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TOWN OF CORNWALL

PLANNING BOARD

MARCH 1, 2010

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

ALSO PRESENT: DOMINIC CORDISCO, ESQ.  
PLANNING BOARD ATTORNEY

MARK EDSALL, P.E.  
PLANNING BOARD ENGINEER

LESLIE DOTSON  
PLANNING BOARD CONSULTANT

ABSENT: KENNETH BRODMERKEL

GARY VINSON  
BUILDING INSPECTOR

REGULAR\_MEETING

MR. NOVESKY: I'd like to call to order the March 1, 2010 meeting of the Cornwall Planning Board. Kenn Brodmerkel advises us that he's drinking tequila in Mexico, he's testing, he gave me have a whole dissertation on the fine tequila shops exclusively, they have tastings and we're very proud of him, hope it gets into the minutes.

CORRESPONDENCE

LOEB\_TO\_PLANNING\_BOARD\_-\_LOCAL\_LAW\_-\_TURBINES

MR. NOVESKY: We have four pieces of correspondence which we briefly discussed prior to the meeting, we discussed this at the last meeting that this relates to the turbine generator local law. Anyone have any questions or issues on it? Just as a recommendation, we might have Dominic we want to authorize you to prepare our consent.

MR. CORDISCO: Just so the record is clear, this was actually before the board back in December for its review at this point and at that point, the planning board made a number of very positive suggested changes to the text of the law and recommended that to the Town Board, that the Town Board consider changing the text of the law to accommodate those suggestions. The Town Board did make those changes, they were fairly significant and required that the Town Board restart the process of considering this local law. The Town Board is having a public hearing at its meeting next Monday, Monday the 8th and has re-referred this revised revision to the planning board because you have to submit a report to the Town Board as to whether or not you think that it should be adopted into law or not. So that's the stage we're at at this point, all the board's suggested changes were included in the text and if the board is so inclined, you could authorize me to prepare a written letter report to the Town Board.

MR. NOVESKY: Motion from the board to approve, authorize Dominic to prepare the consent notice to the Town Board related to the local law on turbines?

MR. KLOSKY: So moved.

MR. GRABE: Second it.

ROLL CALL

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

BABCOCK\_(06-19)\_(CORNWALL\_COMMONS)

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MR. NOVESKY: The next one Babcock issue, Dominic, do you want to go through these three, Babcock, Ginsberg and the Lapidus?

MR. CORDISCO: Certainly. Michele Babcock from Jacobowitz and Gubits has written to the board requesting an extension of the preliminary approval for the subdivision approval that the board's previously granted to the Cornwall Commons 10 lot subdivision, that has been was actually granted several years ago and Jacobowitz and Gubits have been faithful about applying every six months for preliminary approval and as an extension of that they are timely making this request. There are no limits on the amount of extensions that the board can grant for preliminary approval and I would note that Mark Edsall and Steve Gabba from my office have been working on reviewing documents related to the Town Board formation of districts for the Cornwall Commons project so it's apparent that they're continuing to pursue their approvals and at some point will be back before the board but it would be appropriate at this time to grant their preliminary approval extension.

MR. NOVESKY: Any questions or comments? I don't have any objection. We'll take a motion to approve the six month extension, is it six months?

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MR. CORDISCO: Six month extension.

MR. GOLD: So moved.

MR. LOBLANCO: Second it.

ROLL CALL

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

MR. CORDISCO: I'll write a letter to Michele Babcock indicating that with copy of the building inspector so we all know the dates are running.

GINSBERG\_DEVELOPMENT \_\_\_\_\_

MR. NOVESKY: And next is Ginsberg Development.

MR. CORDISCO: Ginsberg Development, we have a letter from Joe, I apologize, I'm going to butcher his last name, a principle with Ginsberg, this is in connection with the Stone Hollow 29 lot subdivision, they received over a year ago conditional final approval and they have actually been pursuing very diligently fulfilling the conditions of that final approval. But with the conditional final approval, there's a maximum of 360 days that an applicant has to fulfill all the conditions and that's by state law that cannot be extended. And unfortunately, Ginsberg Development was not able to complete all of the, not able to satisfy all of the conditions prior to the expiration of 360 days and I believe that their approval actually expired in January. And as a result, they have written to the board asking the board to grant them a new conditional final approval which would restart that 360 day clock.

I believe that it would be appropriate in this circumstance because nothing has changed in terms of the zoning. There's been no physical changes out on site, the application was pending for a number of years and went through a lengthy review and was ultimately approved with appropriate conditions. This would basically step them back in time and give them another 360 days which is also appropriate in light of today's economic conditions, it would be a shame to see a project die completely as a result of the fact that they were not able to meet their state limitations in terms of time.

MR. KLOSKY: They have been vigorously pursuing those approvals?

MR. CORDISCO: They have, yes. Just so the record is clear, they actually received the plat has already been filed for the 29 lot subdivision and this is actually an amendment to that original approval, they came in and they wanted to refine and improve the storm water design and adjust some of the lot lines internally to make them a more marketable project. So that's actually what's before you is a request to reapprove that conditional final approval resolution before you.

MR. NOVESKY: To be clear, this is a reapproval for 360 days.

MR. CORDISCO: It would be a reapproval and start the new 360 day clock.

MR. NOVESKY: Anybody have any questions? Anybody have any issues? Anyone want to make a motion?

MR. LOBLANCO: I'll make the motion to grant them.

MS. BUNT: Second it.

ROLL CALL

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

LAPIDUS \_\_\_\_\_

MR. CORDISCO: Next one is a letter from Greg Shaw actually making an identical request, this is for the Peggy Lapidus subdivision application, this was the minor subdivision that was proposed for the area around Beaver Dam Lake. They have been pursuing their approvals and satisfying their conditions as well. Their approval is not yet expired, it's about to expire in March, on March 10, March 5.

MR. NOVESKY: This is a letter from Greg Shaw?

MR. CORDISCO: Correct, and they're asking for the same consideration.

MR. KLOSKY: They are vigorously pursuing?

MR. CORDISCO: Yes, and there was an arrears issue in regards to their fees and they have promptly paid them when it was brought to their attention. So they're current and have made an additional escrow deposit.

MR. KLOSKY: Move we approve.

MR. LOBLANCO: I second that.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE

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MS. BUNT	AYE
MR. GOLD	AYE
MR. NOVESKY	AYE

MR. NOVESKY: Thank you very much, Dominic, for your clear explanations of all of them.

DISCUSSION \_\_\_\_\_

CANTERBURY\_GREEN \_\_\_\_\_

MR. NOVESKY: First we have a discussion and Led, we had a brief discussion you wanted to put into the record.

MR. KLOSKY: My only question was that Canterbury Green has been at about a 50% completion for some time, at least to the casual eye driving by. Without going into the interior, you can't tell completely. But I'm curious about our attorney's opinion in terms of granting Certificate of Occupancy for a partially completed project and, you know, what that would entail in terms of completing all the site improvements prior to issuing any C.O. It would seem to me that we need to be sure that all viewshed impacts, especially with the adjacent historic structure that all of that is taken care of prior to the issuing of any C.O.s otherwise the C.O. might be issued and the owner might occupy the site without completing the site improvements.

MR. NOVESKY: Very good question.

MR. KLOSKY: Just looking for the attorney to provide some guidance to our Planning Department to Gary Vinson specifically as to how to proceed.

MR. NOVESKY: Your question is do all the buildings have, both buildings have to be completed?

MR. KLOSKY: If one of the two structures were completed that all of the site improvements especially the viewshed mitigation would have to be completed before any C.O. was issued, there's some fine points of law that I would ask Dominic to look into cause I certainly don't want to impair the developer to the point where they can't proceed.

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MR. CORDISCO: That application actually precedes my tenure on the board but it's a very good question and what I would like to do is take the time to review the file and see what conditions were placed on the approval and on the site plan and then report back to the board at next month's meeting.

MR. NOVESKY: Satisfied?

MR. KLOSKY: I am.

MR. NOVESKY: Very good, thank you, Dominic.

APPROVAL\_OF\_MINUTES\_DATED\_2/1/10

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MR. NOVESKY: Okay, with no old business, we have the approval of the minutes. Everybody receive the minutes that were so prepared by Fran? Any questions on the minutes?

MR. LOBLANCO: Make a motion we accept.

MR. GOLD: Second it.

ROLL CALL

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

MR. NOVESKY: Resolutions, we do have two resolutions which we'll discuss at the public hearing, they relate to the issues at hand. So we can't really discuss them until we've had public input.

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PUBLIC\_HEARINGS: \_\_\_\_\_

SUBDIVISION\_LANDS\_OF\_TED\_BUHL\_#2010-02 \_\_\_\_\_

MR. NOVESKY: At 6:74, we're looking to open up the public hearing on subdivision lands of Ted Buhl. Sir, you can make the overview, I'll ask you to step forward in a moment.

MR. AXELROD: If I may, my name is Alan Axelrod, attorney with Larkin, Axelrod, Ingrassia & Tetenbaum and we're the attorneys for the applicants. I have, Mr. Vinson, I was away but Mr. Vinson told my office you need one additional map to bring it tonight.

MR. CORDISCO: We'll take it.

MR. AXELROD: We also have the--

MR. NOVESKY: Excuse me. Dominic, do we need Mark down here for this particular discussion?

MR. CORDISCO: No, I don't believe so.

MR. AXELROD: --Affidavit of Publication and the Affidavit of Service that we sent out 14 certified letters, we got back 13, the only one we didn't get was from the Church of God.

MR. CORDISCO: Must be busy.

MR. AXELROD: I think we've discussed this application at the last meeting, if you want me to go over it, I can.

MR. NOVESKY: Go over it very briefly.

MR. AXELROD: Basically, my clients, Douglas and Monica Johnson own property at 26 Anthony Avenue. They bought the property in 2001, nothing came up under contract,

just before the closing, the title company brought forth that there was a note on the map that two lots in this four lot subdivision were to have their access only on Holloran rather than Anthony. My clients when they bought the property their driveway is on Anthony, they own lot number 3 in this application and as a result of that, that transaction fell. They have a new purchaser, we just sent contracts out, but it's subject to this. We have a letter from the Highway Department, Mr. Conley, that basically it wouldn't be, even though it's on a private road but Holloran, my client's property is partly on a designated wetlands and to put a driveway there would make no sense, it appears that according to the prior owner who bought in 1986 she indicated to me that the driveway was always on Anthony, never from Holloran, even though there was a survey that showed differently. So I can't explain it, neither could she but she said from the time she and her ex-husband built the house in 1986 the driveway was always on Anthony. My client has no way of knowing that, verifying that cause they only bought the house in 2001 but that's where the driveway was when they bought it. And the other one issue that came out is that cause it's a private road you can only have six driveways with this property there, Mr. Vinson verified there's only four so there's still room for two more cause on lot 4 which is combined with another lot is not built out yet but they could put a driveway on there. So this would not in any way impede that.

(Whereupon, Mr. Edsall entered the room.)

MR. AXELROD: That's basically the situation. They're only looking to have the note removed or changed with regard to lot number 3 so that they can have the driveway where it's been since they bought the property and according to Mrs. Cowells where it's always been since 1986 when the house was built.

MR. NOVESKY: Thank you very much. Okay, any member of

the public wishing to come forward? Please state your name and where you live.

MR. ROSSI: Thank you, Mr. Chairman, good evening, Achilles Rossi, I live at 41 Clintonwood Drive in New Windsor. I am the nephew and spokesperson for Serio Martinisi who owns property on Anthony Avenue, specifically he owns lot 4. I'm not an attorney, I'm going to read the gist of our conversation with him. Mr. Martinisi does not have an issue with the Johnson's request to amend note 11 of the plan of subdivision lands of Ted Buhl to allow Johnson's lot number 3 to gain access to Anthony Avenue. However, Mr. Martinisi requests that his lot number 4 on the same subdivision map also be included in the revised new note to allow access to Anthony Avenue with the driveway off lot 4, he wants to make sure that's put in the plans so that he does not have any kind of contention sometime in the future. Mr. Martinisi currently has and always has contributed to a road maintenance fund. Additionally, he agrees with the Planning Board's suggestions from a recent workshop session with Mr. Axelrod that a road maintenance agreement in recordable form be filed in the Orange County Clerk's Office. The agreement must include all homeowners on Anthony Avenue and other homeowners that use Anthony Avenue to gain access to both Giovani and DiMiceli Street as part of the amendment request, Mr. Martinisi also requests that Mr. Johnson drawing up and consummating the maintenance agreement in recordable form for filing in the Orange County Clerk's Office, I have available for the board and Mr. Axelrod Mr. Martinisi's signed statement in his own words the he signed it in my presence. I'm a notary. Mr. Martinisi's sitting right there, would you like these?

MR. NOVESKY: Yes, please.

MR. ROSSI: Any questions that you might want for clarification?

MR. NOVESKY: At a public hearing I'll ask for comments and we can we discuss it. Thank you. Any other member of the public wishing to make comment on this project?

MR. AXELROD: May I respond?

MR. NOVESKY: You can, yes.

MR. AXELROD: It's my understanding that lot number 4 would only have access on Anthony. It's only lots 1 and 3.

MS. DOTSON: Lot number 4 was to be combined with Martinisi which fronts on Beakes Road.

MR. AXELROD: Well so I don't, I can't address that other than the specific note on the original map only had to do with lots 1 and 3 being from Holloran so I don't see where lot 4--

MR. CORDISCO: So the relief requested didn't apply.

MR. AXELROD: Doesn't apply.

MR. CORDISCO: To lot 4.

MR. AXELROD: With regard to a road maintenance agreement, my client has no control nor should we be responsible for the expense on that. I did send a certified letter now to the other three lot owners of that four lot subdivision, I sent it out on January 22nd, I got--

MR. NOVESKY: Was the owner of lot 4 included?

MR. AXELROD: Yes, and the only response I got was from Mr. Martinisi's son called me on January 28th, I was in the office, my associate wasn't there in the afternoon and I called him back the following morning and he was,

he called back and spoke to my associate and he was leaving the country and only wanted to confirm that there would be a public hearing, that's the only thing I've heard about it. I did send a letter out to all the other three lot owners regarding road maintenance, never heard from them. At this stage, my clients live in North Carolina, they've gone through tremendous expense, they lost a transaction and the new one is considerably less than the one they lost and I don't think this road maintenance agreement is not an issue before this board or can be a condition of this.

MR. ROSSI: Mr. Chairman, the only reason that was mentioned--

MR. NOVESKY: I just want to make sure there's no other members of the public wishing to comment. Okay.

MR. ROSSI: The only reason that was mentioned it was brought up at a recent workshop meeting that the maintenance agreement should be developed so we had to address that issue.

MR. AXELROD: It's my understanding it would be brought up, it would be a good idea, I sent a letter, no response at this stage in the game. My people, by the way, Mr. Johnson had planned to be here but because of the weather situation he could not be here tonight.

MR. CORDISCO: If I can address this issue. It is true that it came up during a work session with the board, with the board's consultants and the issue is in regards to making the effort to put in recordable form a road maintenance agreement amongst all the lot owners that have access along the private drive which is Anthony Avenue, only because there was a prior road maintenance agreement that had been signed amongst the various lot owners, some of the various lot owners that had not unfortunately been recorded and without recording that's the key, it's not applicable to future

lot owners so someone comes in and they purchase a lot even though there was a road maintenance agreement that was signed by the person that sold them the lot if it's not recorded in the County Clerk's Office it doesn't apply to the future lot owners. And so in discussions at the work session, we suggested that that would be an item that could be cleaned up if possible and Mr. Axelrod took it upon himself to reach out to the other lot owners and did send that certified mailing saying is there any interest in now recording a road maintenance agreement so this issue is cleared up for the future. Obviously he reported that and I take him at his word that no one responded favorably on wanting to enter into an agreement now that then could be recorded. And it's unfortunate but I don't think that it actually could be a condition of this approval while it would be preferable to have we're not talking about making any changes on Anthony Avenue that are from what exist today, all we're talking about in terms of this application and what's being sought is to have the approval that was, dates back from the 1980s match what the actual conditions are on site now and the sole purpose of that would be to allow all purchasers of the Johnson's lot to be able to obtain title insurance so they could actually get financing so they could actually buy this lot. And that's the only thing that's being sought right now, no other physical changes are being discussed.

MR. NOVESKY: We can only consider what's being sought in the application?

MR. CORDISCO: Correct, that ties into the first request actually by Mr. Rossi was to have this particular relief that's being sought also apply to the Martinisi's lot which is lot number 4. And two issues as I see it in regards to that. First of all, I don't think lot number 4 was ever supposed to have a drive on Holloran, in fact, the note itself says that it only applies to lots number 1 and number 3, number 3 being

the Johnston lot, they're the ones that are before us. Secondly, and secondly on that particular point then if it was something that the board could consider or was appropriate to consider, the Martinisis have not applied to this board so there's no pending application for them to have this relief. The only ones that have applied before you is the Johnsons and so they're the only ones at this point the board can make relief. If there's some relief that Martinisi needs to have on the plan and I think they should discuss it and perhaps they can clarify what their thoughts are in regards to that, they're always welcome to make an application to the board and be treated in the same way that the Johnsons have been treated.

MR. NOVESKY: Did you want to direct a question?

MR. ROSSI: Yeah, the concern that the Martinisis have is that some day in the future they may want to develop that lot, it's, 400 feet of it's on Anthony and 100 feet on Beakes Road. We want to make sure because there seems to be a contention about driveways that they'll never be blocked from submitting a site plan showing the driveway coming into Anthony Road. Now if you can assure us that that's not going to be a problem or block future development of the lot we'll be happy on that score. It's an L-shaped lot with 100 feet on Beakes and 400 on Anthony Road, they'd want the driveway to go on Anthony Road because if they should put a ranch it has to be on the widest part of the property.

MS. DOTSON: There's nothing that restricts the driveway to be located in any specific place, it doesn't speak to the driveway at all, so the board can't introduce something that wasn't part of the original subdivision.

MR. ROSSI: So are you saying then when they come in with a site plan showing the driveway coming on Anthony

Avenue you do not see a problem with that?

MR. CORDISCO: Well, it would have to meet all current zoning.

MR. ROSSI: Yes, zoning, but, I mean, 400 feet on Anthony Avenue with a driveway 12 feet wide doesn't seem to be a problem, does it?

MR. CORDISCO: Correct. My understanding is that lot you only have one lot under the name Martinisi, it's not two separate lot?

MR. ROSSI: Used to be two, it's one lot.

MR. CORDISCO: If you wanted to put another house on it you'd have to come in, there's one house but if you wanted to--

MR. KLOSKY: Dominic, I have a question. It would seem to me that the current owner of lot 4 could apply for a simple building permit because the subdivision plan is already filed showing a connection?

MR. CORDISCO: No, I think what's happened is that as part of this approval, lot 4 was actually combined with the Martinisi lot so they have one L-shaped lot now.

MR. KLOSKY: That was in 1977.

MR. CORDISCO: Correct, so in order to put a second house I was just about to get to that in order to put a second house up on that back portion of the lot on Anthony.

MR. ROSSI: No, there is no house on that L-shaped lot now, they have a house on another lot that borders DiMiceli and Anthony.

MR. NOVESKY: Currently unbuilt?

MR. ROSSI: No.

MR. CORDISCO: All you need is a building permit.

MR. ROSSI: If they come in with a building permit, do you foresee a problem with them putting a driveway?

MR. CORDISCO: No, because there's no restrictions at all on the current plan that says that the driveway has to go in one location or the other.

MR. ROSSI: With regard to the maintenance agreement, I don't see that as impeding the request for changing the driveway but since it was brought up and the request is to have a maintenance agreement this is not easily done because a lot of people use Anthony Avenue to gain access to Giovani and DiMiceli Street, these are people that don't live on Anthony, the maintenance agreement has to include a lot of people in the neighborhood. Who's going to initiate some, who's going to go through the trouble and cost of developing a maintenance agreement, legalizing it, getting it recorded? It's easy to make a statement that it should be done.

MR. NOVESKY: Excuse me, this is outside of the purview of the intent of the public hearing but it seems like it's a resolvable situation so I don't think we need to belabor the point.

MR. CORDISCO: Well, as far as the first issue in regards to lifting any restrictions against lot 4, no restrictions exist so they could apply at any time for a building permit.

MR. ROSSI: We don't object to that.

MR. CORDISCO: In regards, however, to the road maintenance agreement, at the time that the approval was done in 1977, it would have been far easier to have

Ted Buhl who at that point was the owner of all of the property as a condition of that approval to create a road maintenance agreement, record it and then sell off the lots. The problem is is that once you sold off the lots now you're dealing with different people and they may or may not have an interest in going through the process of creating a road maintenance agreement. And then when you take it one step further and you include others that actually drive on Anthony but don't live on Anthony to contribute towards the cost it becomes very difficult if not impossible and all it would take for that process to fail will be for one person to say no and as a result one person says no and they hold the Johnsons hostage for technical requirement where they are not proposing to make any changes on the plan.

MR. GOLD: You referenced before notes on the plan, we only see notes 12 through 15, I assume the other notes are someplace else?

MR. CORDISCO: It's the next column over, it's counter-intuitive.

MR. GOLD: Lots 1 and 3 must only gain access to Holloran Avenue but the map shows lot 1 with access to Anthony Avenue.

MS. DOTSON: That's correct, that's reflecting existing conditions.

MR. GOLD: Does that have any impact on what we're being asked to consider?

MR. CORDISCO: No because the only applicant before you is the one that owns lot 3.

MR. KLOSKY: Move we close the public hearing.

MR. GOLD: Second it.

ROLL CALL

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

MR. NOVESKY: I want to make a note that the Orange County Planning Department we're in receipt of letter stating no objection to the proposal which I'll provide you right now. With that, Mark, any comments?

MR. EDSALL: Mine are short. Note 1 reflecting on what the purpose of the application is which you've heard several times. Note 2 is that with that limited purpose of the application we ask that there be a note added to the plan and a box to clearly indicate the sole restriction that's being eliminated that has been added to the plan, I believe that's accomplishing the desired goal and as such I think the plan is acceptable. Relative to the private road just so the record is clear we ask with all applications that involve private roads where a proper road maintenance agreement has not been prepared and filed we always ask and go on record indicating to the property owner that that's the preferred situation, some cases are more achievable than others. This is probably one of the worst cases of hoping that will ever happen but at least the board's on record now indicating that that's the right way and the way it should be.

MR. CORDISCO: And the applicant made the effort.

MR. EDSALL: Applicant made the effort, I agree with Dom that short of suggesting it there's no way in my mind you can ever make a requirement for approval and that's all I have.

MR. NOVESKY: Thank you, Mark. Leslie?

MS. DOTSON: There's an error on this map, the Consantino lot has been designated with the same tax parcel as the Kean lot, it's a misreading of the designation on the filed map. I think it's 872 and they read it as 875 but that's the only one thing that needs to be checked.

MR. NOVESKY: Can it be corrected, changed as a condition of approval?

MS. DOTSON: They're going to have to correct that.

MR. NOVESKY: We'll make a note in the resolution. Any board member have any comments?

MR. KLOSKY: Only that I share Mark's desire to see that neighborhood come to some resolution on the maintenance of the private roads.

MR. NOVESKY: We have already heard there's consent at least from two parties, correct?

MR. CORDISCO: Correct.

MR. NOVESKY: Okay, with that, I have a resolution recommending the adoption of a negative dec for the subdivision. Any questions or make a motion?

MR. GOLD: So moved.

MR. LOBLANCO: Second it.

ROLL CALL

MR. KLOSKY	AYE
MR. LOBLANCO	AYE
MR. GRABE	AYE
MS. BUNT	AYE

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MR. GOLD                    AYE  
MR. NOVESKY                AYE

MR. NOVESKY: We have a second resolution, we also have a resolution granting amended subdivision approval that would be for the Buhl subdivision filed map amendment FM3974 planning board number 10-02.

MR. KLOSKY: Move we adopt that said amendment.

MR. GOLD: Second it.

ROLL CALL

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

HUDSON\_VALLEY\_VIEW\_ESTATES\_#2009-03

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MR. NOVESKY: With that, we move to the Hudson Valley View Farms.

MR. QUEENAN: John Queenan from Lanc & Tully Engineering representing the applicant. As the board may recall, we were before you last month for the plan for a five lot subdivision in Mountain Brook-Sky Drive area. We were before you last month requesting a scheduling of a public hearing. Based on the level of the technical comments we received, I rescinded that so I was able to go through all the technical comments, get the plan up to speed. We have addressed a significant portion of those. The two major ones were the storm water prevention pollution plan and the road grading at the entrance with retaining walls. We have since submitted a revised plan on the retaining walls. I have a revised SWPPP that complies with the DEC requirements with the downstream analysis which we spoke about and didn't change our drainage design that we have today. Just coordination with the weather and everything came down to last week, unfortunately we got hit with the snow storm, I'm still trying to meet with Mark's office, go over the SWPPP, make sure he's okay with everything so we're before you tonight for the scheduling of a public hearing.

MR. NOVESKY: Brief discussion on it and then I think--

MR. KLOSKY: Is the SWPPP complete?

MR. EDSALL: Not as of yet.

MR. KLOSKY: Then I, given the drainage concerns along this particular stretch of property, I don't know, maybe the rest of the board has a different opinion, but my own feeling is that the complete storm water picture needs to be painted for the public prior to the the public hearing.

MR. QUEENAN: I agree with you. We did a SWPPP, Mark's office had some comments, we have since done a revised SWPPP and I will hopefully be meeting with them probably this week, I called today.

MR. KLOSKY: We would be approving a public hearing on the SWPPP and we have not done that in the past, Mr. Cordisco.

MR. CORDISCO: Well, actually I think we have done it, authorized public hearings subject to having the risk really falling on the applicant in a sense that in two particular ways. First of all, if they don't satisfy to the engineer's standards the SWPPP then no public hearing will be held next month. Secondly, if they do satisfy but there's still technical issues outstanding, it's more likely than not that any public hearing that would be held in April would be kept open until at least May meeting or until whenever they're able to satisfy the technical requirements in the SWPPP. So they can ask for a public hearing now with the hope that they have satisfied all the concerns, have their public hearing in April and move on. But if there's any technical issues that are outstanding then the board would keep the public hearing so the burden really falls on them. Likewise, if they don't get a thumbs up, pardon my colloquialism from Mark's office on the SWPPP then they don't get any public hearing at all for the April meeting. At this point, I think that the SWPPP is the significant issue but it appears to be the only real significant outstanding issue.

MR. KLOSKY: I only got one sentence in and that is I didn't see any impoundments on the property nor did I see any specific, did I see anything specific talking about the improvements of culverts at the Angola Road outlet at the bottom of Mine Hill Road and I'm concerned about those things. That's it.

MR. NOVESKY: Did you make a note of that?

MR. KLOSKY: That was in Mark's comments.

MR. QUEENAN: What happened was we went, when we did the initial SWPPP, we went in one direction, Mark's comments came back, we had to look at it again, we did another analysis which I have done and ran through and that does address the downstream culverts as well as incorporating what Mark's office asked for. Last meeting I hadn't run through the analysis so I couldn't tell the board it's going to work. Since that time, I have and I believe it meets all the requirements.

MR. KLOSKY: You're proposing the rain gardens, et cetera for part of the storm water impoundment?

MR. QUEENAN: Yes, there's one on lot number 1 and there's also a dry well on lot 5.

MR. KLOSKY: I just, that stuff needs to be very clear to the public, that's the highest potential impact to the neighbors.

MR. QUEENAN: I agree, I'll look at it, I'll meet with Mark's office, we have three weeks till the technical workshop for March, we have another week for full submission and then the public notice I believe Dominic if I'm incorrect is 10 days so I do have some time to work that in. I'm confident that we can get it done. If we don't then like Dominic said, we just won't have the hearing.

MR. NOVESKY: Let me go to the consultants' comments first. Mark?

MR. EDSALL: My comment 2 just notes some revisions that need to be made for the preliminary public hearing plans. Second bullet is one that I believe the board could just although you touched on it I don't know that

you have ever made an actual determination so that when John submits plans for the public hearing clearly in conformance with your desires given the road slopes occasionally the board wants to have parking areas at the bottom, this is a limited area of steep slope, I believe John would be, look for some indication that again the specific conditions on that subdivision that you're not looking for them to have a parking area on the bottom of the road. It would be somewhat problematic because now you have to fit that in with the retaining walls, he needs to know now rather than later. And the second issue which I think is fine is kind of a waiver is the open cul-de-sac with the center landscaped area which functions fine as long as the loop is full road width of a private road, it's actually a larger diameter, it's more easily maneuvered, especially for emergency vehicles, as long as you're okay with those two aspects of the private road, I would, even if you just pole the board, Mr. Chairman, just so that we don't have a situation where you have a public hearing and after that you say well, we really never liked that.

MR. NOVESKY: Board?

MR. GOLD: Question. When you say open cul-de-sac, that means that the center of it is not paved?

MR. EDSALL: Correct, it's not larger in diameter, the center is wooded or grass.

MR. NOVESKY: Talking about that circular section?

MR. EDSALL: Yes, landscaped, wooded, whatever, I don't know that, I'm not going to get into what he does with it but it's clearly not paved.

MR. QUEENAN: We have a landscaping plan for that.

MR. GOLD: Would the preference be from an engineering

standpoint would it be preferable that it were paved?

MR. EDSALL: No, that just creates more of a storm water problem and the larger diameter if they've got room usually you don't have room, they do, gives you a larger diameter for emergency vehicles to turn around, it's a good thing but it's a waiver.

MR. NOVESKY: We're simple if it's good.

MS. DOTSON: As long as they maintain it which would be part of the private road that's okay.

MR. EDSALL: The rest of the comments short of the SWPPP which Mr. Klosky mentioned. And my last comment which is the review with the highway superintendent they're all simple corrections but I do need to meet with the highway superintendent, he's been a little busy with the snow so I haven't bothered him and the SWPPP has to be resolved. I would suggest that you if you care to authorize the public hearing make the authorization subject to the SWPPP being accepted so that it can be available for public review and wait till we hear back from Mr. Conley.

MR. NOVESKY: Led, are you okay with that?

MR. KLOSKY: Yeah. My only question would be Mark though it would be a little unusual, what about providing a car pullout at the bottom of each individual driveway? Some of those driveways climb 30, 35 feet from the bottom, the bottom is a place to put your car so that no neighbor is blocked in, say on lot 5, the guy was unable to get up his driveway, you might end up blocking the plow for the whole community. It doesn't seem like the main access road has particular difficulty but a couple of the driveways might.

MR. QUEENAN: I don't have a problem.

MR. EDSALL: Makes sense.

MR. NOVESKY: I wish they did it at my house. Good point. Board members, other comments?

MR. GRABE: I've just got a comment, I'd like to hear from the consultants first before we make our comments.

MR. NOVESKY: Yeah, we did.

MR. GRABE: No, we didn't.

MR. KLOSKY: My apologies.

MR. EDSALL: Other than those two items which I believe would affect the public hearing so I'd suggest you make that conditional, the rest I'm sure Mr. Queenan can build into the new plans so I'll make it short.

MR. NOVESKY: Leslie?

MS. DOTSON: Comment number 1 just points out that John's addressed a lot of my concerns. I do have some remaining concerns, number 2 isn't something that's an immediate issue but I'm suggesting that the applicant might want to clarify with the planning board attorney as to whether there should be any clarification of the restrictions that have been complied to the deed restricted area between the private road and the read of the existing adjoining lots on Sky Druive and Mountainview. This may sound just incredibly stupid, just profoundly stupid because I know that note 12 does say there's going to be no disturbance or development but I'm bringing this up for a reason, people do argue over exactly what no disturbance and no development really means. I'm suggesting it's to everybody's benefit to try and throw in a little bit of added clarification sometime before final approval. Comment 3 Mark's already spoken to a concern about touching base with the town highway superintendent about the

wall going into the right-of-way because there's no point in having a hearing if that's something that's not acceptable to the town. This addresses John's concern about how we need to address the ridge line protection overlay district. I think just everything that references the RPOD should note that new structures are subject to additional requirements and approvals and reference the section of code. My only concern for number, for the sanitary system for lot 2 you've shown it now but the only thing that concerns me about the subdivision is that the proposed new driveway relocation is pretty close to it, again, this is kind of more your risk but I am mentioning this. I was curious, I don't know if you know why there are two existing wells on lot 2?

MR. QUEENAN: One right now is for the existing house and we did a, basically we did a design.

MS. DOTSON: I thought the second one was actually existing.

MR. QUEENAN: Must have been a typo, there's an existing well for this house, an existing well old farmer's well over here.

MS. DOTSON: Last but not least you need to clarify something for the landscaping plan because they don't match up with the table. That's it.

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

MR. CORDISCO: No comments.

MR. NOVESKY: We have a question, just curious, are you intending to put the wires underground?

MR. QUEENAN: Yes, I would like to if we're allowed, I just had four days of no power so I just got it back a

few hours ago.

MR. NOVESKY: Anybody questions from the board? Led, you're satisfied with the resolution?

MR. KLOSKY: I am.

MR. LOBLANCO: Fine.

MR. GRABE: I am.

MR. GOLD: I'm fine.

MS. BUNT: I'm fine.

MR. NOVESKY: With that, we'll consider resolution authorizing public hearing on April 5 subject--

MR. CORDISCO: Subject to the two conditions, not only the SWPPP but also the highway superintendent regarding the cul-de-sac design.

MR. NOVESKY: With that, we have a motion.

MR. GOLD: So moved.

MS. BUNT: Second it.

ROLL CALL

MR. KLOSKY                    AYE

MR. LOBLANCO                AYE

MR. GRABE                    AYE

MS. BUNT                     AYE

MR. GOLD                     AYE

MR. NOVESKY                 AYE

MR. QUEENAN: Thank you.

MR. NOVESKY: With that, I'll ask for a motion to

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adjourn.

MS. BUNT: So moved.

MR. GOLD: Second it.

ROLL CALL

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

Respectfully Submitted By:

Frances Roth  
Stenographer