundreds and hundreds and hundreds of feet away from is the edge of the top of that slope that we're so concerned about.

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MR. DONNELLY: Yes.

MR. NOVESKY: Any other questions or comments? Thank you.

MR. DONNELLY: We appreciate it. We would like to come to a work session from a technical point of view and Chris will be back for further iterations of the plans but just wanted to bring the update. Thank you for your attention and comments. You'll certainly help us design the project.

DISCUSSION

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MR. NOVESKY: We have one further thing on the agenda, I was going to ask for a vote by the board to direct Mr. Brodmerkel to plead for the implementation of sidewalks and encourage pedestrian traffic in the area of town, we're going to ask, I'm asking for a vote of endorsement for more or less to direct Mr. Brodmerkel or authorize Mr. Brodmerkel to attend the Town Board meeting to plead the case of implementing a sidewalk plan for urging pedestrian traffic for certain areas in town. Any discussion?

MR. KLOSKY: I'd love the idea of more pedestrian traffic in and round that area, anything we can do will give the downtown area--

MR. HAZIRJIAN: I've had the occasion to walk from the hospital to Quaker Avenue and have found that sidewalk ending nowhere.

MR. NOVESKY: It was not consistent with what was originally proposed. All in favor?

ROLL CALL

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

MR. EDSALL: I'm just suggesting that the next time you're pressured into accepting off-site improvements ask for design plans because or layout plans because the irregularities in the sidewalk relative to the hospital were such that we had no plans to refer to so we should remember that any time we have off-site

improvements such as Woody's we have as a condition give us plans, I think we should make sure even when you're pressured by other applicants that you get off-site improvement plans, that way the sidewalk to nowhere would go somewhere.

MR. NOVESKY: Great suggestion. Motion to adjourn?

MR. HAZIRJIAN: So moved.

MR. GOLD: Second it.

ROLL CALL

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

Respectfully Submitted by:

Frances Roth  
Stenographer