

PLEASANT VALLEY PLANNING BOARD
January 9, 2007

A regular meeting of the Pleasant Valley Planning Board took place on January 9, 2007, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:35 p.m.

Members present: Joe Labriola, Chairman
 Michael Gordon
 Rebecca Seaman
 Rob Fracchia
 Kay Bramson
 Henry Fischer
 Peter Karis

Also present: Pete Setaro, Morris Associates
 Jim Nelson, Esq., Town attorney
 Dieter Friedrichson, Zoning Administrator:

1. NOBLE SUBDIVISION

Mr. Steve Burns was present and reported that he adjusted the property line on Pine Hill Road to make the frontage on the back lot smaller and to create enough room for 2 parking spots in the existing driveway. He stated that he added a ponding area in the back to catch runoff. He stated that there is an under drain so that it will be dry, for the most part. He has done some grading to ensure that drainage from the front will go around to the back. He stated that he will add a dry well behind the house.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that most of the previous comments were pretty well taken care of and that they are satisfied with the drainage features that Mr. Burns has added. He reviewed the burme and the dry well. He asked about the easement for the utility line. Mr. Burns stated that there is no easement of record and that they are assuming that it is a 10' setback on either side for maintenance. Mr. Labriola asked if documentation from Central Hudson is needed. Mr. Setaro asked if the applicant did a survey. Mr. Burns stated that they did and that the surveyor affirmed that there is no easement on record with the clerk.

Mr. Labriola noted that the Fire Advisory Board recommended that the driveway be widened to 25' to provide a turn around pull-off area at the left turn approximately 100' from the proposed house location and that the driveway be maintained to 12' in all other areas and cleared to a minimum of 12'. Mr. Burns stated that the FAB letter was from the prior layout and that the house location has been moved. Mr. Labriola asked the distance from the road to the second house. Mr. Burns stated that it is roughly 300' and that the original location was on the hill and the original driveway was twice the length that it is now. Ms. Bramson asked if the FAB needs to review the new plans. Mr. Burns stated that where the FAB proposed locating the turnaround is where the house is now to be located. Mr. Labriola agreed that the FAB should review the revised plan.

Mr. Nelson inquired whether the question regarding the turnaround area pertained to the issue of parking. Mr. Labriola explained that these are separate issues and that the new plan places the driveway completely on Lot #1 and provides ample room for 2 parking spaces. Mr. Burns stated that the parking spaces are roughly 19' wide.

Mr. Labriola: **MOTION FOR PARKLAND DETERMINATION**

I move that the Planning Board adopt the following Parkland Determination Resolution for the subdivision of 34 Pine Hill Road in the form of the attached resolution dated 1/9/07 prepared by the Board's engineer and now before the Board.

(FULL RESOLUTION IS ON FILE)

Now, therefore be it resolved that the Planning Board having determined the size and suitability of the land shown on the subdivision plat and the needs of the immediate neighborhood hereby determines that a suitable park meeting the requirements of the Town cannot be located on such subdivision plat. If the applicant's subdivision application is approved, the applicant is hereby required to deliver to the Town for deposit in the Town's trust fund for parks, playgrounds, and other recreational facilities the amount required by the Town Board's fee schedule for the number of residential subdivision lots approved by the Planning Board.

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola: **NEGATIVE SEQRA DETERMINATION**

I move that the Planning Board determine as set forth in the attached declaration dated 1/9/07 prepared by the Board's engineer that the subdivision of 34 Pine Hill Road is an unlisted action under SEQRA and that it will not have a significant effect on the environment for the following reasons and that no environmental impact statement shall be required.

The reasons in support of this determination of non-significance are:

- 1. it is the creation of one new building lot**
- 2. disturbance is limited to construction of one new residence, septic system, well, and driveway**
- 3. no new access points onto Pine Hill Road are proposed – they will be using a common entrance that is existing**
- 4. soil erosion control measures have been proposed**
- 5. storm water measures proposed to control additional run off from new impervious surfaces**

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola noted that the Public Hearing was adjourned from last month's Planning Board meeting. **MOTION TO REOPEN PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 7-0-0**

No comments from the public.

Mr. Labriola: **MOTION TO CLOSE PUBLIC HEARING; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **MOTION FOR PRELIMINARY APPROVAL**

I move that the Planning Board grant preliminary approval to the subdivision at 34 Pine Hill Road in the form of the attached resolution dated 1/9/07 prepared by the Board's engineer and now before the Board subject to the following conditions:

- 1. Morris Associates letter dated 1/5/07**
- 2. a second Fire Advisory Board review of the driveway**
- 3. a letter from Central Hudson regarding power line easements**

SECONDED BY R. SEAMAN

DISCUSSION: Mr. Gordon asked if maintenance agreements will be required. Mr. Labriola responded that maintenance agreements will be required for final approval and that Mr. Nelson will review them prior to Mr. Labriola signing the map.

VOTE TAKEN AND APPROVED 7-0-0

2. ERRICO SUBDIVISION – SKETCH PLAN APPROVAL

Mr. Errico and Mr. Charles May were present. Mr. Labriola noted that at their November appearance before the Board there were questions about the proposed development regarding adequate road frontage onto a Town Road for a couple of the lots. Mr. Labriola asked the applicants to review the changes to the plan.

Mr. May reported that the revised access now comes off of Ward Road with a cul-de-sac. He stated that Lots #5, 7, and 11 will come off Netherwood Hill Road. He stated that Mr. Errico has letters of intent from the adjoining neighbors granting him access off of Netherwood Hill Road. Mr. Errico pointed out on the map the neighbors who have agreed to the planned access and discussed a common drive from Netherwood Drive to the corner of his property. He reported that a title search confirmed that in 1978 the people gave the land of Netherwood Drive and Netherwood Plaza to the Town of Pleasant Valley. He pointed out the three houses that would have a common drive.

Mr. Labriola asked again if he had road frontage for Lots #5, 7, and 11 on a dedicated Town Road. Mr. Errico responded no, but that it is on a private drive, which he plans to use to get to the Town Road. Mr. Karis inquired about the ownership of a parcel of land. Mr. Errico stated that he owns a portion of it. Mr. Setaro informed him that he must get

certified boundary survey. Mr. Labriola explained that the Town Code requires that he have frontage on a Town Road, not that he can get to the property, but that there is actual road frontage for each lot. Further, he stated that Mr. Errico has not established whether that exists for Lots #5, 7, and 11 and clarified that he must do so.

Board and applicants discussed adding a Town Road. Ms. Seaman noted that the Town would have to exercise eminent domain in order to do so or Mr. Errico would have to purchase the parcel. She emphasized that he does not have the property necessary to achieve this and also pointed out that letters from the neighbors are not adequate, that he would need deeded access across their properties. Mr. May stated that the intent of the letters was to address this. Ms. Seaman noted that there are a number of houses already on a non-conforming drive, which creates a dangerous situation currently. She emphasized the complications of what they are attempting to accomplish. Mr. Labriola concurred that this is one issue that has not yet been answered.

Mr. Labriola stated that the Planning Board received a letter from the Conservation Advisory Council regarding the need to make sure that the wetlands and associated buffers are flagged by a professional. He stated that the Board must know where the buffers lie in order to determine how many building lots could potentially fit. Mr. Karis noted that a lot of the proposed improvements are right on the buffer, which makes the location on the map of the wetlands and buffers critical. Mr. Labriola pointed out the number of SDS's that are on the buffer line.

Mr. Karis also pointed out that the plan does not show allocation for storm water management area. Mr. May stated that they will definitely deal with that issue but that they have to have sketch plan approval first.

Ms. Seaman noted a discrepancy between the wetlands shown on the applicant's map and the actual wetlands map. Mr. Setaro specifically pointed out the wetlands that are not clearly marked on the map. Mr. Karis stated that DEC will make that determination in the field. He stated that DEC will either flag or validate a DEC-flagged wetland line. Mr. Setaro noted that there is one upstream and downstream of the applicant's property, and that there's a connecting stream. Mr. May asked if the DEC jurisdiction would prevail. Ms. Seaman stated that DEC jurisdiction does not prevail over the Planning Board's jurisdiction. She pointed out that DEC would determine whether they are DEC wetlands. Mr. Setaro reminded the applicant that Morris Associates had recommended that they hire a wetlands person to work with them and the DEC. He advised Mr. Errico that DEC must come to the property and flag it.

Ms. Seaman stated that the current GIS map shows wetlands bordering the stream that are not taken into account. She noted that this may extend the buffer out even farther. Mr. Karis pointed that the GIS information shows some possible national wetland inventory right where some of the septs are located. Mr. May asked who would help identify these areas. Ms. Seaman advised him to consult a wetlands engineer.

Mr. Labriola stated that some of the wetlands implications are issues that would be dealt with as the application moves forward. However, he noted that the Board cannot do a sketch plan approval on the plan because he is proposing 11 lots, 3 of which may not have Town Road frontage. Therefore, he noted that the applicant has not met the burden of what is required for sketch plan approval.

Board reiterated the need to identify the location of the wetlands and wetland buffers which will help guide the density of proposed lots. Mr. Labriola also pointed out some fairly steep slopes on the western portion of the property, questions about density, water quality, water quantity, the ability to have septic systems added to a fairly overly developed area.

Mr. Setaro commented on Ward Road, which is narrow, and the traffic impact of adding 8 or 9 lots in the area. Mr. Fischer and Mr. Karis commented on the issue of crossing the stream and of run off.

Mr. Labriola mentioned the alternative of a smaller number of lots, serviced by a common drive, which would require significantly less disturbance than a Town Road that would need to cross a wetland. Mr. May asked about the number of lots permitted off a common driveway. Mr. Labriola stated that, typically, it is three lots and noted that there have been other applications where there were compelling reasons to increase that number to 4. He noted that a common drive has less visual impact than a Town Road and will require much less disturbance and will cost less to install. Mr. Fischer cautioned that there may not be any exceptional circumstances to compel this application to qualify for 4 lots off of a common drive. Mr. Labriola asked the applicant to consider this alternative design.

Mr. Gordon noted that putting in a Town Road requires drainage and water mitigation measures – catch basins and a lot of excavation. Mr. Fischer pointed out that they are going through a low area of the wetlands. Mr. Gordon noted that, typically, the shared drives are gravel and don't require as much drainage. Ms. Seaman emphasized the environmental impacts of putting a Town Road through very important wetlands and pointed out that the impact and costs are much less for a common drive.

Mr. Labriola enumerated the two primary issues as:

1. title clarification and
2. understanding the wetlands, the buffers and getting them properly flagged.

Ms. Seaman suggested that they talk with someone who has crossed wetlands to understand the costs and the environmental review process and costs.

3. CENTRAL HUDSON TINKERTOWN SUBSTATION EXPANSION

Mr. Patrick Harden was present and reported that they have an existing substation at Tinkertown that over the years has become overloaded with the transformer working at over the rate of capacity. He stated that they propose to add a second transformer of the

same capacity as the current one and to replace some of the switch gear with new equipment. He stated that they are extending the lot to a total of 180' long.

Mr. Labriola asked what the age is of the existing transformer. Mr. Harden responded that date of manufacture is between 1955-1960. Mr. Labriola asked what the life expectancy is of such a transformer. Mr. Harden stated that it depends on how well they are maintained and that the industry average is 40 years. He stated that Central Hudson takes care of the equipment much better than that and, therefore, gets a much longer service from the equipment. He stated that they all will fail eventually and that they have transformers in service that are much older than that.

Mr. Setaro reviewed the Morris Associates letter. He discussed the transmission easement. He also discussed correspondence received from an adjoining property owner regarding concern for noise impact. Mr. Harden stated that Ms. Horn had contacted Central Hudson with her concern about noise from the existing transformer and additional noise from a second transformer. He reported that they are now taking measurements on the existing transformer at several locations in an effort to get an ambient for comparison purposes. He stated that the transformer they plan to install is now in service in Lagrangeville and that they are taking sound measurements on that as well. He stated that there is a formula in the DEC document on how to calculate the total. Mr. Fischer asked if the sound level reflects the rate at which the transformer is functioning at any time. Mr. Harden stated that they are rated at full load. Mr. Fischer asked if the load would be higher in Pleasant Valley than it is at Lagrangeville and, therefore, the reading would not be accurate for this locale. Mr. Harden stated that their preliminary investigation is that this one is operating at about 3-4 dba higher than that one. He stated that they will split the load and that it's going to be about the same or possibly 1 dba higher.

Mr. Labriola stated that, as the Town continues to expand and the loads on the transformers continue to grow, the assessment done today on noise level is an understatement of the potential problem. Ms. Seaman asked if they have done any research on mitigation measures for visual and noise impact. Mr. Harden stated that they have started that process and noted that the letter they received requests a heavy masonry wall. He noted, however, that there is not a lot of room for such a wall and that it is also cost prohibitive.

Mr. Labriola stated that the Planning Board will not tell them what they have to do but that the Board first needs to know what the level of noise impact will be. Further, he stated that that information will inform them on what they need to do to mitigate that impact. Mr. Harden stated that he is not aware of any sound laws or stipulations in the Zoning Codes and, therefore, they follow accepted practices. He stated that they go by the US Department of Agriculture guidelines and a DEC guideline. He reiterated that they are taking sound readings at both sites and at full fans.

Mr. Gordon stated that he visited the site and that there is no question that it is loud. Mr. Labriola also did a site visit and agreed that it is loud. Mr. Gordon suggested a higher

fence with some sort of sound baffling. Mr. Harden stated that they are considering acoustical panels within the confines of the station.

Mr. Labriola noted that there are some alternatives to consider and that the first step is to determine the anticipated noise impact, which will direct the mitigation measures.

Mr. Labriola noted that, with regard to visual impact, he only saw one home visible from the transformer that is not shielded by trees. Therefore, he stated that he does not see a visual impact arising from the expansion of this transformer station. Mr. Gordon noted that this is an opportunity to make improvements on the site and that the neighbors' concerns are important. Mr. Harden and the Board reviewed the map to identify adjacent houses.

Mr. Fischer stated that the main concern is the ambient noise. Mr. Labriola agreed. Mr. Harden stated that the best thing for ambient noise is distance. Mr. Fischer stated that there is open land in the area which may be developed in the future and that measures should be taken now to mitigate the noise impact. Mr. Harden stated that there is not enough room to put a big, heavy concrete wall. Mr. Harden stated that the acoustical panels would be a separate structure that is not attached to the fence. They would have to be removable in order to maintain the equipment. Ms. Bramson asked how much of a difference the panels would make. Mr. Harden did not know the answer and stated that they don't have any in the Central Hudson system. He stated that NY Power Authority has recently installed some and that they are pleased with the outcome.

Mr. Labriola stated that the key next step is to get an understanding of the noise level of two transformers at max load, which will direct any mitigation measures. Mr. Gordon asked if the transformer manufacturer has any noise reduction methods. Mr. Harden stated that there's nothing on the existing units.

Mr. Fracchia asked if there will be any additional lighting. Mr. Harden stated that the additional structure will have additional yard lights in the back but that there will be no constant lighting. He stated that there will be lighting when someone is working on the site.

Mr. Fracchia asked if the pole heights will increase. Mr. Harden stated that the heights should be the approximately same. He stated that the additional pole will be identical to the existing pole. He stated that the plan is to go out to Route 44, which is not technically part of the substation issue, but is a distribution issue. He pointed out the drainage swale and the culvert on the map. Mr. Karis asked about excavation.

Mr. Labriola asked if the new transformer is designed with a containment system to prevent spillage or fluid leakage. Mr. Harden explained that the spill control measures will be worked out for this site. Mr. Labriola stated that the Board will need to understand the containment plan. Mr. Harden stated that they have a standard on oil quantities at locations based on history, quantity, and location to water which is regulated

by the EPA. He stated that most of their stations fall under a general plan, and separate plans are done for stations that are at high quantity and closer to water courses.

Ms. Seaman asked how close they are to the nearest well. She stated that she would be interested in this information especially when they present their spill containment plan and would want to make sure that there are no wells within 200'. Mr. Harden stated that technically the wells should be sealed from surface water. Ms. Seaman stated that the Board is aware of that, but that there are a lot that are unsealed. Mr. Harden assured the Board that Central Hudson is more concerned than anyone about leaks and that they have emergency response contractors on retainer for clean up, which is part of their spill control and prevention plan.

Mr. Labriola read into the record a letter from the Pleasant Valley Fire Advisory Board dated 1/9/07 which states that they offer no recommendation with regard to this application as there is no fire or safety issues.

Mr. Labriola noted that the file contains a 239M referral from Dutchess County Department of Planning. He noted that their comments are: "after considering the proposed action in the context of county-wide and inter-municipal factors the Department finds that the Board's decision involves a matter of some concern and offers the following comments. The Tinkertown Substation is located within a residential district along Route 44. The Board should investigate claims that the current transformer emits noise pollution and should insure that nearby residents are not negatively impacted by the addition of a second transformer. If deemed appropriate the Board could require that the applicant provide mitigation measures such as sound absorbing fencing, vegetation or other materials around the transformer. The Department of Planning recommends that the Board rely upon its own study of the facts with due consideration of the above comments." Mr. Labriola advised Mr. Harden that he may acquire copies of these letters from Ms. Salvato in the office.

4. KIRCHHOFF PROPERTIES 199 WEST ROAD – SITE PLAN REVISION

Joe Kirchhoff, owner, and Mark DelBalzo, engineer, were present. Mr. Labriola noted that the application is incomplete. Mr. Kirchhoff agreed and stated that he was interested in having a discussion with the Board.

Mr. Kirchhoff stated that he's under contract to buy the Conklin Building; that they will close in about 4 weeks. He promised to upgrade the site and that they want to dress it up. He stated that they will make changes to the elevations, add some more windows, replace the 3-tone grey paint, and upgrade the landscaping. Also, he stated that they want to remove some of the blacktop along the building and pull the landscaping away and add grass along the entire side of the building. He stated that they will replace all the old wires and telephone poles with a pad-mount transformer. He stated that they have no plans to change the exterior lighting. He reminded the Board that when Conklin was operating a full capacity they ran two shifts with 200 employees per shift. He stated that they plan to make no changes to the structure except some stucco and paint and windows.

Also, he wants to put in curved landscaped islands with trees and shrubs in an effort to hide the cars in sections.

Mr. Kirchhoff reported that the building will be primarily office and warehouse. He stated that his business will occupy approximately 16,000 – 17,000 sq. ft. of the available 40,640 sq. ft. He anticipates having about 4-5 other tenants with whom they are negotiating. He stated that his architect is looking at the fire codes and they anticipate putting in two 3-hour fire walls.

Ms. Bramson asked about his comment regarding tractor trailers and who that would be for. Mr. Kirchhoff stated that they will have box trucks delivering and that they may have a warehouse. He stated that they were negotiating with a museum tenant that stores museum quality stuff and needs access for a box truck. He stated that very rarely would they have a tractor trailer, but it might be needed.

Mr. Kirchhoff stated that they will want to do something with signage and that they will design a nice monument sign.

Mr. Karis asked if they have enough parking. Mr. Kirchhoff stated that they have more than enough parking. Mr. Karis asked if they want to reduce some of that parking. Mr. Kirchhoff stated that at this time he does not. Mr. Fischer suggested some kind of fencing.

Mr. Kirchhoff pointed out the main Kirchhoff headquarters entrance for visitors and the employees' entrance and other tenant entrances. He stated that once he works out the details he will return to the Board to show what it will look like. Mr. Labriola noted that for an amended site plan, the Board does get an opportunity to comment.

Mr. Setaro reviewed the Morris Associates comment letter and stated that Mr. Kirchhoff has covered all points.

Mr. Labriola read into the record (original on file) a letter from the Pleasant Valley Fire Advisory Board dated 1/9/07 which offers the following recommendations: "all access roads on the property be a minimum of 20' wide to provide access for emergency vehicles and that the area between the building and the commencement of the parking area be a minimum of 20' wide and that a clear and unimpeded access be maintained from West Road to the dumpsters in the back of the property."

Mr. Labriola read into the record (original on file) a letter from Dutchess County Department of Planning: "the Department finds that the Board's decision involves a matter of some concern and offers the following comments.

1. **Reduce entrance width.** The third entrance/exit from West Road shown at approximately 40' wide is too wide. The extensive width serves to encourage drivers to enter and exit the site at higher speeds creating an unsafe condition. We suggest that the Board direct the applicant to reduce the width of the entrance/exit to approximately 22'-26' wide.

2. **Addition of landscaped areas in the parking** – will help decrease the negative visual impacts of such a large area of pavement. We note that the proposed revisions to the plan do not include information about the particular type, size, and number of plants proposed in the parking area. To ensure that the addition of landscaping in the parking lot will provide maximum benefit, we suggest that trees be included throughout the landscaped area to better create visual relief from the asphalt as well as provide shade in the warmer months.
3. **Provide street trees.** To further enhance improvements to the site, we suggest that the applicant provide regularly spaced trees along West Road approximately every 25'-30' on center. The recommendation is that the Board rely on its own study of the facts in the case with due consideration of the above comments."

Mr. Labriola stated that he agrees with all three of DC Department of Planning's comments. Mr. Kirchhoff stated that he agrees with all except the entrance way. Mr. Labriola asked that he look at it as it is fairly wide. Mr. Kirchhoff stated that it does not look excessively wide and that every time they shrink an entrance for the County, they end up with tractor trailers driving over curbs. He stated that he deals with it at Arlington Square on the daily basis and they finally jack hammered them into mountable curbs. He stated, however, that they will look into it.

Mr. DelBazo asked about circulating for lead agency. Mr. Setaro and Mr. Labriola explained that it is not required.

Board and Mr. Kirchhoff discussed signage and the need to know how it will be lit. Mr. Labriola stated the Board's preference for wood design with exterior lighting. Mr. Kirchhoff stated that they expect to have a directory sign.

5. WEST ROAD ASSOCIATES/BROOKSIDE MEADOWS – SITE PLAN REVISION

Mr. Labriola stated that the property at 123 West Road is on the agenda for discussion.

Mr. Kirchhoff stated that he is negotiating with a possible tenant to take his entire building at 123 West Road, so that when they move to the Conklin Building they would have a tenant for this property. He stated that the tenants are concerned about having a private septic system. He stated that he has had trouble with the existing septic on that site due to the increase in his staff from 10 to 46 people.

Mr. Kirchhoff stated that they have built an expensive sewer plant across the street at Brookside Meadows and reminded the Board that, per the Board's request, they ran water and sewer to the Brookside edge of West Road. Also, he reported that when Central Hudson finally brought in natural gas to the Brookside Meadows, they drilled underneath West Road and laid a pipe for the gas and a pipe for their sewer main. He stated that they have now a pump system - septic tank and a pump tank that pumps into the two concrete galleys in the parking lot. Therefore, the pipe and the system exist and they are requesting the legal approval to make the final connection.

Mr. Labriola stated that there are 3 things the Board needs:

1. update to the Transportation Corporation documentation
2. an updated Brookside Meadows site plan that identifies the tie between the two properties
3. an updated Kirchhoff office site that documents the proposed tie in and the plan to abandon the galleys.

Mr. Setaro stated that the DC Health Department will have to review and comment on this plan. Mr. Kirchhoff stated that his understanding is that they need NYS approval and he stated that the County DPW is OK with the plan.

Ms. Bramson asked what would happen if Mr. Kirchhoff sold the office building. Mr. Kirchhoff stated that nothing would happen, that they would pay a fee to tie into the sewer district because it is a separate corporation that he and Chris Dyson own. He stated that they have huge excess capacity. He stated that the plant was designed for 60,000 gallons per day, that 116 apartments have been built, they are starting to build on the next phase, and are currently using 20% of the capacity. He stated that fully built out they may use 30,000-32,000 gallons a day. He stated that the office building produces about 500 gallons a day. Mr. Fischer voiced his approval of this plan.

Mr. Labriola reported that the Dutchess County Department of Planning (letter on file) stated that it is a matter of local concern and had no comments.

Mr. Labriola reported on a letter dated 1/9/07 from the Fire Advisory Board (original on file) in which they stated that they offered no recommendation.

6. GORDON SUBDIVISION – SKETCH PLAN APPROVAL

Mr. Labriola disclosed that Michael Gordon, owner and applicant, is a member of the Planning Board and, therefore, all Board members have a pre-established relationship with him.

Brian Houston, of Bly and Houston Land Surveyors, was present and reported that Mr. and Mrs. Gordon own approximately 100 acres on Creek Road and that they are proposing a 2 lot subdivision. He stated that one lot would be 7.5 acres and the remaining lot would be slightly more than 92 acres. He stated that both lots would be serviced by a common driveway which currently exists. He stated that each lot would have its own well and septic.

Mr. Houston reported that Michael Budzinski has done soil testing on the property and has submitted a soil report which confirms that it is feasible to get well and septic on the new lot.

Mr. Labriola stated that the application is very well prepared for a sketch plan and expressed the Board's appreciation for receiving complete information early on in the process.

Mr. Setaro reviewed the Morris Associates comment letter. He mentioned the need for a maintenance agreement for the common driveway and for erosion control measures around the house and the septic. He stated that the driveway grade seemed to be pretty good and that a profile would not be needed.

Mr. Gordon stated that they own 100 acres on one side of creek road and 9.2 acres on the other side. Board and Mr. Budzinski discussed the fact that the two parcels were merged.

Mr. Labriola stated that he walked the property with Mr. Gordon and affirmed his view that a common driveway on this property makes sense. He observed that this subdivision will leave one large lot and asked Mr. Gordon what his plans are for that parcel. Mr. Gordon stated that he will look into a conservation easement and noted that his property contains a lot of wetlands. He stated that he has no plans to further subdivide and that he is building a single story retirement house for himself and his wife. He stated that his daughter, son-in-law, and grandchildren will move into their existing house.

Mr. Gordon asked if Mr. Nelson would draft a driveway maintenance agreement. Mr. Nelson stated that he will create some shells and will work them through with the surveyor.

Ms. Bramson asked if Mr. Gordon plans to pave the driveway. Mr. Gordon responded no.

Mr. Labriola read into the record a letter dated 1/9/07 (original on file) from the Fire Advisory Board requesting review of a subsequent subdivision plat before passing comment on this application.

Mr. Labriola: **MOTION TO GRANT SKETCH PLAN APPROVAL**

I move that the Planning Board grant sketch plan approval to the Gordon subdivision in the form of the resolution prepared by the Board's engineer and now before the Board subject to the following conditions:

- **payment of all fees**
- **comments contained in Morris Associates letter dated 1/5/07**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola asked Mr. Gordon to get the yellow subdivision sign from Ms. Salvato and to advertise for a public hearing when he is ready to come back to the Board.

7. ANTIGONE REALTY – LIBERTY PLAZA (FAMILY CIRCLE PLAZA)

Mr. Labriola stated that this application is a request for rezoning. He reported that the front part of the property is zoned C-1 and the back part of the property is zoned R-1. The applicant's planner was present and explained that the applicant is requesting that the entire property be zoned C-1. Mr. Labriola stated that the Town Board will make the

final decision and that, for SEQRA determination, the Planning Board needs to understand what the potential build out might be so that the Planning Board can provide planning guidance to the Town Board.

The planner reported on the architect's proposal, which has been submitted to the Board. He stated that an additional structure is planned that is similar in size to the existing one and can be constructed to satisfy all the zoning requirements and all the setbacks. He stated that the parking is adequate and meets the ordinance and that preliminary drainage and water have been done. He stated that it will be a duplicate footprint to the existing structure.

Mr. Labriola read into the record the comment letter from the DC Department of Planning that was received by the Town Board in August 2006 (original on file). The comments include: "Our Department strongly disagrees with the assertion that rezoning this parcel will only have a minimal impact on the area. If this parcel is rezoned to C-1, it is likely that other parcels in this district will come forward and make the same rezoning request. Of particular concern are 2 very large parcels, 85 and 106 acres, that if rezoned to the C-1 in their entirety would open up that section of Pleasant Valley to the possibility of mega-commercial development.... The Town of Pleasant Valley is in the beginning stages of updating the Town Plan and Zoning Code. This issue of concern about dual zone property should be addressed as part of that master planning process rather than being dealt with on a parcel by parcel basis. The impacts of rezoning these dual zoned properties need to be investigated with regard to both the immediate area as well as to the Town as a whole." Recommendations: "The Department recommends that the Board deny the requested rezoning. If the Board determines to act contrary to our recommendations, the law requires that it do so by a majority plus one."

The planner responded to the Department's letter and stated that it implies that if this request is granted it would set a precedent of the other 2 large parcels that are dual zoned. He pointed out that, unlike this applicant's parcel, the other 2 parcels each have access to town roads. He noted that this parcel is landlocked. Mr. Labriola agreed with his point, but he noted that it could be interpreted as the beginning of a trend of spot rezoning. The planner reported on research he did on other dual zoned parcels which have access to two different roads. Therefore, he stated that the situation is not the same. Again, he pointed out that the applicant's parcel is not developable because it is landlocked.

Mr. Labriola reiterated his question about the rationale for rezoning this parcel. The planner explained that the applicant owns the property and stated that he assumes the applicant wants to develop it. He noted that this is a situation that was created by the Town and is inconsistent with the Town ordinance and violates Town law.

Ms. Seaman asked whether the reason there is no access is because the Code prevents residential access through a commercial site. The planner stated that the lot would have to have frontage on a Town road. He noted that it is likely under rezoning that the line would be redrawn to eliminate the dual zoning. Ms. Seaman, however, stated that it is not known where the line will go because of considerations regarding areas appropriate

for mixed use planning. She stated that the situation may change to their benefit because the master plan may include a broader vision.

Mr. Labriola noted that the Town did not create the landlocked back portion of the lot, that the applicant could have left considerations to provide some level of frontage on a Town road. The planner stated that he assumes that this property was dual zoned when the applicant purchased it. Mr. Karis stated that it is a self-created predicament by purchasing a piece of property with a zoning district boundary bisecting it.

Ms. Seaman asked about the rules on spot rezoning and noted that it is highly discouraged and that rezoning should take place as part of a master zoning plan, that it should not be done ad hoc. She stated that she understands hardship cases and that she agrees with Mr. Karis that the hardship was not imposed, that it was not a taking and that it was bought in full knowledge of the situation on the site. She also stated that they are looking at the Town ameliorating the hardship through their master planning process, so that they are not stuck for the next 10 years. She stated that spot rezoning removes the Town's ability to have a more comprehensive plan that takes into account the bigger picture.

The planner claimed that this is not spot rezoning. Mr. Nelson explained that it is not spot rezoning in that it is not dropping something down in the middle of another zone. He stated that the question is whether it is consistent with the area. Mr. Karis stated that this is under review Town-wide and that he is not comfortable giving a positive recommendation to the Town Board. He stated that the whole vision for this border may be different and that it is not known what the master plan will be.

Mr. Labriola asked what the timetable is for completing the new comprehensive plan. Ms. Seaman stated that the master plan is on a year-long time table and will not be finished within the year. She stated that they hope to have a preliminary plan in place ready for SEQRA review by the end of 2007. She stated that it is a fast track timetable and that so far they are on track and are working with County Planning.

Mr. Setaro asked whether they will be considering the 2 other dual zoned parcels as part of the master planning process. The planner responded yes and noted that there are only 3 other parcels in the Town that have the same landlocked situation. Mr. Labriola stated that the parcel that has him most concerned is this one. The planner stated that there is no way that granting this request for rezoning would impact any other. Mr. Labriola responded that it is not possible to make such a statement with that level of certainty, that one cannot say that someone else won't come before the Planning Board and point to what he is proposing as an entrée for doing rezoning on their property. Mr. Labriola stated that the intent of the way it is zoned is to have the commercial development along Route 44 as opposed to in depth. Further, he stated that County Planning made an excellent point that adjacent properties could be opened up for some sort of mega-commercial development as a result, which needs to be considered.

Mr. Labriola pointed out that the person who purchased this property understood the limitations when they purchased it and it did not affect their decision to make that purchase. He stated that the Board is being asked to look at the planning implications and to provide a recommendation to the Town Board. The planner noted that the applicant has been paying taxes on the property as commercial all these years.

Mr. Gordon noted that he agrees with Mr. Karis' analysis of this situation.

Mr. Labriola stated that he will work with Mr. Nelson to draft a recommendation for review at the next Planning Board meeting.

8. MISCELLANEOUS

Mr. Labriola asked Board members to sign up, if they are interested, for Cornell Cooperative Extension DC Environment program on Wed. 1/24/07. He noted that 4 hours per year of continuing education are required. He also announced a short course mini-marathon on 1/31/07. He asked the Board members to let him know when they complete their hours.

Meeting adjourned.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the January 9, 2007, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

____ Approved as read
____ Approved as corrected with deletions/additions

PLEASANT VALLEY PLANNING BOARD
February 13, 2007

A regular meeting of the Pleasant Valley Planning Board took place on February 13, 2007, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:32 p.m.

Members present: Joe Labriola, Chairman
 Michael Gordon
 Rebecca Seaman
 Rob Fracchia
 Kay Bramson
 Henry Fischer
 Peter Karis

Also present: Pete Setaro, Morris Associates
 Jim Nelson, Esq., Town attorney

ANNOUNCEMENT: Mr. Labriola announced that the 127 West Road application has been removed from the evening's agenda.

1. MIRABILIO SUBDIVISION – SKETCH PLAN APPROVAL

Mr. John Mirabilio was present. He reported that he is proposing a 2 lot subdivision. Mr. Labriola noted that this is the same property that the Board looked at last year at which time there was a proposal to put a church on the property. Mr. Mirabilio confirmed that this is correct. Mr. Labriola stated that this is a 2 lot subdivision with a proposed common driveway onto Salt Point Turnpike.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that most of the comments are technical and asked if the Department of Transportation will allow 2 lots even though there's no sight distance. Mr. Mirabilio stated that DOT has sent an approval letter to Mr. Martin. Mr. Setaro stated that from Sketch Plan perspective the plan meets the general requirements. He stated that there will be more detail required on the map – a driveway profile, erosion control plan, drainage, common driveway maintenance agreement.

Mr. Labriola noted that the proposed lots are lower elevation than the surrounding properties and the wells and septic must be shown on the map. Mr. Setaro pointed out some of them on the map. Mr. Labriola noted that the necessary separations will need to be shown.

Mr. Gordon noted that the DOH approved a septic system in 2003 for one lot. Mr. Setaro confirmed that Morris Associates has asked for the documentation on that. Mr. Gordon stated that this will change as there are now 2 proposed lots and that the previous 2003 approval may no longer be valid with the new application. Mr. Setaro stated that this is

in fact possible and noted that the proposed location for the septic is the lowest point on the site where all the drainage now goes and that the location may need to be revised.

Mr. Karis asked where the septic for Lot 2 is located. Mr. Labriola noted that it is not shown. Mr. Fracchia asked where the SDS and wells for Country Commons and Hickory Hills are located. Mr. Labriola agreed that that will all have to be sited on the map to make sure that there are no separation issues, but noted that this is on for Sketch Plan at this point. He noted that the burden of proof at Sketch Plan is simply to show what the applicant intends to do.

Mr. Labriola listed the information needed for next steps:

- Documentation from DOT
- Documentation relative to the approved septic system
- Documentation regarding separation issues
- Engineering details

Mr. Ernie Martin, engineer and surveyor, was present and noted that the letter from the DOT permits the common driveway.

Mr. Karis asked about the 22' wide access point off of Salt Point, which seems very wide. Mr. Martin stated that the DOT wanted that width.

Mr. Karis commented that the common driveway is rather steep and pointed out an opportunity to add some length to it to reduce the slope perhaps by doing a switch back. Mr. Martin stated that the entrance must be where it is located to maximize the sight distance and pointed out a gully to the east which would require a lot more grading. Mr. Karis disagreed and asked the applicant to take a look at lengthening the drive.

Mr. Karis noted that they indicate 2.5 acres disturbance on the EAF and stated that it will require coverage on the State storm water permit and, therefore, storm water facilities. Mr. Martin and Mr. Setaro disagreed based on the fact that this is a residential property which carries different regulations. Mr. Karis noted his mistake.

Mr. Gordon asked about the property line on the sketch. Mr. Martin clarified the details on the map.

Mr. Fischer asked where there is problem with the sight distance. Mr. Martin stated when exiting the property the problem is looking east. Mr. Labriola noted that the road takes a sharp turn by Gretna.

Mr. Martin showed the approved 2003 plan for the septic next door, which they have duplicated. Mr. Setaro pointed out again all the drainage on the property flows to the proposed septic location as it is the low point.

Mr. Labriola read into the record a letter dated 2/7/07 from the Pleasant Valley Fire Advisory Board: "The FAB recommends that if the subdivision is approved, the

driveway be maintained with a clearance of 12' wide and 10' high." Mr. Labriola requested that a note be added to the map reflecting this condition.

Mr. Labriola: **MOTION FOR SKETCH PLAN APPROVAL**

I move that the Planning Board grant Sketch Plan approval to the subdivision for John Mirabilio Jr. subdivision in the form of the resolution prepared by the Board's engineer and now before the Board subject to the following conditions which must be addressed within the preliminary plat:

- **Morris Associates letter dated 2/7/07**

Further, be it resolved that the applicant may advertise for a public hearing to be held at some future date. (Mr. Labriola noted that the Board will need to see another set of plans prior to that step.)

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola gave Mr. Mirabilio the yellow subdivision sign.

2. ROSENBERG-MRSTIK LOT LINE RE-ALIGNMENT – SKETCH PLAN

Mr. Eric Gardell, representing the applicant, was present. He stated that the existing driveway is right on the property line and that the proposal is to move the property line thereby locating the driveway entirely on the owner's property. He noted that it is an equal split of land.

Mr. Nelson asked if the other lot has access. Mr. Gardell responded yes.

Mr. Setaro reviewed the Morris Associates letter and noted that all the comments are housekeeping – that there are no issues with this minor project.

Mr. Labriola read into the record a letter dated 2/7/07 from the Fire Advisory Board: "no recommendation with regard to this application as it represents no fire or safety issues."

Mr. Labriola: **MOTION FOR SKETCH PLAN APPROVAL**

I move that the Planning Board grant Sketch Plan approval to the Rosenberg-Mrstik Lot Line Re-alignment in the form of the resolution prepared by the Board's engineer and now before the Board subject to the following conditions, which must be addressed within the preliminary plat:

- **Morris Associates letter dated 2/6/07**

Further be it resolved that the applicant may advertise for a public hearing to be held on March 13, 2007 conditioned upon submission of a preliminary plat found to be in acceptable form by the Planning Board's engineer.

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola gave the yellow subdivision sign to Mr. Gardell.

3. CENTRAL HUDSON TINKERTOWN SUBSTATION EXPANSION

Mr. Patrick Harder, engineer for Central Hudson, and Mr. Gary Courtney, Property Department of Central Hudson, were present. Mr. Labriola asked for an update on changes to the plans.

Mr. Harder reported that they made revisions to the plan according to the Morris Associates recommendations. He provided a new drawing with details for the sediment and erosion control and fencing. He also provided an area map with the location of the Tinkertown substation and listed the designations and districts. Mr. Labriola asked for a scale to be added to that map.

Mr. Harder stated, with regard to the sound walls, they are getting some samples in and that they are leaning more towards the sound scape. Mr. Labriola stated that they should report their selection to the Board.

Mr. Setaro reviewed the Morris Associates comment letter and noted that most of the comments have been taken care of. He stated that the open item is the sound proofing measures and that a selection needs to be made and then reviewed by Morris Associates and the Board.

Mr. Setaro stated that, with regard to landscaping, there's quite a bit of existing vegetation. Mr. Labriola noted that on the right hand side it is densely vegetated. He stated that standing at the transformer location there is one house that can be seen that is 300'-400' away. He stated that there is probably not a concern about the visual impact, but that the concern is for the noise. Ms. Bramson asked if the concern about the landscaping was in regard to noise abatement. Mr. Labriola and Mr. Harder agreed that vegetation is not very effective in noise abatement.

Mr. Fracchia asked if they will put up sound barriers between the installation and the Horn property. Mr. Harder pointed out the proposed specific location of the sound barriers – they will be 3' in back of the substation, will be 17' high, and 20' wide. Mr. Labriola asked if they will only be installed on one side. Mr. Harder pointed out the property they are trying to protect and noted that there's enough distance from the other property where a wall would not be required. Mr. Fracchia pointed out the Savino residence on the map. Mr. Harder stated that they looked at that and determined that the distance is sufficient to shield from noise.

Mr. Setaro asked if the noise analysis and impact on adjacent houses will be part of their documentation. Mr. Harder stated that they are designing the sound enclosure to minimize the noise impact on one property, and he pointed out on the map which property that is. Mr. Fracchia pointed out the two properties on the map that could be

impacted by noise. Mr. Harder stated that it won't be any louder than it is right now. Mr. Fischer asked if he means without any fencing. Mr. Harder stated that, with the addition of the second transformer and taking the load off the old one and putting it on the new one, there is a 0-1 db increase in noise. Mr. Fischer asked if this means there will be no change from what it is now.

Mr. Labriola stated that the Board and the applicants had this conversation at the last meeting. Further, he noted that the applicant and the Board should be considering the noise impact at a full load on both of the transformers because no one wants to revisit this 10 years in the future. Mr. Harder claimed that the impact cannot be known until they are in place and fully loaded. He stated that one can guess, but it cannot be known. Mr. Labriola stated that that is not acceptable and stated that it is unimaginable that a transformer manufacturer would not know what the acoustical footprint would be at max load of its own product. Mr. Harder stated that it can be estimated but that it all depends on landscaping, the density of the air, and other factors. Ms. Bramson asked for worst case scenario. Mr. Labriola concurred that if the answer is we don't know, then we have to go with the worst case scenario.

Mr. Harder asked the Board what they would like them to do at this point. Mr. Labriola asked for the criteria used for the acoustical testing that has been done and the results. Further, he stated that the Board would like to have an acoustical engineer look at that documentation and give his/her comments regarding what is or is not to be expected from the installation. Mr. Labriola stated that the Board is not comfortable with the answer that is being provided.

Mr. Harder stated that they know how it will perform, that the noise level will increase slightly with load. Mr. Labriola again asked for the testing documentation – what % load? Mr. Harder stated that it was probably tested at 50%. Mr. Labriola stated that, therefore, there's still a fair amount of load that was not acoustically tested for and that there's an opportunity for it to be louder. Mr. Harder concurred that that opportunity does exist. Mr. Labriola stated that the Board needs to review and plan this project at worst case and that the applicant needs to help the Board get there with appropriate and complete documentation (to include proposed mitigation measures), which the Board will then have reviewed by an acoustical engineer.

Mr. Gordon stated that he did a site visit on a Sunday morning, at a time when the load was probably not high. He asked how much louder the noise level will be during the hot days of summer at high demand. Mr. Harder stated that the noise level will vary depending upon the load. Mr. Gordon asked again what it will sound like at maximum load and whether the mitigation measures will take care of the impact.

Mr. Karis stated that the Board needs to see the projected increase in noise level from the two transformers at maximum load and whether or not that warrants sound mitigation beyond what is currently being proposed. He asked them to analyze the sound impact on both houses in the vicinity.

Mr. Setaro asked the applicant to do the documentation, list the testing criteria, and choose the manufacturer. Following that submission, the Board will review the proposal. Mr. Labriola stated that it is impossible for the Board to do a SEQRA determination without those answers regarding the potential noise impact.

Mr. Labriola asked the applicant if they have any questions regarding what the Board is looking for. Mr. Harder did not have any questions.

Mr. Nelson asked when the facility was installed. Mr. Harder stated that it was installed in 1957. Mr. Nelson noted that it is, therefore, a pre-existing non-conforming use as it was installed prior to Zoning (1974) and may be subject to the 50% expansion restriction. Mr. Setaro stated that someone talked to Mr. Friedrichson about this but that he did not remember what the response was. Further, he stated that because it is a public utility other regulations or rights may apply. Mr. Gordon stated that the easement for the transmission lines was granted in 1930. Mr. Courtney stated that the deed is dated 6/28/57.

Mr. Labriola read into the record a letter dated 2/9/07 from the Conservation Advisory Council (original on file):

“We recommend that the applicant determines if PCB-containing oil is present in the existing transformer and provide documentation to the Board regarding those findings.”

He noted that the Board discussed with the applicant last month the question of containment and asked about the standard plan that they use. He asked for details on the containment design. Mr. Harder stated that there are no PCB's and that he can supply an oil analysis to the Board.

Mr. Harder asked when the public hearing would be held. Mr. Labriola explained that there is no public hearing on a revised site plan. He stated that, if they provide the Board with the documentation needed for the SEQRA determination, then the Board can move forward on the application. Mr. Setaro stated that he can line up someone to review the acoustical analysis and proposed mitigation measures.

Mr. Labriola listed the required documentation:

- Oil analysis
- Noise analysis
- Decision made on the acoustical panels – to be shown on the map
- Containment design around the transformers – to be shown on the map

Mr. Harder stated that there is no containment around the transformers. Mr. Labriola asked what is done if there is a leak. Mr. Harder stated that the amount of stone in the yard and the criteria that was set forth by the EPA does not require them to have a specific SPCC plan for this site. He stated that they follow a generic SPCC plan. Mr. Labriola asked Mr. Setaro if this needs to be reflected with a note on the map. Mr. Setaro stated that he will put a note on the map documenting the regulations that apply.

Mr. Gordon asked how many gallons of oil would be in a transformer. Mr. Harder estimated that there are 2,000 gallons of oil in a transformer. The Board asked how a leak of that potential volume can be contained. Mr. Harder stated that if there's a leak they will know it's happening. Mr. Gordon asked what the volume of a common spill is. Mr. Harder responded that it's hard to say, but that what they normally deal with is less than 5 gallons. He stated that they have monthly inspections where they catch things when they start to leak. He stated that anything over that amount they must report to the DEC within 24 hours of it being found.

Mr. Fracchia asked if each transformer contains 2,000 gallons of oil. Mr. Harder responded yes. Mr. Fracchia noted, therefore, that with the two transformers there will be 4,000 gallons of oil on the site. Mr. Harder stated that this is an estimate. Mr. Labriola again stated that a note must be put on the map regarding the current applicable containment standards.

Mr. Gordon asked how spills are managed. Mr. Harder stated that the stone slows down the spill but does not contain it. He stated that for the bigger transformers there is secondary containment. Mr. Gordon asked how many feet deep is the crushed stone. Mr. Harder stated that the crushed stone is 3" deep. Mr. Fischer noted that the crushed stone isn't going to absorb much anyway. Mr. Harder concurred that it will delay it. Mr. Fischer noted that the regulations allow this. Mr. Setaro asked how often the site is inspected. Mr. Harder stated that it's inspected monthly for a station of this size and that the bigger ones are inspected every 2 weeks.

4. CAPELL (FOX RUN) SUBDIVISION – TIME EXTENSION

Mr. Labriola corrected the agenda to reflect that this application is before the Board for a time extension on preliminary approval not for final approval. Also, he noted that Ms. Seaman and Mr. Fischer have recused themselves from this application.

Mr. Joe Kirchhoff and Mr. Mike Bodendorf were present.

Mr. Bodendorf reported on the changes to the drawings. Aside from minor note changes, Mr. Bodendorf reported that they have addressed all the comments received from the Health Department. He stated that the biggest change was in response to the Health Department's request to reduce the pump systems. He pointed out that the only one that they could change is on Lot #5. He pointed out on the map that they moved the house on Lot #5 uphill to create a gravity septic system and re-profiled the driveway due to the change in the house location. He stated that there have been no other design changes. He pointed out the test wells on the map – Lot #1 and Lot #6 – which are scheduled to be drilled in a couple of weeks. He stated that this is the outstanding issue with the Health Department.

Mr. Setaro stated that the only open item was the question of plantings. Mr. Labriola recalled a discussion regarding decorative plantings at the intersection of the private road and Malone Road. Mr. Kirchhoff stated that they can add that.

Mr. Setaro asked about signage. Mr. Kirchhoff stated that it will be a mailbox-size sign.

Mr. Labriola asked about the work with the DLC. Mr. Kirchhoff stated that it is complete and has been resolved positively.

Mr. Kirchhoff reported that legal counsel is proceeding through the process with the Attorney General's office to create a Homeowners' Association and that they should probably have final approval in 3 months.

Mr. Labriola stated that the Planning Board typically waives a second public hearing because the first and second public hearings are usually held on the same night. However, he noted that this application had a fair amount of community involvement and, therefore, he requested that the applicants advertise for a public hearing when they are on the agenda for final approval. Mr. Labriola noted that the plan has gone through significant changes. Mr. Kirchhoff was fine with this request.

Mr. Kirchhoff noted the following steps:

- Final Board of Health approval
- Advertise for public hearing
- Come in for conditional approval pending Attorney General's approval of HOA
- He and Mr. Fischer will walk the property regarding clean up of the one section

Mr. Kirchhoff stated that they are incorporating green design in the houses on this project.

Mr. Kirchhoff asked for guidance regarding landscaping. Mr. Labriola suggested decorative landscaping of varying height to dress up the entrance way – that it is not intended as a buffer.

Mr. Labriola: **MOTION TO GRANT TIME EXTENSION FOR PRELIMINARY APPROVAL**

Whereas the application for approval of a subdivision entitled Capell located at Malone and Fox Run Roads was submitted to the Planning Board in 2002, and

Whereas the conditional approval was granted by the Planning Board on 9/12/06, and

Whereas in accordance with the Town Code Section 82.14 (e) said approval is valid for 180 days beginning 9/12/06 and ending 3/12/07, and

Whereas the applicant has requested an extension of said approval due to:

- 1. the Planning Board's attorney needs more time to review the documentation**
- 2. delays in the Board of Health approval**

Now, therefore, be it resolved that the preliminary approval be extended for a period of 90 days to begin 2/13/07 ...

Discussion: Board and Mr. Kirchhoff discussed the protocol for time extensions. Mr. Kirchhoff stated that he is requesting the two consecutive 90-day extensions at this time because he does not think the Attorney General's office will respond within the next 90 days. Mr. Labriola clarified the procedure for conditional final with Mr. Nelson and that the Board cannot do the two consecutive 90-day extensions at the same time – that the initial approval is for 180 days, the first extension is for 90 days, and the second and final extension is for 90 days. Mr. Setaro noted that there is another 6 months following approval of conditional final.

Now therefore be it resolved that the preliminary approval be extended for a period of 90 days to begin 2/13/07 and to extend to 5/13/07. It is the responsibility of the applicant to submit the final plat within the 90 day time period granted by the Planning Board. The applicant is responsible to meet the above conditions within the time frame of this resolution. There will be no written or verbal notification from the Planning Board office of the expiration of this extension.

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 5-0-0

5. MISCELLANEOUS

Family Circle/Antigone Realty: Mr. Labriola stated that the applicants on this application were asking the Town Board to change the zoning. He stated that the Town Board was looking for a recommendation from the Planning Board. He asked the Board members to review a letter that Mr. Nelson prepared to the Town Board from the Planning Board with regard to this application. Board members reviewed and approved the letter.

Mr. Labriola: **MOTION TO ACCEPT THE LANGUAGE IN THE LETTER TO THE TOWN BOARD PREPARED BY MR. NELSON REGARDING THE FAMILY CIRCLE/ANTIGONE REALTY ZONING REQUEST**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

6. MINUTES

Mr. Labriola: **MOTION TO APPROVE THE MINUTES, AS CORRECTED, OF THE 10/10/06 PLANNING BOARD MEETING; SECONDED BY R. FRACCHIA, VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **MOTION TO APPROVE THE MINUTES, AS CORRECTED, OF THE 11/14/06 PLANNING BOARD MEETING; SECONDED BY K. BRAMSON, VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **MOTION TO APPROVE THE MINUTES, AS CORRECTED, OF THE 12/12/06 PLANNING BOARD MEETING; SECONDED BY K. BRAMSON, VOTE TAKEN AND APPROVED 5-0-0**

Mr. Labriola: **MOTION TO APPROVE THE MINUTES, AS CORRECTED, OF THE 1/9/07 PLANNING BOARD MEETING; SECONDED BY K. BRAMSON, VOTE TAKEN AND APPROVED 7-0-0**

Meeting adjourned.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the February 13, 2007, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

____ Approved as read

____ Approved as corrected with deletions/additions

PLEASANT VALLEY PLANNING BOARD
March 13, 2007

A regular meeting of the Pleasant Valley Planning Board took place on March 13, 2007, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:34 p.m.

Members present: Joe Labriola, Chairman
 Michael Gordon
 Rebecca Seaman
 Rob Fracchia
 Kay Bramson
 Henry Fischer
 Peter Karis

Also present: Pete Setaro, Morris Associates
 Jim Nelson, Esq., Town attorney

ANNOUNCEMENT: Mr. Labriola announced that the Taconic Apartments (Taconic Homes) application has been postponed to the April 2007 Planning Board meeting. He noted that the applicants made a significant set of changes and that Morris Associates needs more time to complete an in-depth review.

1. ROSENBERG-MRSTIK LOT LINE RE-ALIGNMENT – PUBLIC HEARING – PRELIMINARY APPROVAL

Mr. Labriola noted that this applicant received sketch plan approval at the February 2007 Planning Board meeting and that it is on this evening's agenda for public hearing.

Eric and Janet Gardell were present. Mr. Gardell stated that this is a lot line revision on Ring Road – the line between Rosenberg and Mrstik. He stated that the reason for this revision is that the current corner is in the middle of the driveway. He stated that the plan is to move the line over and swap a piece of property in the back so that the acreage on both lots remains the same.

Mr. Setaro stated that all the comments in the Morris Associates letter have been taken care of and that they have no further comments.

Mr. Labriola: **MOTION FOR DECLARATION**

I move that the Planning Board determines as set forth in the attached declaration dated 3/13/07 prepared by the Board's engineer that the Rosenberg-Mrstik lot line re-alignment is an unlisted action under SEQRA and that it will not have a significant effect on the environment for the following reasons and that no environmental impact statement will be required.

The reasons in support of this determination of non-significance are: the action involves the lot line re-alignment with the transfer of equal square footage, therefore lots to remain the same size.

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola stated that the applicant provided an affidavit of publication in The Poughkeepsie Journal for the Public Hearing.

Mr. Labriola: **MOTION TO OPEN PUBLIC HEARING; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 7-0-0**

No member of the public spoke.

Mr. Labriola: **MOTION TO CLOSE PUBLIC HEARING; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **MOTION TO GRANT PRELIMINARY APPROVAL**

I move that the Planning Board grant preliminary subdivision approval to the Rosenberg-Mrstik lot line re-alignment in the form of the attached resolution dated 3/13/07 prepared by the Board's engineer and now before the Board subject to the following conditions: NONE.

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola: **MOTION TO WAIVE 2ND PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **MOTION TO GRANT FINAL APPROVAL**

I move that the Planning Board grant final approval to the Rosenberg-Mrstik lot line re-alignment subdivision in the form of the attached resolution dated 3/13/07 prepared by the Board's engineer and now before the Board subject to the following conditions:

- 1. payment of all fees**
- 2. Dutchess County Department of Health permission to file**
- 3. Morris Associates letter dated 3/7/07**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

2. GORDON SUBDIVISION – PUBLIC HEARING – PRELIMINARY APPROVAL

Mr. Gordon recused himself.

Mr. Labriola disclosed the relationship that the Planning Board has with Mr. Gordon due to the fact that Mr. Gordon is a member of the Board.

Mr. Labriola noted that this application received sketch plan approval at the January 2007 Planning Board meeting.

Mr. Harry Bly, attorney for the applicant, was present and reported that there have been no changes to the plans. He stated that there have been some advances in the plans for the common driveway. He stated that the property consists of 99.87 acres out of which 7.49 acres are to be taken to create a separate lot. He stated that the two lots will utilize a common driveway for access. He stated that considerable grading was done to create the driveway. Further, he stated that an instrument is being created for the maintenance of the common drive.

Mr. Bly also reported that they have made an application for permission to file. He stated that under Board of Health regulations this application does not qualify as a residential development, but that they did the soil testing and they are prepared to submit a new individual plan for the septic approval. He stated that they will submit their application to the Board of Health and that the approval will be subject to their filing the map.

Mr. Setaro clarified that Mr. Bly is saying that they would prefer not to have a condition that imposes formal Board of Health approval now but that they would like to gain approval with the permission to file due to the lot size. Mr. Bly concurred with this clarification and stated that the final plan for Board of Health design would be submitted with the building application. Mr. Labriola stated that the Planning Board has proceeded this way with other applications.

Mr. Setaro requested a letter from their engineer regarding the feasibility of the septic design. Mr. Bly stated that the letter has already been submitted. Mr. Setaro stated that he will review it. Mr. Labriola reviewed the file and found the letter that was part of the original submission.

Mr. Labriola read into the record a letter from the Pleasant Valley Fire Advisory Board dated 3/7/07: "FAB recommends that the driveway be cleared and maintained to 12' wide and 12' high and that the culvert pipe be of sufficient size and integrity to support the weight of a fire truck." Mr. Labriola asked if there is a note on the map that reflects this. Mr. Bly stated that there is a turnaround at the end of the drive. Mr. Labriola stated that a note must be put on the map regarding the conditions as requested by the FAB. Mr. Bly stated that there are details of the culvert pipes in the drainage report. Mr. Setaro noted that there is no concern regarding water flow, but rather the concern was that the pipe has enough cover so that it can support a fully loaded fire truck. Mr. Bly will add a note to the map.

Mr. Setaro stated that most of the items in the previous Morris Associates letter have been addressed. He stated that the engineer did provide some additional storm drainage details, a storm drainage report. He stated that they need a copy of the common driveway maintenance agreement. Further, he noted the need for the addition of some stone fill on the inlet side of the proposed culvert.

Mr. Labriola: **MOTION FOR PARKLAND DETERMINATION**

I move that the Planning Board adopt the following Parkland Determination Resolution for the Michael D. Gordon and Deborah Z. Gordon subdivision in the form of the attached resolution dated 3/13/07 prepared by the Board's engineer and now before the Board subject to the following conditions: (full resolution is on file)

Now, therefore, be it resolved that the Planning Board having considered the size and suitability of the land shown on the subdivision plat and the needs of the immediate neighborhood hereby determines that a suitable park meeting the requirements of the Town cannot be located on such subdivision plat. If the applicants' subdivision application is approved, the applicants are hereby required to deliver to the Town for deposit in the Town's trust fund for park, playground and other recreational facilities the amount required by the Town Board's fee schedule for the number of residential subdivision lots approved by the Planning Board.

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola: **MOTION FOR NEGATIVE DECLARATION**

I move that the Planning Board determine as set forth in the attached declaration dated 3/13/07 prepared by the Board's engineer that the Gordon subdivision is an unlisted action under SEQRA and that it will not have a significant effect on the environment for the following reasons and that no environmental impact statement will be required.

The reasons in support of this determination of non-significance are as follows:

- 1. action involves the subdivision of a 99.87 acre parcel into 2 lots of 92.38 and 7.49 acres**
- 2. erosion control measures have been provided**
- 3. Dutchess County Department of Health will approve water and sewage facilities**

SECONDED BY R. FRACCHIA

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola stated that the file contains an affidavit of publication in The Poughkeepsie Journal for a Public Hearing.

Mr. Labriola: **MOTION TO OPEN THE PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 6-0-0**

No member of the public spoke.

Mr. Labriola: **MOTION TO CLOSE THE PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **MOTION TO GRANT PRELIMINARY APPROVAL**

I move that the Planning Board grant preliminary approval to the Michael D. Gordon and Deborah Z. Gordon subdivision in the form of the attached resolution dated 3/13/07 prepared by the Board's engineer and now before the Board subject to the following conditions: NONE

SECONDED BY R. FRACCHIA

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola confirmed with Mr. Setaro that he has added as conditions:

1. a note added to the map regarding the driveway clearance and that the culvert requires 18" of cover and must be able to support the weight of a fire truck
2. driveway easement

Mr. Setaro stated that the driveway easement has been covered in a previous Morris Associates letter and suggested the addition of "permission to file" regarding DCDOH approval.

Mr. Nelson stated that he spoke with Mr. Gordon and with Mr. Setaro. He stated that they discussed having Mr. Bly put a note on the map, rather than doing a metes and bounds description of the common driveway, that documents a 12' wide driveway and easement for lot #2 so that it would be shown on the plat. Mr. Setaro stated that Morris Associates requires a common driveway to be 14' wide. Mr. Karis stated the easement would need to be 20' wide. Mr. Setaro agreed.

Mr. Nelson reported that he talked with Mr. Gordon about making a request for any necessary subordinations, that if there are mortgages that there be subordinations on the burdened lot. He noted that the original property consisted of 4 or possibly 5 different pieces. Mr. Gordon stated that the original piece was 65 acres, that they added 34 acres to the north, in 1987 they added a one acre piece on Creek Road at the bottom of their driveway, and in 1997 they bought the ten acres across the road. Mr. Nelson stated that the property is carried as one parcel for tax purposes and asked if they have been consolidated into one deed. Mr. Bly stated that he does not believe they have been consolidated. Board member asked if there is a perimeter description. Mr. Bly stated

that they will provide one. Mr. Nelson stated that it would be helpful to know specifically which parcel is being subdivided. He stated that it could be one of the 4 pieces; or if the Gordons intend to make it one parcel, then they need to consolidate those lots, make them one parcel, and then carve out 7+ acres. Mr. Bly stated that they can file a consolidation deed or some other mechanism whereby the property is considered one parcel. Mr. Nelson stated that if these pieces are to be all one parcel out of which a lot is to be carved, then it is a good idea to consolidate them. Mr. Labriola asked if a consolidated deed exists. Mr. Bly stated that one does not exist, but that they are all on one deed. Mr. Nelson stated that he will check on whether a consolidation deed exists and noted that if one does not exist, one should be done.

Mr. Nelson asked about details to be shown on the two maps. Mr. Labriola concluded that one map will show the entire nearly 100 acres with details of the 7+ acres that is being carved out and that there will be a separate map that shows the common driveway into the second lot. Mr. Bly stated that there will be a note on the one map explaining these details.

Mr. Labriola: **MOTION TO WAIVE 2ND PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **MOTION TO GRANT CONDITIONAL FINAL APPROVAL**

I move that the Planning Board grant final approval to the Michael D. Gordon and Deborah Z. Gordon subdivision in the form of the attached resolution dated 3/13/07 prepared by the Board's engineer and now before the Board subject to the following conditions:

- 1. payment of all fees**
- 2. DCDOH permission to file**
- 3. Morris Associates letter dated 3/7/07**
- 4. a note will be added to the map that the driveway will be cleared and maintained 12' wide and 12' high of trees and brush**
- 5. the culvert requires 18" of cover and must be able to support the weight of a fire truck**
- 6. a note will be added to the map that in the area of the Lot #1 driveway a 20' wide easement for Lot #2 exists**
- 7. consolidated deed needs to be filed if it has not already been filed**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola: **MOTION TO ASSESS RECREATION FEES**

I move that the Planning Board pass a recommendation to the Town Board that they assess a recreation fee for one newly created lot for this subdivision.

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

3. MIRABILIO SUBDIVISION – CONTINUED REVIEW

Mr. Labriola stated that this application received sketch plan approval at the February Planning Board meeting.

Mr. Ernie Martin, engineer and surveyor, and Mr. John Mirabilio were present.

Mr. Labriola recalled that the most significant issues regarding this project are drainage and flow and asked the applicants to report on any changes to the plans.

Mr. Martin stated that Salt Point Turnpike sits higher than this property and that the slope of the property drains in a southeasterly direction. He pointed out an existing 15” culvert along Salt Point Turnpike. He stated that the natural drainage drains from across the street into the side ditch and some or a portion of it flows out and a trickle flows through the site itself. He stated that they are planning to put a culvert under the common driveway and that the drainage will continue down along between the property as it does now. He stated that they show some diversion swales and some rip wrap, which is the extent of the drainage.

Mr. Setaro reviewed the Morris Associates comment letter and noted that the drainage is the most significant item. He also asked about an approval letter from the DOT regarding the common driveway access. Mr. Martin stated that DOT is OK with it.

Mr. Setaro reviewed an aerial map of the property and pointed out where the drainage flows. He stated that the storm drainage report did indicate an increase in flow off the site and stated that they need to work on this so that there is no increase. Mr. Setaro stated that the dry wells off the roof leaders will help with this. He asked if they plan on doing something to prevent the water from flowing over the top of the septic. Mr. Martin stated that they show a swale, but acknowledged that they need to do something better to contain the flow. Mr. Setaro noted that they will have to work with the Health Department regarding the septic and the swale. He stated that if the drainage flows onto both lots, then an easement would have to be considered to ensure that the swale will be maintained. He stated the main concern was regarding the drainage and making sure that there is no increase in the amount of water that flows off of the site.

Mr. Karis asked what physical form it would take and how it would impact the proposed improvements – an open basin, an underground tank. Mr. Setaro stated that a good portion of the flow can be managed by piping the roof leaders into a dry well and maybe something can be done with a smaller pipe to mitigate. Mr. Martin pointed out deep swales on the map and reported that even in recent storms there is natural storage in the swales.

Mr. Karis expressed his concern regarding the culvert – that the drainage that comes down through a wooded belly is discharged at a single point which will mean increase in velocity and flow and raises the question of how to control that impact downstream. Mr.

Setaro concurred that they need to make sure that it does not impact the properties downstream. Mr. Karis stated that the Lot #1 septic is in that belly and at the time of approval an upstream culvert was not proposed, therefore the Health Department may have concerns with the location of the septic as previously approved.

Mr. Fracchia asked where the well is located for the adjacent mobile home park. Mr. Martin stated that he does not know and will check on it. Mr. Setaro stated that he will have to locate it for the Health Department.

Mr. Gordon asked if the prior approval of the septic plan would expire if the plan changes. Mr. Setaro stated that they have 5 years from the 12/03 approval date. Mr. Martin stated that the approval is good as long as you don't alter the area where it was planned. Mr. Labriola noted, therefore, that the drainage issue could affect the approval.

Mr. Karis asked about the septic on Gruntler. Mr. Martin stated that they spoke with the owner who informed them about the location of the septic. Mr. Karis asked if there is a better way to define the location – researching the Health Department file – and stated that it seems that location is not accurate.

Mr. Karis stated that the grading north of Lot #2 house – the cut slope for the driveway – the grading is right to the property line – seems very tight. Mr. Setaro agreed that they need to look at that. Mr. Karis pointed out the proximity of the driveway and the setback line for Lot #1 - the house is squeezed in there tightly – need to make sure there's enough room to build the kind of house they want to build.

Mr. Karis repeated his opinion that there is a better alignment on the common driveway in order to have a flatter slope. He stated that he agrees with the connection point.

Mr. Karis asked if the debris and general garbage that's been dumped over the slope of the turnpike onto the site will be cleaned up. Mr. Mirabilio stated that he will clean it up.

Mr. Labriola stated that the next step is for the applicant to advertise for a public hearing and that the Board must do a SEQRA determination prior to that public hearing. Therefore, he advised the applicant that the drainage issue must be resolved to the point where the Board is comfortable it is under control before a SEQRA determination can be done.

Board and Mr. Setaro discussed the need for a revised set of plans prior to advertising for a public hearing. Decision was reached that the applicants will provide a revised set of plans at the next Board meeting.

4. KIRCHHOFF PROPERTIES 199 WEST ROAD – SITE PLAN REVISION

Mr. Joe Kirchhoff and Mr. Mark DelBalzo, engineer, were present.

Mr. Labriola stated that this application was before the Board at the January 2007 meeting for discussion and asked the applicants to report on any changes to the project.

Mr. DelBalzo stated that they have revised the site layout based on the input from the Board. He pointed out that they are removing asphalt and adding islands, restriping the parking areas, adding landscaping trees. He stated that they will replace the white pines with red maples. He noted that this is a reuse of an industrial site and that the only action they are proposing is the removal of asphalt. He noted that they will be providing a monument sign and will submit a separate sign application.

Mr. DelBalzo discussed a proposed transformer pad for the electrical service lines.

Mr. Setaro reviewed the Morris Associates comment letter. He asked if there has been communication with the Health Department regarding the water supply or transfer of permits. Mr. DelBalzo stated that he will talk with them.

Mr. Setaro asked if there will be any change to the lighting. Mr. Kirchhoff confirmed that there will be no change.

Mr. Setaro and Mr. Labriola asked that details regarding the transformer pad be added to the plans and requested some landscaping to shield it. Mr. DelBalzo pointed out on the map the islands that will provide a "front lawn" image and screening.

Mr. Gordon asked if the front of the building will be office space. Mr. Kirchhoff confirmed that it will be and pointed out on the map the warehouse areas and other tenant areas. Mr. Gordon asked if trucks would be needing access to the back of the building. Mr. DelBalzo stated that that is why they kept the entrance the same. Mr. Kirchhoff pointed out the UPS shipping/receiving dock, which currently exists. He stated that they are trying to use everything that is there and noted that they are getting rid of the massive telephone poles and putting the wiring underground.

Mr. Labriola stated that the landscaping plans will make a huge difference in the appearance of the site. He asked if they can put trees between the Simmons building and the parking lot. Mr. Kirchhoff stated that there is no room to do that, that the line is right on the property line. He pointed out the 5 green 40' long islands that are intended to soften the property. He discussed the variety of trees that he plans to put in the islands.

Ms. Seaman asked about landscaping and screening on the edge of the park in the back of the property. Mr. Kirchhoff responded that he has not yet considered it.

Mr. Labriola asked about a trail from the school and asked if the intent is to have that trail tie into Redl park and what it is used for. Mr. Kirchhoff guessed that it's been used by snowmobilers over the years and that it used to be more of a trail than it is now. He stated that he would be able to extend it in the future if requested to do so.

Mr. Gordon asked if they need as much lighting as currently exists and noted that it is very bright at night. Mr. Kirchhoff stated that he will look into this.

Mr. Kirchhoff displayed elevations for the Board's review with the design, materials, and colors. Board reviewed and approved the colors. Mr. Kirchhoff stated that their plan is to keep a crisp, modern, industrial appearance to the building. They will stay with the metal siding; they will paint it, and break it up a little with some horizontal detailing. He pointed out the brand new 8' wide windows.

Mr. Labriola asked about handicapped access. Mr. Kirchhoff stated that in the back it is all ADA accessible and noted that he will provide ramps and ADA access as required for future tenants.

Ms. Bramson asked about the parking in the front. Mr. Kirchhoff stated that the parking on the map is to scale.

Mr. Kirchhoff stated that they will clean up anything that's patched, including the roof.

Mr. Labriola stated that, based on the kind of uses in the building and tenants occupying the space, they will need to figure traffic flows and other considerations. Mr. Kirchhoff stated that they already know that they will need to come to the Town for a use variance because of a tenant with whom they are now negotiating. He also stated that they are seeing a need for small office spaces with shared common space with copy center, etc.

Mr. Setaro asked about a 239 M from the County. Mr. Labriola noted that the Board received a letter from the DC Department of Planning which states that the project is of "local concern" and lists some comments. The 3 areas the County commented on were:

1. curbed entrance/exit from West Road shown as 40' wide is too wide
2. need to clarify plant materials
3. provide street trees

Mr. Labriola stated that the Planning Board's discussions are in line with the County's requests.

Mr. Karis asked if the raised islands will impact the drainage. Mr. Kirchhoff stated that they looked at that and that they may have to put in some through shoots/curb cuts.

Mr. Setaro asked about landscaping around the transformer. Mr. Labriola suggested that they shield the transformer with some plantings. Mr. Karis asked that they take a look at the lighting, that it's old school with spot lights on 25' poles. Mr. Kirchhoff will look at it. Mr. Karis advised on the types of trees that tolerate heat and drought. Board agreed that these improvements are very good.

Mr. Labriola: **MOTION FOR NEGATIVE DECLARATION**

I move that the Planning Board determine as set forth in the attached declaration dated 3/13/07 prepared by the Board's engineer that the 199 West Road amended site plan is an unlisted action under SEQRA and that it will not have a significant effect on the environment for the following reasons and that no environmental impact statement will be required.

The reasons in support of this determination of non-significance are:

- 1. there is no significant change to the site, only additional landscaping and exterior color changes**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola: **MOTION TO GRANT SITE PLAN**

I move that the Planning Board grant site plan approval to the 199 West Road site plan with regard to the application of West Road Properties, LLC in the form of the attached resolution dated 3/13/07 of this year prepared by the Board's engineer and now before the Board subject to the following conditions:

- 1. Morris Associates letter dated 3/8/07**
- 2. payment of all fees**
- 3. colors noted on the elevation drawings**
- 4. landscaped screening around the transformer pad**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

With regard to Taconic Apartments application, Mr. Labriola requested that Mr. Kirchhoff provide the Board with a large drawing of the revised plan as recently submitted with an overlay of the previous layout of the buildings.

5. FOX RUN (CAPELL) – TIME EXTENSION

Mr. Labriola reported that the Board approved an extension of preliminary approval for Fox Run, however the dates were incorrect. Therefore, these dates need to be corrected.

Mr. Labriola: **MOTION TO CORRECT THE RECORD**

Whereas an application for the approval of a subdivision entitled Capell Fox Run subdivision located at Fox Run and Malone Road was submitted to the Planning Board 6/21/2002 by Chazen Engineering;

Whereas conditional preliminary approval was granted by the Planning Board on 9/12/2006;

Whereas in accordance with the Town Code Section 82.14 (e) said approval is valid for 180 days beginning 9/12/2006 and ending 3/12/2007;

Whereas the applicant has requested an extension of said approval due to the applicant waiting for final approval from Dutchess County Department of Health for the completion of a Homeowners Association;

Now therefore be it resolved that the preliminary approval be extended for a period of 90 days to begin 3/12/2007 and to end 6/12/2007.

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 5-0-0

6. APPEAL #889 HARDEN – VARIANCE

Mr. Labriola stated that they are requesting a variance from the minimum center of road setback for the construction of a sun room. He stated that he could not discern whether the use for the sun room would be for another business on the site or for residential use. He stated that he does not have a problem with the setbacks, but if its use is for an extension of the hair salon and will be lit up at night, there might be a problem.

Ms. Bramson noted that the adjacent house is a similar distance from the road. Mr. Labriola agreed that the setbacks are OK but noted a question about the planned use.

Mr. Labriola: **MOTION TO PASS THE APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION BECAUSE THE PLANNING BOARD BELIEVES THAT LACK OF THE APPROPRIATE SETBACKS IS NOT INCONSISTENT WITH ADJACENT PROPERTIES. HOWEVER, THE PLANNING BOARD WOULD LIKE THE ZBA TO BETTER UNDERSTAND WHETHER THIS IS FOR RESIDENTIAL USE OR WHETHER BUSINESS WILL BE CONDUCTED IN THE PROPOSED SUN ROOM ADDITION. IF BUSINESS IS TO BE CONDUCTED IN THE SUN ROOM, THEN THE PLANNING BOARD WOULD LIKE THE ZBA TO CONSIDER THE POTENTIAL IMPACT OF LIGHTING IN THEIR DETERMINATIONS.**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola read into the record a letter (original on file) from the Fire Advisory Board offering no recommendation.

7. APPEAL #890 DIMETRO – VARIANCE

Mr. Labriola stated that this is a variance from the minimum side setback for the construction of a good sized garage. Ms. Bramson asked if the garage already exists. Mr. Labriola responded that it does not yet exist. Board discussed other items on this site and the proposed location of the garage.

Mr. Gordon noted that the applicant owns an auto repair business and wondered if the applicant intends to use this proposed garage for business use.

Mr. Labriola: **MOTION TO PASS THE APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION BASED ON THE PLANNING BOARD'S**

ASSUMPTION THAT THE PROPOSED GARAGE WILL BE USED ONLY FOR RESIDENTIAL USES AND THAT NO BUSINESS WILL BE CONDUCTED IN IT.

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola read into the record a letter (original on file) from the Fire Advisory Board that offers no recommendations or comments.

8. MISCELLANEOUS

Mr. Labriola stated that he reviewed all the open applications from the previous years and that Nancy has sent letters to all the applicants who have not been active. He stated that 16 letters were mailed and that 4 applicants have responded.

Penucci (Activities in a Wetland) responded that the application is still active and he's planning to come back to the Board soon.

Mr. Labriola stated that the following applications have been withdrawn:

- PV Church – which became the Mirabilio application
- Field Point Riding Academy – no need for a site plan
- Tuttle ABD Stratford Farm subdivision – on Bower Road, application for a turning lane, Central Hudson wanted \$40,000-\$50,000 to move a utility pole, therefore the application has been withdrawn.

Board discussed the open applications.

9. MINUTES

Mr. Labriola: **MOTION TO APPROVE MINUTES AS CORRECTED OF PLANNING BOARD MEETING ON 2/13/07; SECONDED H. FISCHER; VOTE TAKEN AND APPROVED 7-0-0**

Meeting adjourned at 8:20 p.m.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the March 13, 2007, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

____ Approved as read

____ Approved as corrected with deletions/additions

PLEASANT VALLEY PLANNING BOARD
April 10, 2007

A regular meeting of the Pleasant Valley Planning Board took place on April 10, 2007, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:33 p.m.

Members present: Joe Labriola, Chairman
 Michael Gordon
 Rebecca Seaman
 Rob Fracchia
 Kay Bramson
 Henry Fischer
 Peter Karis

Also present: Pete Setaro, Morris Associates
 Jim Nelson, Esq., Town attorney

ANNOUNCEMENTS: Mr. Labriola announced that the Mirabilio Subdivision application is off the agenda this evening. He stated that Morris Associates engineer met with the applicant's engineer and reported that they were not able to resolve the drainage issue satisfactorily. They will come back to the Planning Board in May. Ms. Bramson asked if the Health Department is reviewing the previous septic plan now that there are two houses planned for the parcel. Mr. Setaro stated that the applicant was planning to talk with the Health Department regarding the impact of the storm drainage plan on the septic plan. Mr. Gordon asked the procedures for reviewing and re-approving the septic plan now that there are two planned dwellings. Mr. Setaro stated that, if conditions change in the plan that have an impact on the septic system that was previously approved, then DOH will review. Mr. Labriola noted that the drainage issues are impacting the septic systems.

Mr. Labriola also announced that the Central Hudson Tinkertown Subdivision Expansion site plan is not on the agenda. Rather, the Board will attend to the ZBA appeal regarding the Expansion, which exceeds 50%.

1. PLEASANT VALLEY SHOPPING CENTER SITE PLAN REVISION

Herb and Kelly Redl were present. Mr. Redl stated that they are putting a new front on the buildings in the Shopping Center to update their appearance. He pointed out the new larger windows. Mr. Labriola asked why they are not renovating the building that's closest to Route 44 on the site. Mr. Redl agreed that the third building needs work and stated that they plan to renovate that building at a later date. He stated that all three buildings will have a similar redesigned appearance.

Mr. Setaro reviewed his comment letter. He noted that there are no changes to the actual site and most of the concerns will be for the Board regarding elevations regarding colors and materials. He did mention the Dutchess County Department of Planning's letter.

Mr. Labriola referenced the letter from the Dutchess County Department of Planning. The Department's first comment is that the application is not complete because materials and colors have not been submitted. Mr. Labriola stated his agreement with this assessment of incompleteness. The Department also commented on the need for the renovations to be compatible with the surrounding areas in design. Mr. Labriola concurred that the Planning Board shares this concern that whatever is done at the Shopping Center ties in with the rest of the hamlet. The Department also asked why the third building was not included in the renovation plans. Mr. Labriola stated that the Board will make sure that DC Department of Planning understands the applicant's plans to renovate that third building sometime in the future. The Department had some suggestions on landscaping and pedestrian improvements, which Mr. Labriola stated that Planning Board is also interested in. The Department also commented on shared parking and vehicle circulation patterns and the potential to open the exit-only egress to two-way traffic. Mr. Labriola stated that it is an interesting idea that will require DOT review and comment.

Mr. Gordon asked who made it a one-way exit. Mr. Redl stated that it was DOT. Mr. Karis suggested that the proximity to the traffic light may have contributed to the one-way determination. Board and Mr. Redl discussed the previous configuration for the entrance to the Shopping Center, which was moved by NYS prior to the traffic light being installed.

Mr. Labriola noted that it is an interesting idea to make it an entrance-only as a right-hand-only turn when headed east and a right-hand-only exit. He reiterated that DOT must review and approve such a plan. He suggested that Mr. Redl call the DOT and noted that the Planning Board will have to respond to the DC Department of Planning with regard to this issue.

Mr. Setaro explained to Mr. Redl the need for a site plan amendment as the mechanism by which the Planning Board reviews his renovation plans and by which he ultimately is granted the building permit to do the work. Mr. Labriola noted that the applicant is changing an aspect of the site which requires the Planning Board to go through a site plan revision. He also explained that the Board will take this opportunity to look at the entire site and asked Mr. Redl to consider incorporating a landscaping plan in his renovations to the site. Mr. Labriola noted that there's not a lot of space to put landscaping, but asked that Mr. Redl consider the possibility of islands in the parking area with landscaping and consider planting street trees in front of Key Foods. Mr. Labriola asked the applicant to give the Board an update on any landscaping improvements the next time they come back to the Board meeting.

Mr. Karis stated that although the Board values incorporating landscaped islands in the parking areas he considers this center to be under-parked when fully rented. Therefore,

he stated that he does not think taking parking away in order to plant trees behind building #1 improves the situation on Route 44. However, he does think it would be appropriate to improve the streetscape along Route 44 especially in front of Key Foods by enhancing the landscaping as well as a pedestrian connection behind the existing pylon sign into the parking lot. Mr. Karis pointed out the area on the map that he was talking about.

Mr. Karis also asked Mr. Redl to remove the old photo booth. Mr. Redl stated that it's being used by the downstairs tenant – The Hobby Shop - for displays.

Mr. Karis commented on the traffic flow into and out of the Shopping Plaza. Mr. Labriola stated that parking will be adversely affected by opening the exit-only egress to two-way traffic. Mr. Setaro noted that they will lose quite a bit of parking by Route 44.

Mr. Labriola summarized the Board's request that the applicant plan some landscaping along Route 44 and consider the suggested pedestrian connection. Further, he asked if the applicant had considered colors and materials. Ms. Redl stated that they are working on it.

Mr. Gordon reiterated the Board's efforts to incorporate fieldstone wherever possible and noted fieldstone planters for the monument signs along Route 44. Mr. Redl stated that he's staying with brick. Mr. Labriola asked the applicants to look at their colors and materials from the perspective of tying into and complementing the upgraded sites in the hamlet.

Mr. Gordon also mentioned the Town's efforts to update the Master Plan. He noted that the last meeting was regarding the possibility of future development of a new hamlet center near Rossway Road. He stated that there was discussion around getting a little more density into the hamlet, extending Maggiocomo Lane across the creek. He stated that to get Town water a certain density is required. Further, he noted that water and sewer are needed for the hamlet to be built out. He referenced the question in County Planning's letter regarding the possibility of another building between Majacomo Lane and the front building the PV Shopping Center. Mr. Redl stated that this would not be possible because of limited parking and the absence of Town sewer.

In answer to Mr. Redl's question about how quickly he can get through the planning process, Mr. Labriola enumerated the required next steps:

1. a revised set of plans that represent the materials and colors, with samples, and rendered elevations
2. site plan to scale that shows landscaping changes and possible pedestrian walkway
3. Planning Board will recirculate those submissions (#1 & #2 above) to Dutchess County Department of Planning so that they can review this as a complete application
4. Planning Board will receive comment letter from DC Planning

Mr. Gordon explained that the Planning Board is locked into the DC Planning comment letter because the Shopping Center is on a NYS highway.

Mr. Fischer asked why the applicant is making the windows bigger. Mr. Redl explained that in his opinion the building is top heavy – that the windows will be 2’ taller and that the whole roof will be raised.

Mr. Labriola asked if the top of the building on the left elevation will be the same height. Mr. Redl stated that it will be 6” higher. Ms. Redl stated that there will be no impact on the required side setback.

2. GLOBAL TOWER SITE PLAN REVISION

Mr. Pete Karis recused himself from this application.

Mr. Neil Alexander, attorney with Cuddy & Feder, and Mr. Chuck Laurette, Global Tower Partners, were present.

Mr. Alexander stated that this application began about a year ago and that the process with the ZBA was recently concluded with the issuance of a negative declaration on a coordinated environmental review, the issuance of a special permit and an area variance. He stated that at this point the issues regarding the site plan are minimal. He stated that they will be using the existing ingress and egress that goes up to the 194’ lattice tower with several wireless carriers on it. He reminded the Board that they have been involved in all the previous site plan approvals for T-Mobile, Cell One, Sprint, and Verizon.

Mr. Alexander stated that now Global Tower is proposing a 175’ monopole in a 39’ x 39’ compound, that Cingular and Nextel have leases to use those heights that are available and that there will be some future carriers, for which Global will return to the Board for amended site plans as needed. He stated that Cingular will not use the approval that it received from the Board about 2 years ago to co-locate on the exiting lattice tower as they will now go on the new tower. He stated that both Cingular and Nextel will be doing equipment shelters.

Mr. Labriola read into the record the comment letter dated 3/1/07 from the Pleasant Valley Fire Advisory Board: “no comment as the proposed site revisions do not present any fire or safety issues.”

Mr. Setaro reviewed the Morris Associates comment letter. He stated that several easements that run with the Tower and the access road will need to be amended. Mr. Alexander stated that they show the Iroquois easement which is not affected. He explained how Mr. Mackay, the property owner, originally set up the easements as non-exclusive. He explained the Global Tower bought all of the interests that Cellular One owned with Mr. Mackay. Therefore, he stated that Global’s situation is essentially no different from Cellular One’s original situation. He explained that Cellular One is now simply a carrier and Global Tower is now the infrastructure owner. Mr. Alexander stated that he will work with Mr. Nelson to clarify these details.

Mr. Setaro mentioned the need for a letter of credit. Mr. Alexander stated that they cannot get a letter of credit for a project that does not have its regulatory approval. Mr. Setaro and Mr. Labriola concurred that it will be a condition of approval.

Mr. Setaro mentioned the need for a revised driveway maintenance agreement. Mr. Alexander stated that he will work on this with the Town's attorney. Mr. Alexander reminded the Board about the permission that was granted to the Town and Fire to put their equipment on the existing tower with no fee and that there's an agreement in place. Further, he explained that, when Global bought the rights, it took the property subject to that agreement. He stated that there are some changes needed to the paperwork to ensure that the Town exercises all its options. He stated that Global does not have any problems waiving any failure to exercise that, but that these details need to be cleaned up.

Mr. Setaro stated that notes need to be put on the plan regarding erosion and sediment control. He noted that the Board wants to see the types of materials and colors that will be used.

Mr. Labriola asked why they chose a monopole versus a lattice design. Mr. Laurette stated that the decision was based on the footprint and existing technical details – that there's a lot of rock on the site. He noted that it's easier to peg a monopole into the rock. He noted that the leased area limits the size of the footprint and that a monopole requires a smaller footprint. Mr. Labriola asked what an "H" frame is; Mr. Laurette explained.

Mr. Labriola asked about a note on the plan regarding "future 629 Nextel pad." He explained that the Board does not approve future expansion without application for a revised site plan. Mr. Laurette stated that Nextel wants legal rights to be able to pull in a standby generator and, therefore, wants to lease a footprint to enable them to do this at some time in the future in an emergency. Mr. Labriola suggested a revision to the plan. Mr. Laurette will clarify and correct the language.

Mr. Labriola asked about elevations of the proposed buildings. Mr. Laurette stated that enclosures will be 10' tall and 11'6" x 20' with a stone finish – a tan aggregate finish. Mr. Labriola asked them to submit elevations that include materials and colors. Mr. Laurette will provide the Board with photos.

Mr. Gordon asked about the corporate structure. Mr. Alexander explained that Global Tower is the owner and operator, that they are leasing the site from Mr. Mackay. Mr. Laurette explained that Global Tower Partners will maintain, operate, and service the tower and the cell phone service. He explained that Magtech is the architectural and engineering firm and will handle all architectural maintenance. Mr. Gordon asked who to call in the middle of the night for an emergency. Mr. Laurette stated that Global Tower has a #800 number that is posted on the gate and is a 24-hour operation center.

Mr. Gordon asked about the LLC and expressed his concern for the fiscal health of the corporation. Mr. Laurette stated that they are not publicly traded yet, that they own close

to 3,000 towers, that they have solid reputable financial backing, and own infrastructure from Alaska to Puerto Rico and throughout the continental United States.

Mr. Labriola noted that Morris Associates letter comments on the requirement of a performance bond that will be posted to enable the Town to remove the tower if it ceases to function. Mr. Gordon asked who will issue the performance bond. Mr. Setaro stated that it will be a letter of credit that has more legal impact than a bond.

Mr. Nelson explained that Global Partners will sign a bond – an undertaking that the Town will set – and the real force behind that is the letter of credit which enables the Town to acquire the money needed. Mr. Gordon stated that a letter of credit must be renewed periodically and asked how this would be handled. Mr. Alexander stated that they usually get a 5-year letter of credit. Mr. Gordon stated that he would feel more comfortable if a bonding company were to issue it – an insurance bond. Mr. Laurette stated that they deal with municipalities, that they pay taxes in municipalities, that they have bonds out all over the country. Mr. Alexander stated that their usual practice is to do a letter of credit with a face value and automatic draw accompanied by a side bar agreement that sets forth steps the Town goes through and what happens if the policy is canceled. He stated that, in practice, these arrangements have worked in the past.

Mr. Nelson clarified that what Mr. Gordon is talking about is an evergreen letter of credit, which rolls over and cannot be dropped or canceled.

Next Steps:

- Applicant will submit a draft of the sidebar agreement done with the Town Board for Mr. Nelson's review. Mr. Nelson clarified that the letter of credit will run with the Town and asked if they want that in place before a building permit is issued. Mr. Labriola noted that the map must be signed before the building permit is issued and that will be a condition approval. Mr. Nelson and the applicants discussed the Federal government's approval procedures.

3. SALVAGIO SUBDIVISION – CONTINUED REVIEW

Mr. Mike Duval, engineer, was present. Mr. Labriola asked the applicant to update the Board on any changes to the plan since their last appearance at the Board in September 2006.

Mr. Duval stated that a surveyor completed a survey of the property lines. He stated that there was a question of whether the site would be large enough to accommodate both an expansion area for the existing home and a septic and expansion area for the new lot. He stated that he was able to accommodate everything and that he is now in the process of contacting the County for the driveway permits, which is still pending.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that the front yard setback from the center line of the road is 80' because the property is on a County Road. He asked if the Mr. Duval has located all the adjacent SDS and wells. Mr. Duval stated

that they will update that information. Mr. Labriola asked him to also locate the water system and septic system for the adjacent Village Park Property.

Mr. Setaro commented on the question of how percentage coverage of lots is calculated – whether it is maximum coverage for buildings only or it is buildings plus additional impervious areas. He stated that he needed guidance on this from Mr. Friedrichson because the Code is not clear. Mr. Setaro stated that if the calculation is done strictly on building coverage, then everything is fine. Mr. Labriola stated that it is his understanding that the Code is interpreted as impervious surfaces which includes driveways, walkways, buildings, sheds, garages, swimming pool. Mr. Setaro stated that the definition is not clear in the Code.

Mr. Setaro stated that based upon their deep test, it will require a 6” fill pad, that he must go 10’ outside of the last sewer lateral slope down, and that the separation distance for the property line must be measured from where the toe of the slope of the fill pad hits the ground. He suggested, therefore, that the septic needs to be moved, which may affect well separations. He noted that the site is very tight. Mr. Duval agreed that it is tight and noted that in his experience the Health Department has not been consistent with the setback requirements regarding toe to slope and some of the engineers will allow them to not include the sloped area.

Ms. Bramson asked about the line of trees in the back and whether the plan is to remove them. Mr. Duval stated that no trees will be affected.

Mr. Labriola summarized that there are two key issues:

1. answer the question of whether they can meet the 80’ setback for house #2, and if they cannot, then a variance is required
2. check with Mr. Friedrichson about the coverage analysis calculations – if all the buildings, parking, pool, and shed are included, it may exceed the limit, and if it does it would also require a variance

Mr. Labriola asked Mr. Duval to verify the question about the 80’ setback and report immediately to the Board. Mr. Labriola plans to get a ruling from Mr. Friedrichson regarding coverage analysis and will report to Mr. Duval. He stated that if both of these issues are resolved then the applicant is authorized to advertise for a public hearing at the next Planning Board meeting. If one or both of the issues are not resolvable, then the applicant must appeal to the ZBA for variance(s).

Mr. Setaro asked about the size of the proposed house in relation to how tight the site is. Mr. Duval agreed that the house is planned to be 1200 sq. ft. – the footprint.

Mr. Gordon asked about the setback requirement for a septic system from the property line. Mr. Setaro explained how the 10’ is measured: come off the end of the pad and then slope down and where that slope meets the ground is where the 10’ is typically measured from.

4. TACONIC APARTMENTS (TACONIC HOMES) – SITE PLAN

Mr. Joe Kirchhoff, Mr. Ken Nadler, and Mr. Nat Parrish were present.

Mr. Labriola reported that the Board gave a positive declaration, a scoping document was put in place, the applicant has submitted a draft environmental impact statement, the Planning Board and engineer have reviewed the DEIS and provided the applicant with comprehensive list of questions and next steps. Mr. Labriola asked the applicants to report on the open list of issues in an effort to get the Board to the point where it can declare that the DEIS is complete.

Mr. Nadler provided an acetate overlay of the changes to the plans. He pointed out where they have pulled away from the property line adjacent to the Rockefeller property and have pulled out of the wetlands setbacks. He stated that 90% of the proposed buildings are in the same area as previously designed. He also pointed out the addition of a playing field. He stated that the site is graded and that they have reduced the height of the retaining walls to an average of 8' with the highest being 10'. Mr. Labriola asked if there will be fences at the top of those retaining walls. Mr. Kirchhoff stated that it will be a combination of vegetation and fencing as required according to Code. Mr. Setaro pointed out the areas on the plan where the retaining walls will be located and noted that the applicants have done a good job redesigning the plan in order to remove the ones that were of concern to the Board.

Mr. Gordon asked how many phases there will be. Mr. Kirchhoff stated that it will be a market-driven phasing plan – that it depends upon the economy and how they are selling. He stated that they are devising their sequence of construction. Mr. Kirchhoff stated that break even is at 120 units for the water and sewer plants.

Ms. Seaman asked about plans for the adjacent piece of property. Mr. Kirchhoff stated that it is under option in preparation for going to contract and that he has no plans at this time to develop it. He stated that he wanted to protect their entry and that some day in the future it should be developed as a service to the residential development.

Mr. Labriola stated that the Board had asked for a cross cut and that there was a question about whether the cross cut was accurate. He stated that the cross cut is still required because at some point in the future it is likely to be developed and the Board needs to understand if those trees are removed what that does to the cross cut.

Ms. Seaman stated that, if people buy these high end condominiums with a nice open green area at the entrance, it might be wise to put a no-build on at least the front edge of it to preserve the feeling. Mr. Kirchhoff stated that he is undecided about doing that today because something can be designed properly that will be a service eventually for the development. He stated that he does not want to restrict from what could be an amenity some day.

Therefore, Mr. Labriola reiterated the Board's need to understand the cross cut implications. Also, he noted the absence of sidewalks to Route 44 at the western

entrance. Mr. Kirchhoff stated that they discussed widening the roadway to accommodate a bike/walk trail without doing a curb and sidewalk. He stated that to do a sidewalk correctly it will need to be curved which will channel more water and be an issue with storm water and run off. He suggested possibly a nature trail design to provide pedestrian access safely. Mr. Labriola noted that people coming to the site as day laborers will need safe pedestrian access.

Mr. Karis stated that the grading plan shows that the access road is curbed and asked if that is accurate. Mr. Kirchhoff stated that he will review this. Mr. Karis stated that an access road is almost like a town road and that it is, therefore, appropriate to curb it. Further, he stated that if it is curbed it would be easy to put in a sidewalk.

Mr. Kirchhoff pointed out the nature trail that runs around most of the perimeter of the project and the internal walkways. Mr. Labriola asked why there are no walkways down to the new playing field – something that gets the children off the road as they walk to the playing fields.

Mr. Kirchhoff pointed out the wetlands on the map with the 100' buffer delineated and showed how the design is now out of the buffer and out of the wetlands.

Mr. Fracchia asked about a walkway at the other end of the road down to Route 44. Mr. Kirchhoff stated that he may be able to mirror the other walkway and that they will review it with their engineering team.

Mr. Kirchhoff showed the vegetation area map that shows the existing vegetation. Ms. Seaman asked if every condo will have a tree and noted that they are cutting down most of the trees in the central site. Mr. Kirchhoff referenced the 100 trees that they planted at Brookside and that they took down maybe a total of 12 trees on 67 acres. He assured the Board that this site must be landscaped correctly.

Mr. Kirchhoff showed the visual impact map which shows the impact from the viewpoint on the Taconic ramp and from Rockefeller University property. Ms. Seaman asked if any of the surveyed trees will be taken out. Mr. Parrish responded no; Mr. Kirchhoff pointed out a couple of trees that probably will be removed. Mr. Setaro stated that during the detailed portion of the site plan process a limit of disturbance line will be put on there so that the trees that we want to save will be saved – that fencing can be built around them while the tank is being built.

Mr. Labriola asked for clarification on the height of the tank, that there are two different heights listed in the documentation – one was 55' and one was 60'. Mr. Kirchhoff will confirm the accurate height.

Mr. Setaro stated that he was concerned about the visual impact of the tank from the vantage point on the other side of the Parkway. And he noted that there will be a fair amount of trees. Mr. Kirchhoff stated that it is very, very wooded and pointed out the

line that was cleared out for the utility line. Mr. Labriola asked whether the tower would be visible, therefore.

Mr. Kirchhoff stated that the balloon float was not done to his satisfaction, that the balloons were flown at a height that could be used to determine how tall the trees are and to be able to design around it. He stated that he typically flies at the maximum height of the building, which he will now do. He stated that the original float was done as reference points, like a survey, which created difficulties to figure out where a potential roof line might be. Further, he stated that there's a problem with the scale, which should be 1100'. Mr. Labriola asked about the timing of these, due to the approaching spring and leaf growth. Mr. Kirchhoff stated that within reason they will get it done.

Mr. Labriola stated that the Board received a letter from Mr. Parrish regarding traffic studies. He noted that Mr. Parrish used Land Use Code 230, which is for residential condominiums and townhouses, but that Land Use Code 233 pertains to luxury condominiums and townhouses that have a higher traffic rate. He asked about the difference between the two. Mr. Parrish stated that there would not be much of a difference. He explained the tables provided. Mr. Labriola asked whether 230 actually represents what they are building given that they are building luxury residential units which have a 25% higher traffic rate. Mr. Parrish stated that they will do a sensitivity analysis of the worst intersection to give a worst case scenario. Mr. Labriola thanked Mr. Parrish and stated that this will be very helpful.

Mr. Kirchhoff stated that they were hoping to be able to advertise for a public hearing. Mr. Setaro stated that the following tonight's meeting, if nothing negative was mentioned, they were going to update the documents for the May meeting at which time the application could be considered to be complete. Mr. Parrish stated that they will have a book for the public hearing that will incorporate everything that they have provided to the Board. Mr. Labriola stated that it is not appropriate to present that to the public for the first time at the public hearing. Mr. Parrish stated that it would be available before the meeting. Mr. Labriola stated that the completed document must be circulated to interested parties and made available to the public for review before the public hearing.

Mr. Karis stated that the Board wants to see the book before it is deemed to be complete.

Ms. Seaman stated that the Board wants to see the lighting impact. Mr. Labriola stated his understanding that the Board had already reviewed the impact and that there were no issues with the lighting design. Ms. Seaman stated that she does not recollect and that she does not see the lighting design in the documents. Mr. Labriola stated that it was addressed and was not on the punch list of issues on the DEIS. Ms. Seaman suggested that the lighting plan should be available for the public. Mr. Karis stated that now we are at the point where we have the scope and the check list and that everything has been addressed. He stated that, if everything's in there for the scope, then the next step is to deem it complete. Mr. Karis stated that he does not remember lighting and would like to see the document. Mr. Labriola stated that the DEIS included a lighting section that describes mitigation measures.

Mr. Labriola asked the Board members to review their copy of the DEIS and to review the section on the lighting. Mr. Karis pointed out that the project went from apartments to condos and that there's a lot of information in there relating to apartments that needs to be updated for condos. He stated that everything needs to be gone through to ensure that it is comprehensive in order to deem it complete.

Mr. Labriola stated that the Board needs to see the updated book to ensure that it is complete, that they have answered all of the questions posed in the scoping document, which will then be declared as complete and will be circulated and made available to the public and, finally, authorize them to advertise for a public hearing.

Mr. Karis noted that the document must support the plan and the plan has changed significantly.

Mr. Kirchhoff will provide the Board with a redlined document.

5. HARDEN – WETLANDS PERMIT

Ms. Ginda Harden was present and stated that she is proposing to build a 3-season sun porch onto the front of her house. Mr. Labriola noted that this application was before the ZBA for a variance application and that this property is the barber shop on Route 44. He noted that the problem is that the entire lot is in the wetlands buffer.

Mr. Karis stated that the addition will be on the opposite side of the house from the creek. Mr. Labriola stated that he does not believe it will create any problems; the house is between the addition and the creek. Members of the CAC were present at the meeting and indicated that they do not see any problems with the project.

Mr. Fracchia asked what the sun porch will be used for. Ms. Harden stated that it will be a sitting room for more light.

Mr. Labriola: **MOTION FOR NEGATIVE DECLARATION**

Whereas the Town of Pleasant Valley Planning Board has received an application for the Harden Wetlands Permit dated 3/14/07 submitted by Ginda Harden, and

Whereas an Environmental Assessment Form has been submitted in support of this application, and

Whereas the Planning Board has acted as lead agency in a coordinated review of this action, and

Whereas the Planning Board has reviewed the potential environmental impact that may be associated with this action,

Now, therefore, be it resolved that the Planning Board determines that the Harden Wetlands application is an unlisted action according to the State Environmental Quality Review Act Part 617.12 and 617.13,

Further, be it resolved that the Town of Pleasant Valley Planning Board has determined that the proposed action will not have a significant effect on the environment and that a draft environmental impact statement will not be prepared,

Further, be it resolved that the Town of Pleasant Valley Planning Board uses the following reasons in support of this determination of non-significance:

- 1. the entire parcel is in the wetland buffer**
- 2. the proposed addition positions the existing home between it and the creek**

SECONDED BY P. KARIS

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola: **WETLANDS PERMIT RESOLUTION**

Whereas a formal permit application for regulated activities in wetlands, water bodies, water courses, and buffer areas dated 3/14/07 was submitted by Ginda Harden for regulated activities consisting of the location and construction of a residential sunroom addition to the home, the entire property located within the 100' buffer of the Wappingers Creek, this property is located on Route 44 and the gird number is on file, and

Whereas the wetlands administrator has determined that the proposed regulated activities may constitute a potential significant environmental impact, and has referred the application to the Planning Board for approval or denial, and

Whereas the Planning Board has reviewed the factors pertinent to the site relating to the proposed regulated activities for compliance with Chapter 53 of the Town of Pleasant Valley Code, and

Whereas the Planning Board has not requested review of the submitted information and documentation by the Planning Board engineer and has not obtained comments from the Planning Board engineer,

Now, therefore, be it resolved that the application for the regulated activities in wetlands, water bodies, water courses, and buffer areas be approved, that the wetland administrator may issue a permit for regulated activities in these areas upon completion of such conditions as noted:

- 1. payment of all fees**

SECONDED BY R. FRACCHIA

VOTE TAKEN AND APPROVED 7-0-0

6. LEONARD – WETLANDS PERMIT

Mr. Leslie Leonard was present and reported that they need to cross an intermittent stream in order to access the backside of his property to start a driveway on the opposite end. He stated that he talked with Mr. Setaro about this and that the recommendation was that the construction start from the top and work down in order to stay off of Tyrell Road. He stated that it will be safer for traffic, reduce erosion, and save time and money as materials would not have to be hauled away and brought back in – everything could be stored on site.

Mr. Leonard stated that it is an intermittent stream that dries up.

Mr. Gordon asked what is on the property now. Mr. Leonard stated that it is barren land and that he's been trying for 3 years to get started on the driveway just to get access to the land. Mr. Karis asked for clarification on the location of the driveway. Mr. Leonard explained that the proposed driveway will provide access from Tyrell Road and that he needs to cross over an intermittent stream on the backside of his property in order to start the construction of the driveway. Mr. Leonard stated that there are logging roads on the property now that they can use and pointed out the potential house site on the property. He stated that plans to build the house are in the distant future, that he's just trying to get a driveway at this time.

Mr. Labriola asked if he has a driveway permit. Mr. Leonard stated that he is approved for a work permit. Also, Mr. Leonard stated that he has received the non-jurisdictional letter from the DEC regarding the intermittent stream.

Mr. Karis asked how deep and how wide the stream is. Mr. Leonard provided the Board with photos of the stream and stated that it's maybe 2' wide.

Ms. Seaman asked if, once the driveway is built, he would return the area to its natural condition. Mr. Leonard stated that they would abandon it when the driveway is completed. Further, he stated that he has permission to go through his neighbor's property to access the area.

Mr. Karis asked what kind of equipment will be coming through there. Mr. Leonard stated that an excavator, skidsteer, back hoe, blasting hammer, and dump truck.

Mr. Leonard stated that he's doing everything by the book because he's sensitive to his neighbor's (Rockefeller University) concerns. Mr. Karis stated that he's thinking of an alternative because it's so small and asked if he must run a culvert pipe. Mr. Gordon suggested that if he waits till summer he won't need a pump. Mr. Leonard stated that he has an excavator on hold who needs to get started. Mr. Labriola stated that it seems very over-engineered.

Mr. Karis asked why he needs the pipe if he's going to pump around. Mr. Leonard explained that they will temporarily pump around while they have the area sandbagged, that once the pipe is in place, the sandbags will be removed and the water will flow through the pipe. Mr. Karis asked if this will be a permanent access across the stream. Mr. Leonard stated that it will be a temporary access and that they will remove the pipe when the project is complete. Mr. Gordon asked what the pipe is made out of. Mr. Leonard stated that it is heavy duty PVC. Mr. Labriola asked if an alternative would be to leave the pipe at the end of the project so that there is no further disturbance. Mr. Karis stated that it depends on the time of the year. Board agreed that it should be restored to its natural state at the end of the project.

Mr. Karis asked about remediation. Mr. Leonard mentioned top soil and everything that is listed in the letter from the DEC. Mr. Leonard stated that he's a landscaper and will fix the area well.

Mr. Karis asked about a timeframe to remove and remediate. Mr. Leonard stated that it will take maybe two weeks to get the rough cut driveway completed. Mr. Karis asked if it will be stabilized before next winter. Mr. Leonard stated that it will absolutely be before the winter and that he would hope to have it reseeded before October 15.

Mr. Karis asked if he will be stockpiling material or hauling material out. Mr. Leonard stated that there's plenty of area to stockpile the rock and that they will not haul it out. Mr. Karis asked if he is putting in gravel. Mr. Leonard stated that he will lay down dirt which will be easily removed at the end. Mr. Karis asked if the slope comes into the stream. Mr. Leonard stated that it does gradually. Mr. Karis asked if, during a heavy rain, there would be a potential for surface erosion on either side. Mr. Leonard stated that he does not foresee that happening, that it is fairly flat where they are going across. Mr. Karis stated that it is encouraging to see someone doing the right thing. Mr. Leonard stated that he's been working on this for 3 years and that he wants to make sure that once he starts the work he won't have to stop because he did something wrong.

Mr. Fracchia asked if he talked with DC Soil and Water. Mr. Leonard stated that he has not, but that if he has to he will. Mr. Karis stated that sometimes they offer free advice.

Mr. Labriola read into the record a letter dated 4/8/07 (original on file) from the Pleasant Valley Conservation Advisory Council:

- CAC has verified that the stream is a perennial stream and is a tributary to a tributary to the east branch of the Wappingers Creek and has a NYS DEC WINS # and the stream is protected with a 100' buffer
- CAC does not think there will be any permanent damage to the environment
- CAC must be allowed to inspect the restoration once the work is completed
- the 25' wide natural buffer from the normal stream bank must be restored and maintained as part of this restoration

Mr. Labriola thanked the CAC for its comments on this application.

Mr. Labriola: **RESOLUTION FOR NOTICE OF DETERMINATION OF NON-SIGNIFICANCE**

Whereas the town of Pleasant Valley Planning Board has received an application for the Leonard Wetlands Permit dated 3/25/07 submitted by Leslie Leonard, and

Whereas an environmental assessment form has been submitted in support of this application, and

Whereas the Planning Board has acted as lead agency in the coordinated review of this action, and

Whereas the Planning Board has reviewed the potential environmental impacts that may be associated with this action,

Now, therefore, be it resolved that the Planning Board determines the Leonard Wetland application to be an unlisted action according to the New York State Environmental Quality Review Act Part 617.12 and 617.13,

Further, be it resolved that the Town of Pleasant Valley Planning Board has determined that this proposed action will not have a significant effect on the environment and a draft environmental impact statement will not be prepared and offers the following reasons in support of this determination of non-significance:

- 1. the crossing is planned over an intermittent stream**
- 2. mitigation measures have been identified**
- 3. the temporary pipe will be removed and disturbed areas will be restored 25' on each side of the stream**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola: **WETLANDS PERMIT RESOLUTION**

Whereas a formal permit application for regulated activities in wetlands, water bodies, water courses, and buffer areas dated 3/15/07 was submitted by Leslie Leonard for regulated activities consisting of temporary installation of a culvert pipe within the stream to act as a bridge to allow passage of equipment to be utilized for the construction of a driveway on the parcel located at Tyrell Road, and

Whereas the wetlands administrator has determined that the proposed regulated activities may constitute a potentially significant environmental impact and has referred the application to the Planning Board for approval or denial, and

Whereas the Planning Board has reviewed the factors pertinent to the site relating to the proposed activities for compliance with Chapter 53 of the Town Code, and

Whereas the Planning Board has not requested a review of the submitted information and documentation by the Planning Board's engineer and has not obtained comments from the Planning Board's engineer,

Now, therefore, be it resolved that the application be approved upon completion of such conditions as noted below:

- 1. the temporary pipe will be removed and the disturbed area will be restored and replanted by 10/1/07 in the area 25' on each side of the stream**

SECONDED BY P. KARIS

VOTE TAKEN AND APPROVED 7-0-0

7. APPEAL #891 TODD – VARIANCE

Mr. Labriola noted that this is a request to build a garage. Ms. Bramson stated that she visited the site. Board members agreed that there is a problem with the 0' setback. Mr. Fracchia stated that the applicant cannot locate the garage any farther back due to the creek and the cliff behind the house. Mr. Labriola stated that the applicant will need something from the adjacent property owners giving him permission to be on their land to do construction and maintenance. Mr. Gordon stated that if he were the applicant he would be concerned about how the accuracy of the survey, the accuracy of the property line, and what the neighbor, Mr. Kreiger, would think.

Mr. Labriola stated that the Planning Board should not provide a positive recommendation for a 0' setback because it won't allow the applicant to construct and maintain the structure without going onto the adjacent property. Mr. Gordon expressed his concern for Mr. Krieger's wishes and wondered if he knows about this project. Mr. Karis stated that he does not see where the hardship is, that it's a 3.5 acre parcel. Mr. Karis stated that he can realign the driveway to give himself 10' additional. Mr. Fischer asked about putting the garage on the other side of the driveway. Board members guessed that the applicant does not want the garage in front of his house.

Mr. Fracchia noted the wetlands on the property. Ms. Seaman asked about the attached garage and whether this is an additional garage. Mr. Fracchia confirmed that there is an existing garage underneath the house. Ms. Seaman asked what this additional garage will be used for.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A NEGATIVE RECOMMENDATION FOR THE FOLLOWING REASONS:**

1. **The Planning Board is unclear about the use of this garage and asks that the ZBA be comfortable that this is a permitted use and that no commercial activity will be conducted in the building.**
2. **More importantly, the Planning Board is against siting this garage with 0' setback to the adjacent property owner because the Board does not understand how the applicant can construct and maintain this garage without going onto the adjacent property and there is no letter or agreement or easement from the neighbor that permits the applicant to access this garage from the Kreiger property.**
3. **The Planning Board questions the accuracy of the survey line and, therefore, the building may actually encroach on Mr. Kreiger's property due to the absence of a setback buffer.**
4. **The Planning Board notes that with a 3.5 acre parcel there must be other viable locations for the garage.**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

8. APPEAL #892 CENTRAL HUDSON – VARIANCE

Mr. Labriola explained that Central Hudson Tinkertown Substation site plan has been before the Planning Board several times. At the last Board meeting, it was determined that they are exceeding the footprint by more than 50% which requires an appeal to the ZBA for a variance. Mr. Labriola reported that there was a conversation between Mr. Jim Nelson, Mr. Peter Setaro, Mr. Scott Volkman, and himself during which this was discussed. Therefore, he noted that the Planning Board's task tonight is to render a recommendation to the ZBA on the planned expansion. Mr. Labriola clarified that the expansion area is within the fenced enclosure and does not take into account the distribution lines, the gravel driveway, or the parking area. He stated that it is consistent with what has been done on other applications, that the Board looks at the footprint of the building, that the enclosed area within the fence is the footprint the Board is concerned about.

Mr. Karis asked if this is an expansion of a non-conforming use. Mr. Labriola responded yes. He noted that the ZBA will determine whether the size of the expansion is appropriate and will render its decision regarding the variance. If approved, he noted that the site plan will come back before the Planning Board for its approval.

Mr. Labriola stated that, based on the fact that the Planning Board has reviewed this application a number of times, he is comfortable with providing a positive recommendation to the ZBA, that it seems that Central Hudson is doing what it needs to do to provide additional capacity to the community.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION; SECONDED BY P. KARIS; VOTE TAKEN AND APPROVED 7-0-0**

9. APPEAL #893 FISCHER – VARIANCE

Mr. Daniel Fischer was present and stated that he wants to build a detached garage on the property. He stated that he submitted a plot plan for a variance. He noted that a member of the Planning Board visited the property and clarified that he has a Certificate of Occupancy for everything on his property, that there is no more construction taking place. He stated that the garage will be constructed on the property as it is depicted on the plan.

Mr. Fracchia stated that he visited the property. Mr. Labriola stated that he visited the property and noted that it is way back off the road and that the neighbor's house is far away from the proposed location of the garage. Further, he stated that he has no problem with this application.

Mr. Karis: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION BASED ON THE FACT THAT THE PROPOSED STRUCTURE IS CENTERED IN THE PROPERTY AND IN THE REAR OF THE PROPERTY AND WILL HAVE VERY LITTLE IMPACT TO ADJOINING RESIDENTIAL STRUCTURES; SECONDED BY J. LABRIOLA; VOTE TAKEN AND APPROVED 7-0-0**

10. MISCELLANEOUS

Mr. Labriola discussed the effort to reach out to dormant applications. He stated that Lafalce and Alos subdivision applications have been withdrawn because they could not meet the bulk requirements. Further, with regard to Taconic Homes and based on the conversation this evening with Mr. Kirchhoff, they are going to contract to purchase the Bonjovi property, therefore he stated that he's assuming that Bonjovi is withdrawing his application. Mr. Labriola stated that there is nothing official that they have withdrawn.

With regard to the annual 4-hour continuing education requirements for Planning Board members, the following is the current status:

- Ms. Bramson – complete
- Mr. Karis – 3 hrs. complete
- Mr. Fracchia – complete
- Mr. Gordon – complete
- Mr. Labriola – 3 hrs. completed
- Ms. Seaman – 2 hrs. completed
- Mr. Fischer – 2 hrs. completed

Meeting adjourned at 9:05 p.m.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the April 10, 2007, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

____ Approved as read

____ Approved as corrected with deletions/additions

PLEASANT VALLEY PLANNING BOARD

May 8, 2007

A regular meeting of the Pleasant Valley Planning Board took place on May 8, 2007, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:33 p.m.

Members present: Joe Labriola, Chairman
 Michael Gordon
 Rebecca Seaman
 Rob Fracchia
 Kay Bramson
 Peter Karis

Members absent: Henry Fischer

Also present: Pete Setaro, Morris Associates
 Jim Nelson, Esq., Town attorney

ANNOUNCEMENTS:

Mr. Labriola announced updates to the meeting agenda as follows:

- Noble Subdivision is off the agenda. There was an initial comment letter from the FAB regarding driveway turnoffs. The applicants have reconfigured the site for the second house, which makes the turnoffs unnecessary. The application with its changes needs to be reviewed by the FAB again.
- The Pleasant Valley Shopping Center is off the agenda. The applicants contacted Ms. Salvato to inform her that they are not ready.
- The Methodist Church will go to the ZBA for a non-conforming sign permit.
- 199 West Road Site plan has been changed. Additional landscaping has been added; some parking spaces were removed. Mr. Labriola will brief the Board on these changes and solicit the Board's comments before signing the plan.
- Capell Subdivision is on for another 90-day extension for preliminary approval.

1. LOGIURATO-SPEAR LOT LINE RE-ALIGNMENT – SKETCH PLAN APPROVAL

Mr. Brian Franks was present and stated that there are two changes proposed in the lot line. One is going to be where the existing driveway crosses the property line. Mr. Franks pointed out the small piece of property on the map that will be attached to the Spear property. He also pointed out on the map the property that is being given to the Logiurato property. Mr. Franks stated that the Spears' daughter lives there and they want to give her an additional buffer before selling their property.

Mr. Labriola asked if there is a home on the Spear property. Mr. Franks stated that the boundary surveys and that house locations will be on the next plan. Mr. Setaro stated that they looked at the aerial maps; Mr. Franks pointed out the location of the houses.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that Mr. Franks has already commented that the survey and driveway will be on the next map. He stated that there are no setback issues where the houses are and that it should be pretty straight forward.

Mr. Labriola mentioned the list of waivers that are being requested. All Board members indicated that they are OK with the waivers.

Mr. Labriola: **MOTION TO GRANT WAIVERS THAT HAVE BEEN REQUESTED; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **SKETCH PLAN APPROVAL**

I move that the Planning Board grant sketch plan approval to the boundary line change between Logiurato and Spear in the form of the resolution prepared by the Board's engineer and now before the Board subject to the following conditions:

- **Morris Associates letter dated 5/1/07**

SECONDED BY R. FRACCHIA

Discussion: Mr. Karis asked about the plans to sell the lot. Mr. Franks explained that the Spears are selling for health reasons, that they are moving south. Mr. Karis asked about plans to build on the vacant lot. Mr. Franks explained that there is no vacant lot, that there are houses on both lots.

VOTE TAKEN AND APPROVED 6-0-0

2. MIRABILIO SUBDIVISION – CONTINUED REVIEW

Mr. Labriola stated that there have been some meetings between Morris Associates and the applicants regarding drainage issues. He asked the applicants to inform the Board about changes to the plans with specific focus on drainage.

Mr. Ernie Martin and Mr. John Mirabilio were present. Mr. Martin stated that the overall layout remains about the same. He stated that the biggest change is a little retention pond to intercept the natural drainage off of Salt Point Turnpike that flows under an existing culvert and trickles through the property. He stated that they will intercept this drainage and route it into a small pond to provide some mitigation for the 25-year storm and the outlet from that continues downward. He stated that the difference between the pre- and post- was only about 2 or 3 cfs anyway. He stated that they believe that this will provide mitigation.

Mr. Setaro stated that they are OK with that and that now there's a plan that is adequate for the public hearing process. He stated that the roof leaders will go into dry well. He asked if the 24" pipe going under the driveway can be choked down to 12"-15" pipe. Mr. Martin will look at that.

Mr. Labriola asked about the flow pattern. Mr. Martin pointed out the natural drainage and stated that they are splitting the drainage route. Mr. Setaro stated that the Department of Health will have to review the plan. Mr. Martin stated that they have already reviewed this.

Mr. Setaro stated that at this point there are no issues to prevent them from going to a public hearing. He stated they now have a drainage plan that looks like it can work.

Mr. Martin stated that they checked this site on the Monday following the big storm. He stated that on Monday morning – the peak was probably Monday night – it was running about 1” high after the major storm.

Mr. Setaro reviewed the Morris Associates comment letter and stated that most of the comments have been taken care of.

Mr. Fracchia asked if they located the well for Hickory Hills. Mr. Martin pointed out the location on the map. He noted that there are 4 wells, one of which may be abandoned, and he pointed out the pump house. He stated that the wells for the other complex are more than 200’ from the property.

Ms. Seaman noted that there has been a proliferation of retention ponds and that they are very unattractive and require significant screenings. Mr. Setaro stated that one of the comments in his letter pertains to screening. Mr. Labriola stated that screening will be discussed before final approval.

Mr. Karis asked about the emergency overflow for the pond. Mr. Martin stated that it will be where the pipe is, there will be an emergency spillway which will be rip-rapped. Mr. Karis asked if there will be a low-flow outlet in the pond. Mr. Martin responded yes and noted that it is not a wet pond. Mr. Karis stated that it will detain water over time and slowly release it so there needs to be some kind of outlet structure. Mr. Martin stated that that is the pipe itself. Mr. Karis asked about the riser, what’s the circle of the pond, whether that’s an outlet structure. Mr. Martin responded yes. Mr. Karis asked about the outlet route down the channel under the driveway and makes a 90 degree turn in 12” swales and dumps onto the adjoining septic system. Mr. Martin stated that it is going to go onto that lower area, which is where it goes right now. He stated that they are diverting it around their septic system. Mr. Karis noted that they are diverting it around their system but onto an adjoining septic system. Mr. Setaro stated that that is where it goes now. Mr. Martin, Mr. Setaro, and Mr. Karis reviewed the map and discussed the flow pattern. Mr. Setaro explained that this is why he requested the applicant to reduce the 24” pipe to a 12-15” pipe in order to reduce the flow at that point. Mr. Setaro stated that he will make a site visit and look at the adjoining site. Mr. Karis stated that this is a concern because it is a community septic system for a multi-family development which has historic septic problems that the Board does not want to exacerbate.

Mr. Karis asked about long-term maintenance of the pond, who is responsible, and how to work out the final language for that. Mr. Labriola stated that easements will be needed. Mr. Setaro stated that there will be a separate maintenance agreement.

Mr. Labriola advised the applicants that they can advertise for a public hearing at the June 2007 Planning Board meeting.

Mr. Fracchia asked if the FAB has reviewed this application. Mr. Labriola reviewed the 2/7/07 FAB recommendation "that if the subdivision is approved the driveway be maintained with a clearance of 12' wide and 12' high." He stated that a note will need to be added to the map regarding this recommendation.

3. SALVAGIO SUBDIVISION – CONTINUED REVIEW

Mr. Mike Duval, engineer, was present.

Mr. Labriola reported that this application is on the agenda for continued discussion and that at last month's meeting there were some questions and confusion on two areas: one was how to calculate coverage, and what's the appropriate setback. He asked Mr. Nelson to report on the outcome of his conversations with Mr. Friedrichson.

Mr. Nelson stated that, in the subdivision section of the Code, there is a consolidated definition for arterial and major streets – that they are both defined as being one thing. For purposes of computing setback, he noted that there is no designation separately for major streets, that there is only a designation for minor, collectors, and arterials. For purposes of computing the size of the lot to determine whether a parcel qualifies as large enough to be subdivided and also ultimately for computing from that the permissible coverage, he stated there is a separate designation of major and arterial. Therefore, he stated the question is how North Avenue would be treated for both of these computations.

Mr. Nelson stated that his suggestion differs from Mr. Friedrichson's. He stated that Mr. Friedrichson would continue to treat this street as a collector street, which would subject it to a 70' building setback and a 30' setback for purposes of computing the size of the lot. He stated that the question this presents is whether North Avenue, because it connects the center of the Town and heads out to Salt Point and gets fairly heavy truck traffic, meets the definition of a collector street.

Mr. Nelson stated that his thought, if you look at arterials and majors as essentially being one, then you go to the building setback computation, which just talks about arterials, and apply an 80' setback, and when you go to the lot area - where there's a different distance for majors from arterials but we define them as one – and give the applicant the benefit of the lesser standard which would give them a 40' setback. He stated that this is how he can see accommodating these definite issues that the Code presents. He stated that the setback starts as the center of the road.

Mr. Labriola reviewed the map. Mr. Duval stated that what is shown is 70' but that it works at 80' without having to move a house. He agreed that he can fit within a more stringent standard.

Mr. Nelson stated that option #3 is to apply the most stringent standard to everything and then if there is no issue and when the applicant or the successor wants to build a house if they don't want a lesser setback, then there's never going to be a problem.

Mr. Nelson stated that option #4 is to pass onto the Code revision committee that fact that this is something that might be looked at.

Mr. Labriola asked if the setback issue has been resolved. Mr. Duval stated that it has.

Mr. Labriola asked about coverage. With regard to coverage, Mr. Nelson asked Mr. Duval if the plan would work if it were computed based on a 60' setback. Mr. Duval asked for clarification of what is included in computation of coverage, if it is the impervious area.

Mr. Nelson responded that the first issue is lot area, that first it must be determined whether the lot is of sufficient size to allow for subdivision in the zone. Mr. Duval stated that he has a certified survey. Mr. Setaro stated that it was done by a land surveyor and noted that he has .65 and .55. Mr. Nelson asked if lot area is computed based on a presumed setback rather than from the center of the road. Mr. Duval and Mr. Setaro agreed that lot area is based upon the actual property lines. Mr. Labriola stated that we have not been subtracting Town right-of-ways. Mr. Gordon recalled a similar issue on a previous application on Pine Hill Road where the applicant had figured his property line into the Town right-of-way, but when the appropriate setback was applied then there was not enough property for a subdivision. Mr. Setaro noted that that was a Town road.

Mr. Karis stated that his property line goes to the center line of Rossway Road, which is a user road across all the lots. He stated that the pavement is owned by the Town, but the underlying area to the center line is part of his lot area.

Mr. Nelson stated that, for computing lot area, the Code says you step in from the center line a designated number of feet according to the type of road. He stated that, when computing lot area on a major road, the lot line for purposes of that computation is assumed to be 40' in from the center line. He reiterated his question to Mr. Duval – assuming this is a major road and coming in 40' from the center line is he left with two lots which are of appropriate size for subdivision. Mr. Duval and Mr. Setaro agreed that he would not be.

Mr. Labriola recalled that the application referenced by Mr. Gordon (Pine Hill Road) was referred to the ZBA, was granted the variance, and that the Planning Board approved either a lot line realignment or a subdivision. He stated that that application was very unique case, that they owned property with a tremendous amount of road frontage on a very small lot. Mr. Setaro agreed that it was very unique and stated that we always try to

get 25' off of the center line of the road to be dedicated to the Town for future highway purposes. He stated that that's what created the problem for the applicant.

Mr. Nelson read from the Code. Mr. Gordon reflected that if the Code is taken literally, the applicant does not have two legal lots. Mr. Labriola noted that they are on a county road. Mr. Setaro stated that the only place he's ever seen a 60' or 80' wide total right-of-way is a major NYS highway. He noted that right-of-ways for county and town roads are normally 50'.

Mr. Duval asked about the purpose for calculating the lot area. Mr. Nelson explained that the Code designates the minimum lot area in each zone.

Board discussed Mr. Friedrichson's interpretation of North Avenue as a collector road – "town road equals local, county road equals collector, NYS road equals arterial." Mr. Karis noted that Mr. Friedrichson is legally authorized to interpret the Code. Mr. Labriola noted that there's ambiguity in the Code which must be interpreted in order to determine the standard to be used. He stated that it is the Planning Board's job to figure out how to interpret the Code and that he appreciates and is comfortable with Mr. Friedrichson's guidance. He stated that the way Mr. Friedrichson has interpreted – either it's a town road, a county road, or a NYS state – there is no ambiguity there. He stated that he is comfortable with this becoming the standard for use until the recodification is complete. Mr. Duval stated that in terms of highway engineering, it would be looked at as a collector road.

Mr. Gordon pointed out that the Code does not talk about town road, county road, and NYS roads. Mr. Labriola agreed, stated that the Code has a rather vague definition, and asked how to get around the vagueness at this time. Mr. Gordon suggested that the Board defer to its attorney. Mr. Nelson confirmed that the Board is supposed to follow the Code and wondered if the Planning Board has ever requested an interpretation from the ZBA.

Mr. Setaro stated that this brings up the other issue of how to calculate lot area and noted the conflict between surveyed lot lines and the Code. Mr. Gordon offered his opinion that this subdivision proposal is creating a very odd lot which he does not like. He stated that historically the .5 acre lots were originally envisioned as being close to square. Mr. Duval stated that, based on the character of the neighborhood, this subdivision as proposed meets the character of the rest of the homes on the street, which are older homes closer to the road. Mr. Gordon stated that the rest of the lots in the area are rectangular or square and are not odd shapes.

Mr. Nelson stated that, in his conversations with Mr. Labriola regarding doing computations, if it does not make any difference in the outcome for the applicant then it may be something that does not have to be resolved immediately, although it should be. Further, he stated that there should be a consistent rule of application. But since there is the potential for this to negatively impact this application based on how the computations are done, he stated that it might be a good idea if he and Mr. Setaro and Mr. Labriola

Speak with Mr. Friedrichson to address the question of whether the setbacks which are in Zoning actually apply in subdivision.

Mr. Gordon noted that as the Town grows road classifications will change – that growth redefines road classifications.

Mr. Labriola noted that the Code will need to be modified to be less ambiguous. Ms. Seaman stated that until it is modified the Board is in this grey area where by law it has the right to interpret the Code and that the Board can establish and follow Mr. Friedrichson's interpretation until the Code is clarified. Further, she suggested that the Board make a recommendation to the Master Planning Committee. She also brought up the issue of owners being taxed on their property based on one size calculation but being permitted to build based on a different size calculation.

Mr. Setaro stated that the Board must determine the road classification and that the subdivision code needs to be checked. Mr. Nelson stated that the subdivision code does not contain the setbacks, that the setbacks and the front line definition are in the zoning code. He stated that the definition of the types of roads is in the subdivision code.

Mr. Nelson read the definitions from the subdivision code. Mr. Karis stated that it sounds like it matches the definition of an arterial, which connects Salt Point with Pleasant Valley. Mr. Labriola stated, and Board members concurred, that he thinks of arterials as Route 44/55, Route 9 – moving traffic from community to community – but then one must define a community. Nonetheless, Mr. Labriola stated that he likes Mr. Friedrichson's interpretation. Mr. Karis stated that he thinks the Board does not have a choice other than to take Mr. Friedrichson's interpretation of the Code as he's the Zoning enforcement officer. Mr. Labriola agreed that he's providing guidance and that he would characterize the road as a collector. Mr. Nelson noted that Mr. Friedrichson has spoken with Mr. Feldweg, who has a lot of experience. Mr. Setaro reviewed the distances on the map, based on 30' setback, and noted that the lot is too small. Mr. Duval stated that he does not know if he can reconfigure the design to meet these setbacks.

Board discussed referring this application to the ZBA.

Mr. Nelson stated that once the lot line is determined then the calculation for coverage can be done. Mr. Duval asked for clarification of what the Code refers to as building coverage – 30% maximum lot coverage by buildings. Mr. Labriola noted the question of whether this includes all impervious surfaces – does it include the driveway, sidewalks, pool, carports. Mr. Nelson stated that it does not include the driveway, it does include other structures, it would include the pool, and it does not include porches, carports, terraces, or steps. Mr. Karis read from the Code. Mr. Labriola summarized that the building, the garage, the shed, and the pool will be included and all must be equal to or less than 30%. Mr. Duval stated that he will recalculate.

Mr. Labriola summarized the next steps as:

- Mr. Duval will work with the lot line to determine whether he can meet the minimum bulk area requirement with the 30' setback
- If he cannot, then he must appeal for a variance to the ZBA from the minimum bulk area requirement
- If he can, then he can advertise for a public hearing at the June 2007 Planning Board meeting

Mr. Gordon asked how the new definition of the lot line will affect distances and separations for septic placement. Mr. Setaro noted that the Health Department will use the actual surveyed lot lines to determine those separations.

Mr. Setaro will coordinate with Mr. Duval on the recalculations.

Mr. Labriola stated that he will arrange a meeting with Mr. Friedrichson, Mr. Nelson, Mr. Setaro, and himself to discuss the interpretation going forward.

4. CENTRAL HUDSON TINKERTOWN SUBSTATION EXPANSION – SITE PLAN REVISION

Mr. Patrick Harder, Mr. Gary Courtney, and Mr. Nick Kowalczyk were present.

Mr. Labriola stated that the Planning Board referred this application to the ZBA as a result of the expansion beyond 50% of the existing footprint. He stated that he spoke with Mr. Dunn, Chair, of the ZBA, following the ZBA's meeting. He explained that the ZBA did not act on the appeal, because they were looking for the Planning Board to do a SEQRA determination. However, he stated that it is difficult to do the SEQRA without knowing if the variance will be granted. He stated that they talked about a coordinated review, and that he and Mr. Dunn agreed that the Planning Board will declare itself as Lead Agency, which will be done this evening.

Mr. Labriola stated that there are two issues for discussion this evening:

1. noise abatement for the transformer – Mr. Labriola requested that the applicant summarize the current condition noise level and the projected changes will be with the addition of the second transformer with the baffles.

Mr. Harder stated that that was summarized in a sound analysis that he submitted for the last meeting. He stated that with the sound walls, at the Horn property, over existing conditions there should be a 5 ½ db reduction. Mr. Labriola asked whether the addition of a second transformer and the noise abatement will result in a lower level of noise. Mr. Harder stated that that is correct to the east. He stated that to the west, they are looking at probably a 2 db increase. Ms. Bramson asked if that is at full capacity. Mr. Harder responded yes. Mr. Labriola noted that the homes to the west are 100'-150' away, which he stated is quite a distance. Ms. Bramson expressed a concern for impacts on future residents to the west. Mr. Harder stated that nothing will happen in that area because of the power lines and the pipeline. Mr. Labriola stated that people could subdivide their properties and noted that there is a natural buffer of the pipeline property.

Mr. Labriola asked Mr. Setaro if their noise experts reviewed this project. Mr. Setaro stated that they don't have someone who is qualified, but they do have some experts that they have used in the past and asked if the Board wants them to be consulted. Mr. Labriola asked for an independent 3rd party review and comment. He stated that he would like some feedback on the calculations.

Mr. Labriola asked if the applicant is planning to install baffles on both sides or only on the east side. Mr. Harder stated that they will install baffles to the east side only. Mr. Fracchia asked why they are not putting up baffles to the west where the noise will be increasing. Mr. Labriola stated that they would need to look at the impact of a 2 db increase to the west. He stated that he is not of the mindset that just because there's an increase that means it must be mitigated if the impact is not significant because the adjacent properties are at a sufficient distance.

Mr. Gordon asked what the total decibel output at full capacity is. Mr. Harder stated that the 5 ½ db decrease is based on overall levels and that he does not know what the percentage is. He stated that he would have to look at the sound analysis to report on the actual measurements. Mr. Gordon stated that he would like to understand whether 5 ½ db is significant. Mr. Harder stated that based on a DEC guidelines he believes that a 10 db is about double – if you hear something at 70 db it sounds twice as loud as something at 60 db. He stated that it's an algorithmic scale.

Mr. Labriola asked Mr. Setaro to get some feedback on the sound analysis report.

Mr. Labriola stated that the other issue for discussion is the 4,000 gallons of oil contained in the 2 transformers. Mr. Harder stated that each transformer contains 2,000 gallons of oil, and with the total aggregate of everything it will be somewhat more than that as there is other equipment on site that also contains oil. Mr. Labriola stated that he was surprised by the large volume of oil that will be present on this site, which will be something over 4,000 gallons. He stated that he understands that Central Hudson has its regular maintenance inspections, that they inspect, maintain, and correct before there's a problem. However, he stated that the concern is what happens when there's some major failure shortly after the Thursday evening inspection, for instance, where there's 1,000's of gallons. He noted that he drove by the site recently, which is on a hill, so any spill will flow down the driveway and into the drainage ditch along Route 44. He stated that by the time someone gets out there to deal with the spill it would be too late, that the damage would have been done. He asked the applicants for a containment system designed into this to avoid a potential catastrophe.

Mr. Kowalczyk stated that this is a fairly typical substation and is one of the smaller substations. He assured the Board that Central Hudson's crews are very responsive, that they have low level alarms. He stated that anything that would happen that would trip off the transformer would immediately notify their control room. From there, he stated that calls would be made and a crew would be out there within an hour or two. He stated that he understands the Board's concern is catastrophic failure resulting in an oil spill flowing down the road into the drainage ditch. He stated that their model indicates that it would

be contained in that area, which takes into account the gravel in the road, the soil and the leaves. He stated that if there is a spill it would be contained on their property and in a small area. He stated that they are not spilling into waterways and that it is something that is easily containable in terms of their property. Mr. Harder stated that no matter what happens if anything gets spilled it will be cleaned up no matter where it is.

Mr. Labriola stated that he is not concerned about whether it would be cleaned up. He stated his belief that Central Hudson is a responsible company. Rather, he stated that the damage will have been done. Further, he stated that if it happens when there's a heavy rain at that time – if you play out the “what if's” - none of the answers suffice. He stated that with the large volume of oil of the site, the potential for environmental damage becomes scary.

Mr. Kowalczyk stated that transformers are very reliable pieces of equipment. Typically, speaking, he stated that they have maybe two small leaks per year at substations consisting of 5-10 gallons. He stated that catastrophic failures are very, very rare.

Ms. Seaman stated that the Board would be interested in knowing whether manufacturers have been required to protect against catastrophic failures in high density, highly populated areas. She stated that if you can say that they have never been required to construct any sort of protection against catastrophic failure that's one thing. But she stated that she's assuming there are areas where these transformers have either retention ponds, holding ponds, some sort of control device. Mr. Labriola referenced large gasoline storage tanks that have a berm that encircles them with some sort of impervious surface so that if a tank completely drains, the spill is contained. Ms. Seaman stated that with the geology of the area and a catastrophic failure with 4,000 gallons flowing down the hillside, she doubts that it will be contained on the site. Mr. Harder stated that that volume of spill would more than likely be the result of an act of vandalism because very rarely would there be more than one structure fail. Ms. Seaman stated that she agrees but that unfortunately we live in an era where acts of vandalism are not uncommon. She asked what the cost of containment would be. Mr. Gordon reiterated that the Board was surprised by the applicant's explanation that the gravel would absorb the oil, which was before they discovered that there are 2,000 gallons of oil per transformer. Also, he stated that the Board asked how deep the gravel layer is, and that the answer was 6”, which also is not comforting. He stated that he is really amazed that there is no planned containment system for this site.

Mr. Kowalczyk stated that there is a completely different set of regulatory statutes that govern petroleum as opposed to transformer oil. He stated that transformer oil is basically mineral oil, baby oil – that it's more similar to that than it is to motor oil or PCBs. Mr. Labriola asked if it is something that we would want in the ground water. Mr. Kowalczyk responded no, absolutely not, and stated that he's not trying to say that it's the best substance in the world. He stated that it is a non-hazardous material that is not regulated as a waste disposal material by the DEC or the EPA or anything like that. He stated that it is widely used throughout the industry.

Mr. Setaro asked about the leak detection alarm system. Mr. Harder stated that there are low level alarms on the transformer, which if they trip will put out an alarm to system operations which is manned 24 hours per day 7 days a week and will call out the crews to take a look at what happened. He stated that if there was a major catastrophe, the clean up crews would be there immediately.

Mr. Labriola stated that he is most concerned about a major leak, that with the large volume of oil on the site there is a potential for a huge environmental catastrophe. He asked for a containment mechanism that will slow down or stop the flow of the oil down into the drainage ditch. He stated that he's not sure how much would even be contained on the site. Mr. Kowalczyk agreed that they could not get there within a couple of minutes of a catastrophic failure, but stated that from a clean up perspective he has total confidence in their crews and their contractors that they could get everything out, that he has no doubt about that.

Mr. Fracchia stated that, if there was a catastrophic failure and they do have to excavate the soil, he's concerned about the Iroquois pipeline that's about 30' away from them. He stated his concern for how they would handle excavation in the area of the pipeline. Mr. Kowalczyk stated that digging around a pipeline is something that they do quite often. Mr. Harder stated that he does not believe that the Iroquois pipeline is in the flow path until down by Route 44. Mr. Labriola agreed that the drainage ditch runs right over the top of the pipeline. Mr. Fracchia stated that it is parallel to where they are right now. Mr. Gordon stated that the Board is responsible to look after the Town's interest and that he thinks they would come up with some sort of containment system to capture a spill. Mr. Setaro asked what he means by capture, just the run off or capture by not penetrating the ground. Mr. Gordon stated to capture it on the site.

Mr. Labriola asked if there's some way to put a liner that could channel the spill into a large dry well that would act as a holding tank. He asked for something that would control where the spill could go and prevent it from flowing down to Route 44 into the drainage ditch. He agreed that the Iroquois pipeline is close by which will complicate any clean up.

Mr. Setaro noted that the interior of the fenced in area where the transformers are is all $\frac{3}{4}$ " crushed gravel. He asked if a leak will stay within that gravel area. Mr. Gordon asked if 2,000 gallons would stay in that area. Mr. Fracchia mentioned an oil truck that spilled, that it was 4,000 gallons, and they were cleaning it up for 3 months. Mr. Labriola stated that he appreciates that they monitor the site and that they have responsive crews, but by the time someone gets out to the site it will be too late. With the pipeline being so close and the fact that it will eventually get into the ground and that it is a huge amount of oil, he reiterated his request for a containment design to make sure that this does not become a huge environmental problem.

Mr. Karis asked about the water coming out of the riser pipe, which has now stopped. Mr. Harder stated that it was ground water that was going into the upper manhole, down the bank, and out the lower manhole. Mr. Karis stated that that ditch was flowing water

and anything that gets into it is gone and will be off site. Mr. Labriola agreed. Mr. Karis stated that there's a wetland area across the street and a low area on the corner on the Redl property.

Mr. Labriola noted that heading west on Route 44 before the nursery there's a pipe that crosses the road from the substation side to the other side of the road. Therefore, he stated that any flow that goes off site will go into that wetland across the street. Mr. Kowalczyk stated that their analysis indicates that any spill that comes down the driveway, underneath the ditch, through the culvert under there, would not reach the wetland. However, Mr. Labriola stated asked what if there is any kind of rain. Mr. Kowalczyk stated that their analysis takes into account worst case scenario, that their model takes into account rainy days per year, dry days, and runs 10,000 scenarios, takes the average of all those scenarios and based on the average and taking into account both the extremes, the model shows that it would not reach the wetlands. Mr. Fracchia asked what would have happened if a major spill had happened during the recent torrential rains and flooding. Mr. Kowalczyk noted that it was 100 year flood and that he would be lying if he were to say that under those conditions it would not reach the wetlands.

Mr. Harder asked if the Planning Board is going to require a containment system even through Central Hudson's standard practice does not require one. Mr. Labriola stated the Board's perspective that a potential catastrophe there could lead to a significant environmental impact occurring. Therefore, he advised the applicants that they need to think about the implications of that statement. He stated that it is up to the applicants to decide how they wish to proceed. He stated that they can come back to the Board with a containment design or they can proceed with Central Hudson's standard policy. He explained that the Board will then go through the SEQRA process and decide whether the Board accepts that as mitigating measures or not. Right now, he stated that the Board is uncomfortable with a rapid response as the containment system.

Mr. Harder asked for an explanation of the SEQRA process. Mr. Labriola stated that there are a series of topics that are reviewed to determine if a project will have a potential significant environmental impact. He stated these topics are quality of life, traffic, noise; there's about 8 or 9 topics that are analyzed in the SEQRA process which form the basis of the decision regarding environmental impact. He stated that this project could potentially generate a significant environmental impact. Therefore, he stated that if the Board declares that to be true, then it would require a Draft Environmental Impact Statement, which the Board would then review. He stated that it's a fairly drawn out process. Input from the public and all involved agencies is also solicited. He explained that the Planning Board works it way through potential environmental impacts, works with the applicants as it has done regarding the noise abatement on this project. Upon further reflection, Mr. Labriola stated that the Board is not comfortable with the answers it has been given to date regarding an oil containment system. Mr. Harder stated that they will review their options for resolving containment on this site and have that prepared for the next meeting.

Mr. Nelson stated that the immediate SEQRA action that is being taken tonight to adopt a resolution that the Planning Board will be the lead agency for the SEQRA process. He noted that the Board has to circulate notice of its lead agency status to other involved agencies, which are any other agencies from which the applicants will need to get approvals or permits, such as the ZBA. Mr. Labriola listed the agencies that are on the list:

- Town of Pleasant Valley Town Board
- ZBA
- Dutchess County Department of Planning
- NYS Department of Environmental Conservation
- NYS DOT
- Town of Pleasant Valley Conservation Commission
- Town of Pleasant Valley Fire Advisory Board

Mr. Labriola asked if there are any other permitting agencies that they must deal with. Mr. Harder stated that to his knowledge there are no others.

Mr. Fracchia asked if the Iroquois pipeline needs to be advised. Mr. Harder stated that they want to be notified if they are going to drive over top of it and that they are aware of this project. Mr. Karis stated that they could be included as an interested party and not as an involved agency, to cover that base. Mr. Nelson stated that the involved agencies that need to know about this project as the ones from which the applicants need a permit to proceed.

Mr. Labriola: **MOTION FOR LEAD AGENCY**

I move that the Planning Board assume lead agency status with regard to the Central Hudson Tinkertown Substation site plan application in the form of the resolution prepared by the Board's engineer and now before the Board.

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 6-0-0

5. APPEAL #894 METHODIST CHURCH OF PLEASANT VALLEY

Mr. Labriola stated that the Methodist Church was requesting a sign permit. He stated that the church has a sign on the corner of Route 44 where the Milestone Plaza is. He stated that they would like to make that sign bigger to include some information about their nursery school. He stated that the Code does not allow for off-site signs, therefore the Planning Board cannot approve a larger non-conforming sign and that the ZBA must review this.

Mr. Labriola stated that this could set a dangerous precedent because it's an off-site sign, which is not permitted, and because it's a request for a larger non-conforming sign. He stated that the Code is very specific about restricting the increase of a non-conforming sign. Ms. Bramson stated that it looks like an advertisement. Mr. Labriola concurred.

Mr. Karis asked who owns the property that the sign is on. Mr. Labriola stated that Milestone Plaza – Time Equities – is the owner. He noted that there's a letter from Jeff Rosenbloom, the asset manager, that states that he accepts the replacement of the existing sign as long as the Pleasant Valley ZBA approves the change. Mr. Karis asked if this counts as signage on the shopping center plaza. Mr. Labriola stated that this is an illegal sign and, therefore, must go to the ZBA for approval.

Mr. Labriola: **MOTION TO PASS ALONG TO THE ZBA WITH A NEGATIVE RESOLUTION BECAUSE IT IS AN ILLEGAL SIGN AND BECAUSE THE CODE IS VERY SPECIFIC ABOUT REPLACEMENT OF NON-CONFORMING SIGNS SHALL NOT INCREASE IN SIZE**

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 6-0-0

6. TOWN OF PLEASANT VALLEY HIGHWAY DEPARTMENT PERMIT APPLICATION FOR REGULATED ACTIVITIES IN A WETLAND

Mr. Jeff Battistoni, Town Supervisor, was present. He stated that the Town Board for many years has been considering a new building at the highway garage. He stated that there is a pole barn that stores 6 snow plows and there is a Quonset hut type of structure where salt is stored. He stated that the Town has wanted for some time to have a salt and sand storage building – a much bigger building where the salt and the sand could be stored and mixed indoors instead of outdoors. He stated that this would be something that the DEC would be very happy with. He stated that the Town would also like to do something with the pole barn to get the vehicles stored indoors. He stated that both the pole barn and the salt storage hut are being demolished as part of this proposal. He stated that the new building is large enough to store a season's worth of salt and sand indoors for mixing indoors as well as all the vehicles, which will be stored on the back side of the building. He stated that the project has many benefits. One is that the salt and sand are mixed indoors. Another is that storing the snow removal vehicles indoors will eliminate the 45 minute warm up time on these vehicles that is necessary when they are stored outdoors to get the hydraulics to work correctly. He stated that the equipment will be cared for much better and will last longer.

Mr. Battistoni stated that they have become aware of a DEC designated wetland, a portion of which is on the property. Mr. Setaro pointed it out the wetlands and the buffer on the map. Mr. Battistoni stated that the highway department has been storing piles of stone, pipe and guardrail, road clippings and wood chips in the buffer zone – all of which is being removed and some restoration is being done to the buffer area. Board and Mr. Battistoni reviewed the map. Board reviewed the improved storm water management system. Mr. Labriola asked if it is curbed. Mr. Setaro responded yes.

Mr. Karis asked if they have applied to the DEC yet. Mr. Setaro stated that they have met with the DEC and that the DEC is fine with the plan. Mr. Karis asked if the DEC is going to require mitigation. Mr. Setaro stated that it has not come up yet. Mr. Labriola

asked why the location could not be moved over. Mr. Setaro stated that Morris Associates only recently gotten involved in the project. Mr. Battistoni pointed out the area that is all solid rock and the utility poles on the site. Mr. Karis pointed out the issue of clearance around the building for the highway department and noted the existing gas pumps as an additional constraint. Mr. Labriola suggested pivoting the project. Mr. Battistoni suggested that the trucks need the clearance that currently exists which is why the building is located where it is. Mr. Setaro stated that a lot of thought was put into the placement of the building because of the turning radius of the trucks, etc. He stated that he does not see a way to stay out of the buffer. Mr. Battistoni stated that a lot of work has also gone into designing the catch system for the water, the pond, everything.

Mr. Battistoni stated that, from a zoning point of view, the Town Board made a determination that the Town is exempt from its own zoning ordinance and that there is case law on that, which is why they did not come to the Planning Board for site plan approval. Even though they are exempt from the zoning ordinance, he noted that they are bound by Chapter 53. Mr. Karis stated that the Planning Board has been steadfast in the past in not allowing impervious surfaces especially within wetland buffers. Further, he stated his feeling that the Town should lead by example in cases like this especially with new laws such as the wetlands law that are constantly challenged with applications. He asked if there is any way to do some tweaking to the design at the corner and he expressed his appreciation for the mitigation they are doing to restore the buffer to the rear of the site. He also noted that there is a lot of benefit with the improved storm water management system, the curbing, and salt storing and mixing indoors.

Mr. Battistoni stated that there are real site constraints and it would not be wise to downsize the building. Mr. Labriola concurred that the Planning Board has tried in every application to prevent encroachment in a wetlands buffer. He asked if there is a way to move the building so that it is completely out of the buffer or so that it minimizes the amount of disturbance that is required. He concurred that the Town should be a model for other applications. Mr. Karis asked if the area where the grading will be done has been previously disturbed. Mr. Battistoni responded yes and stated that there are two trailers being stored in the area – one belongs to the Chamber of Commerce and one belongs to the Fire Department. He stated that he's a little concerned that they might be on the neighbor's property. Mr. Labriola stated that they are taking a much disturbed area and making it much better. Mr. Karis noted that part of the plan will be to restore the buffer area. He asked if there will be any kind of physical barrier to prevent future encroachment into the area, such as some boulders. Mr. Setaro stated that it has not come up. Ms. Bramson asked about restricting access to the site to one access point. Mr. Karis stated that they have to be able to drive around the building. Mr. Battistoni stated that they wanted to move the building in order to provide space for the vehicles to back into the bays, but that the site is too tight to allow that. He stated that Butch Gardner really wanted to separate the two activities – the transfer station and the highway department.

Mr. Labriola asked for feedback from the CAC. CAC member stated that the fact that they are improving an already disturbed area is important. Further, he asked if there are other parts of the wetland that can be mitigated or enhanced to offset this disturbance by

this redevelopment. He noted that the DEC does allow such a swap as a mitigating measure. Ms. Seaman asked if there are extra measures now that the mixing will be done indoors. She asked about the flooring of the new building. Mr. Battistoni stated that it will be asphalt in the mixing area. She asked if there will be protection against runoff. Mr. Setaro and Mr. Battistoni stated that it will be much improved from before. She noted that this is a huge mitigating factor to get that off the ground where it was just running off into the wetland.

Mr. Battistoni stated that this project has been in the works for years. He stated that it is at a critical point in time right now because there is a meeting tomorrow night to decide whether to try to proceed with the project this year. He stated that the highway superintendent needs everything done before the fall plowing season. He stated that if it is put off until next year, he anticipates a 10-20% increase in cost. Therefore, he stated that they are trying to do this now. He stated that he does not think this size of a building can be moved and that downsizing the building does not make sense. Mr. Setaro stated that he cannot comment on the rationale for the location of the building as he was only recently assigned to the project. Mr. Battistoni also pointed out that due to the location of the wetland buffer they have lost area where they were previously storing vehicles.

Mr. Labriola noted the following factors that are on the plus side for this project:

1. this is already a disturbed area that will be improved
2. the indoor mixing of the salt and sand
3. the curbing provides control of the sheet flow

He asked for a line of demarcation as a barrier along the wetland buffer line to prevent encroachment into the buffer and suggested white pines or a fence or large boulders. He noted that, although the Planning Board has been diligent in not permitting disturbance in the wetlands buffer, there have been instances where it just was not possible to prevent it. Mr. Battistoni pointed out an area that was paved last year to provide salt storage during the construction phase. He stated that the pavement was sloped in, that the salt will be covered, but that he sees that a portion of the pavement is in the wetland buffer. He stated that this was where the metal pile was.

Board concurred that the improvements outweigh the bad. Ms. Seaman underscored the request for some sort of barrier to prevent future encroachment into the buffer.

Mr. Labriola: **MOTION TO GRANT WETLANDS PERMIT**

Whereas a formal permit application for regulated activities in wetlands, water bodies, water courses, and buffer areas dated 3/28/07 was submitted by the Town of Pleasant Valley Town Board for regulated activities consisting of locating within 100' of a wetland buffer a portion of black top and drainage system related to the proposed construction of a salt and equipment storage facility at tax grid numbers 13-6364-04-813054 & 803085 located on Sherow Road at the highway department location, and

Whereas the wetlands administrator has determined that the proposed regulated activities may constitute a potentially significant environmental impact and has referred the application to the Planning Board for approval or denial, and

Whereas the Planning Board has reviewed the factors pertinent to the site relating to the proposed regulated activities for compliance with Chapter 53, and

Whereas the Planning Board has requested a review of the submitted information and documentation by the Planning Board engineer has obtained comments,

Now, therefore, be it resolved that the application for regulated activities be approved and that the wetland administrator may issue a permit for these activities upon completion of such conditions as noted below:

- **that the buffer area will be delineated with plantings, fencing, or large rocks to eliminate future encroachment.**

The rationale for this approval is as follows:

- 1. the Town plans to restore a previously disturbed area**
- 2. the site is tight with no opportunity to move the storage building**
- 3. the mixing of salt and sand will now occur indoors**
- 4. sheet flow from the impervious surfaces will be channeled through a storm water management system**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-0-0

7. CAPELL FOX RUN

Ms. Seaman recused herself from this discussion.

Mr. Labriola reported that the Board received a letter dated 5/2/07 from Paula Vincetore – original is on file. Ms. Vincetore noted that the extension granted in March 2007 will end on 6/12/07. She noted that the formation of a homeowners association typically takes 4-5 months. She stated that they need to request an additional 90-day extension in order to finish their work with the Attorney General's office.

Mr. Labriola: MOTION TO GRANT 90-DAY EXTENSION OF PRELIMINARY APPROVAL

Whereas an application for approval of a subdivision entitled Capell Fox Run Subdivision located at Fox Run and Malone Road was submitted to the Planning Board on 6/21/02 by Chazen Engineering, and

Whereas the conditional preliminary approval was granted by the Planning Board on 9/12/06, and

Whereas in accordance with the Town Code Section 82.14 (e) said approval is valid for 180 days beginning 9/12/06 and ending 3/12/07 with a 90-day extension through 6/12/07, and

Whereas the applicant has requested an extension of said approval due to the completion of the formation of a homeowner's association,

Now, therefore, be it resolved that the preliminary approval be extended for a period of 90 days to begin 6/12/07 and end 9/12/07.

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 5-0-0

8. 199 WEST ROAD – KIRCHHOFF

Mr. Mark DelBalzo, engineer, was present.

Mr. Labriola stated that the site plan approval was granted recently for 199 West Road and asked Mr. DelBalzo to described changes to the plan.

Mr. DelBalzo stated that they have changed the landscaping plan to meet the Board's request to screen the transformer pad and to shield the parking. He stated that some asphalt has been removed and the number of parking spaces as been reduced from 150 to 139. He pointed out all changes on the map.

Mr. Labriola asked for feedback from the Board prior to him signing the map. Board members agreed that all the changes are an improvement to the plan.

Mr. Labriola: **MOTION TO GRANT PERMISSION FOR THE CHAIR TO SIGN THE PLAN**

I move that the Planning Board authorize me to sign the revised map based on the changes that have been described as the changes constitute an improvement to the site because of the additional landscaping, additional green space, and reduction in number of parking spaces from 150 to 139.

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 6-0-0

9. MINUTES

Mr. Labriola: **MOTION TO APPROVE THE MINUTES AS AMENDED OF THE PLANNING BOARD MEETING OF 3/13/07; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **MOTION TO APPROVE THE MINUTES AS AMENDED OF THE PLANNING BOARD MEETING OF 4/10/07; SECONDED BY P. KARIS; VOTE TAKEN AND APPROVED 6-0-0**

Meeting adjourned at 8:50 p.m.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the May 8, 2007, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

____ Approved as read

____ Approved as corrected with deletions/additions

PLEASANT VALLEY PLANNING BOARD

June 12, 2007

A regular meeting of the Pleasant Valley Planning Board took place on June 12, 2007, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:35 p.m.

Members present: Joe Labriola, Chairman
 Michael Gordon
 Rebecca Seaman
 Rob Fracchia
 Kay Bramson
 Peter Karis
 Henry Fischer

Also present: Pete Setaro, Morris Associates
 Jim Nelson, Esq., Town attorney
 Dieter Friedrichson, Zoning Administrator

ANNOUNCEMENTS:

Mr. Labriola announced updates to the meeting agenda as follows:

- Mirabilio subdivision has been pulled from the agenda because the applicant did not advertise for a public hearing.
- Pleasant Valley Shopping Center Site Plan has been pulled from the agenda and will back on next month.

1. LOGIURATO-SPEAR LOT LINE RE-ALIGNMENT

Mr. Brian Franks, engineer, was present.

Mr. Labriola noted that this application received Sketch Plan approval last month and asked Mr. Franks for any changes to the plan.

Mr. Franks stated that the houses and driveways are displayed on the map and that Mr. Logiurato will acquire another ½ acre along the driveway. Mr. Franks pointed out on the map the parcels that are being exchanged.

Mr. Setaro noted that there are only a few housekeeping items that remain to be addressed.

Mr. Labriola read into the record a letter from the Fire Advisory Board dated 6/6/07 (original on file): no recommendations as it represents no fire or safety issues.

Ms. Bramson asked about any change to the driveway. Mr. Franks explained that the existing driveway is not changing and that, in fact, the transfer of land is being proposed so that the driveway is entirely on one property.

Mr. Labriola: **MOTION FOR NEGATIVE DECLARATION**

I move that the Planning Board determine as set forth in the attached declaration dated 6/12/07 prepared by the Board's engineer that the Logiurato-Spear boundary line change is an unlisted action under SEQRA and will not have a significant effect on the environment for the following reasons and that no environmental impact statement shall be requested.

The reasons in support of this determination of non-significance are:

- 1. the action involves the transfer of land with no creation of any new lots.**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola stated that the file contains the original notice of publication in The Poughkeepsie Journal.

Mr. Labriola: **MOTION TO OPEN PUBLIC HEARING; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 6-0-0**

No one spoke.

Mr. Labriola: **MOTION TO CLOSE PUBLIC HEARING; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **MOTION TO GRANT PRELIMINARY APPROVAL**

I move that the Planning Board grant preliminary subdivision approval to the boundary line change between Logiurato and Spear in the form of the attached resolution dated 6/12/07 prepared by the Board's engineer and now before the Board subject to the following conditions: NONE

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola: **MOTION TO WAIVE SECOND PUBLIC HEARING; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **MOTION TO GRANT FINAL APPROVAL**

I move that the Planning Board grant final approval to the boundary line change between Logiurato and Spear in the form of the attached resolution dated 6/12/07 prepared by the Board's engineer and now before the Board subject to the following conditions:

- 1. payment of all fees**

- 2. Dutchess County Department of Health permission to file**
- 3. Morris Associates letter dated 6/6/07**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

2. MORRISON SUBDIVISION – SKETCH PLAN APPROVAL

Mr. Christopher Lapine, Chazen, was present.

Mr. Lapine stated that they have submitted a sketch plan for a proposed 3-lot subdivision. He stated that currently it is an existing lot of 6.82 acres that borders Carey Road and David Drive. He stated that the applicant, Thomas Morrison, is proposing 3 lots:

- lot #1 containing the existing parcel which would be subdivided into 2.66 acres
- lot #2 being subdivided into a 1.82 acre parcel
- lot #3 consisting of a 2.35 acre parcel.

Mr. Lapine stated that access to the existing new drive would continue off of Carey Road. He stated that they are proposing 2 new access drives off of David Drive. He stated that they have marked off the locations and identified them for the Town Highway Superintendent, but have not received feedback yet. He noted that it is pretty tight in that area. He stated that they have received Morris Associates comments and will address them. He stated that they have done due diligence regarding soil testing and they feel comfortable with the proposed locations of the septic on the map.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that most of the requirements for sketch plan have been met. He asked Mr. Lapine if they will be requesting any waivers. Mr. Lapine stated that they are aware of the requirement to identify all trees 8" in diameter. He noted that there is an existing parcel to the north that will be subdivided into 2.7 acres and that they are hoping that they will not have to identify trees in that area and that they will be permitted to only identify trees in areas that will be disturbed. He noted certain portions of the site, especially along David Drive, that will not be disturbed where he's hoping they will not be required to identify individual trees. Mr. Labriola asked Mr. Lapine to submit that request in writing to the Board for consideration at their next meeting. He asked that they show on the map the areas that are wooded that will be disturbed.

Mr. Setaro noted that a driveway profile will be required for any drives that will be over a 6% grade.

Mr. Labriola asked about road frontage for lot #2. Mr. Lapine stated that it is 50'.

Mr. Labriola asked where the Federal wetlands and buffer are. Mr. Lapine pointed this out on the map. Mr. Labriola asked Mr. Lapine to show the 100' wetlands buffer on the map. Ms. Bramson asked about the pond. Mr. Lapine stated that he would not label it a

pond, that it is a depression. Board asked if it is Federal wetlands. Mr. Lapine responded that it is, but that it does not hold water.

Mr. Labriola asked Mr. Lapine to locate all adjacent wells and septic systems on the map to ensure that the required separations exist. Mr. Lapine stated that they have a request into the Department of Health for information on the Amy property and the adjoining properties.

Mr. Karis asked about the possibility of a common access point because they are close together and if sight distance is an issue you could eliminate one access point. Mr. Labriola suggested that they wait for the feedback from the Highway Superintendent on this question and acknowledged that sight distance will probably be a concern.

Mr. Karis asked about the outlet from the pond, whether it flows through the depression off site. Mr. Lapine stated that pretty much the water seeps into the ground or it evaporates. He stated that it has to fill up pretty significantly to overflow. Mr. Karis stated that that area may meet the definition of a controlled area also and asked Mr. Lapine to check that with the wetlands administrator as it will have an associated buffer as well.

Mr. Karis asked about driveway profiles because it looks like both drives climb steep slopes and noted that they are proposing to build a house on a steep slope. Mr. Lapine noted that it may be best to locate the house to the west where it is flatter. Mr. Karis stated that a grading study and a grading plan will shake out all the issues. Mr. Setaro observed that it is not possible to move one of the driveways because of the ledge on the property.

Mr. Labriola read a letter from the Fire Advisory Board dated 6/6/07: offers a positive recommendation as there are no fire or safety issues.

Mr. Labriola read a letter dated 6/11/07 from Butch Gardner (original on file). Mr. Gardner reports that he did a site visit and found that the two driveways can meet the sight distance requirements as long as the trees and vegetation are removed as required. He states that both driveways will need profiles and will need to locate any drainage easements because of a Town drainage pipe close to lot #2. He also asked that the map show where the runoff will discharge and whether there will need to be pipes installed for the entire driveway. He also noted that erosion control and stabilization must be indicated on the site plan.

Mr. Labriola: **MOTION TO GRANT SKETCH PLAN APPROVAL**

I move that the Planning Board grant sketch plan approval to the Morrison subdivision in the form of the resolution prepared by the Board's engineer and now before the Board subject to the following conditions:

- **applicant to address Morris Associates' letter dated 6/7/07.**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

Mr. Setaro confirmed that he would like to see another set of plans that outline drainage and erosion control, wells and septic systems before advertising for a public hearing.

3. NOBLE SUBDIVISION – FINAL APPROVAL

Mr. Steve Burns, Barger and Miller, and Mr. Burveau Noble, applicant, were present.

Mr. Labriola noted that this application received preliminary approval in July 2006 and asked for updates to the plan.

Mr. Burns stated that the only changes made are that they have received Department of Health approval and have put a note on the map regarding installation of storm water retention system. Mr. Burns will provide Mr. Setaro and the Board with updated maps.

Mr. Setaro asked if all is set for the common driveway. Mr. Nelson stated that he worked with Mr. Noble on cross easements and the document is ready.

Mr. Labriola read into the record a letter (original on file) from the Fire Advisory Board dated 6/6/07: positive recommendation as they feel their concerns regarding fire or safety have been addressed.

Mr. Labriola: **MOTION TO WAIVE 2ND PUBLIC HEARING; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola: **MOTION TO GRANT FINAL APPROVAL**

I move that the Planning Board grant final approval to the Noble subdivision in the form of the attached resolution dated 6/12/07 prepared by the Board's engineer and now before the Board subject to the following conditions:

- 1. payment of all fees**
- 2. Dutchess County Department of Health approval**
- 3. applicant must address the concerns identified in Morris Associates' letter dated 6/6/07**

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola: **MOTION TO ASSESS RECREATION FEES**

Whereas the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town; and

Whereas that finding includes an evaluation of the present and anticipated future needs for parks and recreational facilities based on projected population growth to which this subdivision or site plan will contribute; and

Whereas the Planning Board has determined that suitable park or parks of adequate size to meet the requirements cannot be properly located on the subdivision or site plan;

Now, therefore, be it resolved as per Town Law 277.4 and 82.23 (a)(4) of the Code of the Town of Pleasant Valley, the Planning Board recommends to the Pleasant Valley Town Board that a sum of money in lieu of land be imposed for the subdivision entitled Noble subdivision located at 34 Pine Hill Road for one newly created residential building lot.

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

4. GLOBAL TOWER SITE PLAN REVISION

Mr. Karis recused from this application.

Mr. Neal Alexander, Cuddy & Feder, and Mr. John Mackey, owner, were present. Mr. Alexander concurred that they last appeared before the Planning Board in April. He stated that on 5/25/07 they submitted a comprehensive package that addresses the comments in Morris Associates letter dated 4/5/07. He reported that they have had a few additional conversations with Morris Associates and with Mr. Nelson's office.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that open items include the letter of credit for the removal of the tower and some other housekeeping items and easements. He pointed out that the cover sheet states 175' expandable to 185'. Mr. Alexander will make the necessary change to the cover sheet. He stated that the foundation is being designed to support 185' tower and that they are putting up a 175' tower. He stated that the ZBA setback variance is pegged off of 175' height and that all their approvals are for 175' of height. Further, he explained the previous discussions with the ZBA regarding a one-pole solution and the zoning-exempt State-Wide Wireless Network (SWWN) project.

Mr. Setaro asked if they are removing all references to the potential additional 10' of height. Mr. Alexander responded that they will do that.

Mr. Alexander responded to Morris Associates comment regarding erosion and sediment control. He provided a detail and a plan view.

Mr. Labriola asked about the plan to remove the note on the map regarding a future Nextel pad. Mr. Alexander stated that they are seeking approval for that pad, which would be a plug and play generator pad for emergency use. Mr. Labriola asked for

confirmation that there would be no permanent building there. Mr. Alexander confirmed that there would not. He stated that approval would be for placement. Mr. Setaro explained that it is a concrete generator slab.

Mr. Gordon asked about the height requirement from the FAA for lighting a tower. Mr. Alexander explained that the general rule of thumb is that 200' or lower does not require lighting. He mentioned that as part of the considerations for the 240' one-tower solution, the FAA unofficially stated that they would require lights at the top and at the halfway point.

Mr. Labriola read into the record a letter dated 6/12/07 of Dutchess County Department of Planning and Development (original on file): it is a matter of local concern.

Mr. Labriola stated that the ZBA conducted SEQRA review.

Mr. Nelson commented on easements. He stated that the bond and security for the bond is pending and rests with the Town Board. He stated that Mr. Mackey has assured him that he has consented to the construction of this tower on this property. He discussed options for access to the parcel that run to the benefit of the Town and the Fire District.

Mr. Nelson posed the question of whether this application is subject to the imposition of parkland fees. Mr. Labriola stated that the only time these fees have been assessed for site plan is when dwelling units have been added. Mr. Setaro agreed with this. Mr. Labriola stated, therefore, that no fees will be assessed.

Mr. Labriola asked about inspection procedures upon completion to ensure that the tower has been built as specified. Mr. Friedrichson stated that there is a requirement that these towers be inspected every other year. Mr. Alexander stated that he thought the Board wanted an "as built" and certification from a tower climber upon completion of construction. Mr. Setaro agreed and stated that this requirement is included in the Morris Associates letter.

Mr. Friedrichson explained that, before he can issue a building permit, he needs a statement from an engineer saying that the tower will withstand the forces of nature and will be constructed in compliance with manufacturer's specifications. Further, he explained that, when he issues the CO, he will need a closure letter stating that it was done to specifications.

Mr. Fracchia asked about the frequency of inspection – yearly or every two years? Mr. Alexander stated that he does not know what the regular schedule is but explained there are so many carriers going onto the towers that there hasn't been a period of time when there hasn't been a carrier doing a new structure report to see if they could go on the tower. Therefore, he stated that they haven't needed to put it on a regular schedule. Further, he explained that there have been so many applications from carriers to go onto the tower and each one has to do its own structural analysis showing that the new load can be handled. He stated that even if there were an inspection requirement – and he

apologized for not knowing if such exists – he thinks that it would be completely inapplicable because there have been so many carriers rotating onto the tower.

Mr. Labriola: **MOTION TO GRANT SITE PLAN APPROVAL**

I move that the Planning Board grant site plan approval to the Global Tower LLC with regards to the application of the Global Tower site plan revision in the form of the attached resolution dated 6/12/07 prepared by the Board's engineer and now before the Board subject to the following conditions:

- 1. Morris Associates letter dated 6/7/07**
- 2. payment of all fees**
- 3. security bond and letter of credit in amount and form acceptable to the Town of Pleasant Valley**
- 4. applicant to tender the offer from their 5/23/07 letter to the Town of Pleasant Valley and Fire District so they receive the full time, terms, and benefits of that access agreement.**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

5. 123/127 WEST ROAD – SITE PLAN REVISION

Mr. Joe Kirchhoff and Mr. Mark DelBalzo were present.

Mr. Kirchhoff provided a color layout of the site and pointed out their existing Kirchhoff Construction headquarters. He explained that they are moving to the Conklin building sometime in September 2007 and that New Horizons Resources, a non-profit on whose board he sits, wishes to become his tenant in the building that he is vacating. He pointed out an adjacent property, that he purchased some years ago, and the wetlands on it that they did not know were there until some time later. He explained that they planted 100 trees in that area and that it is now untouched at this time. He also pointed out another adjacent property that he purchased.

Mr. Kirchhoff stated that they have an in-ground galley septic system and a private well.

Mr. Kirchhoff stated that they will move out, remove all their storage, extend the parking space up to the front. He stated that the proposed tenant has a very large board – 22-25 people – and there is about a ½ to 1 hour overlap between staff leaving and board members arriving. The board meetings start at 4:30 p.m. and run till about 6 p.m.

Mr. Kirchhoff stated that he was concerned about the DEC because he knew it would be a red flag. Therefore, he stated that they did a lot of homework. He stated that they hired a wetlands consultant who walked the property and had follow up meetings with the DEC. He stated that it will be addressed on an engineering level.

Mr. Kirchhoff stated another concern will be traffic. Right now, he stated that there is quite a bit of truck traffic and that there is very good sight distance. Once they move out,

he stated that it will only be passenger car traffic. He discussed the parking expansion. He stated that they negotiated a small piece of property with a neighbor that will hold 18 cars, but they are not planning on doing this now. He does plan to purchase that property to ensure enough space in the future.

Mr. Kirchhoff stated that now there are two galley septic systems on the site. He stated that they have excess capacity across the street in the sewage plant. He stated that, on the Town's recommendation, when they built Brookside they brought water and sewer to the edge of West Road. When Central Hudson finally provided them with natural gas, he stated that they pushed a force main septic sewer line under West Road. Therefore, he stated that the disturbance for this change is absolutely minimal. He stated that they would probably remove the galley system because they are exposed concrete top units, and he pointed out on the map the area where they would trench to the Central Hudson point – 50'-70'.

Mr. Kirchhoff stated that they will minimize the visual impact of cars and parking lots. He stated that he did not get into extra landscaping because they need every single parking spot at those peak times that they can get. He pointed out the few islands they did put in and stated that they will heavily landscape the street to the Board's requirements. He stated that he needs as much parking as he can have.

Mr. Labriola asked about an alternate suggestion – whether the area out by the road could be all one heavily planted area with evergreens to maintain the screening all along the road. He observed that islands in the back will not provide the needed screening. He stated that they need to do as much as possible along West Road with very dense screening.

Mr. Kirchhoff offered a compromise because he does not want to lose all the parking spaces. He described a method by which he could retain a couple of parallel spots, which would give him two handicapped spots right in front of the building. He assured the Board that the mature plantings will be completely spruced up. Ms. Bramson asked if he would be removing the existing plantings and starting from scratch. Mr. Kirchhoff stated that he would remove all the tired vegetation and will add landscaping with sufficient height to adequately screen.

Mr. Labriola asked about the area where the sign is now. Mr. Kirchhoff stated that it's quite nice landscaping as it was redone about 2 years ago. He stated that it does not provide a lot of screening but that it is visually pleasing.

Ms. Seaman asked what traffic pattern is envisioned. Mr. Kirchhoff stated that they made them wide enough to be both directional. Mr. DelBazo confirmed that he met with DPW and that they are OK with the second curb cut. He stated that the sight line is fine, that he had a field meeting with them and a second meeting in their office. He stated that they have answered or will answer the details raised in Morris Associates letter.

Mr. Kirchhoff pointed out an access that originally was blocked off. He stated that they were afraid of the resultant grid lock in front of the building. Ms. Seaman mentioned that the CVS parking lot is a disaster because of the bi-directional traffic pattern in a small space. She suggested that a one-way traffic pattern relieves driver confusion and potential chaos. Mr. Labriola suggested that the entrance could be reduced to a single lane to reduce the curb cut. Mr. Kirchhoff stated that he could make one access smaller and leave one bigger. Mr. Fischer stated that the egress must be big enough to allow drivers to turn left or right.

Mr. Setaro suggested angular parking which might provide space for additional parking spots. Ms. Seaman noted that angular parking helps guide drivers in the correct traffic pattern. Mr. Karis stated that if it is going to be one-way circulation then it needs to be angular parking. Mr. Karis stated that he may be able to reduce the curb to curb width with angular parking. Mr. Kirchhoff thought these are good suggestions.

Mr. Karis asked how much parking is required on a daily basis as compared to the peak times and asked if peak is every day. Mr. Kirchhoff stated that it is probably in the 70's on a full time load daily without visitors. He stated that the board meetings are monthly and the committee meetings are weekly. He stated that there are always 10-25 extra cars at the tail end of the afternoon. He noted that for traffic purposes on West Road, school is out by the time these meetings begin.

Mr. Karis asked about making the parking spaces in the buffer porous. Ms. Seaman stated that porous surfaces allow oil and water to pass through which is sometimes worse for the wetlands than having the oil sit on the impervious surface. Mr. Setaro stated that DEC probably won't buy into it anyway. Mr. Kirchhoff stated that he worries about slip and fall on those surfaces.

Ms. Seaman noted that they are already in a buffer area and suggested that curbing the impervious surface may better protect the wetlands by directing the runoff. She suggested that the porous surface materials work best on residential driveways or minimally traveled roads which allow for distribution of rain water. However, on a concentrated parking site, she stated that edging such as a curb directs the runoff which contains the pollutants to a certain area away from the wetlands. Mr. Karis suggested some other methods – hoods in the catch basins, oil water separator.

Mr. Karis asked about storm water management. Mr. DelBazo acknowledged that it is a very tight site. He stated that he spoke with Mr. Kirchhoff regarding this. He stated that infiltration measures – porous pavement – normally are not fit for parking lots because of the snow removal and the potential of them clogging, besides the oils or other runoffs. Therefore, he stated that they are planning some storm water mitigation, some water quality treatment. He stated that he will meet with Mr. Setaro and suggested sheet flow as much as possible because of the wetlands and the water table. He stated that poking holes and punching out with pipes and culverts and having a point concentrated discharge for storm water – he does not think such things work. He stated that there will be some curbs that will help direct the runoff towards the back area and provide a treatment swale

or sedimentation basin. He suggested that angular parking may enable them to do a perimeter swale with other technical measures to trap sand and such before it gets to the wetlands.

Mr. Setaro advised Mr. DelBazo to first talk with the DEC before Morris Associates. Mr. DelBazo stated that he met twice with DEC and that their biggest concern is further encroachment into the wetlands and into the buffer area, providing plantings, some fencing. He stated that they discussed mitigation, for which he stated there is not much room on the site. He stated that he reviewed with them the disturbance limit and that he is under an acre.

Mr. Setaro asked if they are repaving a lot. Mr. Kirchhoff responded no, not at all. However, he noted that the front is a mess and will be redone.

Mr. Labriola asked if they will have to rethink dumpster location based on changes to the traffic pattern. Mr. Kirchhoff stated that he will review this and that it depends on which becomes the ingress and which becomes the egress.

Mr. Setaro asked again about the volume of parking, whether all 70 come to the site at the same time. Mr. Kirchhoff stated that he thinks they come and go during the day. Mr. Setaro asked if they all come to the office first in the morning before traveling off site. Mr. Kirchhoff stated that he did not know the answer. Mr. Setaro stated that it is probably more of a concern for the county because they are issuing the permits and asked how many people come to Mr. Kirchhoff's office in the morning. Mr. Kirchhoff stated that he now has up to 50 that come in the morning and that they have completely outgrown the building and the parking lot.

Mr. Setaro noted that they will have to consider a lighting plan. Mr. Kirchhoff concurred that they will look at lighting, landscaping details, and storm water management.

Mr. Kirchhoff stated that the in-ground septic will be removed. Mr. Gordon asked if they could hook into the Conklin building septic. Mr. Setaro noted that they have a huge new septic system.

Mr. DelBazo asked if the Board will circulate for lead agency. Mr. Labriola stated that the application is not yet complete enough to do that. Mr. Nelson stated that he did not review the application documents. Mr. Labriola stated that the parking, storm water management, and landscaping need more consideration and detail before being circulated especially to the County Planning Department.

Mr. Fischer also suggested that the landscaping will be a problem being so close to the road with the salt in the winter. Mr. Kirchhoff stated that they have not had a lot of trouble with plantings dying.

6. CENTRAL HUDSON TINKERTOWN SUBSTATION EXPANSION – SITE PLAN REVISION

Ms. Jennifer Van Tuyl, Cuddy Feder, and Mr. Patrick Harder and Mr. Gary Courtney, Central Hudson, were present.

Mr. Labriola noted that two potential environmental impacts were identified during the discussion with the applicants at the May Planning Board meeting. These are:

1. validation through the Board's engineer on the results of the acoustic testing
2. containment issue regarding approximately 2,000 gallons of oil in each of the transformers.

Mr. Harder described the proposed containment system. He stated that typically they run an analysis and if that says that there's not a reasonable expectation that a spill will reach navigable waters, they will not typically put oil containment on the site. However, he noted the concern from both the Planning Board and the ZBA. He also stated that the each of the transformers actually holds closer to 3,000 gallons of oil.

Mr. Harder stated that the containment system consists of a bentonite impervious subsurface liner, which will keep both water and oil from spreading into the area. He stated that there will be a select fill trench on one end of it, which has a hydraulic spec that will slowly release water. He stated that if any oil gets in, it will release it at a much slower rate. Mr. Setaro asked for clarification on how and where it would be released and about soil testing that was done. Mr. Harder stated that there are 4 already on the system and that soil has to be mixed. Mr. Setaro asked about the virgin material below it, heavy clay material and that it's not going to make it out of the trench over time. Mr. Harder stated that they haven't had any problem with it yet. Mr. Setaro asked for clarification on whether one exists there now. Mr. Harder stated that, at this particular site, no they do not.

Mr. Labriola asked for some idea of, once oil gets into this containment system, how long before it starts to leach into the ground – a matter of minutes, hours, days, months. Mr. Harder stated that a good approximation would be probably days. He stated that if there is any appreciable amount of oil they will know it. He stated that if there's a very small drip somewhere they will pick it up on monthly inspection.

Mr. Labriola asked if this proposed containment system can handle 6,000 gallons of oil. Mr. Harder stated that the system will handle approximately 4,000 gallons. Mr. Setaro noted that they will have notification of a spill as soon as there's a problem.

Mr. Labriola asked if they consider this one containment system or two. Mr. Harder stated that there will be two. Mr. Harder noted that the expectation of a catastrophic failure of everything failing at one time is not how they calculate spills. He stated that it would be an act of terrorism if it did happen.

Ms. Van Tuyl stated that they want to emphasize that it is the company's position that containment would not have been required under the customary methods that the company uses based upon evidence and likelihood of any incidents. However, she noted that because of the concern raised by the Boards, the company has stated that it is willing

to implement methods that are even more cautionary and appropriate for a situation of higher risk if that would assure the Board that there will be no significant impact from an event. She stated that the proposed system is more than dealing with the issue.

Mr. Setaro stated that he would like to see the calculations that show the capacity of each of the systems attached to the Part III of the EAF. Further, he stated that Morris Associates was not able to produce a comment letter yet on this application. He stated that he and Ms. Van Tuyl have had some conversations and that it is his opinion that the plan is in pretty good shape with regard to containment issues. He again requested the calculations as backup information on the systems. Mr. Labriola expressed his and the Board's appreciation to the applicants for working with the Board on this concern.

Mr. Labriola asked Mr. Setaro for a report on his review of the acoustical findings. Mr. Setaro stated that he spoke with an engineer in Morris Associates Hudson office who has experience with these. He stated that this engineer looked at the studies that were done. In the interim, he stated that they received a letter from Ms. Horn stating that she has engaged an independent consultant. He stated that they will formalize their response, but did report that his engineer's numbers came pretty close to the ones included in the HUSH report and the report of Sound Engineering. He stated that looking at both reports, the conclusions are pretty close – the decibel levels were relatively close. He stated that the only question he has from reviewing the HUSH report is that they wanted the noise to be analyzed with the transformers working at full capacity. He stated that the reports do not state whether the analysis was done under full capacity.

Mr. Harder stated that the transformers will probably operate at slightly higher than 50%. Mr. Setaro asked for clarification by HUSH on what the increase in noise would be if they were operating at 100%.

Mr. Labriola stated that the findings were, that at high level and with the additional transformer and the installation of the baffles with the 45% angle, on the east side the noise would be reduced from what is currently present at the site. Mr. Setaro concurred this is statement. He stated that the HUSH report recommended that the noise barrier be 18' high, which is as it is shown and which is at least 5' higher than the transformers, and to extend on a 45% angle to cover the outside edges of the other transformer.

Mr. Setaro asked about the transformer being raised up. Mr. Harder stated that the site grade will come up 1' from where it is now, which was done for a couple of reasons:

- so they don't have to cut down as much in the back
- and to improve drainage

Mr. Harder stated that the floor level will come up 1' – transformers, sound walls, structures – everything is measured off of that ground level. He noted that the proportions are staying the same.

Mr. Setaro asked about the colors of the sound barriers. Mr. Harder pointed out the color chart and stated that the standard equipment color is Berkshire green or tan green.

Regarding the loading issue, Mr. Harder stated that they took readings at the level at which the existing transformer will run. Technically, he stated that the reading the sound analysis is based on is full load of where they will be running. Mr. Labriola asked if that is full capacity. Mr. Harder stated no. Mr. Labriola stated that, therefore, if they are running at 75% then there's an additional 25% of capacity available. He stated that the Board wants to make sure that there is no misunderstanding.

Mr. Harder explained that the reason for two transformers is that, if one comes out of service for a problem or for regular maintenance, the other one will carry the station load for a short amount of time. He stated that they are not designed to run at their full load rating. Mr. Setaro asked – at the same time? Mr. Harder responded - yes. Mr. Fischer asked – for a long time? Mr. Harder responded – correct.

Mr. Fischer asked what the existing transformer is running at now. Mr. Harder stated that he does not know what it is running at now, but that during the high summer months it probably will run over 100%. Mr. Labriola stated that, therefore, the second transformer is a hot standby, and that there's no plan to have those two transformers running at the same time. Mr. Harder stated that they will be running at the same time but at a lower level.

Mr. Labriola asked if it is possible for one transformer to run at over 100% in a situation where one of the two transformers fails and the other must carry the entire load. Mr. Harder stated that it can, but that it impacts the service life. He stated that they are designed to run at a certain level based on a 40-year service life.

Mr. Labriola asked, again, for the worst case scenario from a noise perspective with both transformers running at 100%. Mr. Harder stated that they will never both run at 100% of their rating by design – that is not the intent of this expansion. Mr. Setaro asked if they are, therefore, saying that if demand increased significantly they would have to install a larger transformer on this site. Mr. Harder responded probably yes.

Ms. Van Tuyl suggested that it would be appropriate to prepare a full Part III of the EAF to specifically answer all questions that have been raised and to get at issues to assure the Board that the noise level has been tested at maximum use and describe how that was done. She stated that they will go back to HUSH and confirm the testing protocols that they undertook and assure that the Board is comfortable that the maximum noise that will actually occur at this site has been calculated. Mr. Labriola stated that this would be much appreciated.

Mr. Gordon suggested that the discussions and considerations that have gone on with regard to this application will be valuable to the Central Hudson in future installations. He stated that communities are going to demand a higher set of standards and more responsibility. He suggested that these meetings have not been in vain. Ms. Van Tuyl agreed and suggested that these discussions will help to create a protocol for the company.

Mr. Fracchia asked if they are still planning to install sound barriers only on the eastern side. Mr. Harder responded yes. Mr. Fracchia asked if there will be any reflective noise off of the barriers that will go to the west. Mr. Harder stated that the wall is angled back 70% so that there will be no reflective noise. Mr. Fracchia asked where the noise is being reflected – up or down. No response audible.

Mr. Setaro asked for clarification of whether the Planning Board has declared itself lead agency. Mr. Labriola confirmed that it did at the last meeting. Ms. Van Tuyl asked if it has been circulated and anyone has objected. Mr. Nelson stated that the Board adopted a resolution and circulated to involved agencies.

Mr. Labriola enumerated next steps:

1. verify testing at full load or whatever the protocol was for that testing
2. prepare Part III EAF

Mr. Setaro asked about the construction of the fence, whether it will have PVT slats. Mr. Harder explained the plastic vinyl tubing – the green slats found commonly on chain link fences. Mr. Setaro asked how tall the fence will be. Mr. Harder stated 8'. Mr. Setaro and Mr. Fischer both noted that the slats often go bad and come loose in high winds. Mr. Fischer asked what the purpose of the fence is. Mr. Harder stated that the main purpose is visual. Ms. Bramson asked if there are alternatives. Mr. Setaro mentioned plantings or slats. Mr. Labriola noted that on the east side there will be the sound barriers. Mr. Harder pointed out that the fence does not encircle the installation. Mr. Labriola stated that he does not know if the slats are solving any problem. Mr. Setaro stated that as long as the slats are maintained, it's fine. Mr. Fischer stated that they do break down. Ms. Bramson asked if they have them on other sites and how they look over time. Mr. Harder stated that they do have them on other sites and that as far as he knows they look fine. He stated that a separate department – Operation Services – does the maintenance. Mr. Setaro asked about other sites that the Board could visit to look at them. Ms. Van Tuyl suggested that as part of the Part III EAF they will provide photos and information on how often they have to be replaced.

Ms. Van Tuyl asked for a copy of Ms. Horn's letter. Mr. Gordon provided her with a copy. She stated that they will submit a Part III in ample time prior to the next meeting in order to answer all of the questions that were raised this evening and try to present the information in a comprehensive, clear way so that the Board can understand all of the relevant issues and environmental concerns. Mr. Labriola thanked her and stated that this would be very helpful. Ms. Van Tuyl explained that they will not return to the ZBA until the Planning Board has concluded its deliberations.

7. VALLEY WINES & SPIRITS – SIGN PERMIT

Ms. Barbara Fitzgerald, Gloede Signs, Mr. Edward Howard, applicant, were present.

Ms. Fitzgerald explained that Valley Wines & Spirits is located in Milestone Square. She explained that the sign will be channel letters on raceway mounted to the building. They are proposing 28 sq. ft. which she noted is a little less than what is permitted.

Mr. Labriola asked if the top of the Valley Wines & Spirits sign will be lined up with the top of the Tassone sign. Ms. Fitzgerald stated that she believes it will be.

Mr. Labriola: **MOTION TO GRANT SIGN PERMIT**

Whereas the Town of Pleasant Valley Planning Board has received an application from Valley Wines & Spirits for the approval of one wall signed dated 5/29/07, and

Whereas an environmental assessment form has been submitted and reviewed by the Board,

Now, therefore, be it resolved that the Planning Board determines the application to be an unlisted action and will not have a significant effect on the environment, and

Further be it resolved that the Planning Board grants approval for one wall sign as shown in the application and drawing and consisting of the materials, sizes, and colors shown in the application except as follows:

- 1. that the top of the sign will be at the same height as the adjacent Tassone Realty sign**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

8. APPEAL #895 FLAHERTY – SPECIAL USE PERMIT

Mr. Labriola reported that this applicant is requesting a special use permit to run an interior decorating business out of her home. He stated that, based on the documentation in the file, she travels to clients' homes and that clients and vendors would visit 2-3 times per month and that truck traffic would be limited to Fed Ex, UPS, and DHL and very limited large truck or tractor trailer traffic for large items. He stated that the property is on a dead end street. Mr. Karis asked if a tractor trailer can turn around on that dead end. Mr. Labriola stated that he hopes that the road was designed to enable that.

Mr. Labriola stated that he thinks this application is consistent with the comprehensive plan. Ms. Seaman pointed out that if the tractor trailer can't make it in there, the driver won't come. Ms. Bramson asked if it would be a bigger truck than if anyone ordered furniture from a store. Ms. Seaman suggested that for home businesses the Board should recite the limitations that are in the Code.

Mr. Labriola read into the record a letter from the Fire Advisory Board dated 6/6/07 (original on file): no recommendation.

Mr. Labriola: **MOTION TO PASS THIS APPLICATION ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION BECAUSE THE PLANNING BOARD BELIEVES THE PROPOSED USE IS CONSISTENT WITH THE DIRECTION OF THE COMPREHENSIVE PLAN AND THE BOARD SEES NO PLANNING ISSUES**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

9. APPEAL #896 ROWE – SPECIAL USE PERMIT

Ms. Bramson noted that this appeal is strange, that they want to use the old Bovee Construction for a hardware store.

Mr. Labriola noted that this appeal is for a pre-existing, non-conforming use changing to another non-conforming use because it is in an R-1 zone. He stated that he had questions about lighting, sufficient parking, and traffic. Mr. Gordon stated that this is a residential area. Mr. Labriola stated that there is already a non-conforming use on this site, that the residential zoning has already been encroached upon. He stated that there are planning issues that call into question whether this is a good location for that particular business. Board members agreed and wondered whether the site has been closed down for some time.

Mr. Karis noted that a full scale retail space is much more intense than what is there now. Ms. Seaman stated that there needs to be a protocol for changes in non-conforming usage. She expressed her concern for a residential neighborhood with a non-conforming use, and now they want to open up a retail business that requires parking for 15 cars. Mr. Karis stated that the Code addresses changes to a non-conforming usage – it says that it is allowed but there are criteria to be considered when reviewing the change – intensity, traffic impact. Ms. Seaman noted that non-conforming use changing to another non-conforming use should stay in the same line. Ms. Bramson asked if they will use the existing building. Mr. Friedrichson stated that it is already in place and that the question is whether the new use will have a more severe impact or not.

Mr. Fischer asked what the current Master Plan calls for in that area. Mr. Labriola stated that it is R-1. Mr. Gordon noted that immediately behind this site there are houses and apartments that will be impacted by lighting and traffic.

Mr. Labriola suggested that the Planning Board give a negative recommendation based on traffic flow, lighting, parking, and that the retail use is a heavier use than what currently exists in a residential area, and a request that if the ZBA grants the appeal, it return to the Planning Board for site plan approval. Mr. Karis stated that he does not see how they can do this new business without expanding.

Mr. Labriola read into the record a letter dated 6/6/07 from the Fire Advisory Board (original on file): expressed concerns for this location of the proposed use on Route 44 regarding access and egress, sight distance for traffic, particularly truck deliveries.

Mr. Labriola asked if there are any other factors that the Board would like the ZBA to consider. Mr. Fischer underscored that the current Master Plan designates this site to be a residential area.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A NEGATIVE RECOMMENDATION BASED ON THE FOLLOWING CONSIDERATIONS:**

- traffic flow,
- lighting,
- parking,
- retail use is a heavier use than what currently exists in a residential area,
- the current Master Plan designates this site to be a residential area, and
- with a request that if the ZBA grants the appeal, the appeal return to the Planning Board for site plan approval.

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 7-0-0

10. APPEAL #897 CARRINGTON CONSTRUCTION – VARIANCE

Mr. Labriola reported that the home was built in the wrong location and that the applicant is, therefore, looking for a 2' variance on the setback. Mr. Labriola stated that it does not represent any planning issues.

Mr. Labriola read into the record a letter dated 6/6/07 from the Fire Advisory Board (original on file): no recommendation as there are no fire or safety issues.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION BECAUSE THE REQUESTED 2' VARIANCE DOES NOT REPRESENT ANY PLANNING ISSUES; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 6-1-0.**

Board discussed the process by which this house was discovered to have been constructed in the wrong place, and the safeguards that are in place to prevent such an occurrence. Mr. Fischer pointed out that there is ample space behind this house and that the error should have been caught. Board members agreed with this observation.

11. APPEAL #898 OLLIVETT – VARIANCE

Mr. Labriola stated that the applicant is requesting a variance from the minimum center of the road setback in order to construct a porch. Ms. Bramson stated that this is not the

closest house on the street. She stated that it won't be particularly visible as there are bushes that screen.

Mr. Labriola read into the record a letter dated 6/6/07 from the Fire Advisory Board (original on file): no recommendation.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION AS THERE ARE NO SIGNIFICANT PLANNING ISSUES; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 7-0-0**

12. APPEAL #899 STELGER DEVELOPMENT LLC – VARIANCE

Mr. Labriola reported that this application has previously been before the Planning Board. He noted that this is a substandard sized lot and that the Planning Board had provided a negative recommendation. Mr. Gordon recalled that the only feasible location for the septic was in the wetlands.

Mr. Friedrichson stated that normally a one-family house does not come to the Planning Board for a site plan. However, the expansion portion of the septic system is in the wetlands on this site. He stated that it is also in the flood plain, but noted that he will take care of that. He stated that the ZBA denied the appeal, the applicant filed an Article 78, and Judge Pagones ruled that to save money and time the applicant should reapply as a *de novo* application. He reported that the applicants hired Rich Cantor, who has prepared a huge packet for presentation to the ZBA.

Mr. Karis asked if this is a pre-existing lot. Mr. Friedrichson stated that it is a lot that has been in existence prior to Zoning.

Mr. Gordon noted his concern for the creek that rose approximately 14' up the bank in a storm this spring. Mr. Friedrichson stated that the flood plain issue is not for the ZBA to address. Mr. Karis stated that it is an issue of minimum lot area. Mr. Friedrichson stated that the sewage system has already been approved. Mr. Labriola asked for clarification of Judge Pagones' ruling – did the Town lose. Mr. Friedrichson stated that the Town did not lose – that nobody won or lost – that the judge ruled that the applicants must reapply. Ms. Bramson asked what the point of that was. Mr. Friedrichson stated that the response is in Mr. Cantor's voluminous packet.

Mr. Karis noted that they are applying for 2 area variances:

1. minimum lot area
2. lot width at the front of the proposed building.

Mr. Karis noted that both conditions are pre-existing non-conforming to the current standards. Ms. Seaman agreed but stated that they bought into it. She noted that they went into the purchase of the property with knowledge of these circumstances and then have come to the Planning Board to approve the non-conformity. She noted that the building lot was created prior to zoning. But she noted that the chain of title has passed

through people after zoning who should know the limitations of this lot. But, Mr. Karis pointed out that it remains a pre-existing non-conforming condition. Ms. Seaman stated that other towns rule, based on the property having been sold, that it is now a non-buildable lot.

Notwithstanding the area variances, Mr. Karis asked if it is a buildable lot. He stated that, leaving aside flood plain or wetlands issues, it's just these two pre-existing non-conforming conditions that are to be considered. Mr. Labriola stated that he understands that the applicant did not create those conditions, it is something that they bought. He stated that the Planning Board took issue with the septic expansion area being within the wetlands buffer. He stated that he knows that it has nothing to do with the variance appeal, but if the variances are granted then they will go build expansion within the buffer area. Mr. Friedrichson pointed out that the application will come back before the Planning Board for a wetlands permit because it is in the regulated area.

Mr. Labriola stated that the Planning Board has no voice with regard to the area variances but suggested that they provide a negative recommendation to the ZBA based on the planning issue of SDS expansion within the wetlands buffer. Mr. Friedrichson stated that the Planning Board cannot use that reason for a negative recommendation because the plan has not yet been submitted – the Board cannot comment on a plan that it has not yet been reviewed.

Mr. Labriola: **MOTION TO PASS THIS APPLICATION TO THE ZBA WITH NO RECOMMENDATION AND NOTE THAT IF THE ZBA APPROVES THE VARIANCES THE APPLICANT MUST COME BACK TO THE PLANNING BOARD FOR A WETLANDS PERMIT REVIEW BECAUSE THE PROPOSED SDS EXPANSION AREA IS WITHIN THE 100' WETLANDS BUFFER.**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

13. MINUTES

Mr. Labriola: **MOTION TO APPROVE THE MAY 2007 MINUTES AS CORRECTED; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 6-0-0.**

14. DESIGNATION OF ROADS

Mr. Gordon asked for clarification of Mr. Friedrichson's classification of roads:

- town roads because they are town roads are minor
- county roads because they are county roads are collector
- state roads because they are state roads are either major or arterial

Mr. Gordon asked if Mr. Friedrichson is making this designation because it's in a regulation or because that's just the way it plays out. Mr. Friedrichson responded that is something that could be discussed but that is the way the Town has been doing it and that

there is some sort of logic behind it. He noted that it would be nice of the Code delineated roads in that fashion, but it does not. Mr. Karis stated that that is Mr. Friedrichson's, as the Zoning Enforcement Officer, application of the Code.

Mr. Labriola stated that he appreciates Mr. Friedrichson's classification because it clarifies the status of a road and, therefore, prevents arguments. He noted that you cannot argue on whether it's a town road, a county road, or a state road as that is established and, therefore, it prevents some of the debate.

Mr. Gordon asked where the subdivision application on North Avenue falls in this application of the Code. Mr. Friedrichson stated that according to the Town laws, if a case for an area variance can be made without administrative decision by the Zoning Administrator – that is as a result of a subdivision, site plan, or special use permit – therefore the Planning Board must review and decide.

Mr. Labriola stated that the Board is looking for direction on how to determine the bulk area of the lot. Mr. Friedrichson noted that he provided an example in his letter. Mr. Labriola stated that that was for coverage but not for bulk area of the property. Mr. Friedrichson corrected the term to be lot area. Mr. Karis noted that the question was whether lot area is within the property boundary or within the lot lines. Mr. Friedrichson stated the question of the location of the lot lines given the setback requirements.

Board members, Mr. Friedrichson, and Mr. Nelson continued to discuss these questions without resolution.

Meeting adjourned at 9:05 p.m.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the June 12, 2007, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

____ Approved as read

____ Approved as corrected with deletions/additions

PLEASANT VALLEY PLANNING BOARD

July 10, 2007

A regular meeting of the Pleasant Valley Planning Board took place on July 10, 2007, at the American Legion Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:40 p.m.

Members present: Joe Labriola, Chairman
 Michael Gordon
 Rebecca Seaman
 Rob Fracchia

Members absent: Kay Bramson
 Peter Karis
 Henry Fischer

Also present: Pete Setaro, Morris Associates
 Jim Nelson, Esq., Town attorney
 Dieter Friedrichson, Zoning Administrator

1. MIRABILIO SUBDIVISION – PUBLIC HEARING – PRELIMINARY APPROVAL

Mr. Ernie Martin, Engineer, and Mr. John Mirabilio, owner, were present.

Mr. Labriola asked the applicants to report on changes to the plan.

Mr. Martin stated that this is a 2 lot subdivision on Salt Point Turnpike with a common driveway to serve both lot #1 and lot #2. He stated that the biggest change to the plan is the addition of a detention pond to capture the discharge from the culvert. He stated that even though this is handling the off site, they are trying to manage the pre-development and the post-development flow rates. Mr. Labriola asked if the pond is 4' deep. Mr. Martin responded yes.

Mr. Martin stated that they have received a letter from the DOT stating that they are OK with the entrance as originally planned. But he stated that now they will need a permit and that they have sent this plan to the DOT, but have not received a response yet.

Mr. Martin stated that the Health Department is ready to sign off although there was an issue raised by the County engineer regarding a swale on the site. He pointed out on the map the septic that has already been approved and the one that awaits approval. He pointed out a well that was previously approved and that is now being moved due to a separation issue.

Mr. Setaro stated that their engineer did a field visit because of a concern about the natural flow of water and the possibility that the plan would be redirecting water to someplace that it had never gone before. Ultimately, he stated that the site visit resolved

that question regarding redirecting water onto adjacent properties. He stated that Mr. Martin's storm water management report shows that the post-development will be less, so there will not be a problem with increase in the drainage flow. He stated that they should look at discharge into the same spot as before.

Mr. Labriola asked if it requires any additional separation between the two septic systems. Mr. Setaro stated that Mr. Martin must check that with the Health Department. Mr. Martin stated that they have requirements for bodies of water and intermittent streams. Mr. Setaro suggested that they talk to the Department about a trench and packing it with clay.

Mr. Setaro asked about changing the size of the pipe under the driveway from 24" to 15". Mr. Martin stated that they ran the numbers, that they assume that they have no restrictions, but realistically they want to design for the maximum to avoid wash out down stream. Mr. Setaro stated that it seems odd to have a 24" pipe under a driveway and asked him to reconsider.

Mr. Setaro reviewed the rest of the comments in the Morris Associates letter. He stated that it is OK to proceed with SEQRA determination and preliminary approval.

Mr. Labriola reviewed details regarding landscaping to shield from Salt Point, that a fence will not be required around the pond if it is only 4' deep. He asked for some details to be added to the plan regarding screening.

Mr. Labriola asked about the area across the street that is being used for parking and whether the people know that shortly they will not be able to park there. Mr. Mirabilio stated that if it is a problem, he'll tell them they cannot park there. Mr. Labriola stated that he is fairly certain that the DOT would not have approved the access plus parking at that spot. Therefore, he needs to handle this as there will not be a lot of space in that area when the construction is complete.

Ms. Seaman stated that that is an area that will need to be landscaped. Board discussed planting options.

Mr. Martin mentioned the combination access easement for access and drainage, that they have enlarged it to include the pond. Mr. Nelson stated that the draft agreement is in process. He stated that it needs to include language regarding obligation to maintain the detention area and to protect the adjacent properties.

Mr. Labriola asked if the agreement for maintenance of the detention pond will include the landscaping. Mr. Nelson asked if the landscaping is part of the system that facilitates the absorption. Mr. Martin responded no, that it is more of a screen. Ms. Seaman stated that, nonetheless, Mr. Labriola's question is a good point because we want it to be maintained. Mr. Setaro stated that it should be included. Mr. Labriola asked that it be included in the agreement.

Mr. Fracchia asked if the other SDS system that was previous approved will be added to the map. Mr. Martin stated that only the outline of it, because it was done by another engineer, and the date that it was done. Mr. Fracchia stated that the Board of Health is looking at both of those together. Mr. Martin stated that the BOH realizes that one was previously approved. Mr. Fracchia stated that he thought they were concerned about the drainage coming down between them. Mr. Martin concurred that the BOH is looking at that.

Mr. Labriola: **MOTION FOR PARKLAND DETERMINATION**

I move that the Planning Board adopt the following Parkland determination resolution for the subdivision of John Mirabilio, Jr., in the form of the attached resolution dated 7/10/07 prepared by the Board's engineer and now before Board subject to the following conditions:

It is hereby resolved that the Planning Board having considered the size and suitability of the land shown on the subdivision plat and the needs of the immediate neighborhood hereby determines that a suitable park meeting the requirements of the Town cannot be located on such subdivision plat. If the applicant's subdivision application is approved, the applicant is hereby required to deliver to the Town for deposit in the Town's trust fund for park, playground, and other recreational facilities the amount required by the Town Board's fee schedule for the number of residential subdivision lots approved by the Planning Board.

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 4-0-0

Mr. Labriola stated that it is one new lot.

Mr. Labriola: **MOTION FOR NEGATIVE DECLARATION**

I move that the Planning Board determines as set forth in the attached declaration dated 7/10/07 prepared by the Board's engineer that the John Mirabilio, Jr., subdivision is an unlisted action under SEQRA and that it will not have a significant effect on the environment for the following reasons and that no environmental impact statement shall be required.

The reasons in support of this determination of non-significance are:

- 1. soil erosion control measures have been proposed**
- 2. storm water measures proposed to control the runoff from Salt Point Turnpike and the new impervious surfaces**
- 3. the creation of one additional building lot for the total of two lots**

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 4-0-0

Mr. Labriola reported that the applicant has provided an affidavit of publication of this hearing in The Poughkeepsie Journal.

Mr. Labriola: **MOTION TO OPEN THE PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 4-0-0**

No member of the public spoke.

Mr. Labriola: **MOTION TO CLOSE THE PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 4-0-0**

Mr. Labriola: **MOTION TO GRANT PRELIMINARY APPROVAL**

I move that the Planning Board grant preliminary approval to the John Mirabilio, Jr., subdivision in the form of the attached resolution dated 7/10/07 prepared by the Board's engineer and now before the Board subject to the following conditions:

- 1. Morris Associates letter dated 6/6/07 and 7/5/07**
- 2. Dutchess County Department of Health approval**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 4-0-0

Mr. Martin asked about the possibility of applying for one building permit at this time. Board and Mr. Friedrichson discussed this question and determined that it is not possible to grant one permit without other requirements being met for the entire proposal. Mr. Friedrichson stated that they can talk with the Building Inspector, but that he cannot issue a permit.

2. "THE POOL GUYS" – SITE PLAN REVISION

Mr. Kurt Hahn was present. He explained that he is proposing to change the access to his parking from one side to the other. He stated that the right-of-way that is owned by Gordon Daley from Shady Creek Road is no longer available to him. Rather he proposes to use the driveway on his other side that is owned by Val Andrews Well Drilling.

Mr. Gordon asked why he is not creating his driveway on his own property. Mr. Haun stated that he had a verbal agreement – nothing in writing – from Mr. Daley to use his driveway and that he has now changed his mind 5 years later. Mr. Labriola asked if Mr. Haun now has an easement in place with Mr. Andrews. Mr. Haun stated that he knows he'll need one but that it is now a verbal agreement.

Mr. Haun explained that it is an issue of financial resources and that a couple of curb cuts in front of his building would take up his whole road frontage and he would have to take down all of the landscaping that now exists. Mr. Setaro advised Mr. Haun that he will have to talk to NYS anyway, because they may want some improvements to the driveway now that it will be used for two commercial purposes. Mr. Haun stated that he has talked

with the highway department and that there are no issues. Mr. Setaro asked for a letter stating this. Mr. Haun stated that he'll get a letter.

Mr. Setaro wondered why there would not have been an easement for the access over Mr. Daley's property. Mr. Haun stated that he does have an easement for the back side of his building and that the deed is very vague as to where the easement actually is.

Mr. Labriola asked about the spas that are in the front of the building, that it actually looks like it's storage not display. He stated that whenever he drives by the units are shrink-wrapped. Mr. Haun showed a photo of the front of the building with the new spas on display and stated that he has stored spas there in the past. Mr. Labriola asked if he will no longer use the front area as storage. Mr. Haun responded yes.

Mr. Labriola asked about storage. Mr. Haun stated that he's working on a couple of different things regarding storage and that he'd like to move it off site. He stated that he's working with his distributor to do that. He noted that Plan B is to put up a storage building behind his building in the future.

Mr. Gordon asked about Mr. Haun's plans for adding landscaping to his display. Mr. Haun pointed out the rock garden with the spa on site. He stated that he has 10 spas on display inside his showroom and that he cannot fit all the models so he puts a few outside.

Mr. Gordon stated that the Board wants to be clear on how the space in front of his building will be used and what it will be used for.

Mr. Setaro reviewed the Morris Associates comment letter. He requested a complete engineered site plan with the easement shown on it. Mr. Haun asked for clarification on the comment regarding seeding, top soil, and mulching and pointed out the fence that the neighbor has put across there.

Mr. Fracchia asked about adequate truck access. Mr. Haun stated that the trucks will continue to go down Shady Creek to the back side of his building and noted that he does have a right-of-way down Shady Creek to the back side of his building. Mr. Setaro asked why, if he has a right-of-way, Mr. Daley says that Mr. Haun does not have access to his building. Board asked Mr. Haun if he has consulted his attorney. Mr. Setaro suggested that during the original site plan application, the Board would have determined that Mr. Haun had the right to access his property through Mr. Daley's. Mr. Gordon suggested that Mr. Haun search his deed. Mr. Nelson stated that the information would likely be in Mr. Haun's deed and suggested that he search in the deeds of the adjacent properties for any easements. He offered that Mr. Haun should do a title search on his property and on the adjacent properties.

Mr. Setaro found a letter dated 11/14/02 from David Hagstrom regarding the title search which shows a right-of-way on the filed map. Mr. Nelson reviewed the letter and stated that there is a filed map, and a title insurance document that ensures that Mr. Haun has

access over the neighbor's property. He advised Mr. Haun to get the survey map that was done by Mr. Brian Franks and review Mr. Daley's property to determine if there is an easement. Mr. Nelson stated that Mr. Hagstrom's letter affirms that Mr. Haun had rights to come and go over to Route 44 over that property. Mr. Haun stated that Mr. Daley is telling him that his right-of-way is in the back not in the front. Mr. Nelson referred Mr. Haun to the deeds for his property and for Mr. Daley's property and to Brian Franks map to ascertain the point of access and noted that Mr. Haun may already have a right to continue doing what he has been doing.

Mr. Haun stated that the underlying problem is the ice cream stand and all of the customers parking in his parking lot and trashing the place. Therefore, he stated that it seemed like a good idea to close off that access because it would keep those people off his property. He explained that that is how this whole feud started because he complained to Mr. Daley about people putting ice cream on his windows and the children climbing around on the hot tubs. He stated that Mr. Daley did not want to do anything about it, so he parked his truck across the access and then Mr. Daley parked his backhoe so that Mr. Haun's customers couldn't access his property.

Mr. Labriola suggested some options: investigate the documentation to discover if he has the legal right to access his property the current way or explore other access. Mr. Setaro suggested that he can put his own gate across his property line at that location.

Mr. Nelson advised Mr. Haun that the Planning Board is not in a position to adjudicate who has rights but that the Board can consider giving him another point of access. Mr. Haun stated that he wants to know if and when he can get an easement from Mr. Val Andrews.

Mr. Labriola enumerated the next steps:

1. letter from DOT saying that it's OK to access the property from Val Andrew's property
2. Mr. Nelson can provide a template for a driveway easement which Mr. Haun's attorney can use
3. updated set of drawings showing easement and display areas and intention to black top the access point

Mr. Labriola read into the record a letter dated 7/5/07 from the Fire Advisory Board stating that they take no position as there are no fire or safety concerns. He also read into the record a letter dated 7/3/07 from the Dutchess County Department of Planning that states that the application is not complete as the applicant has not provided an appropriate site plan with landscaping, parking, scaled measurements, etc. Mr. Labriola noted that the revised application will be resubmitted to DC Department of Planning.

3. 123/127 WEST ROAD – SITE PLAN REVISION

Mr. Joe Kirchhoff and Mark DelBalzo, engineer, were present.

Mr. Labriola noted that there have been some fairly significant changes to the traffic flow. Mr. DelBalzo concurred and displayed the previously proposed two-way traffic pattern. He stated that they have responded to the Planning Board's concern about traffic flow and concentrating landscaping, that the traffic pattern is now one-way, that the landscaping has been pushed up towards West Road in an effort to provide greater depth there, and that the parking is now angled. Mr. Kirchhoff stated that the angled parking has allowed them to pull the black top back and gave them more space. He stated that the flow is good, that he appreciates Ms. Seaman's suggestion regarding one-way traffic flow. Mr. Labriola suggested that the DOT will appreciate the single ingress and single egress. Mr. DelBalzo stated that the DPW is pleased with the entrance configurations. He stated that he's reducing the widths of the driveways.

Mr. Labriola asked if they ended up with the same number of parking spaces. Mr. DelBalzo stated that they went from about 94 spaces to 86 spaces.

Mr. Kirchhoff discussed with the Board and with Mr. Setaro the regulations for parallel parking space size, which have gone from 10' x 20' to 10' x 25'. Mr. Kirchhoff asked if they have to live with the new regulations because they will lose even more space. Mr. Setaro noted that 20' is a little tight for parallel parking and asked if they have any problem with that. Mr. Kirchhoff stated that they do not have any problems. Mr. Setaro stated that the new site plan should conform to the current Code. Mr. Kirchhoff pointed out the spaces that they will lose and suggested that some spaces could be labeled for compact cars. He noted that it is an existing site plan that was approved before the regulations changed, but that it is part of a new application.

Mr. Setaro suggested replacing the parallel spots in front of the building with angular spots. Board and Mr. Kirchhoff discussed clearance and other issues with parking.

Mr. DelBalzo stated that he has met with DEC regarding the drainage. He stated that although the parcel is less than an acre, they learned from the DEC that they may ask them to provide measures to collect and provide treatment. Mr. Setaro suggested that they work it out with the DEC and it will be fine with the Board. Mr. DelBalzo stated that he received some positive feedback because of the reduced paved area. Mr. Kirchhoff pointed out the areas in which asphalt is being removed.

Mr. Gordon asked if the Planning Board can approve the 20' parking space. Mr. Kirchhoff stated that he does not have the time to file an appeal with the ZBA and if the Planning Board does not have the authority to make that decision, then he will just go with the 25'. He stated that this is why they have not yet done the drainage.

Mr. Fracchia suggested that the Town Board would be able to change that. Mr. Setaro stated that the Code would have to be changed. Mr. Nelson asked if they are old spaces from before 1977. Mr. Kirchhoff responded, no, they are from 17 years ago. Mr. Friedrichson read from the Code regarding parking space size. Mr. Kirchhoff stated that they will go to 25' and will label some spaces for compact cars. Mr. Setaro and Mr. DelBalzo discussed the process for measuring the length of the parking space.

Mr. Labriola stated that the new traffic flow is good, is much cleaner way of moving cars around the site, and the reduced impervious surface is good. He asked about deliveries – Fed Ex, Post Office. Mr. Kirchhoff pointed out the area that the Post Office now parks and the area where UPS now delivers. He stated that they are OK without a loading zone.

Mr. DelBalzo discussed bulk area of these lots, which will be merged, and mentioned that it is still same zone and that the map will show them combined.

Mr. DelBalzo mentioned that he updated the EAF, which he provided to Mr. Setaro, and the flood permit. Mr. Labriola stated that he would like to circulate this back to DC Department of Planning with the revised plan. He noted that, initially, they sent a denial and stated that their main concerns with too much parking and encroachment on the wetlands and landscaping and lighting. Mr. Gordon noted that they are eliminating two septic systems. Mr. Setaro suggested that the DEC will be pleased with that.

Mr. Labriola: **MOTION TO DECLARE INTENT TO BE LEAD AGENCY**

I move that the Planning Board assume Lead Agency status with regard to the 123/127 West Road site plan application in the form of the resolution prepared by the Board's engineer and now before the Board.

Whereas the Planning Board of the Town of Pleasant Valley has approval jurisdiction over the proposed action entitled 123/127 West Road site plan located at West Road, and

Whereas the Planning Board has responsibility under provisions of Article 8 of the State Environmental Quality Review Act to coordinate the environmental review of the proposed action,

Now, therefore, be it resolved that the Town of Pleasant Valley declares its intent to assume Lead Agency for this application and hereby instructs the Secretary to the Board to circulate notice of its intent to all of the involved agencies:

- **Town Board for the transportation corporation amendment**
- **Dutchess County Health Department for sewer connection**
- **Dutchess County Public Works Department for the access**
- **DEC for the wetlands permit**
- **Dutchess County Department of Planning for 239M**
- **Fire Advisory Board**
- **CAC**

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 4-0-0

Mr. Setaro advised the applicant to provide a Part I EAF, copy of the site plan, and elevations for all the involved agencies.

4. CENTRAL HUDSON TINKERTOWN SUBSTATION EXPANSION – SITE PLAN

Ms. Jennifer Van Tuyl, attorney, and Patrick Harder, Central Hudson, were present.

Ms. Van Tuyl reported that they have submitted the EAF Part III with complete documentation including a Part I EAF addressing all the Board's issues. She stated that this now officially incorporates the proposal for the oil containment within the application documents themselves. She stated that they submitted the first sound study that was done and that fully embraces the question of whether or not the noise walls are necessary. She stated that she wanted to avoid any confusion with the Board. She stated that the HUSH study that the Board received some months ago was based upon the assumption that the noise wall was going to be provided. Therefore, she explained that the HUSH study never addressed the question of whether noise walls should be built or not, the noise barriers were implicit in the report. She stated that the HUSH study also did not embrace the question of whether the noise walls were required or of other noise sources in the neighborhood.

Ms. Van Tuyl stated that, as part of their Part III analysis, they engaged a consultant to perform a holistic full noise study, which has now been submitted to the Board. She stated that the conclusion of that report was that the additional noise from the second transformer would not create a significant environmental impact that required mitigation by a noise wall. She stated that, furthermore, even if a noise wall were to be provided, it would not end up being efficacious in reducing the noise levels at the receptor because of other noise sources. She stated that she wanted to make it very clear that the current withdrawal by Central Hudson of the noise walls has nothing to do with the cost of the walls. She stated that they were aware several months ago that the noise walls cost over \$100,000. She stated that if they were going to be efficacious and necessary, Central Hudson is going to do the right thing. But, she stated, based on this report, Central Hudson reached the conclusion that the money would be spent in vain because the walls would not be efficacious.

Ms. Van Tuyl stated that they have received the Morris Associates letter which advises the Town to engage its own consultant to evaluate the noise information that has been submitted by the applicant and by the neighbor.

Mr. Labriola noted that the original HUSH report was supplied to the Board by Central Hudson. He stated that the Board has been proceeding over the past several months under the assumption, therefore, that the noise barriers were a given. He stated that he was surprised by the new report and the recommendations and conclusions because it seems to be at complete odds with the HUSH report as well as the report that the acoustical engineer that Suzanne Horn hired. As the result of having 3 sound engineers come up with very different answers, the Board will ask Mr. Setaro to prepare bids to go out. Mr. Setaro stated that this has already been done. Mr. Labriola stated that the goal is

to make the selection before the August meeting and to receive their recommendations in time for the September meeting.

Ms. Seaman asked how to proceed with conflicting reports – is there an opportunity to have the experts appear in person at the Board meetings. Mr. Setaro stated that they have been told to plan to attend at least one Board meeting. Ms. Van Tuyl agreed that their expert will also attend. Mr. Labriola stated that it will provide an opportunity for some dialogue especially if there are questions about methodology and process.

Ms. Van Tuyl suggested that everyone is presently searching for the truth, that it is the Board's job under the law to take a hard look. She stated that a full and frank sharing of information among consultants is an appropriate thing to do.

Mr. Gordon stated that from the beginning the Board was presented with an inadequate number of facts about this installation. He stated, therefore, that the Board had to pull each fact out as each Planning Board meeting went along, and that they can see that in the minutes. Ms. Van Tuyl stated that she has read the minutes and appreciates that it has been a terribly painful process for everyone. She stated that their reason for preparing the Part III was to get all of the information in one document. Mr. Gordon stated that the Board has a responsibility to the whole Town, not just to the adjacent property owners. Further, he noted that the Board has an obligation to Central Hudson to be fair.

Ms. Seaman asked if it would be possible to do a site visit. Mr. Labriola stated that there is nothing to preclude people from doing a site visit and noted that he was there before the first presentation was made and was also there yesterday to remind himself about the level of noise and to look at the level of vegetation between the transformer and the adjacent property. Ms. Van Tuyl stated that they would welcome a site visit and would welcome the opportunity to see the vegetation from the neighbor's side also, but she noted that they don't have the legal right to go onto the neighbor's property. She stated that she welcomes the Board's visit and would like to be there as well.

Mr. Labriola stated that on his visit yesterday he stood with his back to the transformer and looked east. He stated that it appears that there is 40' to 50' of vegetation to what appeared to him to be a pasture. He noted that there are not a lot of evergreens in there, but that it was pretty dense. He stated that in the winter it would not be as dense.

Mr. Labriola asked Suzanne Horn, the adjacent property owner who was in the audience, if she would grant the Board and Central Hudson permission to have access to her property so that they can see it from both sides. Ms. Horn responded that she would like to speak with her attorney regarding this request. Mr. Labriola asked that she let him know her decision. She agreed.

Mr. Fracchia asked if the new sound analysis will be done on both Suzanne Horn's property and on the property to the west. Ms. Van Tuyl stated that they did submit a sound study that analyzed the impact on the property to the east and on the property to the west. Ms. Setaro stated that the analysis will be done on all adjacent properties in all

directions. He stated that they gave each firm the basic information, certain parts of the reports, the sites from which the readings were taken and when they were taken, the background, and what the issues are.

Mr. Labriola summarized that the noise problem will be addressed through hiring an independent 3rd party consultant. He stated that the Board will conduct a site visit to possibly include Ms. Horn's property pending the response from her attorney.

Mr. Labriola stated that the Board is assuming that the oil containment system is now a permanent part of the proposal – that it is a given on the site plan. Ms. Van Tuyl responded yes, absolutely, there is no question about that, and stated that it is embedded in the Part III materials.

Ms. Gordon asked about the landscaping plan. Mr. Labriola noted that this will be covered under the visual aesthetics.

Mr. Labriola enumerated the next steps. Mr. Labriola will wait to hear from Ms. Horn's attorney regarding the site visit. He stated that Central Hudson, Morris Associates and the Board members will be notified of the site visit date.

5. TACONIC APARTMENTS (TACONIC HOMES) – SITE PLAN

Mr. Joe Kirchhoff, Mr. Ken Nadler, Mr. Nat Parish, Ms. Karen Krautheim, Mr. Ralph Alfonzetti, and Mr. Daniel Ciarcia were present.

Mr. Labriola stated that this application is on the agenda for continuing discussion to declare the DEIS to be complete. Mr. Labriola stated that in June 2003 the Board did a positive declaration and the areas that may have a significant adverse impact on the environment were related to land, water, aesthetics resources, plants and animals, noise and odor, transportation, and growth and character of the town. He noted that the last time they were before the Board was April 2007.

Mr. Kirchhoff made sure that the Board received the study with the red mark ups. Mr. Setaro stated that this was important to see how the plan was going to be revised. Mr. Nadler stated that the distance between buildings meets the Code requirements.

Mr. Kirchhoff addressed the visual impact issue from the highest elevation of Route 44. He provided photos to the Board of the balloon float. He pointed out the woods that will be untouched that will provide adequate screening. He explained how they calculated and displayed on the map the screening that is provided by the massing of trees. He noted that the balloon float was done when there were no leaves on the trees. He stated that the massing of trees protects the Route 44 viewshed.

Mr. Labriola asked about the visual impact when traveling south on the Taconic. He recalled that there was a question about the Bon Jovi property, if it were to be developed in the future were they planning on some of those trees to provide screening. Mr. Fracchia stated that it is when traveling on the off ramp from the Taconic to get onto

Route 44. Mr. Kirchhoff stated that he did not restudy that, that it was already done. Mr. Labriola reiterated the question of the plans for screening if that piece of property were to be developed in the future.

Ms. Seaman asked where the water tower is on the property. Mr. Kirchhoff pointed out the probable location of the tower and noted that it may be a tank and is very far away. He described the method by which they buried the water tank at Brookside, but that he does not know yet if this is a possibility for this site.

Mr. Kirchhoff stated that their goal is to mark any trees that they can save. Ms. Seaman noted that the original goal was to preserve some of the natural features, but that it is hard to see how this can be achieved because it looks like they will have to bulldoze the hillside to construct that many units. She stated that it will be good to identify what rock outcroppings will be preserved, what trees will be preserved. Mr. Kirchhoff stated that they don't want to remove the rock, that they want to save as much as can be saved.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that they reviewed the revised document and that all the red lines are correct. Ms. Seaman noted that even though they are not subject to Chapter 53, they are still subject to wetlands protection under SEQRA. She stated that the Board does need to know exactly how much of the wetlands they are proposing to encroach upon and that the Board does need to decide if we agree with that.

Mr. Setaro stated that they prepared a Resolution for Completeness and asked if there are any other questions from the Board.

Mr. Labriola noted a question regarding fire and medical emergency services. He noted that they inserted Brookside Meadows content in lieu of getting an answer from the Fire Department. Ms. Krautheim and Mr. Kirchhoff stated that they met with the Fire Marshall. Mr. Labriola noted that the documentation does not reflect that and asked for updated documentation. Ms. Krautheim reported that they subsequently vetted this with the Fire Marshall. Mr. Labriola asked that a letter from the Fire Department be included in the documentation. Mr. Kirchhoff recalled discussing and laying out with the Department the locations of the fire hydrants and a fire main separate from the domestic water supply. Mr. Labriola asked that this information be added to the plan.

Mr. Setaro reminded the Board that the only action being taken this evening is to declare that the DEIS is complete, that the information that was requested in the scoping document has been submitted. He stated that if the Board has further requests and comments, they will be addressed in the FEIS.

Mr. Setaro noted that he spoke with Mr. Parish regarding the Notice of Completion, which will be sent to Mr. Nelson and to Mr. Setaro. Further, he advised the applicants that they are responsible for publication and transmitting the documents to the involved agencies. He suggested that the applicant have a stenographer present at the public

meeting. Mr. Labriola agreed with that suggestion. Mr. Kirchhoff and Ms. Krautheim also agreed.

Mr. Labriola: **MOTION FOR DEIS COMPLETENESS**

Whereas the Town of Pleasant Valley Planning Board has received a Draft Environmental Impact Statement dated May 2007 for Taconic Homes, and

Whereas the Planning Board and the Planning Board's engineer has reviewed the DEIS based on its scoping document and the factors identified in Part 617.14 of the SEQRA regulations and has provided comments to the applicant, and

Whereas the applicant has submitted responses to these comments dated May 2007, and

Whereas the Planning Board has determined that a public hearing should be held pursuant to Part 617.8 of the SEQRA regulations on or about 8/14/07,

Now, therefore, be it resolved that the Town of Pleasant Valley Planning Board hereby declares the DEIS complete and adequate for public review and comments in accordance with Part 617.9 of the SEQRA regulations, and

Be it further resolved that the Planning Board's attorney and engineer shall review and approve a Notice of Completion prepared by the applicant's consultant to be made available pursuant to Part 617.10(d) of the SEQRA regulations to be published in the Environmental Notice Bulletin and in The Poughkeepsie Journal at least 14 days prior to the SEQRA public hearing, and that the public comment period being extended to 15 days after the close of the public hearing.

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 4-0-0

6. "THE POOL GUYS" – SIGN PERMIT REVISION

Mr. Kurt Haun explained that his sign cannot be seen when traveling east bound on Route 44. He stated that he is proposing to raise the sign up 4'.

Mr. Labriola noted that the current sign is 10' high and that Mr. Haun is suggesting raising it to 14'. He checked with Mr. Friedrichson regarding height regulations. Mr. Friedrichson stated that ground signs can go up to a height of 24'. Ms. Seaman asked about the proposed redesign. Mr. Haun stated that he would raise the two poles and raise the top sign. Mr. Labriola stated that he is maxed out on the square footage for his sign and suggested that he could fill the space with taller plantings.

Mr. Labriola: **MOTION TO GRANT THE SIGN PERMIT**

Whereas the Town of Pleasant Valley Planning Board has received an application from The Pool Guys for approval of a ground sign dated 6/20/07, and

Whereas an Environmental Assessment Form has been submitted and reviewed by the Board,

Now, therefore, be it resolved that the Planning Board determines the application to be a Type II unlisted action and that it will not have a significant effect on the environment, and

Further, be it resolved that the Planning Board grants approval for one ground sign as shown on the application and the revised drawing and consisting of materials, sizes, and colors shown on the application except as follows: NONE.

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 4-0-0

7. SALVAGIO

Mr. Labriola asked Mr. Setaro to have Mr. Takacs do the calculations for the coverage, that the Board needs to determine whether a variance is required. He stated that the applicant's engineer is waiting for direction from the Planning Board on how to proceed. Mr. Friedrichson concurred that the ZBA needs to know what it is that they are being asked to approve. Mr. Labriola stated that if a variance is not required, then the public hearing can be scheduled.

8. APPEAL #900 FERESH – VARIANCE

Mr. Labriola stated that this is an application for the construction of a deck on 110 Pine Hill Road. He stated that they are requesting a 7' variance. He stated that he drove by the site and that there is so much distance between them and the adjacent property owner that this is not a problem.

Mr. Labriola read into the record a letter dated 7/5/07 (original on file) from the Fire Advisory Board: no position as there are no fire or safety issues.

Mr. Labriola: **MOTION TO PASS ALONG TO THE ZBA WITH NO RECOMMENDATION AS THE BOARD DOES NOT SEE ANY PLANNING ISSUES AND THE APPLICATION IS SQUARELY WITHIN THE PURVIEW OF THE ZBA TO REVIEW AND DECIDE; SECONDED BY R. FRACCHIA; VOTE TAKEN AND APPROVED 4-0-0**

9. APPEAL #901 HOPPER – VARIANCE

Mr. Labriola stated that the property is on Martin Road and the applicant is requesting a variance from the side setback. He stated that the applicants are proposing to construct a 2 story residence. Mr. Friedrichson stated that the applicants want to demolish the existing house. Ms. Seaman asked if the new house will be on the same footprint. Mr. Friedrichson replied yes but that it will be taller and therefore will need the 6' variance.

Mr. Fracchia asked if they are going to keep the garage in the back. Mr. Friedrichson stated that accessory buildings are not part of the application. Mr. Fracchia noted that the plan indicates that they will put a garage under the house.

Mr. Labriola stated that he drove past this site, which is in a neighborhood with single story homes. He noted that this will be a 2 story home. He stated that he did not see any problem with this application.

Mr. Labriola read into the record a letter dated 7/5/07 (original on file) from the Fire Advisory Board: no position as there are no fire or safety concerns.

Mr. Labriola: **MOTION TO PASS ALONG TO THE ZBA WITH NO RECOMMENDATION AS THERE ARE NO PLANNING ISSUES AND IT IS WITHIN THE ZBA'S PURVIEW TO REVIEW AND DECIDE THIS APPLICATION; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 4-0-0.**

10. MINUTES

Mr. Labriola: **MOTION TO APPROVE THE MINUTES AS CORRECTED OF THE 6/12/07 MEETING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 4-0-0**

Meeting adjourned at 8:45 p.m.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the July 10, 2007, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

____ Approved as read

____ Approved as corrected with deletions/additions

PLEASANT VALLEY PLANNING BOARD
August 14, 2007

A regular meeting of the Pleasant Valley Planning Board took place on August 14, 2007, at the American Legion Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:45 p.m.

Members present: Joe Labriola, Chairman
 Michael Gordon
 Rebecca Seaman
 Rob Fracchia
 Peter Karis
 Henry Fischer

Members absent: Kay Bramson

Also present: Mike Takacs, Morris Associates
 Jim Nelson, Esq., Town attorney
 Dieter Friedrichson, Zoning Administrator

1. PLEASANT VALLEY SHOPPING CENTER – SITE PLAN

Mr. Labriola recused himself from this application.

Mr. Karis stated that this application was last before the Planning Board in April 2007 at which time the Board offered preliminary comments on the plan.

Mr. Herb Redl was present and reported that there have been a few minor changes to the plan. He pointed out walls at the entrance to Key Foods that have been removed and the columns that have been retained. He stated that they have now included a walkway in the front as requested by the Planning Board. Also, he stated that they are removing the Kiosk. He stated that they are putting a new façade on the building, that there are no changes being made to the footings or the foundation, and no new construction.

Mr. Takacs reviewed the Morris Associates comment letter. He stated that most everything has been satisfied with the exception of the flood plain issue. He asked whether the columns are new. Mr. Redl stated that they are not new construction, but that one or two of them may be moved, other than that they are all existing.

Mr. Takacs asked Mr. Friedrichson if he has concerns with the flood plain issue. Mr. Friedrichson replied no. Mr. Karis asked if there are any further concerns with the flood plain. Mr. Takacs replied no.

Mr. Redl discussed the two signs that they would like to remain the same – the liquor store and Key Foods. He stated that the other signs will be replaced. Mr. Karis stated that initially Mr. Redl had stated his intention to develop a standard for signage in the

center and asked if the two existing signs will be worked into that standard. Mr. Redl stated that the liquor store sign will be but that Key Foods is pretty much their own logo.

Mr. Karis noted that the Planning Board received another letter (original on file) dated 8/9/07 from Dutchess County Department of Planning. He read portions of the letter into the record. He stated that their first comment stated that this application lacks some of the requirements in the site plan portion of the Code. Mr. Karis advised the applicant that if he is requesting waiver consideration, he should submit a list of the exact waivers being requested – for instance, property line, topography, etc. Mr. Redl stated that he thought his daughter, Kelly, had covered this with someone at the Town. Mr. Gordon noted that they are outlined in a letter from Kelly to the Planning Board dated 7/17/07.

Mr. Gordon asked about plans to rehab the other building. Mr. Redl stated that they plan to upgrade that building in the future.

Mr. Karis stated that County Planning commented on the addition of landscaped islands and trees in the existing parking lot and provided a sketch on how to add some green space without losing parking spaces. He noted that if the Board does not agree with County Planning, then there must be a super majority consensus on this application and must provide them with the rationale for the Board's decision. He stated that in his view shopping centers like this one can never have enough parking spaces, and as shown on the plan they are already deficient by about 20 spaces per the parking calculation. Mr. Gordon suggested that upgrade of the center will attract better tenants and increased traffic and, therefore, they will need the parking. Mr. Redl stated that they are planning to put a planter in place of the kiosk, which is being removed. Mr. Karis asked if it will be a curbed island with a tree. Mr. Redl responded yes. Mr. Karis stated that this needs to be added to the plan.

Mr. Karis stated that the other issue involved landscaping between building #1 and the Post Office. He stated that they added some shrubs between the trees which he stated is consistent with the rest of the front of the center.

Mr. Gordon noted that the cedar trees along the Post Office building have all died. Mr. Redl stated that that area is not his property.

Mr. Karis pointed out the bare cinder block wall along the side of building #3, along Maggiocomo Lane. He asked about possibly painting the wall to match building #1 & #2 or possibly to create a landscaped island along that side of the building. Mr. Redl explained that he has avoided painting it because once it scratches and peels it looks bad. He noted that they did paint the sides there, but the trucks hit them and they look really bad. He explained that that is why they left it grey the whole time so that it wouldn't look lousy. He stated that his tenants have asked him in the past to paint it, but that he has always refused because of that reason. Mr. Gordon stated that he understands what Mr. Redl is saying and suggested some sort application of cement or another material with color in it which would be a little more permanent.

Mr. Fracchia asked about plans for the lighting. Mr. Redl stated that nothing is planned right now. He stated that they looked into it, but that they want to do this first and that it is a major expense.

Mr. Karis stated that he would like to see something happen with the side of the building. Mr. Redl stated that it would be difficult to try to keep landscaping watered because it is not convenient to anything. Mr. Karis asked Mr. Redl to consider some options and to come up with a proposal for that side – he noted that it is another public face of the center. Mr. Redl agreed that they will paint it to match the other buildings. The Board agreed with that plan.

Mr. Karis reported on DC Planning's comment on the width of Maggiacomo Lane. Mr. Redl stated that he thinks NYS owns Maggiacomo Lane and that the Town maintains it. He stated that he does not own it and does not maintain it. Mr. Friedrichson stated that if the highway plows it, then the Town owns it. Mr. Redl confirmed that the highway plows it.

Mr. Karis stated that Planning is suggesting that Maggiacomo Lane be narrowed to 26' from 36'. He noted that Maggiacomo Lane has a left turn and a right turn lane out at the light and one way in and that he does not see how it can be narrowed from 36'. Mr. Redl stated that he has nothing to do that, that he does not control it. Mr. Karis noted that tractor trailers come in and out of the site and that they need that width to maneuver. He stated, therefore, that he would disagree with Planning's comment. Mr. Fischer agreed with that assessment and stated that he would not want it to be any narrower.

Mr. Karis pointed out that the lighting on the site is outdated and very high with multiple fixtures. He asked Mr. Redl about his plans for the next phases of site rehabilitation. He noted that no details have been submitted yet for renovation on building #1 and, therefore, cautioned that this is not an approval of phase 2 and that the applicant must come back for site plan approval on subsequent phases. Mr. Karis stated that he hopes Mr. Redl can recoup some of his investment in this first phase of renovation and then roll some of phase 2 improvements into doing some additional site improvements, such as landscaped islands and changing the lighting. Mr. Gordon agreed and stated his opinion that the lighting is the most important unaddressed element. He stated that when phase 2 comes up the Board can then talk about the lighting with the applicant.

Mr. Redl reviewed the elevations and provided samples of materials and colors. The Board approved these selections. Mr. Karis asked Mr. Redl to add the details of the materials and colors to the final plan.

Mr. Karis reviewed DC Planning's comment regarding access to Wappingers Creek. He noted that Planning is recommending that the applicant secure an access along creekside as a recreational resource. He noted that he walked back there and noted that the site falls off from the guard rail at the rear and that he does not see how it is possible to fulfill their request. Further, he noted that there are sidewalk connections to the Creek throughout the hamlet. Also, he noted that the vegetation is providing screening for the residential

properties on the other side of the Creek and that those residents would most likely be upset if all of a sudden they were looking at the back of the shopping center. Board members agreed with that assessment.

Mr. Karis reviewed DC Planning's comment on future road connection – some intersite connections between the Church and the parking center parking lot and between the shopping center and the Post Office. He stated that he does not see how this can be dealt with because it involves other people's properties. Mr. Gordon noted that the comprehensive plan is looking at ways to interconnect properties to alleviate repeated access and egress onto the main road. However, he stated that he does not see how it relates to this application.

Mr. Karis reviewed DC Planning's conclusion:

- Adequate landscaping within the parking lot
- Appropriate notations regarding future road connections and trail access to the Creek

Further, DC Planning reminds the Planning Board that it must have a super majority and rationale for any decisions that do not comply with their recommendations.

Mr. Karis reviewed with Board members their disagreement with DC Planning's recommendation to narrow access onto Maggiacomo Lane.

Mr. Karis noted that each tenant will come in for their own sign permit – with the exception for Key Foods and the liquor store. Mr. Redl stated that the signs will be back lit but that he has not yet addressed the details regarding the signs. Mr. Karis stated that the Board will have an opportunity to deal with them individually. He noted that the Board disagrees with DC Planning's recommendation that the signs be down-lit via external fixtures. He stated that they are referencing the greenway compact guideline, which Pleasant Valley is a member of. He noted that they are recommending an arm that comes out and shines light onto the sign, rather than throw light out from the sign. Mr. Redl pointed out that they are off the road, sort of hidden. Procedurally, nothing will be put on the site plan with regard to the signage as each tenant must apply for a sign permit separately. Mr. Fischer suggested the DC Planning is outlining the ideal, which he agrees with, but that he does not think it is going to happen.

Mr. Karis stated that site lighting will be dealt with as part of renovation of building #1 along with landscaping and street trees internally. Board approved the façade materials and noted that they will be put on the final plan.

Board concurred that they disagree with DC Planning's recommendation regarding access to the Creek as is it is not viable and dangerous.

Board concurred that they disagree with DC Planning's recommendations with future road connections as they don't see how it is possible or applicable on this site. Mr. Karis noted that DC Planning references the possibility of a connection between Maggiacomo

to South Avenue. Mr. Gordon stated that at some time in the future the Town will come up with a plan and will obtain the necessary easements if they are going to move ahead with that idea.

Mr. Karis pointed out that refuse storage is unorganized in the rear of the site and is visible from the front. Mr. Redl stated that they try to hide it as much as possible. Mr. Karis asked about the possibility of an enclosure. Mr. Redl stated that it would not work because of truck access. Mr. Karis noted that it is always an eyesore and asked Mr. Redl to ask his tenants to keep it as organized as possible.

Mr. Karis stated that the final plans for signature should be signed and sealed by an architect because this is a substantial piece of property.

Mr. Karis stated that now the handicapped parking spaces do not conform to the ADA Code. He suggested that Mr. Redl bring them into compliance in size (8' minimum with an 8' aisle servicing two spaces). He also pointed out that there do not seem to be any handicapped spaces for building #1 – that there is a handicapped ramp on the corner. Mr. Redl pointed out the handicapped spaces. Mr. Karis asked him to show them on the final plan and to make sure that the sizes comply with the ADA Code.

Mr. Karis reminded Mr. Redl to remove any reference from this plan to phase 2 of the renovation.

Mr. Fracchia asked about the fence between the Post Office and this site. Mr. Redl stated that it belongs to his neighbor.

Mr. Fischer asked about uniformity of signage. Mr. Redl stated that they will try to as they want it to be uniform.

Ms. Seaman asked about parking. Mr. Karis stated that it is not part of this application and noted that parking and lighting will be addressed when building #1 is renovated.

Mr. Karis: **MOTION FOR NEGATIVE DECLARATION**

I move that the Planning Board determine as set forth in the attached declaration dated 7/10/07 prepared by the Board's engineer that the Pleasant Valley Shopping Center site plan is an unlisted action under SEQRA and will not have a significant effect on the environment for the following reasons and that no environmental impact statement will be required.

The reasons for this determination are:

- **this application is a simple building façade renovation with minimal site plan improvements.**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 5-0-0

Mr. Karis: **MOTION FOR SITE PLAN APPROVAL**

I move that the Planning Board grant site plan approval to the Pleasant Valley Shopping Center with regard to the application in the form of the attached resolution dated 8/14/07 prepared by the Board's engineer and now before the Board subject to the following conditions:

- **the addition of materials and colors to the final site plan**
- **the addition of a curbed island and a tree in the vicinity of the existing Kiosk (to be removed)**
- **applicant shall paint the side of building #3 facing Maggiacomo Lane**
- **any notes regarding phasing will be removed from the final plan**
- **handicapped parking spaces will be revised to meet current ADA Code requirements**
- **requested waivers from site plan requirements are approved by the Board**

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 5-0-0

2. SALVAGIO SUBDIVISION – CONTINUED REVIEW

Mr. Labriola stated that this application is on the agenda for continued review and was last before the Board in May 2007 at which time there was a question whether the application met the bulk requirement and setbacks. He stated that the calculations were looked at and that it appears that the application does meet the bulk requirements and, therefore, there is no need to go to the ZBA for a variance. He asked the applicant to review any updates to the plan.

Mr. Mike Duval, engineer, stated that all he's done since May is the calculation of the lots based on the Town's requirements for the 30' offset from the center line of the road. He stated that they do meet those requirements. One of the other questions posed by the Board in May was regarding the lot coverage by buildings, which he stated has also been recalculated to include the structures and the pool and minus the porches and patio areas. He stated that they meet those requirements as well. He stated that he had been reluctant to proceed with this application until talking further with the Planning Board because the lot is so tight and uncertainty of whether this will be a go or not. He stated that his next step would be a public hearing and make contact with the Health Department and the County for the driveways. Further, he stated that he has not received the Morris Associates comment letter.

Mr. Takacs reviewed the Morris Associates comment letter and stated that there is a lot of housekeeping details to be addressed. He stated that the rear setback line on the new lot needs to be corrected to reflect 15'. He mentioned a couple of other dimensions on the existing lot that were on previous plans which need to be added to the current plan.

Mr. Labriola stated that all adjacent property owners' septic systems and wells need to be sited on this plan.

Mr. Gordon suggested that Mr. Duval complete all of the items on the Morris Associates list and then return to the Planning Board. Mr. Labriola concurred and asked that Morris Associates comments be taken care of and picked up on the next set of plans, which plans will then be used for the public hearing. He authorized Mr. Duval to advertise for the public hearing.

3. MIRABILIO SUBDIVISION – FINAL APPROVAL

Mr. Labriola stated that concerns regarding this application include landscaping around the storm water management system and some outstanding issues regarding the drainage plans.

Mr. John Mirabilio, owner, and Mr. Zach Russo were present. Mr. Russo stated that the primary issue was drainage of the lower part of the site. He stated that they redirected the swale so that it now discharges on to Hickory Hill Associates property. He stated that the swale is now more gradually rounded to control spill over.

Mr. Russo stated that they have done a planting schedule for the detention pond close to Salt Point Turnpike. Mr. Karis asked for clarification of their plan to plant woody plants on the detention basin berm. Mr. Russo responded yes. Mr. Karis explained that there are long-term implications with plants dying and creating voids in the berm and ultimately failure of the berm. He stated that it should be seeded and maintained as a grass area where there is fill. He stated that they can plant and cut but not in fill. He stated that what happens is that plants die, create voids, water finds its way, and the structure fails.

Mr. Labriola asked what Mr. Karis would suggest for planting that would provide screening. Mr. Karis stated that evergreens planted between the property line and the steeper slopes to the basin and not on the berm or on the fill areas. Mr. Russo stated that they plan a couple of rows of junipers along the property line to provide screening and that they will take into consideration their suggestion for grass along the lower part of the pond, something that will hold the soil more. Mr. Fischer and Mr. Karis both stated that junipers will not provide screening. Mr. Karis and Mr. Labriola suggested some spruces around the periphery of the berm to shield it from Salt Point Turnpike but not to impact sight distances. Mr. Karis stated that they must look at their sight distance line and plant accordingly – suggested a single staggered row of evergreens. Mr. Fischer concurred.

Mr. Russo mentioned that he met with John Glass and Jim Napoli at the Health Department and that they were satisfied with the location and direction of the swale. Mr. Karis asked if it is a 2' deep swale. Mr. Russo responded yes. Mr. Karis noted that it is only graded at 1' deep. Mr. Russo stated that he will have to modify that. Mr. Karis asked what the separation is from the swale to the septic. Mr. Russo stated that the separation is 25'. Mr. Karis stated that they do not have that on the lower lot. Mr. Russo stated that the Health Department is prepared to sign off on it. Mr. Karis asked if Mr.

Takacs had any comment on this. Mr. Takacs stated that it is the Health Department's call to determine whether it is acceptable. Mr. Labriola expressed surprise because the 35' separation is the regulation and asked if Mr. Russo has any documentation. Mr. Fischer suggested that the Department may not have picked it up. Mr. Fracchia asked if the other pre-approved septic system is a mound system. Mr. Russo stated that it is a raised system. Mr. Fracchia asked how many feet are required for it. Mr. Russo did not know for sure, but suggested that he would check on that. Mr. Mirabilio stated that it is 1' and that the swale is 6". Mr. Fracchia asked if that was the fill that was required. Mr. Mirabilio responded, yes, it was 1' foot.

Mr. Labriola asked if they have any documentation from the Department of Health that says that the 35' separation is not a requirement. Mr. Russo stated that he does not have any documentation and that he will have to ask for it. Mr. Mirabilio stated that he has the approved plan in the car. Mr. Labriola noted that when the original septic was approved, the second lot and the second septic system did not exist. He stated that one of the conditions of final approval is Dutchess County Department of Health and asked Mr. Takacs to make a call to the Department to make sure that they did not overlook this second system. He stated that it is his understanding that the 35' separation is a given on all plans.

Mr. Takacs reviewed the Morris Associates comment letter. He stated that the drainage report and their plan for how to handle the runoff are satisfactory to Morris Associates. He stated that they need Health Department approval. He asked about the status of the maintenance agreement for the common driveway and storm water pond. Mr. Nelson suggested that this would be a condition of final approval and stated that he has given Mr. Thomas Dietz a copy of the template of a standard agreement. He stated that Mr. Dietz is providing him with a copy of the portion of the map so that they can include the appropriate description for the additional area of the pond. He stated that the Board also wanted the Town to be able to enforce this and asked if this is correct. Mr. Labriola responded that it is correct.

Mr. Takacs asked for clarification if it is required that they rough in the driveway and provide grades prior to signing the map. Mr. Russo stated that he is roughing in the driveway now. Mr. Karis asked if the driveway is now under construction. Mr. Mirabilio responded, yes, and stated that he has a permit from the State. Mr. Karis noted that he is building the driveway without approval from the Planning Board. Mr. Mirabilio stated that he has a driveway permit from NYS and that he's putting the entrance in. Mr. Takacs asked if he has a highway work permit from the DOT. Mr. Mirabilio responded, yes, and offered to provide a copy. Mr. Takacs responded that Morris Associates and the Planning Board should have a copy. Mr. Karis asked where the driveway is being constructed to – what is the limit of his construction, just the entrance in the DOT right-of-way. Mr. Russo was not sure whether it was 30' or 50'. Mr. Mirabilio stated that he's going right down. Mr. Karis stated that he's, therefore, building the common driveway without approval from the Planning Board. Mr. Mirabilio asked if that is no good. Mr. Labriola responded that it is a little ahead of the game and explained that it would be a bad move if the Board now were to ask him to move the

driveway. He explained that the Board is not going to do that, but that he should not be doing construction on something that has not been approved yet. Mr. Russo stated that Mr. Mirabilio was notified by the Town that it was OK to proceed. Mr. Labriola stated that until this has been approved and there is a signed map, he should not be doing any construction. Mr. Mirabilio stated that it's not final, it's just so that he can get in and out. Mr. Labriola asked if he will cease and desist until final approval is granted. Mr. Mirabilio agreed that he would stop. Mr. Fischer asked if he will stop working on it. Mr. Mirabilio agreed that he would and stated that it was just so that he could get the truck in and out.

Mr. Labriola listed the conditions for approval:

1. payment of all fees
2. Morris Associates letter dated 8/13/07
3. Department of Health approval
4. revise the planting schedule to place spruce trees to shield the retention pond visually from Salt Point Turnpike
5. maintenance agreement for the common driveway and the retention pond reviewed and approved by the Planning Board attorney and that the driveway will be cut and the new driveway profile will be provided prior to signing the map.

Mr. Gordon added that the trees that he has sited in the center of the berm need to be eliminated and something other than woody vegetation planted there – such as grass.

Mr. Fracchia asked about the size of the spruce trees that will be planted for screening. Mr. Russo agreed to 6' to 8' and asked what the Board wants for separation. Mr. Karis suggested 12' on center staggered. Mr. Russo responded OK.

Mr. Labriola: **MOTION TO WAIVE THE 2ND PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **MOTION TO GRANT CONDITIONAL FINAL APPROVAL**

I move that the Planning Board grant final approval to the John Mirabilio, Jr., subdivision in the form of the attached resolution dated 8/14/07 prepared by the Board's engineer and now before the Board subject to the following conditions:

- 1. payment of all fees**
- 2. Morris Associates letter dated 8/13/07**
- 3. Dutchess County Department of Health approval**
- 4. revise the planting schedule to place 6' to 8' spruce trees on 12' centers staggered to shield the retention pond visually from Salt Point Turnpike and remove the current plantings that are on the berm**
- 5. maintenance agreement for the common driveway and the retention pond to be reviewed and approved by the Planning Board's attorney**
- 6. the driveway will be cut and the new driveway profile will be provided prior to the chairman signing the map**

Discussion: Mr. Fischer asked for procedural clarification on checking with the Board of Health regarding the 35' separation. Mr. Labriola stated that it will be done prior to his signing map, before Morris Associates says it's OK for him to sign the map. Mr. Takacs stated that he will call the Board of Health the next day. Mr. Karis asked what will happen if the Board of Health determines that the setback is not adequate and that the applicants will be required to revise the map. Mr. Labriola stated that if for some reason the Board of Health determines that they missed that, then the applicants will have to come back to the Planning Board because they will not be able to meet all of the conditions for final approval. He stated that in that instance it will be a very critical discussion.

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 5-1-0

Mr. Labriola: **MOTION FOR RECREATION FEE RESOLUTION**

Whereas the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town, and

Whereas that finding includes an evaluation of the present and anticipated future needs for parks and recreational facilities in the Town based on projected population growth to which this subdivision or site plan will contribute, and

Whereas the Planning Board has determined that a suitable park or parks of adequate size to meet these requirements cannot be properly located on the subdivision plan, now

Therefore be it resolved, as per Town law 277.4 and 8223 (a) (4) of the Code of the Town of Pleasant Valley, that the Planning Board recommends to the Pleasant Valley Town Board that a sum of money in lieu of land be imposed for the subdivision entitled Mirabilio Subdivision located at Salt Point Turnpike for one newly created residential building lot.

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 5-1-0

4. CENTRAL HUDSON TINKERTOWN SUBSTATION EXPANSION

Ms. Jennifer Van Tuyl, attorney, and Mr. Patrick Harder, Central Hudson, were present.

Mr. Labriola stated that the goals for this meeting is to report on the site visit, to report on updates to the plans regarding the oil containment system, and comments or questions regarding the revised plans. He stated that there remain two potential issues that the Board and the applicants need to come to agreement upon. He stated that the first is potential visual impacts to the proposed changes, and the second is the sound

implications. He stated that at the conclusion of the discussion of the visual implications, the Planning Board will go into Executive Session to review the bids that came in from the vendors and select one to hire.

Mr. Labriola distributed copies of the summary (original on file) of the site visit to the applicants. He stated that on 7/24/07 he, Mike Gordon, Rob Fracchia, Jim Nelson, Mike Takacs, Suzanne Horn, Pat Harder, Gary Courtney, and Jennifer Van Tuyl conducted a site visit. He stated that they established a set of ground rules: it was not a public meeting, they made no decisions, they did not discuss any alternative design options, it was a fact finding mission for observations. He stated that the Planning Board members had an opportunity to ask questions.

Mr. Labriola described the visit and stated that Mr. Harder unplugged a number of portable fans, which were in use because the transformer was working harder than it would normally. Mr. Harder stated that he unplugged 5-6 fans. The fans were unplugged so that they could get a better understanding of what the current conditions would be. Mr. Labriola stated that he asked Mr. Harder for an estimate on the level that the transformer was currently loaded at, and that Mr. Harder was unable to provide that information. He stated that they were able to have a look from a 360 degree view in every direction what could be seen from the existing transformer. He stated that they walked to the western edge of the Iroquois Pipeline property, a 125'-150' distance from the transformer, and looked back at the transformer which gave them an opportunity to look at the visual impacts from that perspective and to get some idea of the noise level.

Mr. Labriola stated that they then crossed over onto Ms. Horn's property, which he stated gave them an opportunity both visually and acoustically to observe the conditions. He stated that they also stood in Ms. Horn's driveway, which is 20'-30' away from her home, which gave them an opportunity to take a perspective from that area. He noted that when standing in the driveway next to Ms. Horn's home, you cannot see the transformer because the hill is in the way. Also, he noted that when standing about halfway up the pasture, Mr. Harder pointed out where the second transformer would be located, which is to the north of the existing one. Mr. Labriola stated that it should be noted that the trees in between the property are a little less dense where the new transformer is going to be located, versus where the existing one is located.

Mr. Labriola stated that they had a couple of conversations while on the site. They tried to get a better understanding of the actual locations where the readings were taken by each of the sound consultants. He stated that they decided that as a requirement Central Hudson agreed to provide all of the documentation from their acoustical engineers. He stated that Ms. Horn agreed to provide documentation from her acoustical engineer. He stated that the intent is to provide that documentation to the Planning Board's expert so that they have an idea of what was done and so that everyone can reason out the results when they are complete.

Mr. Labriola stated that both Central Hudson and Ms. Horn agreed to allow the Planning Board's acoustical engineer access to their properties to take the necessary readings and to complete their study.

Mr. Labriola stated that there were 4 Planning Board members who were unable to join them for the site visit due to previous plans. He stated that he reached out and spoke with all of them, gave them a summary of the visit, with the intent that they will visit the site prior to the Planning Board doing the SEQRA determination so that they will be fully informed and that all will have the same point of context during discussions moving forward.

Mr. Fracchia mentioned that the owner of the property to the west has also agreed to allow any representatives of the Town to come onto their property and take any readings that may be necessary. Mr. Gordon encouraged the other members of the Planning Board to conduct their own site visit.

Ms. Van Tuyl concurred with Mr. Labriola's summary of the site visit.

Mr. Labriola asked Mr. Harder to report on the changes to the oil containment system. Mr. Harder stated that it is basically the same design with a change on the drainage part of it. He stated that they have enough elevation to take the drainage, rather than infiltration, and run it out through the drainage ditch that is running to the north and along the west side of the station. He stated that the actual area of the containment and the materials on the containment are all the same except the drainage on the opposite side of the select fill trench is now being drained out through a pipe rather than directly to ground.

Mr. Labriola asked whether the area of this containment system holds the volume of liquid in the event of a catastrophic spill. Mr. Harder responded yes. Mr. Labriola asked if Mr. Takacs is comfortable. Mr. Takacs stated that calculations need to be made to make sure that there is enough volume to hold 4,000 gallons for each transformer. Mr. Harder stated that there are two separate systems – one for each transformer – and that each one should handle a total transformer failure. Mr. Gordon stated that it should state on the plans what the capacity of the containment system is. Mr. Labriola asked Mr. Harder to provide the volume calculations to Mr. Takacs, which will become part of the official record that documents that the adequate analysis was done to ensure that the containment system actually can handle the volume. Mr. Gordon stated that this needs to be on the plan that the Planning Board ultimately approves. Mr. Labriola concurred.

Mr. Gordon asked what is being drained out of the lines. Mr. Harder explained that there is a French drain around the station to capture water flowing down the hill.

Mr. Labriola noted that they are currently proposing to locate the new transformer to the north of the existing one. Given the two potential impacts – visual and noise – he asked if it were possible to locate the new transformer to the west of the existing one which would eliminate any visual impacts from either the east or the west and possibly also

mitigate some of the sound impact. Mr. Harder responded that they did look at that possibility and found that it is not possible because that would put the substation directly overtop of the Iroquois gas transmission line.

Mr. Fischer asked for clarification of where any oil would drain. Mr. Harder stated that, given enough days, it would go the same route as the water, but that the containment system significantly slows it down to the point where they can clean it up. Mr. Fischer stated that, therefore, the word containment is a little bit ambiguous. Mr. Labriola stated that he thought, in the event of a failure, the oil is contained. Mr. Harder stated that it contains it for an extended period of time. Ms. Seaman asked what time they need. Mr. Harder stated that it will take water about 4 hours to go through the trench section and that the dynamic viscosity of oil at ground temperature of 68 degrees is about 30 times what water is, so that it would take 30 times longer than 4 hours. Mr. Labriola noted that although they have monitors that will notify them of a spill, if there is a catastrophic failure it's going to take more than 20 or 40 or 80 hours to correct. Therefore, he noted that there is an opportunity for that oil to actually seep off site, for example if it were raining. He expressed his confusion based on his misunderstanding that the containment system would contain the spill for as long as it needed to be contained until it could be cleaned up. He stated that he did not know that there was a clock ticking to make those necessary repairs. He asked if that really is the design point that the system does not actually contain the spill. Mr. Harder stated that it holds it back long enough for them to respond. Mr. Labriola noted that the clean up could take days or weeks. Mr. Harder stated that it is designed to keep it from getting out of there in a period of probably days. Mr. Labriola asked that very specific calculations be added to the plans that document that the volumes can be contained – something that gives some idea of length of time of containment and before it is likely to start to go through that secondary drainage system. Mr. Gordon suggested verbiage such as: if this happens, this is what the system will do; if that happens, this is what it will do.

Mr. Fischer asked about how a 500 gallon spill would be handled given that realistically all 500 gallons would not be removed. Mr. Harder stated that 300 or 500 gallons would be considered a significant leak and that they would have someone come in and dig everything out until it was gone and refill it. He stated that he thinks Central Hudson is obligated to do that. Ms. Van Tuyl stated that having a narrative that describes the methodology for managing a spill is a good idea. Mr. Labriola expressed his appreciation to the applicants for working with the Planning Board on this system.

Mr. Labriola asked for comments and questions regarding visual impacts of adding the second transformer. Mr. Gordon stated that the current vegetation is mostly cedar trees and some deciduous brush, which in the winter loses its leaves, and is mostly scrub. He suggested that if left alone in another 5 years there would be no cover at all down below because the bottom limbs on all the cedars will continue to die off and the green will continue to head up top. He suggested that to get any cover from landscaping they need to remove everything that is there and plant some planned landscaping. Mr. Fischer asked if this pertains to all sides. Mr. Gordon identified the side facing the Horn property. Ms. Seaman stated that the other sides are open, but Mr. Fischer asked what

would be done with those sides. Mr. Gordon stated that there's an existing tree line that they are going to remove which could be replaced with spruce that over the years would give some better coverage.

Mr. Labriola stated that in his opinion there is no need to do any sort of landscaping to the south, the west, or to the north. He stated that the concern is to the east to the Horn property. Mr. Fracchia stated that you can see the Solid State, the commercial building, to the west from the proposed site of the second transformer. He stated that perhaps they should take another look at that. Mr. Fischer stated that in his opinion if they were to shield any portion of it he would like them to shield the front part, which he can see as he drives by. He pointed out that it is a relative consideration and stated that one side – to the Horn property – is shielded by the hillside but the other sides are glaringly open. And he stated that he does not think it's possible to effectively shield around something that big and pointed out that sound retention barriers would be even more of an eyesore.

Ms. Seaman asked if the trees must come down for the construction. Mr. Harder stated that the tree line on the east side of the right of way, to the west of the Central Hudson property, must come down for the clearance on the transmission lines going into the substation. He explained that the trees will not come down for construction but will come down for the electric lines. Ms. Seaman asked if trees between the substation and Ms. Horn's property must come down. Mr. Harder stated no.

Ms. Seaman stated that in her opinion when you have an installation like this and you have a private property owner there is a little higher degree of protection necessary for a private property owner to protect the quiet enjoyment of the property than there is for a commercial establishment because people don't go to commercial establishments to enjoy their home. She stated that she's more inclined to look at the shielding between the private land owner and the substation. She suggested an option for a little extra screening that would be planted on the private land owner's property, which would help with both sound and visual. Mr. Gordon noted that Ms. Horn's property adjacent to Central Hudson is flat and then it goes very steeply up, which is all bed rock with probably 1' or less of soil.

Mr. Karis stated that in his opinion there is no visual impact because the land around the area shields it.

Ms. Susan Jainchill, landscape architect and urban planner with AKRF, was present. She stated that she was hired by Central Hudson to give her opinion of both the visual impact and of the report that was provided by Ms. Horn, which she believes was written by a forestry ecologist. She stated that she read through the report from the perspective of landscape architecture. She reviewed her report (original on file) for the Planning Board, which the Board members had not yet received, and read the executive summary.

Ms. Jainchill stated that the additional transformer will have minimal visual impact on the neighboring property located to the east of the substation. She stated that the plantings proposed by Ms. Horn's expert are not appropriate for the site. She stated that in the long

term the proposal to plant a number of specimens of a single species all the same size will lead to a uniform stand of trees, the uniform dense shade will impede the growth of understory vegetation as the trees mature, and will allow the Central Hudson property to be viewed from below. She stated that they are proposing an alternative planting strategy in order to mitigate the view. She stated that she looked at the natural succession of forest and explained that when land is no longer being farmed the first tree to grow is a cedar, which is a sun loving tree. Then, she stated, as the cedars grow and create shade, the dappled sunshine invites the woody plants and deciduous trees to first grow, which end up growing taller than the cedars and blocking out the sunlight for the cedars which eventually die off. She stated that currently on the site the deciduous trees are getting taller than cedars, so the cedars while they are still there, they will die if the forest is not cut back.

Ms. Jainchill stated that she proposes planting some evergreens – not the Norway spruce, however, as it is not a native tree. She noted that Ms. Horn's expert suggested planting 18' to 20' tall trees and that there are problems transporting these large trees. She noted that only one or two can fit onto a flat bed truck, which would mean 7 to 13 trips to the site. She noted that the additional problem is that the trees are all the same age. She stated that at this time what is wanted at this stage is to block the lower views while the cedars are doing what they can do at the higher level. She suggested planting 8'-10' spruce or fir, which as they grow and as the cedars die off the spruce will reach that height. She stated that she did not have an opportunity to go onto Ms. Horn's land and, therefore, does not know what the conditions of the land are there. She stated that from the point of view that she saw it, she provided a diagram in the report that outlines the suggested plantings in various locations. She stated that it is not a straight forward planting plan due to the variation in topography and the need for diversity of height and age of trees. Mr. Gordon pointed out the prevalence of bedrock and the paucity of topsoil. Mr. Labriola expressed the Board's appreciation for her work and her report.

Ms. Jennifer Van Tuyl mentioned that it will be important to plan landscaping that accommodates the rocky soils.

Ms. Seaman asked about snow clearance and the use of salt on the substation site. Mr. Harder stated that they plow straight into the control house and around the equipment. In addition, he stated that they snow blow to the doors. Ms. Seaman asked if they use any salt if it becomes icy. Mr. Harder stated that they might put some salt down in front of the door. Ms. Seaman pointed out the need to take into consideration any salt usage when planning the plantings.

Regarding planting on the Warren property side, Mr. Fischer stated that right now it looks like it's kept clean because of the animals that are on that site. He pointed out that the whole pasture might be very dense now if the animals have not been there. He stated that that is going to have to change, also, which means that the use of the property changes – that they will not be able to have vegetation-eating animals in an area where they will be planting vegetation. Ms. Jainchill suggested that they will have to fence off the evergreens that they plant. Ms. Fischer stated that the landscape plan has to work in

concert with the current use of the land. Ms. Van Tuyl stated that the planting plan will have to be developed in concert with the neighbor and be compatible with the land use. She also noted that there is such a change in topography on the site that it does provide a number of opportunities for selective screening.

Mr. Labriola expressed the Board's appreciation for Ms. Jainchill's input and stated that they will take it into account next month during the more detailed SEQRA discussion. He announced that the Board would now go into an Executive Session to review the proposals received from 2 vendors and to select one to work with.

Ms. Van Tuyl submitted additional materials to the Board for the Board's review and for distribution to the acoustical consultant that the Board retains.

Mr. Nelson asked for confirmation that the Board is going into Executive Session to discuss the hiring of a specific acoustical consultant. Mr. Labriola responded yes.

Mr. Labriola: **MOTION TO GO INTO EXECUTIVE SESSION; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 6-0-0**

The members of the public left the meeting room.

Executive Session was conducted off the record. At the conclusion, the public was invited to return to the meeting room.

Mr. Labriola: **MOTION TO ACCEPT THE PROPOSAL FOR THE ACOUSTICAL STUDY BY BAGDON ENGINEERING WITH THE FOLLOWING CAVEATS:**

- 1. to increase the number of readings that they are planning to do from 6 to up to 10**
- 2. to make sure that the contract is rewritten so that it is acceptable to the Town's attorney**
- 3. to have a price cap in the contract**
- 4. to make sure that the only documentation that the Planning Board will provide to Bagdon will be the initial reports that were submitted from both Central Hudson and from Ms. Horn – that any other documents that discuss the pros and cons of reports that were done by others will not be passed along to Bagdon**
- 5. to receive from Central Hudson the manufacturer's specifications for the current transformer as well as for the used transformer that is going to be relocated to the site which will give the Board and its consultant an idea of expected acoustical profiles**

Discussion: Mr. Harder asked for clarification of what the Board is asking for regarding specifications – he asked if the Board is requesting readings. Mr. Labriola stated that the Board wants documentation from the manufacturer for the both transformers. He noted that although they can take readings from the one that is currently on the site, the other transformer is currently off line. Mr. Harder stated that they have readings from both of

them and that the actual manufacturer did not do sound testing on either one of them, that it was not considered to be something that was important in 1957. Mr. Labriola asked Mr. Harder to provide whatever documentation that would assist the Board's consultant.

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

Ms. Van Tuyl asked for clarification on what reports the Board will give to its consultant. Mr. Labriola stated that the following reports will be provided:

1. HUSH report
2. Potenta report
3. Ms. Horn's consultant's report

Ms. Van Tuyl asked if Mr. Labriola is referring to the 2 e-mails from Mr. Collins or about another opportunity for Ms. Horn to submit a new report. Mr. Labriola stated that the Board is not asking for any new reports and will use the existing reports that have already been delivered, but none of the letters that editorialize on the pros and cons of those reports. He stated that the Board wants to provide to Bagdon only the facts - Central Hudson's noise consultant's study, findings, recommendations and conclusions - so that Bagdon can understand the methodology, where the readings were taken, etc. He suggested that the Board and the applicants will have to reason out different findings across multiple engineers.

Ms. Van Tuyl again asked about the 2 e-mails from David Collins that described his readings. Mr. Labriola stated that the Board wants the report in whatever format it was submitted. Ms. Van Tuyl stated that the only documents that Mr. Collins submitted to the Board were 2 e-mails dated respectively 5/29/07 and 7/5/07. Mr. Labriola stated that if that is where he provided his findings, those are the reports the Board wants. Ms. Van Tuyl again asked if the Board is now accepting other new reports that they have not yet seen as part of the materials. Mr. Labriola asked who the reports would come from if not from Central Hudson or Ms. Horn. Mr. Van Tuyl stated that that is her question, is the record now closed or are there new reports that will be submitted. Further, she noted that the Board is now not going to submit the revised Potenta report, which she had provided to the Board tonight. Mr. Labriola explained that the Board discussed that and does not think that it is appropriate to provide additional opinions on the pros or cons of another engineer's work are appropriate. He stated that the Board only wants the raw reports that were initially submitted from Central Hudson and from Ms. Horn to provide a baseline for the Board's engineer from which to work.

Ms. Van Tuyl asked to know specifically what those reports will be. Mr. Nelson recalled that the reports that were submitted were 2 e-mails from Mr. Collins, the Potenta report, and the HUSH report.

Ms. Van Tuyl asked for confirmation that the record is now closed and that there will be no further submissions from either side. Mr. Labriola responded that that is correct. Mr. Fischer stated that the Board can read any additional information that is submitted.

5. STELGER DEVELOPMENT LLC – WETLAND PERMIT

Ms. Amy Bombardieri, of M. Gillespie & Associates, and Michael Stellini, applicant, were present.

Mr. Labriola stated that the plan that was submitted for review was nearly illegible and was hard to discern what was being proposed with the documentation that was received. Ms. Bombardieri displayed a full scale copy of the plan and provided copies to the Board.

Ms. Bombardieri explained the layout of the site at 465 Creek Road and stated that the Board of Health has approved the septic. She pointed out the Wappingers Creek that runs along the back side of the site and noted the 25' buffer on the map. She stated that they are applying for a Wetlands Permit because a portion of the septic system lies within 100' of the creek, which is the expansion area, the fill material, and the curtain drain. She stated that on 6/28/07 they have been granted the necessary variance for an undersized lot by the ZBA. She stated that the location of the septic is such because of the adjacent wells on properties on either side. She stated that because of the elevation of them, they don't have any room to put it at a higher elevation, that they would not have the 200' separation required by the DC Department of Health. Therefore, she stated in order to maintain the 100' separation the septic system was pushed back. She stated that anywhere they would move it up would be too steep. She explained that for these reasons the septic system lies within 100' of the stream.

Mr. Labriola noted that they are also within the flood plain as well. Ms. Bombardieri concurred that that is correct and stated that they have already been issued a flood plain development permit.

Ms. Seaman stated that the Planning Board will have to do a SEQRA determination. Mr. Labriola agreed and stated that the SEQRA is part of the process. He informed the applicant that the Planning Board has been steadfast in keeping everything out of the 100' buffers. He stated that the Board has required previous applicants to move sheds, driveways, and houses. He stated that the Board has had 2 examples where there has been a well head in the buffer, but required them to do some work to protect it during the drilling and then to restore it after construction. He stated that he cannot think of a single instance where the Board has approved a new septic system in the buffer as well as this is in the flood plain. He noted that in the storm in April the entire area was under water for days and stated that he is struggling with why it would be a good idea to put a septic system in an area that we know is susceptible to flooding.

Mr. Gordon stated that he lives on Creek Road and has property on both sides of the road and property where Albrecht's field ends. He stated that the north part of the 10 acres that he owns abuts the creek, where the creek comes down and turns around. He stated that standing on the bank of his property looking at the creek, the normal level of the

creek is about 15' below the top of his property. He stated that that afternoon in April there was so much water in that creek it was almost 2' from the top. He stated that the water level at that location had risen a good 12'-15'. He suggested, therefore, that although he does not know how high the water came up on this property, but it must have been considerable.

Ms. Bombardieri stated that they have added some mitigating measures. She stated that they are adding fill to the septic system and that it is just the expansion area that lies within the 100' separation. She stated that although the system is there, there will not be any trench work within 100' of the stream until such time as the primary fails. Mr. Karis asked if they are required to put the fill in. Ms. Bombardieri responded yes, by the Health Department. Mr. Karis asked how that is mitigating. Ms. Bombardieri responded that it is mitigating by the fact that it will prevent the septic system from failing. She stated that as part of the flood plain development they are doing a kind of a cut and fill system so that they are not creating a flood way within the area. She pointed out the flood plain on the map. Mr. Karis asked for clarification on what she means by the cut and fill system. Ms. Bombardieri stated that any material that they are adding they are subsequently removing from another area on the site, that they are leveling it out in an attempt not to change the flood way. Again, Ms. Bombardier stated that it is a Department of Health approved plan and pointed out the flood way plan that accompanied the application for a flood way permit.

Ms. Bombardieri stated that they are also proposing a White Knight septic system, which is something that is added to the septic tank to further clean the effluent. Therefore, she stated that anything that is going into the septic system is, essentially, clean water. She stated that it aerates the tank with a bacterial cartridge. She stated that this system has been used on numerous sites to repair failing systems where there is no area to create an expansion system.

Mr. Karis stated that, therefore, they are proposing both a septic system and excavation to within 25' of the creek. Ms. Bombardieri stated that they are not doing anything within 25' of the creek. Mr. Karis stated that in 25' instead of 100' they have portions of the primary, entire expansion, and excavation to generate material for the fill for the septic. Ms. Bombardier stated that the excavation is to level it out and that they are not removing material from the site. Mr. Karis noted that they are removing all the vegetation as well. Ms. Bombardieri responded yes and that it would be re-established. Mr. Karis asked what is currently there. Ms. Bombardieri stated that it is not wooded but is covered. Mr. Stellini stated that there are a few trees and skunk cabbage and the like. Ms. Bombardieri stated that at some point there was a cabin there.

Mr. Karis asked if there are wetlands associated with the creek. Ms. Bombardieri stated that there are no DEC wetlands to the best of her knowledge. Mr. Karis asked if there are Town regulated wetlands. Ms. Bombardieri stated that not that she knows of. Mr. Karis asked if that has been determined by a qualified professional. Ms. Bombardieri responded no. Mr. Karis explained that if there is a stream edge and a wetland line, the 100' buffer moves farther up and noted that that needs to be delineated and shown on the

plans. Mr. Labriola concurred with this analysis. Mr. Karis stated that if the skunk cabbage grows, it is a pretty good indicator of hydrosol. Ms. Bombardieri stated that they did do deep tests. Mr. Karis stated that this site has not been analyzed as far as wetlands. Mr. Labriola stated that it has not been officially flagged. Ms. Bombardieri stated that she recalls that they did have a biologist out there.

Mr. Labriola asked if there were any other alternate designs looked at, such as a system that could be pumped or a system that does not require the leach fields. He noted that the adjacent property owners' systems are located out of the buffer zone and out of the flood plain as well. He acknowledged that this is a really tight lot and asked if there is another alternative to actually putting something in an area that we know floods. Ms. Bombardieri stated that there is no other alternative because of the well separations. Mr. Labriola asked if there is another design that does not involve leach fields but a tank that would be pumped regularly. Ms. Bombardieri stated that the DC Department of Health does not usually allow holding tanks unless it were a situation where it were going to be serviced by a central sewer within 5 years or so or if it is a repair situation. She stated that in her experience they would never approve it for a residential property. Further, she stated that they have limited the bedroom count for the house in order to reduce the size of the septic system.

Mr. Labriola stated that they must make sure that the flagging has been done in order to establish the edge of the stream which will also establish the buffer. Mr. Stellini indicated that this has already been done. Mr. Labriola noted that the Board's engineer has not had an opportunity to review this in detail. He stated that the Board will require that Morris Associates take a hard look at this application and that they may want to contact DEC and the Department of Health. He stated that the Board wants to understand the rationale behind the determinations that the system is acceptable. Again, Mr. Labriola pointed out that there has never been an instance where the Planning Board has approved a septic system in the buffer. He explained that that the Board always looks at whether it is setting a precedent that's likely to create problems in the future for the other applicants who make similar applications.

Mr. Labriola stated that it is critical to establish accurately the location of the buffer and to have the Board's engineers take a hard look at the proposed plan. At that point, he stated, the Board would then be ready to continue the conversation.

Mr. Karis asked if the Wappingers Creek is DEC regulated. Mr. Takacs responded yes. Mr. Karis asked if it is DEC permit applied for work within 100' of a DEC regulated water course, water body. Mr. Karis asked what setbacks they have, what setbacks they regulate within. Mr. Takacs stated that there is no buffer to the stream under DEC.

Mr. Karis asked about the existing outlet pipe onto Creek Road and a diversion swale around the house and asked what kind of flow comes out of that pipe. Ms. Bombardieri stated that she has never seen it running. Mr. Stellini stated that it has never run, that it is clogged. Mr. Karis asked whether it would flow again if it were maintained. Mr. Stellini responded probably it would. Mr. Karis noted that they are concentrating the water at the

side of the house and that it looks from the topo map that it will run down the steep slope over the septic. Ms. Bombardieri stated that there is a diversion swale around the septic also. Mr. Karis asked if it has been sized to accommodate the flow out of that pipe. Ms. Bombardieri stated that that has been sized to move the water away from the septic system. Mr. Karis asked at the corner coming out of this pipe on top of the fill. Ms. Bombardieri stated that that has not been sized. Mr. Karis suggested that they should look at that and noted that they are diverting the water onto adjoining properties. Ms. Bombardieri stated that there was some discussion about that when they were in front of the ZBA. As a result, she stated that they are extending the swale down so that it would go beyond the septic system so that it would not go onto the adjoining property. Mr. Karis asked if that swale will be 35' from the septic. Ms. Bombardieri stated that, because the fill pad will be in, the diversion swale may not even be necessary beyond the septic. Mr. Karis asked how they will get the water around the septic. Ms. Bombardieri noted that the way the swale is currently designed has all been approved by the Department of Health. Mr. Karis stated that he appreciates that they have received a permit and noted that they have water coming out of the site from an unknown contributing area that flows down this property and that they have a swale diverting it around the septic going onto adjoining properties one of which has an existing septic on it. He stated that the question is whether the swale has been sized to accommodate the contributing area flowing at that end and noted that the answer they have provided is no. Mr. Labriola noted the issue is with the pre and post development runoff. Further, Mr. Karis stated that as a result of their discussion with the ZBA they stated that they are going to extend the swale down the side of the septic. He asked whether the separation distance between the swale and the septic has been taken into account. Ms. Bombardieri stated that she has done diversion swales around septic systems where the 35' does not need to be maintained because it is not normally collecting drainage from off site. She stated that if they are capturing whatever is coming out of that pipe, that it has not been sized for that, and noted that the 35' separation would be a consideration. Mr. Karis asked if that would impact the layout of the septic. Ms. Bombardieri responded yes, that it could possibly. Mr. Karis asked Mr. Takacs whether he thinks the swale should be sized to accommodate the flow coming onto this property. Mr. Takacs responded yes, what comes out of that pipe could flow at full force against it. Mr. Karis noted that if it is not sized accordingly it could potentially blow out the septic.

Mr. Karis asked where roof drainage is being discharged to. Ms. Bombardieri stated that it could be tied into the curtain drain. Mr. Karis asked where the curtain drain is being discharged to. Ms. Bombardieri stated beyond the septic system. Mr. Karis asked if there is a pipe going down the side of the septic. Ms. Bombardieri stated that it is underground. Mr. Karis asked about the separation from the pipe and the septic. Ms. Bombardieri stated that 16' is needed to a solid pipe and 10' from a perforated pipe. Mr. Karis asked if they can accommodate that, as it is not shown on the plans. Ms. Bombardieri stated that the curtain drain is shown on the plan and pointed it out. She stated that the roof drains could tie into it.

Mr. Labriola summarized that storm water management on the site is an issue. Mr. Karis listed the issues as conveyance and storm water management, maintaining existing

drainage patterns, and how the required setbacks effect that septic. He suggested that the applicants have not yet figured this out, even though they have received approval from the Health Department.

Mr. Karis emphasized that there is a major issue that there is no wetland line on the plans and noted the question of where it actually is and where the buffer is. He stated that that should be flagged by qualified professionals and survey located and shown on the plans so that the Board and the applicant know exactly where that regulated area is and where the regulated buffer line is. Mr. Labriola concurred. Mr. Fischer suggested that it is unclear whether the entire septic is within those regulated areas.

Mr. Gordon asked if there is a letter from the CAC. Mr. Labriola responded no.

CAC representative asked for permission to do a site visit. Mr. Stellini granted permission.

6. 123/127 WEST ROAD – SITE PLAN REVISION

Mr. Joe Kirchhoff, applicant, and Mr. Mark DelBazo, engineer, were present.

Mr. DelBazo reported on their progress and summarized the one-way traffic flow, reduced travel lane widths, and angled parking. He described the proposed landscaping. He also pointed out the wetlands flagging and the 100' buffer setback as well as the sewer lines that have been installed and that include the septic systems.

Mr. Takacs reviewed the Morris Associates comment letter. He noted that Health Department approval will be required, that they will be required to obtain wetland permits from the DEC and the Town. Mr. DelBazo stated that they submitted an application on 7/10/07 to the Town for regulated activity in the wetlands. He stated that they need modification to the existing transportation corporation for the sewer. He stated that there should be some easements on Brookside for one of the buildings. Mr. Kirchhoff acknowledged that point and stated that he'll confer with Mr. Nelson.

Mr. Takacs noted anomalies in the lighting plan. Mr. Kirchhoff stated that they were auto cad errors that will be corrected.

Mr. Takacs stated that DPW approval will be required for the north entrance.

Mr. Takacs asked if they are making changes to the façade of the buildings. Mr. Kirchhoff described the changes. He stated that the front does not change at all and in the rear they are adding windows and removing a garage door. He pointed out windows that will be added on the right side of the building and on the left side. He stated that in general they are removing some garage doors and adding some doors and windows. He stated that they are sprucing up the entire site.

Mr. Takacs noted that the parking issues have been resolved.

Ms. Seaman asked if the wetlands permit has been approved. Mr. Labriola stated that the wetlands application will be considered concurrent with this site plan application.

Mr. Takacs stated that he just received late this afternoon the drainage report from Mr. DelBazo and that he has not had time to review it.

Ms. Seaman stated her desire that it be well documented that they are in a wetlands buffer and that the incursion into the buffer has been there for some time. Mr. Labriola stated that the Board will make sure that there is very specific rationale behind why the Board is approving regulated activity in that wetland. He stated that the site is being improved, the impervious surface is being reduced, and the large septic systems have been removed.

Mr. Labriola stated that the Board has not yet received a letter from DC Department of Planning on the revised plan.

Mr. Labriola asked how the combining of the two lots will be handled. Mr. Kirchhoff stated that they will merge them via a lot line realignment. He noted that they will combine them for tax reasons and stated that this is not a subdivision.

Mr. DelBazo stated that he met with Mr. Friedrichson regarding the possible Special Use Permit for the flood hazard area. He stated that reviewing the Town records, they are in the 500 year for the flood development. Therefore, he stated that that is not an issue.

The Board, Mr. Nelson, and the applicant discussed lead agency status and the process for circulation and the 30-day period. Mr. Kirchhoff explained that he's under a tight deadline because he has a tenant who must move out of their building. He asked if the Board can do lead agency and conditional approval next month. Mr. Labriola stated that there's nothing procedurally that would not allow that to happen – as long as the 30 days has timed out and if the Board has all the necessary material it can do the SEQRA determination. If everything looks good, the Board could do a conditional final, but he noted that there is still a fairly long list of things that must be taken care of.

Mr. Friedrichson commented on the merger process as it pertains to the building permit. Mr. Kirchhoff stated that they will do that immediately.

Mr. DelBazo stated that they will follow up on the sewer work service area and the easement. He stated that they will need a recommendation with a service area to be extended – that the Town Board will be looking for feedback from the Planning Board. He stated that he is going to propose that all the paperwork and getting the easement finalized is a condition of getting the final certificate of occupancy.

7. TACONIC APARTMENTS (TACONIC HOMES) – SITE PLAN – DEIS – PUBLIC HEARING

Mr. Labriola stated that this application has been before the Planning Board since April 2003 and received a positive SEQRA declaration. He stated that the applicant prepared a Draft Environmental Impact Statement that was declared to be complete at the July 2007

Planning Board meeting. He explained that this means that all of the potential environmentally significant impacts that the Board identified in the positive SEQRA declaration have been addressed. He stated that the Board has not yet gotten to the point where the Board agrees 100% with how they have been addressed, but has determined that all the issues have been attended to. He stated that the intent this evening is to invite the public to voice any questions or concerns. He stated that the 30-day circulation period has not timed out yet. Therefore, the public hearing will be opened this evening and then adjourned so that the interested agencies have an opportunity to review the DEIS and to comment.

Mr. Labriola mentioned a couple of groundrules – please identify yourself and provide the Board with your address. He stated that the intent this evening is not to solve problems that are identified, but rather to hear your input to make sure your comments are factored into the review and approval process.

Mr. Labriola: **MOTION TO OPEN THE PUBLIC HEARING; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Joe Kirchhoff, Mr. Ken Nadler, and Mr. Nat Parrish were present.

Mr. Kirchhoff reviewed the proposed development and stated that his goal at this meeting is to listen to concerns. He stated that he has received Mr. Mort's written concerns but has not yet had time to absorb them. He identified the location of the site and stated that the project consists of approximately 72 acres and the project layout is for 252 for-sale condo units. He stated that they are protecting a 20+ acre wetland area in the front. He stated that they have changed this project several times over the last 4 years, that originally it was a for-rent project laid out for 282 units. He stated that each unit has a garage. He stated that the object is to have the least amount of impact. He noted the one-way road system throughout with the exception of the private 2-lane roadways. He pointed out the location for the sewer plant, the club house, tennis courts, swimming pool, a large water holding tank, a water plant for treatment and wells.

Mr. Kirchhoff stated that the original for-rent design created a tremendous amount of disruption to the site and to the topography – huge amounts of rock would have to be cut to construct the large buildings. Now, however, the whole concept is to be able to stagger the finished floor of the units with the topography to the best of their ability. He noted that the units will step up with the flow of the land.

Mr. Kirchhoff pointed out their efforts to keep a buffer of landscaping around the perimeter. He stated that there will be quite a bit of disruption during construction. He stated that they will identify all the trees that they can save. He stated that it is as important to their group as it is to the neighbors to preserve as much of the natural landscape as possible. Mr. Kirchhoff displayed color elevations of the building designs, recreation areas and walkways, wetland and vegetation map, and photos of the visual impact study (balloon float). He explained how the balloon float was conducted and the efforts that have been made to ensure that the buildings would be below and behind the

existing trees that will not be cut down. He stated that their goal was to hide the development from Route 44 and from the surrounding areas. He noted that on the ramp exit during the winter when there are no leaves on the trees there could be one section that will be visible through the trees. He stated that the engineers and the architects have done a really good job to hide as much as possible.

Mr. Fernando Nottebohm stated his concern for the existing trees and asked about which trees will be cut and which will be saved during construction. Mr. Kirchhoff offered to meet with Mr. Nottebohm to respond in detail to his questions. Mr. Kirchhoff pointed out the entire forested area that will be preserved and pointed out the area where they flew the balloons to make sure that the forest protects that view. He assured Mr. Nottebohm that the trees will protect that view because the trees act as a perfect natural buffer.

Ms. Rosemary Mort, adjacent property owner, pointed out where her property adjoins the development site. She asked if she will see the houses through the trees and the lighting that is associated with such a development. She stated that now she and her family can see the stars and that with all the lighting that is usually constructed with a development they won't be able to see the stars anymore. She stated that her children and grandchildren lie in her driveway and watch the stars and the comets and the shooting stars at night. She asked if the development's lights will disrupt that natural display.

Mr. Kirchhoff replied that, in today's regulations for light pollution concerns, they design around keeping light only where it is needed and never allowing the light to flood onto other properties. He stated that Mrs. Mort is 100% correct, that 20-30 years ago that happened on almost every project. He stated that it was common practice to put up large poles with lights that lit the sky and the ground. He stated that, today, even in the commercial projects and in the parking lots the poles are lower, are more focused, and the light is at the footprint of where it is needed. He stated that the engineers run very comprehensive foot candle studies and design lighting along pathways and buildings and parking lots. He reminded Mrs. Mort that there are no massive parking lots on this site because it is for-sale and the residents will pull into their house, into their garage. He stated that there are no large general parking areas. He noted that Mrs. Mort's point is well taken in that there will be some roadway lighting and they will have to make sure that it does not flood onto their property and that they cannot see the lamp glow.

Mrs. Mort asked if they will be able to see the buildings through the trees. Mr. Kirchhoff stated that he cannot answer that because he has not sat in her yard. Mrs. Mort invited him to come and look. Mr. Kirchhoff stated that he will come for a site visit and walk through the woods, that they will have to address what the visual impact will be during summer and during winter. Mr. Labriola noted that it is worth pursuing.

Ms. Meta Plotnick, Conservation Advisory Council, was present and reviewed the contents of her letter. She asked that the Bonjovi property be clarified on the map. She stated that it is on some of the maps and not on others. She also pointed out a perennial

stream and asked that it be clear on all maps with the buffers clearly identified. She stated that it will come under the wetlands law.

Ms. Plotnick pointed out the area that the Town has always considered to be a greenway with IES and Rockefeller properties with the Mort property next to it. She stated that the current plan goes deeper into the forest than the original plan did. She stated that the CAC is concerned that they penetrated that area so much. Mr. Kirchhoff stated that as they tried to live up to the new municipal setback, they started getting more confined relative to where they could develop. He explained that, therefore, they were squeezed further back versus other areas that before they had units. He explained that it was a balance.

Ms. Plotnick expressed a concern about 91,000 gallons of waste water coming out of this project at full build out. She stated that it may not be that much per hour but it will be all the time and every hour. She stated that it will have an impact on the wetland and on the stream. She stated that the CAC is glad that the developers moved the waste water plant on the other side, so at least it is not streaming into the stream. Mr. Kirchhoff stated that, in reality, right now at Brookside Meadows at today's calculations they are far below the anticipated the water usage.

Mr. Plotnick noted that there will be a lot of impervious surfaces and asked if the driveways could be constructed with pervious materials in order to reduce the runoff. She also pointed out a confluence on the map of storm water collecting system that will be going into the stream. She pointed out that there have been very heavy storms recently, that the rain comes down very fast and expressed concern for the collecting system to manage that volume and how, ultimately, it will affect the stream. Mr. Kirchhoff stated that his engineers can address that.

Ms. Plotnick asked if they have considered the possibility of reusing some of the water runoff for landscaped watering. Mr. Kirchhoff stated that they have not discussed that and will do so.

Ms. Plotnick referenced the old biological survey that was done in 2003. She noted that it is now 2007 and stated that the CAC is concerned the present time and also noted that it is done in late summer. She asked that a biological survey be done in spring and late fall and over a period of time because a lot was missed. She took note of Mr. Mort's detailed daily catalogue of wildlife on his property and asked that the developers list be augmented by Mr. Mort's catalogue.

Ms. Plotnick asked about a phased construction sequence and suggested that they do some protection of the wetlands in the upper areas during construction. Mr. Kirchhoff stated that they will take that into consideration. Ms. Plotnick applauded the planned nature trail and noted that it does not go completely around the area. She pointed out the most scenic place through the woods, but noted that the trail goes between the buildings.

Ms. Plotnick stated that she has walked Mr. Mort's property many times and has observed fish, which was omitted from the biological survey.

Mr. Labriola thanked Ms. Plotnick for her comments.

Mr. Fernando Nottebohm stated that he is the director of the Rockefeller University Field Research Center, which has been in Millbrook since 1971. He stated that he is very concerned that this development should have as little as possible impact because of the work the Research Center does to study the animals in their natural setting. He stated that he could not help but be a little offended by the very superficial nature of the biological survey that the developers offer. He stated his concern that someone who saw 11 birds would think that he has surveyed accurately the local area.

Mr. Nottebohm stated that there are over 100 species of birds and that he has no idea if we have endangered species or rare species or challenged species in the area because he did not think this was surveyed. He stated that the same applies to mammals and noted the surveyor's comments that he saw no swimming fish. He mentioned that on a ship on the ocean, one might report that he saw no swimming fish on one side and therefore there are no swimming fish in the ocean. He stated that it might be a premature conclusion. He stated his opinion that the quality of the biological survey that was done of the fauna and flora is virtually inconsequential.

And, Mr. Nottebohm stated, that this is why he takes with a grain of salt the assertions that the houses will not be seen from the lower areas because when he looks at the topographical map the altitude consistently rises up as you go towards the more densely populated area on the upper side. He stated that he does not see how the houses will be hidden by trees on a lower line area unless people lie on the ground or do something very extraordinary.

Mr. Nottebohm commented on the assertion that there will be no impact on wetlands. He stated that, since most of the construction site is on high ground that will drain down towards the wetlands, any amount of activity – people fertilizing their lawns or salting their driveways – all of that will end up in the wetlands. He stated that the idea that that concentration of houses will not have an impact on wetlands that lie downhill from the development is preposterous. He stated that they can make a statement like that but it is not based on facts or reality, it is just an assertion which that he questions. Mr. Parrish stated that throughout the site there are water quality basins that contain the water and let it filter out before it runs off. Mr. Nottebohm stated that, following the contour of roads, unless the terrain is unusual Mr. Parrish stated that they capture the water temporarily in water quality basins. Mr. Nottebohm asked whether their experts have looked at these measures to ensure that they are satisfactory and that their assertion of no impact is accurate. Mr. Parrish stated that the measures meet the DEC requirements. Mr. Nottebohm stated, well, water tends to go downhill and unless that area is very special it will find its way to the wetlands. Mr. Labriola stated that there is a storm water management plan that will be developed and reviewed prior to approval to specifically

address the issues that he is raising here. Mr. Nottebohm stated that that would be a very good thing.

Mr. Nottebohm stated that he does not know if the applicants or the Board are interested in wildlife or nature and that he gathers from the way this is going that they really are not. He stated that the idea that one goes into a site where animals are living and one just pushes them aside into vacant space is a bit naïve. He stated that in nature every living organism is living someplace already. So, he stated, it is the same as if a bear were to say I'm going to live in Poughkeepsie and what I'll do is push people to the side and they will find vacant places to settle. He stated that this project is disturbing a natural land, that the natural community is being dislocated, and suggested that the applicants and the Board might as well say it rather than pretend that the animals will not be disturbed and will just be gently moved to the side while you destroy a good piece of nature. He stated that the Research Institute is the adjacent land and that they are very concerned by that because there will be an impact. He stated that human activities always dislocate nature and the closer humans get to the area that they are monitoring they will see the disturbance. He stated that this will not be a neutral type of thing that all of a sudden will not have an impact. He stated that they have been on the adjacent piece of land since 1971 and they are very concerned about this impact which will affect the Research Center negatively.

Mr. Kirchhoff stated that he appreciates Mr. Nottebohm's concerns and appreciates the work of the Rockefeller University Field Research Center. But, he noted, that their piece of property is not a nature conservancy. Mr. Nottebohm stated that he's aware of that and, therefore, he suggested that the developers must say that they will install 252 houses in an area that used to be natural at great expense to the local residents – birds, plants, mammals, and so on – but since the local zoning regulations do not penalize us for that we will do it anyway. Mr. Nottebohm expressed his dislike for statements made that assert that there will be no impact on nature and stated that there is no magic involved, that they are putting houses where animals live and are putting houses in a lovely green corridor of IES, Rockefeller University and NYS state owned lands. He noted that they will be selling the beauty of the natural area to the future residents and that the law allows them to do it, but stated that it is a legal crime.

Mr. Nottebohm stated that he finds little that is positive in what they are trying to do. He stated that he does not think the area needs new residents and expressed his wonder at what future financial complications this development will bring to local residents given the current mortgage situations and that effect on the local economy. Mr. Kirchhoff stated that it is his risk and expressed his appreciation for Mr. Nottebohm's comments. Mr. Nottebohm stated his wish that this development would not happen and stated that he thinks it will be very injurious to the community.

Mr. Labriola expressed his thanks to Mr. Nottebohm for his comments.

Mr. Michael Sico was present and stated that his driveway is directly across from the entrance and across from the Gulf station. He asked if turning lanes or wider lanes are planned. Mr. Kirchhoff responded no. Mr. Sico stated that there are a lot of accidents in

the area with people trying to go into or come out of the Gulf Station. He also stated that people also go onto the shoulder of the road and he asked that be addressed. Mr. Kirchhoff stated that as they get further along in the process, they will have DOT involved in all these permitting and review of the design and will look into that. Mr. Kirchhoff explained that DOT is the agency that stipulates the risk and reviews the history of accidents and issues. He stated that the best that they can do is raise Mr. Sico's concern with the DOT.

Mr. Sico asked about the one-way access to the site. Mr. Kirchhoff discussed and explained the ingress and egress plan for the site and the flow on the site. Mr. Sico stated that he sees a problem with people traveling west on Route 44 then trying to turn into the site given the proximity of the gas station and his own driveway. Mr. Kirchhoff discussed sight visibility at the exit.

Mr. Ron Vogt stated that he lives on Tinkertown Road and his concerns are the streams and asked how they will avoid the 100' buffer with the roadway in that area. Mr. Kirchhoff stated that the road has been there since 1964. Mr. Vogt stated that it has not been used since he's been there since 1979. He stated that his issues are increased traffic and the effect on water which will change because there's an aquifer that substantially serves a large portion of Pleasant Valley including his area. He noted that there is increased traffic now because of the Parkway which impacts his ingress and egress from his private property and noted that this development will add 400 cars minimum in and out of there which will be a major concern for his area. Mr. Kirchhoff stated that they have traffic studies. Mr. Vogt stated that he just wanted to express his concerns for the traffic implications as well as the implications for the streams and waterways. Mr. Labriola expressed his thanks to Mr. Vogt for his comments.

Mr. John Mort, adjoining property owner, noted that he had sent a letter to the Planning Board addressing many of the comments that have already been made at this meeting. He stated that Area 5 will be pretty apparent to them in the fall and winter and spring. He quoted from the impact statement: "therefore the wetlands on this project are not regulated by the Town of Pleasant Valley." With reference to that statement, Mr. Mort stated that their concern is, basically, the plan refers to D1 and D6 exits that flow into additional wetlands, which wetland, he pointed out, is his backyard. He pointed out a wetland that flows into what currently becomes the side of their yard and pointed out the stream that passes 30 yards from his house. Therefore, he stated that, basically, the wetland areas, that only contain frogs and salamanders and things of that nature, are now going to be diluted with the water that will runoff through there.

Mr. Mort stated that in April of this year over a period of 3 days there was 4.65 inches of rain, which equates to either a 3 year level or a 5 year level, however it is calculated – on a day to day or on a longer period of time. He stated that the result, which was documented in The Poughkeepsie Journal, was the area of flooding at the end of his driveway. He also pointed out that his driveway being closed off is an annual affair, that it may vary an inch, but that it gets flooded annually. He pointed out the impact in the D6 area of such a rain, that it came down through one of his roads and wiped it out, and

he stated that he's used to that. He stated that it came down and wiped out one of his bridges and that he's also used to fixing those on an annual basis. He stated that what will happen if this continues, that the net of it is that the road grading plan, basically, is filled with peaks and valleys repeatedly, which they are leveling – removing the peaks and filling the valleys. He noted the series of catch basins that will be installed that are designed to remove 60% of the sediment. He stated that, based on the 5 year calculation and the reported effectiveness of the catch basins, they will reduce the peak flow into his property by 18% in one location and by 5% in another location. He stated that this would be good except he wondered what will happen on maintenance on those basins.

Mr. Mort noted that the developers' plan states that the Homeowners' Association is responsible for ongoing maintenance of the catch basins and that during the construction period they will be periodically removing the sediment from these catch basins. He noted that the catch basins do fill up awfully fast or at least ones that he has built fill up fast, because he has attempted to put in a catch basin on his property and noted that he was not able to keep up with that.

Mr. Mort stated that he thinks that the statement that the Homeowners' Association will be responsible for ongoing maintenance is a little weak, that it should be carried a little further and should specify the periodic maintenance and removal of the sediment from these catch basins. He stated that one can hire someone off the street to be the janitor, but if he does not know what is involved or what the estimate is of fill and sediment, this is a potential problem. He stated that the applicant has pages and pages of calculations and that they can certainly specify that as an ongoing requirement to ensure that the ongoing maintenance of the catch basins is, in fact, sized properly. Mr. Mort recommends knowledgeable and competent maintenance without which the catch basin concept is useless. Mr. Kirchhoff and Mr. Labriola concurred that this is something that can be addressed with the storm water management and pre and post-development runoff. Mr. Kirchhoff stated that it can be addressed in the HOA.

Mr. Mort stated that the runoff that will come down is not the same quality of water because of these wetland areas will be gone and the critters that he now sees will not be there. He pointed out the area that will be gone. Mr. Kirchhoff pointed out the area of wetlands that will remain.

Mr. Mort asked if he needs to follow up his presentation with a memo. Mr. Labriola stated that he does not as he is capturing the issues he has expressed and noted that there is a stenographer keeping track. Mr. Labriola expressed his appreciation for Mr. Mort's comments and the written material and photos that he presented. Mr. Kirchhoff stated that that is why he brings a stenographer to make sure they have all the concerns noted and can then address them.

Mrs. Mort reported that they see animals and that she is sure that no one at this meeting as seen the animals that come through her yard. She stated that they saw 8 different tagged bears, red fox, grey fox, turkey vultures. She stated: "You name it, it is in our back yard" – and that it will no longer be there, that this development will chase it out of

there. She stated that her grandchildren and our grandchildren will lose this precious living resource. Mr. Mort stated that they sit in their sun room and pointed out the game trail that runs through their back yard. He stated that all of the photos he submitted to the Board were taken in his back yard. He stated that his daughter-in-law would come over to watch for turtles laying eggs in their backyard. He stated that this is a sad thing.

Ms. Plotnick stated that Mr. Mort provided her with his tabulations – his wildlife report of frogs. She stated that this is extraordinary record keeping. Mr. Mort provided the Board with a copy of this report, saying that it is really only a rough draft. He stated that his point is that a one day survey by the most skilled biologist on Sept. 24 does not an environmental study make.

Mr. John McNair asked whether this will be run by the MS4 coordinator for the Town. Mr. Friedrichson stated that this is the Storm Water Management Officer, which the Town has not yet appointed. Mr. Kirchhoff stated that on all of their projects they have to have a third party unrelated engineer come on site every 7 days or after every ½ inch of rain to make sure that all the silt fences and hay bales are protected and in place – this is during construction. He stated that the Town can appoint its own engineer, but that due to DEC regulations the developer must provide this level of oversight.

Mr. McNair asked about the process of approval post-build of the sewers and run off plans by the Town's coordinator. Mr. Labriola explained the process – the applicant will submit a storm water management design plan, Morris Associates will review that and make sure that it is adequate and accomplishes what it is supposed to do. They, he stated that, once the Town appoints this officer, the plan will be reviewed by that individual.

Mr. Labriola enumerated the main concerns:

- visibility issues and lighting implications with adjacent property owner to the eastern edge of the property – Kirchhoff to visit that property
- numerous storm water management issues: off site runoff, maintenance of the storm water management systems, waste water volumes and whether it could be reused for irrigation
- number of concerns about the quality and comprehensiveness of the biological studies as well as concerns about the timing of the studies
- question about rerouting the nature trail along the southern section of the site to enhance some of the scenic views
- number of concerns raised about impacts and implications to the wetlands
- quantity of cars and some traffic safety issues along the Route 44 entrances
- concerns about water quality and quantity
- concerns for destruction of wildlife and their habitat

Mr. Labriola noted that this is not the end of the process and is rather actually the time when the hard work begins. He stated that the Public Hearing will remain open for another month so that there will be an opportunity for some of the interested agencies to comment as well as for members of the public to add to or offer new information.

Mr. Labriola expressed the Planning Board's appreciation for the members of the public who attended this evening's meeting and offered their concerns, comments, and suggestions. He stated that the Board needs the communities input and thanked everyone for taking the time to prepare for and come to this meeting – and especially for their patience during the earlier portion of this evening.

Mr. Labriola: **MOTION TO ADJOURN THIS PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 6-0-0**

8. APPEAL #902 DEARSTYNE – VARIANCE

Mr. Labriola stated that this appeal is for the placement of a new shed on a site in the Cedar Hollow Mobile Home Park. He stated that it does not meet the necessary side setback. He stated that they need a 10.5' variance from side setback. He stated that it looks like the shed will be nearly 22' away from the adjacent property.

Mr. Labriola also stated that he did not visit the site. Mr. Fracchia stated that he visited the site and noted that it's like an open field in the front and that this appeal is not going to affect anybody.

Mr. Labriola read into the record a letter dated 8/1/07 (original on file) from the Fire Advisory Board: no position as it presents no fire or safety concerns and is a matter for the ZBA.

Mr. Labriola: **MOTION TO PASS ALONG TO THE ZBA WITH NO RECOMMENDATION AS THE PLANNING BOARD DOES NOT BELIEVE THAT THIS VARIANCE PRESENTS ANY PLANNING ISSUES; SECONDED BY R. SEAMAN**

Discussion: Mr. Fischer reminded the Board about their conversation that they cannot pass an appeal onto the ZBA with no recommendation.

Mr. Labriola: **MOTION TO AMEND:**

MOTION TO PASS ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION TAKING NOTE OF THE INPUT FROM THE FIRE ADVISORY BOARD THAT THERE ARE NO FIRE OR SAFETY ISSUES AND THE PLANNING BOARD DOES NOT BELIEVE THAT THE VARIANCE PRESENTS ANY UNIQUE PLANNING ISSUES;

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

Meeting adjourned at 11:00 p.m.
Minutes submitted by:

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Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the August 14, 2007, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

____ Approved as read

____ Approved as corrected with deletions/additions

PLEASANT VALLEY PLANNING BOARD
September 11, 2007

A regular meeting of the Pleasant Valley Planning Board took place on September 11, 2007, at the American Legion Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:33 p.m.

Members present: Joe Labriola, Chairman
 Kay Bramson
 Rebecca Seaman
 Rob Fracchia
 Peter Karis
 Henry Fischer

Members absent: Michael Gordon

Also present: Pete Setaro, Morris Associates
 Jim Nelson, Esq., Town attorney
 Dieter Friedrichson, Zoning Administrator

1. TACONIC HOMES – SITE PLAN – PUBLIC HEARING CONTINUED

Mr. Labriola announced that the Public Hearing is reopened and invited any new comments that were not made at last month's meeting. Further, he noted that there is a stenographer present who will record comments. He also announced that following this meeting there is another 10-day period during which people can provide written comments to the Board. He stated that the next step following that 10-day period is for the Board to factor all the input into the preparation for a final environmental impact statement.

Mr. Labriola: **MOTION TO RE-OPEN THE PUBLIC HEARING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Fernando Nottebohm, director of the Rockefeller University Field Research Center, stated that he has distributed to the Board a written response to the DEIS and to the comments that were made at the last Planning Board meeting. He also submitted a letter from the president of the Institute of Ecosystems Studies, which lands are adjacent to the proposed development, and which statement is in support of Mr. Nottebohm's comments. He also submitted a list of species present on the Rockefeller lands adjacent to this development that are at different levels of endangerment or in need of protection and that will be impacted by this development.

Mr. Nottebohm stated that nature suffers a lot when there is fragmentation of natural habitats, so that even if development moves up to the boundary of an area and what is beyond is left intact, it still suffers by the proximity of the development activities.

Mr. Nottebohm noted that, in his reading of the DEIS, there were several inaccuracies. He stated that the leading initial inaccuracy is the claim that time has stood still or the community has stood still as if it were 2003 and that, therefore, the representations made then are valid now. He stated that he would like to question that as it seems to him that in 2003 it was presented as an opportunity to secure housing for senior citizens and for people of lower income. He stated that what he sees in this development now is very different from that. He stated, moreover, that in 2003 there seemed to be a shortage of housing in this general area, but that now from what he reads in the area and from talking with people, that there is a bit of a surplus of housing in the area. He stated that if there are negative impacts to this environment that would be weighed against positive benefits to be derived at all, the positive effects seem to have been diluted by the passage of time and how things have changed since.

Mr. Nottebohm noted another error where this development is claimed to be a cluster housing development, which he questions. He stated that the usual practice that defines cluster housing is that it has to meet a minimum of leaving 60% of the buildable area undisturbed and only building, therefore, on 40%. He stated that his calculations based on the numbers offered by the studies are that the ratio on this development is the opposite – that there is, in fact, 60% of the buildable land to be built upon and 40% will remain intact. He stated that to him this development strikes him more as a high density housing situation rather than as cluster housing.

Further, Mr. Nottebohm stated that the claim is made that there is no conflict between this development and prior uses of adjacent pieces of land. He stated that he would like to question that on the record. He stated that, as he indicated last month, the Rockefeller University has been present in this community since 1972 and the reason why they had the tax exemption for the land the University owns is because they use the land for research purposes. He stated that the research is based on the relatively intact nature of the communities, which is the treasure trove for the research. He stated that that would be impacted by this development.

Mr. Nottebohm also questioned the accuracy of the claim that the cluster of houses is central to the piece of land and pointed out on the northern boundary where it is adjacent to the Rockefeller University. He stated that his calculations suggest that the house that is nearest to the boundary is only 30' away, which is very close. He stated that he would like to see at least a buffer of 600' that would require that the number of units be reduced by 1/3 – from 252 to 168 – which would then have a little bit more of the flavor of cluster housing. He stated that if the developer means to do cluster housing, then that number of units would meet the criteria.

Mr. Nottebohm stated that he sees no real way in which this development is congruent in any way to the concept of a greenway that brings together the resources held by the Institute for Ecosystems Studies, Rockefeller University, and the NYS piece of land to the south. He noted that all of which taken together equals almost 5000 acres of natural land and is a lovely area for nature at present in which it prospers, and stated that he is very sensitive to the protection of that land in our community.

Mr. Nottebohm stated that he does not think that the environmental impact study as presented offers enough detail to even start the process of coming up with suggested mitigation measures. He stated that to have mitigation you need information, and in the absence of information there is no mitigation.

Mr. Nottebohm stated that he thinks there should be much more detail regarding the substances that will end up in the wetlands. His quick survey, he states, suggests that there will be pesticides, fertilizer, salting of the roads, detergents from household usages, plus any other vermin toxin that are put out to control pests around households – all of which will flow downhill. He stated that they have been told that there will be a water treatment process, and stated that there has not been enough detail provided. He stated that it is one thing to treat water to control *e coli* and things that might result from human activities at that level, but that it is another thing to get rid of specific chemicals, which requires a scrubbing process that is tightly aimed at those chemicals. He stated, therefore, that statements that are vague that will say that the developer will take care of these matters are not credible to him because not enough detail is offered. He stated that he thinks the developer should be required to offer enough specifics on all of this because otherwise what will happen is, as the water washes down hill bearing all these substances day in and day out with storm and with snow melt, there will be a gradual accumulation of all that stuff first in the wetlands and then in the water table – the same water that will be used by people living in that area for consumption. He stated, therefore, that the damage done will increase day after day after day. And, he noted that this is all in the face of a statement that says that the wetlands will not be impacted by development, which he reiterated that he does not find credible.

Mr. Labriola thanked Mr. Nottebohm for his verbal and written comments.

Mrs. Rosemary Mort, 2504 Route 44, Salt Point, NY, is the resident and owner of the land adjacent to the development. Mrs. Mort displayed photos (5) of the animals that were identified in the DEIS statement, and noted that it was a one-day survey. She then displayed photos (13) of animals observed on the Rockefeller land during the two week period following the last Planning Board meeting. She then displayed photos (13) of animals that were observed on her property from April to August, which is a prime breeding time. She noted that before April and after August, you won't see many of them. She especially stated that this area is a prime breeding spot for these animals and pointed out animals that she had never been aware of – mollusks, fingernail clams, fairy shrimp. And she displayed an additional 10 photos of animals that have been in her backyard that they see all the time. She stated that these 40+ photos of animals represents a whole year of observation and pointed out the variety of animals – all of which she stated negates the statement in the DEIS that there are no valuable animals and none that are worth preserving. Further, she stated that she had written on the bottom of the display other animals of which she does not have photos, which includes 2 snakes. She stated that this is like having a zoo in the property. Further, she stated that the information that is learned by the Rockefeller University from this property and from her own property is invaluable, and once these animals are gone they will not be here again.

She stated that we must protect it for future generations, not just for a few people who are tired of living in town. She stated that she understands this desire, as she has sons who live in New York City and that they have the same feeling. She stated that the Board needs to see how much is affected by this proposed development. She stated that the salamanders eat ticks and mosquitoes, and that without these natural predators, the residents of the development will have to spray to get rid of them. She stated that she felt the need to provide a visual display of the inhabitants of these lands so that the Board could better realize what is being impacted by the development. She pointed out the photos and stated that this is the face of the animals currently living on the land. Mrs. Mort submitted her photo display to the Board.

Mr. Labriola thanked Mrs. Mort for her comments and for the photo display. She pointed out the animals in the photos that are tagged.

Mr. John Mort, same address as Mrs. Mort, noted that he had sent a memo to the Planning Board regarding what has transpired in the past month following the last Planning Board meeting. He stated that after the last meeting, Mr. Nottebohm gave him permission to go up and take a look in the Rockefeller University property. He pointed out on the map his property, the Rockefeller University property, and the IES property. He pointed out the stream on the map and the point at which the developer stopped the survey, which is the point at which he started his survey. He noted that his wife, Mrs. Mort, had showed the Board the photos of what he found immediately in that particular area. He stated that this is a wetland and is a special wetland. He provided copies of a document – The Best Development Practices – for the Planning Board, for Mr. Kirchhoff, and stated that he had already given one to the CAC.

Mr. Mort stated that the theme of The Best Development Practices is that it is not a law – not something that can be enforced in the same manner in which running a stop sign can be enforced. Rather he noted that there has to be some judgment entailed, but that there are questions that he believes should be asked any time you are impacting a wetland area, such as this proposed development. He stated that maybe it is valid not to do everything that is in that document, but also stated that it is not valid to do nothing.

Mr. Mort stated, as an example, one of these concerns is that the stream comes up and crosses a road that goes up to the water tower. He stated that by interrupting that flow, you cut off the avenue or corridor for the amphibians and the critters that ironically are consuming the mosquitoes. He referenced studies that were done that show the numbers of mosquitoes that are consumed by those critters and noted that there are no studies measuring the consumption of ticks.

Mr. Mort encouraged the Board to develop a list of questions, some of which he suggested in his memo, that are things that are appropriate for the developer to address whether or not he will do anything about them. He stated that the problem that exists in a wetland area is that Mr. Kirchhoff has never been asked to look at what is feeding in the area, that he has only been asked to consider the large wetland areas. Mr. Mort stated that there are a lot of things that could be done in that area, some of which would negate

some development expenses. He stated that if you are kind to nature, nature will be kind to you.

Mr. Mort stated that his parents were residents on the lot in 1980. He stated that their house burned down and that he rebuilt on that lot. He stated that for 15 years his family and he had the privilege of looking out back every late spring and watching the turtles come in to lay their eggs right in his backyard. He stated that the female turtle would look around, select a spot where she would lay the eggs, she would dig a hole, lay the eggs, and cover them over to protect them from predators. He stated that they would go out and would have a hard time finding where she had laid her eggs. Yet, he noted, the environmental statement which was done in September did not find where there was any eggs being laid. He stated that that was probably true.

Mr. Mort stated that each year, now, they only have one or two turtles come through and look around as if to say what happened to my nesting area and move on. He stated that he does not know where they nest now. He stated that the people who did the environmental study and who stated that they are not nesting on the development site would not know in September what nested in April or May.

Mr. Mort explained that the reason the turtles stopped coming to nest in his backyard is because he got a bright idea that he could improve his lawn. He stated that he built up the soil and, therefore, it was no longer the sandy gravel area that the turtles were used to. Therefore, he stated that he now has the privilege of mowing his lawn for another hour but that he no longer has the privilege of watching the turtles, and his grandchildren don't have that privilege either.

Mr. Mort stated that he went out on Sunday to take a look around after the heavy rains on Saturday and found a box turtle. He noted that the survey stated that they found no turtles.

Mr. Mort stated that he took his grandson, who is 10 years old, out recently. He stated that his grandson loves frogs, catching frogs and salamanders, and he had a great time. He stated that his grandson started off catching frogs and within an hour he stopped catching frogs and began catching a wood frog or a spring peeper. Mr. Mort explained that these creatures were taking on a new meaning for his grandson.

Mr. Mort stated that in his memo he suggested that if this development must go forward one thing that could be done is to preserve this area (which he pointed out on the map) and incorporate into the nature walk something for the school system where they could have a regular program for the biology teacher to take what the children are seeing in books and show it to them in nature.

With regard to the mosquitoes and the ticks, Mr. Mort pointed out that the people who are going to lose are the same people who get the scenic value of the property and get the privilege of mowing their grass, but that they will have a heavier toll of mosquitoes and ticks. He stated that the usual solution is to add pesticides, which exacerbates the impact.

Further, he stated that if there is a water quality issue, the first indicator and barometer will be the frogs because the frog has a very thin skin and is the first to become mutated or killed as a result of the environment.

Mr. Mort stated that he would like to encourage the Board and the developer not to make the same mistake as he made when he built up his lawn, not to make the same mistake on this property. He encouraged the Board and the developer to think about and be more rigorous when dealing with any environmental area that concerns larger and smaller wetlands.

Mr. Labriola thanked Mr. Mort for his comments and for the written materials he provided and for the reference guide. Mr. Labriola stated that the Board will look at the guide to figure out how to incorporate some of the guidelines into what is being proposed.

Ms. Meta Plotnick, Conservation Advisory Council, stated that a Blandings turtle was observed perhaps on the border of Pleasant Valley and Washington. She stated that this is an unverified but credible observation of a Blandings turtle. She stated that the person who observed this turtle commented on the possibility of a nearby population. She stated that the turtle was not photographed but was observed.

Mr. Labriola thanked Ms. Plotnick for her comments and expressed the Board's appreciation for everyone's input at this evening's meeting. He assured them that their concerns will be factored into consideration as part of the next steps on this project

Mr. Labriola: MOTION TO ADJOURN THE PUBLIC HEARING; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola reminded members of the public that there is another 10-day period during which written comments can be submitted to the Board and stated that there may still be more comments submitted for the Board's consideration.

Mr. Labriola stated that the DEIS was distributed to a large number of involved agencies and that the Board has received feedback from some. He referenced a letter dated 8/14/07 from the NYS Department of Transportation (original on file). DOT's comments include:

1. left turn is warranted for west bound Route 44
2. possibly a right turn lane for east bound Route 44
3. turn lanes to be designed to accommodate the average cue
4. both driveways to be brought up to DOT standards regarding curbing, channelization, and pavement requirements.

Mr. Labriola referenced a letter dated 8/15/07 (original on file) from NYS Office of Parks, Recreation, and Historic Preservation. The letter states that they have completed their review and "have no further concerns regarding archeology and the project – additional archeological survey is not warranted."

Mr. Labriola referenced a lengthy letter dated 8/29/07 (original on file) from DC Department of Planning. Mr. Nat Parrish stated that they have not yet received a copy of that letter, that the only letter they have received is the one from the NYS DOT. Mr. Labriola referenced some of the key comments in this letter:

1. number of parking spaces is excessive
2. needs to be more of an emphasis on homes and people not cars – alternate designs proposed to provide more of a community feel
3. an extensive network of sidewalks is requested – to connect the homes with Route 44 with the intent to provide access for a potential hamlet center along Route 44
4. question about disturbance of steep slopes
5. questions about visual impacts from Taconic Parkway – some confusion on the studies that were done
6. question regarding both the sewage and water treatment – whether there is excessive capacity potentially that the Town could tap into in the future if a hamlet were to be developed.

Mr. Labriola suggested as a next step – based on having received very good comment from the public, good comments from DC Department of Planning – to schedule a workshop and invite DC Department of Planning to participate and dedicate a special meeting to this project. He suggested that this project warrants such a careful and individually focused meeting. He stated that such a workshop should be scheduled after the completion of the 10-day write-in period. He stated his hope that this workshop would identify a punch list of things that must be factored into the final environmental impact statement. Mr. Parrish asked for clarification that the workshop would occur prior to submitting the final EIS. Mr. Labriola concurred and explained that the workshop will provide him and Mr. Kirchhoff's team with the guidance and direction to be factored into the EIS.

2. BILVAL, LLC – SITE PLAN REVISION (Andrews Well Drilling)

Mr. Labriola stated that this is on the agenda for an amended site plan.

Ms. Val Andrews, owner, and Mr. Scott Fury, M.A. Day Engineering, were present.

Mr. Fury stated that this project received site plan approval about 3 years ago but that the plan was never fully followed through on. He stated that since then the applicant has asked him to submit this plan, which is “as built of existing conditions on the site.” He stated that there are some variances from the original plan that was approved and stated that their goal is to get the existing conditions to a point where the applicant can get a Certificate of Occupancy for the site.

Mr. Labriola stated that the application was somewhat vague, that it mentioned rehabilitating an existing building, and he asked for more detailed description of the plan.

Ms. Andrews pointed out on the map what was approved prior to them moving in and that the parking and things aren't where they were. She explained changes that they

made to the site and pointed out a building that they demolished within the last 4 years. She pointed out a location of her future office on the site. She stated that she's trying to get a C.O. and that the problem is that she has a rented office trailer on the site that is not permitted. She explained that due to the changes on the site that are not in keeping with the site plan that was approved, she has come back to the Planning Board for an amended site plan approval.

Mr. Labriola asked Ms. Andrews why she would not try to bring the site into compliance with the originally approved site plan. Ms. Andrews stated that because it is only an acre of property and the limited usable space on the property, therefore the layout they have right now is the best design. Mr. Labriola stated that the Board has not received a copy of the other plan that she showed, therefore the Board does not have the information necessary to understand whether this is a better layout than what was previously approved. He stated that that would be a helpful piece of information to have in order to go forward with this project.

Mr. Labriola stated that he did a quick site visit and noted that there's a lot of debris all over the site – piles of stuff – and asked about plans to clean that up. Ms. Andrews asked where Mr. Labriola is talking about. Mr. Labriola pointed out the area to the right of the house. Ms. Andrews stated that that is leftover original beams and flooring recovered from the demolished house. She stated that they are the old hand-hewed beams and flooring which they plan to use in the future. Mr. Labriola mentioned some metal things that were not covered. Ms. Andrews stated that that is some of the original roofing that they laid on top to protect the boards.

Mr. Setaro reviewed Morris Associates' comment letter. He stated that some of the required setback distances need to be looked at. He mentioned the 12 parking spaces that are not delineated on the plan. He asked if they do any outside washing or maintenance of vehicles. Ms. Andrews responded yes. Mr. Setaro mentioned concern for containment of oil and other liquids that would leak into the ground. He stated that there needs to be a better plan for containment of fluids when they are working on the vehicles because of all adjoining properties are on individual wells. He asked Mr. Setaro to come up with a plan for a wash/maintenance area – a surface and a spill containment plan – which would need to be included on the plan.

Mr. Setaro spoke about the Pool Guys working with Ms. Andrews to get another entrance. Ms. Andrews stated that they wanted something in writing stating that she would allow them access. She explained that she did not want to put anything into writing because if she ever wanted to sell it could be a problem. She stated that she told him verbally he could have access across her property. Mr. Setaro asked if the Pool Guys are using that access now. Ms. Andrews responded that she does not know. Mr. Labriola stated that he does not think that they are.

Mr. Setaro asked about the well casing area. Ms. Andrews pointed out on the map where it now is and explained why it was moved. She stated that there are racks for storage for the well casings. Mr. Setaro asked about screening. Ms. Andrews mentioned some big

trees that are not on the map. Mr. Labriola recalled that they are not evergreen trees and, therefore, do not provide screening and asked for adequate visual screening in that area either by some evergreens or a stockade fence.

Mr. Labriola enumerated issues that need to be addressed as:

1. visual screening with evergreens or a stockade fence
2. parking spaces indicated on the plan
3. fluid containment system
4. elevations of renovation plans on the building – materials, colors, design

Mr. Labriola stated that the Board has not received a response from the DC Department of Planning. He explained that any property that is on a NYS or DC road must be reviewed by the DC Planning and feedback from that office must be factored into the site plan approval process. He stated that it should be available shortly and advised Ms. Andrews to get a copy of it from the Town offices.

Mr. Karis stated his desire to see the previously approved site plan. Mr. Fury will provide copies.

Ms. Bramson asked if there is anything that can be done about the house that is on their property. Mr. Fracchia and Ms. Andrews concurred that there was a lot line revision done some time in the past. Mr. Fracchia stated that it is not accurately represented on the plan. Mr. Labriola advised Ms. Andrews that the plan must represent the accurate property lines and accurately represent all features on the site.

Mr. Labriola asked the applicant to walk along Route 44 to take a look at the visual impact of their site and to determine where landscaping to shield would be required. Again, Mr. Labriola reiterated that the Board must have a plan that represents what currently exists on the site, that without that accurate information the approval process cannot go forward. Ms. Andrews stated that they are working on it.

Mr. Fracchia asked about the catch basin. Ms. Andrews stated that it is in front of the driveway. Mr. Fracchia asked about a basin at the corner at 44 Automotive building. Ms. Andrews stated that she does not know. Mr. Fracchia asked if those two are connected. Mr. Andrews stated that she does not know. Mr. Fury stated that he will check into this question. Mr. Karis stated that the plan should show the existing drainage pipes and where they connect. Mr. Setaro stated that he knows that there is definitely drainage out in the front.

Mr. Fury stated that copies of the old plan will be distributed for the Board. Mr. Labriola advised him to provide them with their next submission.

Mr. Nelson asked about whether someone else's well is on their property. Ms. Andrews pointed out the two parcels and stated that the well head is on their property and that there is some kind of easement. Mr. Labriola asked if that is one piece of property or if it is two separate parcels. Ms. Andrews stated that it is two separate parcels. Mr. Labriola

asked for confirmation that the parcel that has the well head on it of the adjacent property owner is not part of this site plan. Ms. Andrews confirmed that that is accurate. Mr. Setaro recalled that this was dealt with during the original site plan approval process. Ms. Andrews recalled a big issue with flooding and sewage and well contamination. She stated that it's always been a headache.

3. MORRISON SUBDIVISION – CONTINUED REVIEW

Mr. Christopher Lapine, Chazen Companies, was present. He stated that Mr. Morrison owns a 6.82 acre parcel and is proposing a 3 lot subdivision. He pointed out lot #1 that has the existing dwelling and lots #2 and #3. He stated that they received Sketch Plan approval in June 2007.

Mr. Lapine stated that they have since refined the design, have identified the grading associated with the lots and also provided profiles of all the driveways. He stated that they have included all the drainage features and erosion sediment control measures. He stated that they have identified the approximate locations of the septic systems. He stated that they have included all the details and have provided an updated EAF to incorporate the comments generated by Morris Associates. He stated that they have sent notices out to the adjacent neighbors and that the owner has posted a sign.

Mr. Lapine stated that they have received some feedback from the neighbors and specifically referenced a neighbor who is concerned about runoff onto her property that originates on the Amy property and part of the Morrison property and that eventually flows over to the Niagara Mohawk parcel. He stated that this neighbor asked them to redirect some of that drainage. He stated that, in order to show that they are working with the neighbor on this request, he has shown a diversion swale on lot #3. He stated that, based on feedback from the Board this evening, he will meet with the neighbor.

Mr. Setaro reviewed the Morris Associates comments and stated that most of the previous ones have been taken care of. He stated that the Board wanted to see the plans before authorizing the applicant to advertise for the public hearing. He stated that the plans are in pretty good shape for that. He noted that Mr. Takacs visited the site and that there does appear to be quite a few large trees in the area where the house and driveways are planned. He noted that the applicant has asked for a waiver for this, but he suggested that the larger trees be protected and noted that the Code protects trees that are equal to or greater than 8".

Mr. Labriola stated that other applications have shown delineation of wooded areas and the areas that will be cleared for construction. He stated that this gives the Board a good idea of the before and after picture. He asked that the applicant provide this information. Mr. Lapine stated that lots 2 and 3 are completely wooded. Mr. Karis suggested that the applicant document the area of disturbance. Mr. Fischer suggested that he identify trees that are over 12". Mr. Lapine stated that there are over 50 trees that are over 12". Mr. Fischer noted that the septic area will have to be cleared, but that in the non-septic area he suggested that the applicant identify trees that are 12" or greater. Mr. Labriola asked if there are plans to save trees. Mr. Lapine stated that they are trying to condense all the

grading to a central area and to maintain a buffer surrounding the 2 dwellings. He stated that he thinks it fair and is willing to identify the 12" trees.

Mr. Nelson noted the comment regarding the drainage directed toward the Niagara Mohawk property and the Bolinger property and asked the applicant to take a careful look at this. Mr. Lapine explained drainage problems associated with the site and explained how the water sheets toward the left towards an existing culvert that is in a Town right-of-way. He stated that they have redirected the flow to that existing location. He pointed out a catch basin where the Town has a 12" culvert.

Mr. Labriola asked where they will direct the drainage for lot #3 and asked about a swale that Mr. Lapine had mentioned. Mr. Lapine explained drainage on lot #3 and stated that everything to the east of the dwelling drains toward the existing Town pipe. He noted that everything to the west drains across the property, some of it sheets across the neighbor's property and some sheets onto the Niagara Mohawk.

Mr. Lapine stated that ultimately all the runoff goes to the Niagara Mohawk property. Mr. Setaro stated that they will work out something on the swale so that there is a point discharge versus sheet drainage. Further, he stated that with the driveways and the grading they will want to prevent any increase in runoff. He suggested a combination of dry wells for the roof leaders and he pointed out an area for another dry well with an overflow pipe. He and Mr. Lapine discussed options for preventing any increase in runoff onto neighbors' properties.

Mr. Labriola read into the record a letter dated June 2007 (original on file) from the Fire Advisory Board offering a positive recommendation with regard to this application as it represents no fire or safety issues.

Mr. Labriola read into the record a letter from the Highway Department (original on file) that states that the 2 driveways along David Drive meet the sight distance requirement.

Mr. Karis noted that the Board had asked the applicant to flag the off site water course corridor and that the appropriate buffer be shown on the plan. He noted that this has not yet been done. He pointed out the pond on lot #1 which runs down to the culvert. Mr. Lapine pointed out an area that he has taken some photos of and noted that any overflow would seem to want to flow to the north. He provided those photos to the Board. He and Mr. Karis discussed the water flow on the property.

Mr. Karis stated that the pond has an associated buffer that is not shown on the map and that if the channel is flowing water it is, therefore, regulated by the Town's wetland ordinance and also has an associated buffer. Mr. Lapine pointed out on the map the areas where they have maintained a 100' buffer and areas where they have maintained greater than 25' buffer. Mr. Karis stated that this is not shown on the map. Mr. Labriola asked the applicant to show all buffers on the plan which enables one to see if they are infringing on the buffer at all.

Mr. Karis stated that the 2 driveways are in very close proximity at the same grade and asked if there is an opportunity to have a one common entrance and, therefore, only one curb cut and possibly protect some of the big oaks in the front. He stated that the lot #2 access point was a common entrance and that they could lessen the grade on the lot #3 driveway. He noted that the proposed 15% grade on driveway is extreme. Mr. Lapine stated that if that is something that the Board would like, they will consider it. Mr. Labriola concurred that when driveways are that close together it creates an opportunity and noted the safety advantages and the benefit of preserving some of the trees. He stated, therefore, a common drive may make sense. Mr. Lapine stated that they will review that along with the drainage. Mr. Setaro stated that it might help.

Mr. Karis asked about the property line between lots #1 and #2, whether it is an angle. He stated that there's an opportunity to put the line right on the stone wall, which provides an actual physical element separating the two properties. Mr. Lapine stated that he will talk with the applicant about this suggestion.

Mr. Karis noted that the proposed location for the dwelling on lot #3 is on the steepest part of the lot and that there's a walk out basement that opens to a steep drop off after 10'. He noted that design does not provide much of a backyard. He stated that he can envision pulling the house further uphill on lot #3 and perhaps regrading the area to get it out of the steep slope. Mr. Lapine pointed out a problem with the setback requirements. Mr. Karis suggested that the shift in the property line would clear up issues with the setbacks. Mr. Lapine mentioned that they start encroaching on the setbacks for the septic systems. Mr. Setaro suggested an option to do a front load house instead of a side load. Mr. Karis stated that there is a better way to design those lots. He asked if these are realistic building footprints. Mr. Lapine stated that they could pull the grading back further to provide greater depth in the back of the house but noted that the applicant is happy with this design. Mr. Labriola asked the applicant to take a look at options.

Mr. Karis noted the 15" culvert pipe under lot #2 driveway that is collecting runoff from the driveways and the houses and a 12" pipe under the road. He asked if the capacity of the 12" pipe has been assessed to determine if it needs to be reconstructed given the increase in runoff. Mr. Setaro noted that the goal is to not have any increase in runoff. Mr. Karis stated that if the 12" pipe cannot handle big flows, it will overtop the road. Mr. Setaro, Mr. Lapine, and Mr. Karis discussed options. Mr. Karis requested an analysis of the culvert as part of the stream when they size that pipe. Mr. Labriola concurred that the Board will need to understand this situation before SEQRA determination can be done.

Mr. Labriola told Mr. Lapine that he can advertise for a public hearing and stated that the comments from this evening's discussion need to be reflected on the plan. He noted that the storm water management offsite question must be resolved.

4. CENTRAL HUDSON TINKERTOWN SUBSTATION EXPANSION – SITE PLAN REVISION

Ms. Jennifer Van Tuyl, attorney with Cuddekerk Feder, Patrick Harder and Gary Courtney, engineers with Central Hudson, were present.

Mr. Labriola reviewed the goals for this evening's meeting. He stated that the applicants have provided the Board with a revised set of drawings adding notes regarding the oil containment system, which the Board would like to review. Further, he explained that, in conversations with Mr. Nelson, the Board would like to expand the list of documents that will be given to Bagdon for their review. He stated that he would like to include all of the documentation that the Board has received from Central Hudson and their consultants and from Ms. Suzanne Horn and her consultants. Lastly, he stated that he would like to discuss Bagdon Engineering and where they are in their assessment.

Mr. Labriola asked the applicants to describe the changes to the plan. Mr. Harder described the notes that have been added to the oil containment drawings that document the design capacities, the flow rates based on maximum and minimum, as well retention times. He stated that Morris Associates has asked that they also add a note regarding the response time for the spill contractors, which he stated is less than 2 hours. He will do that and resubmit this drawing for the Board meeting.

Mr. Nelson listed the documentation that has already been sent to Bagdon Associates by Mr. Takacs:

1. HUSH report dated 3/26/07 – has been sent
2. Potenta analysis dated 6/25/07 – has been sent
3. Collings e-mail dated 7/5/07 – has been sent
4. Collings e-mail dated 5/29/07 – has been sent

Mr. Nelson explained the rationale for the additional documents that will be sent and noted that he and Ms. Van Tuyl have agreed to also include the EAF. Mr. Labriola concurred with that suggestion.

Mr. Nelson listed the additional documents to be sent:

5. Ms. Van Tuyl's submission dated 8/14/07
6. 2nd Potenta report
7. Dan Riesel, an attorney representing Ms. Horn, materials with attachments dated 7/5/07
8. Ms. Horn's two letters with attachments dated 6/4/07 and 5/2/07
9. EAF

Mr. Labriola: **MOTION TO SEND THE FOLLOWING DOCUMENTATION TO BAGDON ENGINEERING:**

- **Ms. Horn's letter dated 5/2/07 with the 4/26/07 ZBA memo attached**
- **Dan Riesel's letter dated 7/5/07 with attachments**
- **Potentia response to the 8/14/07 submission and to Riesel's letter of 7/5/07**
- **Collings 5/29/07 and 6/25/07 letters**
- **Ms. Van Tuyl's submission of 8/14/07**
- **Latest copy of the EAF**

MOTION TO AMEND THE MOTION TO ADD:

- **Ms. Horn's letter of 6/4/07 with the 5/29/07 Collings analysis and graphs**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola stated that he has spoken a number of times with Mark Bagdon and that they have concluded what he needs to do. He noted that Mr. Bagdon will take his readings, do his analysis, and provide his conclusions at the next Board meeting. He asked Mr. Setaro to arrange for the Board to receive Mr. Bagdon's report the week prior to the October Board meeting as all concerned parties would like to review it prior to the meetings. He stated that Mr. Bagdon will attend the next meeting.

Mr. Labriola stated that Mr. Bagdon will conduct the tests with the fans off and will, therefore, need to coordinate with Central Hudson so that someone is on site to turn them off. He explained the rationale behind this – the addition of a second transformer will no longer require the addition of these auxiliary fans.

Mr. Labriola noted that Ms. Van Tuyl has some maps where the Potenta sound readings were taken from and suggested that these maps be added to the list of documents that are provided to Mr. Bagdon. Mr. Labriola asked Ms. Horn to provide similar input on where her noise consultants took their readings.

Ms. Van Tuyl stated that Bagdon or Morris Associates can call Mr. Harder at any time to arrange for the fans to be turned off. Mr. Fischer asked for confirmation that, in fact, the fans will not be used any more. Mr. Harder stated that the standard fans will come on and off as usual but that the auxiliary fans will not be needed.

Ms. Van Tuyl displayed large scale aerial maps of the site, obtained from the Dutchess County Office of Real Property Tax Services that have property lines and contour lines on them. She also provided a map of the entire Horn property. She stated that Mr. Potenta marked on the map the exact locations from which he took his testing – red dots are measurement locations and yellow dots are source monitoring. She suggested that Mr. Collings should similarly indicate his testing locations on this map. Further, she suggested that this should be provided to Mr. Bagdon for his review.

Ms. Van Tuyl referred to a comment made at last month's meeting by Ms. Jainchill, landscape consultant, who mentioned that it appeared that trees had been removed in the area of the pasture. Also, she recalled that Mr. Gordon had raised questions regarding whether anything could really grow on the rocky soil in that area. She stated that the photo from 2000 of the same property with the same contours but without the property lines – which photo shows substantially more trees including evergreen trees in the area of the pasture at that time. She pointed out the dramatic difference from the earlier map

to the current map. She stated that this is important as it shows that trees have been removed in the area and that it shows that trees would grow in that soil.

Mr. Labriola emphasized the need for Mr. Bagdon to plot on a map with red and yellow dots his measurement points. And he asked Ms. Horn to have Mr. Collings do the same thing. Ms. Van Tuyl gave the map of Ms. Horn's property to Ms. Horn for Collings to plot his measurement points.

Mr. Labriola asked Ms. Horn how far north on the site Mr. Collings went to take his readings. Ms. Horn asked about the comments regarding trees and stated that she will ask Mr. Collings about where he took the readings. Ms. Van Tuyl stated that the 2004 map is the most recent photo available. Mr. Karis asked Ms. Horn if the 2004 map shows the current condition and asked if she has removed any more trees since that 2004. Ms. Horn stated that she cannot answer that question as she does not remember when trees were removed. Ms. Van Tuyl explained that the photos are taken in the spring, that the maps that are available are from the years 2000 and 2004, and that there are no more recent maps available. Ms. Horn stated that she did not cut the trees and that she does not remember. Mr. Fischer pointed out that if no more trees have been added, then the 2004 map is accurate. Ms. Horn stated that she has not planted any more trees. Mr. Labriola concurred that that is a good point – that the 2004 map shows the maximum treed situation on the site.

Ms. Van Tuyl, Mr. Setaro, and Mr. Labriola discussed the procedure for delivering the appropriate map to Mr. Collings and then to Mr. Bagdon. Ms. Van Tuyl emphasized that time is short and encouraged Ms. Horn to contact Mr. Collings immediately to give him authorization to plot his measurement sites on the map and then to deliver the map to Mr. Bagdon.

5. CAPELL (FOX RUN) SUBDIVISION – FINAL APPROVAL

Ms. Rebecca Seaman and Mr. Henry Fischer recused themselves from this application.

Mr. Labriola stated that it has been about a year since this application was last before the Planning Board. In September 2006, the Board granted preliminary approval. Mr. Labriola asked the applicant to brief the Board on changes to the plans since that approval and stated that the goal is to create a punch list of outstanding concerns.

Mr. Labriola stated that in September 2006 the Board had discussed the possibility of doing another public hearing. He stated that, although the Board typically waives second public hearings, it is his preference given the interest from the public to hold that second hearing; and he asked the applicant to advertise for a public hearing at next month's Planning Board.

Mr. Joseph Kirchhoff, developer, and Mr. Christopher Lapine, engineer with Chazen Companies, were present.

Mr. Lapine stated that the modifications to the overall plan have been minimal. He noted that the Board had asked for additional stabilization and shrubs to be placed in the vicinity of the dry hydrant and asked for screening for the round-about area. He stated that they have provided white spruce for that purpose.

Mr. Lapine stated that they have been working extensively with the Department of Health and have forwarded a copy of their approval letter to the Planning Department. He stated that they now have approval for all of the septs and the well systems. He stated that they have provided copies of the road maintenance agreement and the HOA agreements to the Board for review. He stated that they have received the Morris Associates comments, which are all reasonable and acceptable.

Mr. Labriola asked for clarification on the status of the 100' buffer along the two perimeter roads – what can residents do in that area? He stated his understanding that the buffer is meant to be a natural buffer to visually screen the developed area from the perimeter roads. He expressed the need for language – a deed restriction or such – that would describe the nature and purpose of the buffer and what the owners of the properties are authorized to do – such as normal maintenance to deal with damaged and/or downed trees, etc., but that no development would be permitted in the buffer. He stated that the intent is to prevent clear cutting in the 100' area for development or the construction of a volleyball court, as an example. He noted that the 100' buffer was a critical element in the declaration of negative environmental impact.

Mr. Labriola asked Mr. Nelson about the language that exists in the documents for Mountain View Estates and for guidance on what document should contain this language. Mr. Nelson stated that, in addition to the map notes, it should be included in the chain of title so that it goes into the covenant and restrictions so that when the property changes hands it persists. He stated that he has discussed this with Mr. Rich Frankel, attorney for the project, about the appropriate language to prevent further subdivision.

Mr. Frankel stated that right now there currently is the declarations, restrictions, covenants relating to the entire parcel as well as the Homeowners' Association. To keep things somewhat simplified, he stated there is also the declaration relating to the private road and the common driveway areas and the relative maintenance arrangement between them – they have two separate documents in relation to that. With regard to the buffer area, he stated that it could go into the HOA declaration or it could be a separate declaration. As far as no further subdivision, he stated that there is a map note and that they have no objections putting that also into the HOA declaration, which would probably be the more applicable place, rather than create a fourth document. He stated that when people were to buy the lot, the purchasers would see those declarations, they would become members automatically of the HOA, and they would be therefore subject to the further buffer restrictions.

Mr. Labriola stated that the DLC conservation easement has been reviewed by the Planning Board's attorney, but that that was a while ago. He reported that, based on his conversation with Mr. Nelson and Ms. Gomez Anderson, it is a fairly standard DLC

agreement but suggested that the Board members review the document again prior to completing the final approval process. Mr. Karis asked for clarification on which lot is the DLC easement lot. Mr. Kirchhoff clarified that it is lot #7. Mr. Lapine will provide copies of the final plan to the Board members.

Mr. Labriola stated that he received an e-mail from Ms. Seaman regarding any issues with no description of the buffer and no further subdivision of the parcel, which have now been addressed by the Board. Additionally, she questioned: "to avoid confusion there should be a clear description of the conservation easement in this document with a description of its restrictions on the area of common ownership as well individual lot ownerships." He read from Ms. Seaman's e-mail regarding missing definitions in the document. Mr. Frankel pointed out where it is referenced in the documents and stated that he can add to the definitions section for clarification.

Mr. Karis asked if they will change the plantings around the dry hydrant from the Japanese barberry, listed by the DEC as an invasive species, to more a native species. Mr. Lapine stated that they will do so.

Mr. Setaro mentioned that the Pleasant Valley Town Board wants to act to approve the letter of credit for the road. Mr. Frankel stated that last week there was a workshop where the road improvement agreement was discussed for the private road and common driveways, which they have prepared and submitted to the Planning Board and to the Town Board. He stated that the Town Board has to approve that document, which would be on the Town Board's agenda the next night pending conditional final approval from the Planning Board tonight. He stated that the bond amount is recommended to be \$140,000. He stated that the letter of credit, or the bond, or the cash, itself, would not be presented at the Town Board. He stated that the agreement is set up so that any one of those kinds of securities could be used to the satisfaction of terms of the Town Council.

Mr. Labriola asked if, therefore, they are planning to do that in October. Mr. Frankel concurred that they cannot go forward with this until they receive conditional final approval from the Planning Board. Mr. Setaro suggested that the Planning Board could pass a motion to approve the \$140,000 amount. Mr. Frankel stated that he spoke with Mr. Volkman, who is inclined not to recommend that to the Town Board because there may be modifications that might increase the estimates. Mr. Setaro stated that he cannot see anything changing at this point and that it is unlikely that the road plans will change. Mr. Labriola asked if the plan includes the paving. Mr. Setaro stated that it does but that it is not on the plan as yet. Mr. Labriola stated that he is OK with approving the amount for the road bond.

Mr. Labriola: **MOTION TO ACCEPT THE ROAD BOND ESTIMATE THAT MORRIS ASSOCIATES DEVELOPED ON 9/10/07 IN THE AMOUNT OF \$140,000**

SECONDED BY R. FRACCHIA

VOTE TAKEN AND APPROVED 4-0-0

Mr. Nelson reported that he and Mr. Frankel discussed time limits that are built into the Town law for moving ahead and his request of the applicant was that they waive the 62 day default approval rule. He explained that the second public hearing would be beyond the 62 day cycle. He stated that his request on behalf of the Planning Board is that the 62-day clock not run against the Board.

Mr. Frankel responded that he has spoken with Mr. Kirchhoff about this request and that they have no problem waiving it; however they do have a concern that it not be an unlimited time period going forward. Mr. Labriola concurred that that is a reasonable request. He stated that the intent is to advertise for public hearing and hold the public hearing next month. He noted that there has been a tremendous amount of public involvement in this project and that he's hoping the public can clearly identify how their comments and concerns were incorporated into the final design of the project. He stated that the intent would be to move forward following the second public hearing and hopes that there will be no surprises that will come from it. He stated that his notes from September 2006 document the Board's intent to conduct a second public hearing and that he would like to follow through with that.

Mr. Frankel asked for some timeframe. Mr. Labriola suggested 60-90 days barring some unforeseen public comment or information. Mr. Nelson suggested that the Board pick a date from which the clock would start to run. Mr. Labriola stated that the public hearing will be held at the next Board meeting on 10/9/07, which can be the start of the 62-day clock. Mr. Nelson stated that that assumes the public hearing will be closed next month and suggested that as a stipulation.

Mr. Setaro commented on the highway department's request for a paved apron at the entrance and that the rest of the drive can be oil and chip. Mr. Frankel stated that he's reviewed Mr. Setaro's comments on the road improvement agreement.

Mr. Nelson stated that he needs a clean, complete copy of the conservation easement that includes the map. He stated that he will contact the DLC.

Mr. Labriola enumerated the punch list:

- 100' buffer – notes added to the map, covenants and restrictions articles will be updated to include the language from Mountain View Estates as a starting point
- no further subdivisions – already a note on the map, language will be added to the HOA declarations
- DLC easement will be provided to the Planning Board members for their review prior to next month's meeting
- Full set of plans will be provided to the Planning Board members for their review prior to next month's meeting
- Definition of the conservation easement will be added to the declaration of protective covenants

- Change the plantings around the dry hydrants to species that are native to this area
- The 62-day clock will start at the close of the public hearing

Mr. Nelson added to the punch list that he and Mr. Frankel need to have further discussion about the language of the storm water maintenance agreement.

Mr. Frankel asked for clarification that procedurally the application is moving towards final approval and that they do not need final for an extension on their preliminary approval. Mr. Labriola stated that that is correct, that the submission they provided substantially meets the burden of the conditions placed on them at preliminary. He stated that this application is moving towards final approval. He also expressed the Board's appreciation to the applicants for working with the Board on the 62-day clock.

6. 123/127 WEST ROAD – SITE PLAN REVISION

Mr. Joe Kirchhoff, developer, and Mr. Mark DelBazo, engineer, were present.

Mr. DelBazo stated that they received comments from DPW dated 9/11/07 and provided copies to the Board. He also provided copies of comments from DEC and the Health Department. He reviewed the changes to the plan that were made as a result of comments from the Board at previous meetings.

Mr. DelBazo stated that they met with the Town Board and discussed the extension of the Brookside Meadows sewer service area and pointed out on the drawing the existing dry sewer connection. He pointed out the proposed connection through the service areas.

Mr. DelBazo stated that they met with DEC and discussed the layout and displayed a drawing that illustrates that. He stated that the DEC comments were:

1. to enlarge and maximize the size of the sedimentation basin, which is the discharge point for the proposed collection swales on the perimeter of the site
2. to regrade the site as it is now pretty steep
3. asked for alternative parking measures – concrete paver stones in order to remove additional asphalt pavement and to provide some additional buffer area to the existing limits of the parking area
4. asked to remove the angled parking spaces in the back and provide parallel spaces

Mr. DelBazo stated that they have revised the drawing based on these comments from the DEC and met with them again on 9/10/07. He stated that the DEC has accepted this layout with this parking count.

Mr. DelBazo stated that they received comments from the Department of Health on 8/17/07 and mainly their comments pertain to technical engineering details. He stated that they discussed the proposed service area expansion for the sewer works as a condition of C.O.

Mr. DelBazo stated that DC DPW provided comments today – 9/11/07 – which he has forwarded to the Town attorney and the Town engineer and provided copies to the Board. He stated that he spoke with DPW today but that because of the move of the Town's offices DPW was not able to contact the Town. He reviewed their comments and their overall traffic analysis of the County road network system – West Road is in that analysis. He stated that they are looking at the traffic impact and mainly their biggest concern is that future expansion of the parking layout to the adjacent parcel. He stated that they will take a hard look at the traffic impact of increasing the parking count. He stated that the existing parking layout is for 80 spaces, and on a busy day with meetings he stated that they are parking on top of each other. He stated that the proposed parking layout accounts for the spaces needed on those busiest days.

Mr. DelBazo mentioned the proposed use of a post and rail fence, which was switched from a privacy screening stockade fence after talking with DEC. He explained that it prevents encroachment into the buffer area and allows for access for maintenance. Further, it provides views from the office spaces to see the vegetated wetland and the proposed landscaping. Mr. Labriola asked them to add a post and rail fence to the other side, as well, and noted that it provides a low impact barrier.

Mr. DelBazo noted that the Town received input from County Planning which they have incorporated regarding additional vegetation and landscaping and parking.

Mr. DelBazo reviewed the elevation drawings and pointed out the overhead doors that will be replaced with windows. He provided photos of the front elevation view. Mr. Karis asked what you are walking out onto from the side doors. Mr. DelBazo stated that they exit onto sidewalks.

Mr. Setaro reviewed the Morris Associates comments letter. He stated that today they received a letter from the DEC. He stated that they will work through the issues and noted that the letter indicates that the permit will be issued. He stated that they did a Part 2 EAF and noted that DEC has requested a SEQRA determination from the Town prior to closing out the permit.

Mr. Setaro noted that they have received approval from County public works. Mr. Labriola asked about the requirement for further discussions with the property owner and required traffic analysis. He stated that it seems that there is still an outstanding position from DPW regarding traffic. Mr. DelBazo stated that he talked with Steve Gill today who reviewed the application. He stated that Mr. Gill looked at this layout and the proposed traffic use as currently exists, matching the existing conditions and the traffic analysis based on the County-wide traffic count that they are doing when they expand that. Mr. DelBazo stated that he would like to ask the Board to make that a condition of approval, that he will meet with DPW to get a further clarification on that.

Mr. Labriola asked where they are saying that the turn lane might be required. Mr. DelBazo stated that it is a left turn lane for traffic going west. He stated that Mr. Gill based this suggestion from past reviews of the Brookside Meadows project. He stated

that he discussed with Mr. Gill the traffic flow and the use and that they are currently conducting a traffic count County-wide and specifically West Road.

Mr. Karis read from the letter a comment stating that traffic analysis will be required and asked if they are waiting for the County to finish their analysis. Mr. DelBazo will get clarification on this. Mr. Karis asked how to make a SEQRA determination if the traffic issues have not been resolved.

Mr. Kirchhoff reviewed his history with the County regarding West Road and Brookside Meadows. He stated that 4 years ago he paid \$75,000 to the County to improve the intersection of Salt Point Turnpike and West Road and that the County has done nothing. He stated that he offered to help with this improvement and that the County has done nothing at that intersection. He stated that as far as he's concerned that has been a failed intersection for 10 years. He stated that he cannot be held hostage by the County on what their analysis is or what their traffic figures are. He stated that they were doing that 4 years ago and they still haven't resolved it. He stated that they did a traffic study when he developed Brookside and that they had all kinds of growth in traffic that they had to add into it. Therefore, he stated that the small increase of personnel from his company occupying this site on West Road is negligible. He stated that he does not think the County's position makes any sense.

Mr. Setaro pointed out that the County is not commenting on the intersection of West Road and Salt Point Turnpike but is commenting on a turn lane into this site. Mr. Kirchhoff stated that it may warrant a turn lane and stated that it's the same comment the County made regarding Brookside and that they never came back to him with any design or requirement.

Ms. Seaman suggested that he put something into the record documenting the percentage increase in tenant occupancy from current conditions. She stated that she understands the quandary regarding how to do a SEQRA determination not knowing the traffic component. However, she suggested that the impact will not be significant on SEQRA based on the planned usage of the site. She stated that a statement on the record of the increase in the number of people can substantiate a SEQRA determination by the Planning Board.

Mr. Kirchhoff stated for the record that their daily normal usage will be no more than 20 more people at maximum than are in the building today, and that it is probably more like 10 or 15. He stated that Board meetings that are held once a month will boost that up to 100 cars that will be exiting onto West Road at 6:30 p.m. Mr. Kirchhoff stated that the meetings start at 5 p.m.

Mr. Fischer asked for clarification on the County's desire to widen the road. Mr. DelBazo described his conversation with Mr. Gill. Mr. Labriola and Mr. Setaro agreed that a left turn lane at that location could potentially block access to Brookside. Mr. Kirchhoff pointed out that all the tractor trailer traffic will be gone. He noted that West Road is a problem from 7:30 a.m. to 8:15 a.m. at the top of West Road turning left onto

Salt Point Turnpike and that it is not a problem at night. He stated that the danger zone is up at the top in the morning.

Ms. Seaman asked about currently parking count. Mr. Kirchhoff stated that they now have probably 50 spots and that they park 70. He stated that they are going to 80 spaces. He reminded the Board about the potential expansion to 100 if that goes through.

Mr. Setaro expressed his confusion in reading the DPW letter that states that they grant conceptual and also requires a traffic study. Mr. Labriola concurred with this confusion.

Mr. Nelson stated that there are 2 questions. First, is the question of whether the proposed changes present the potential for substantial adverse environmental impact? Second, is if the County finds that certain work is needed, will the applicant do it? Mr. Setaro stated that the DEC and the county letters were received late, therefore the conditional approval was not prepared.

Mr. Labriola outlined the two potential environmental impacts. He stated that a good job has been done on the visuals, the landscaping, but the Board has not talked about lighting yet. He and Mr. Karis concur that the plan has significantly improved the existing conditions. Mr. Labriola stated that traffic needs to be better understood and that he will look to Mr. Setaro with regard to the storm water management issues. Mr. Setaro stated that, for the constraints that exist on the property, Mr. DelBazo has done as much as he can do to mitigate it and seems to be making the situation better. He noted that the DEC is actively looking at it as part of the permit process and stated that he will defer to them. He noted that the DEC is proposing measures that will really help the situation, because right now there is no treatment in place.

Mr. Labriola stated that from a traffic perspective he would like something more specific and noted that the letter from the DPW is not helpful. He concurred with Ms. Seaman's observation that the increase in 10 cars on a daily basis does not seem to be a significant increase. In addition, he noted that the fact that tractor trailers will not be accessing that site is an improvement. Further, he stated that the occasional monthly meetings when parking will be maxed out is not any more significant than when there's a soccer match up the road at West Road School. Finally, he stated that he does not see the traffic implications as being significant. However, he noted that the Board would like to receive something in writing from the agency that concurs with the Board's determination. Mr. Setaro suggested that there is time to get that and that the Board could move ahead with the SEQRA determination tonight. Also, he stated that it is important that the applicant provide the Board with some written documentation regarding number of employees, etc. Mr. Karis noted that the paper trail is needed. Mr. Kirchhoff stated that he will put into writing the current condition and expected future condition. Mr. Fischer stated that he's never had any problems getting in and out of that site at any time of the day. He noted that, as far as the County doing a count, they are not going to do anything for 4 years or more. He also stated that there is no rationale for a left turn lane for that site. Mr. Labriola suggested that as a condition of approval a statement could be included requiring the applicant to attend to any decision made by the DPW regarding that site.

Mr. Labriola stated that the visuals have been addressed, storm water management and encroaching in the wetland buffer and the improvements made are good, and documentation from DEC has been received that they will issue the permit after receiving the negative declaration from the Board.

Mr. Labriola stated that the only other question is lighting. Mr. Setaro asked if some of the lights can be put on a separate circuit so that they can be turned off after hours. Mr. Kirchhoff stated that they already have the building lights that stay on from dusk to dawn and that all the site lights go off at 10 p.m. Mr. Setaro asked that a note to that effect be put on the map.

Mr. Labriola asked if they are moving any of the existing light poles based on reconfigurations of the parking. Mr. Kirchhoff stated that they are adding some. Mr. DelBazo pointed out 4 that are being added and 1 that is being removed. Mr. Setaro asked if the fixtures will be flush housing. Mr. Kirchhoff responded yes.

Mr. Fischer pointed out that the traffic situation has been improved with the one-way ingress and egress. Board members concurred.

Mr. Labriola reviewed the reasons in support of non-significance:

- Department of Health approval
- DEC to issue permits
- Erosion control measurements
- Minimal increase in traffic
- Traffic flow has been improved with single ingress and egress

Mr. Labriola stated that the file contains a letter dated 9/10/07 from the Conservation Advisory Council which advised that the applicant avoid putting impervious surfaces in the remaining buffer and asked if it is possible to put some smaller spaces for compact cars to reduce overall parking spaces or some way to limit the use of spaces near the wetland. Further, the CAC asked if there should be some sort of catch basin to filter runoff.

Mr. DelBazo responded to the suggestion regarding alternative materials for parking – he stated that he will address this in his response to the DEC. He pointed out how they are handling the parking areas adjacent to the wetlands. Mr. Setaro stated that the suggestion for a catch basin would be a problem because a basin and a pipe creates a point discharge that would concentrate the run off rather than filter it over a wider area. Mr. DelBazo pointed out where they have increased the vegetated buffer, and have provided alternative parking needs that will help out as well for infiltration, and have grass swales that will collect the sheet flow from the runoff, as well as curb breaks.

Mr. Karis asked if there will be check dams in the swales. Mr. DelBazo stated that there will be some check dams for the erosion process, which is likely to become a permanent measure on the site.

Mr. Labriola: **NEGATIVE DECLARATION**

I move that the Planning Board determine as set forth in the attached declaration dated 9/11/07 prepared by the Board's engineer that the 123/127 West Road site plan revisions is a Type 1 action under SEQRA and that it will not have a significant effect on the environment for the following reasons and that no environmental impact statement shall be required.

The following reasons are used in support of this determination of non-significance:

- 1. Dutchess County Department of Health to approve water and waste water**
- 2. Wetland buffer already contains existing black top and the impervious increase will be mitigated by water quality treatment methods**
- 3. The DEC will issue a permit to conduct work in a regulated wetlands buffer**
- 4. Erosion and sediment control measures will be provided**
- 5. There will be a minimal increase in traffic and overall traffic flows have been improved on the site including a single ingress and egress**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

Mr. DelBazo reminded the Board of his request that the Planning Board give a positive recommendation to the Town Board regarding the extension of the service area for the Brookside Meadows sewer works. He stated that they will be removing an existing seepage type pit for 127 West Road and that they will be removing the large concrete galleys. He noted that they will pump the grey water discharge across via sewer mains to the existing discharge handling according to the plan. He stated that it makes sense to extend this and utilize the Brookside Meadows system. Mr. Karis noted that this should be added to the negative declaration as a mitigating factor.

Mr. Labriola: **MOTION TO AMEND THE NEGATIVE DECLARATION**

I move that the Planning Board amend the negative declaration to add the following reason in support of this determination of non-significance:

- 6. Removal of septic systems and the site will tie into the Brookside Meadows waste treatment plant**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola listed the next steps. Mr. Nelson is looking at the Transportation Corp. Mr. Nelson stated that the recommendation from the Planning Board goes to the Town Board and that he spoke briefly with Scott Volkman about the possibility of Mr. Nelson or someone from his firm attending the Town Board meeting. Mr. Nelson stated that if the SEQRA is done the question is whether the conditions that have to be met to get the

permit are sufficiently minor and doable so that the Board could do a conditional approval.

Mr. Labriola stated that the Board needs the written traffic narrative, which provides the needed written documentation. He mentioned the split rail fence in the back part of the site. He noted Mr. Setaro's comment letter that has a small number of issues that need to be addressed. He also noted that the Board will have to work its way through the DC Department of Planning letter and document point by point, what it will accept and what it will not accept and pointed out that they denied this application in February 2007.

Mr. Labriola noted that their statement that parking as a primary use is not allowed in light industrial district and the proposed replacement of a single family residence with a parking lot is not permitted. He noted that this concern is covered by the plan to combine the lots.

In addition, Mr. Labriola noted the Department of Planning's comment that the proposed total amount of parking in the combined lots is much greater than the minimum required. The Code says 1 space per 300 sq. ft. of gross office area is preferred, resulting in 67 parking spaces which is far below the 104 that are proposed. However, Mr. Labriola noted that 80 spaces are proposed and are required for the monthly peak time. He stated that the Board will explain its rationale for overruling that concern.

The Department of Planning noted that the proposed parking lot encroaches on a large Class II DEC designated wetland and stated that the wetland should be flagged so that the boundaries of the appropriate buffer areas can be clearly identified and taken into consideration during the site plan process. Mr. Kirchhoff stated that the flagging has been done. Mr. Labriola stated that this is a previously disturbed wetland buffer area and that there have been significant improvements and mitigating measures to improve the existing conditions.

The Department of Planning commented that the proposed site plan shows minimal landscaping as a result of excessive size of the parking lot and asked for additional landscaping to offset the amount of asphalt. Mr. Labriola stated that the latest plan does show a significant amount of landscaping that they have already reviewed. Mr. Kirchhoff stated that they are removing asphalt. Mr. Karis noted the inclusion of wetland mitigation plantings as well. Mr. Labriola noted that the latest plan shows significant landscaping improvements as well as the removal of some of the existing asphalt.

Mr. Labriola noted that there are no significant changes from a lighting perspective.

Mr. Labriola: **MOTION TO INCORPORATE ALL OF DUTCHESS COUNTY DEPARTMENT OF PLANNING'S COMMENTS IN ITS LETTER DATED 2/13/07 WITH THE EXCEPTION OF THEIR COMMENT REGARDING TOO MUCH PARKING AS THE PLANNING BOARD BELIEVES THAT THE 80 PARKING SPACES ARE REQUIRED TO SATISFY THE MONTHLY BOARD MEETING REQUIREMENT AND NOTED THAT THE TYPICAL NUMBER OF**

**CARS USING THE SITE WILL BE AROUND 70 ON A DAILY BASIS.
THEREFORE THE APPLICANT HAS DEMONSTRATED TO THE PLANNING
BOARD THE NEED FOR THE ADDITIONAL PARKING.**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola pointed that that this motion has been passed by the required super majority.

Ms. Seaman suggested that the Planning Board approve the Wetlands Permit that is on the agenda for this evening prior to proceeding to conditional final approval.

7. 123 WEST ROAD/KIRCHHOFF – WETLANDS PERMIT

Mr. Labriola: **RESOLUTION TO GRANT WETLANDS PERMIT**

Whereas a formal permit for Regulated Activities in Wetlands, Water Bodies, Water Courses, and Buffer Areas dated 7/7/07 of this year was submitted by Joseph Kirchhoff for regulated activities consisting of demolition of existing residence and the establishment of a paved parking area within a wetland buffer located at 123 West Road, and

Whereas the wetlands administrator has determined that the proposed regulated activities may constitute a potentially significant environment impact and has referred the application to the Planning Board for approval or denial, and

Whereas the Planning Board has reviewed the factors pertinent to the site relating to the proposed regulated activities in compliance with Chapter 53, and

Whereas the Planning Board has requested a review of the submitted information and documentation by the Planning Board's engineer and has obtained comments from the Planning Board's engineer,

Now, therefore, be it resolved that the application for Regulated Activities in Wetlands, Water Bodies, Water Courses, and Buffer Areas be approved and that the Wetlands Administrator may issue a permit for regulated activities upon completion of such conditions as noted below, which are also included in the SEQRA determination of non-significance that is part of the site plan.

- 1. This is a previously disturbed wetland buffer area.**
- 2. Applicant is reducing the amount of impervious surfaces in the wetland buffer.**
- 3. Vegetation has been added in the buffer.**
- 4. Storm water management mitigation measures have been incorporated.**
- 5. Removal of septic tanks and tying into the Brookside Meadows waste treatment facility**
- 6. The site plan received a negative declaration on 9/11/07**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

6. 123/127 WEST ROAD – SITE PLAN REVISION – continued

Mr. Setaro listed the conditions as:

1. payment of all fees
2. address all comments in Morris Associates letter dated 9/10/07
3. obtain NYS DEC permit
4. obtain DC Department of Health approval
5. obtain DPW work permit
6. applicant's engineer to submit documentation regarding number of current employees at Kirchhoff Companies versus proposed use and provide discussion on traffic entering from and exiting onto West Road
7. Town Board approval of modification of Brookside Meadows transportation corporation for sewage
8. install split rail fence as discussed at Planning Board meeting on 9/11/07
9. the two properties in this application will be combined into a single property

Mr. Labriola: **MOTION THAT THE PLANNING BOARD PASS ALONG A POSITIVE RECOMMENDATION TO THE TOWN BOARD THAT THE 123/127 WEST ROAD SITE PLAN SHOULD TIE INTO THE BROOKSIDE MEADOWS WASTE WATER TREATMENT FACILITY AND THAT THE TRANSPORTATION CORPORATION DOCUMENTATION SHOULD BE UPDATED TO REFLECT THAT**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola: **MOTION TO GRANT SITE PLAN APPROVAL**

Whereas a formal application for site plan approval of 123/127 West Road site for the purpose of office use located on West Road, Town of Poughkeepsie, was submitted to the Planning Board by MJD Engineering, and

Whereas the requirements for site plan of Chapter 98, Section 9841 of the Code of the Town of Pleasant Valley has been met except as waived by the Planning Board, and

Whereas in accordance with Chapter 98, Section 9843 the Planning Board has reviewed the factors pertinent to the site relating to parking, traffic circulation, drainage, wetland buffers, and

Whereas the Planning Board has requested and reviewed the site plan information by the Town engineer and has obtained comments from the engineer,

Now, therefore, be it resolved that the site plan entitled 123/127 West Road last revision date 8/20/07 be approved and the Zoning Administrator may administer the necessary building permits upon completion of such conditions as noted below.

- 1. payment of all fees**
- 2. address all comments in Morris Associates letter dated 9/10/07**
- 3. obtain NYS DEC permit**
- 4. obtain DC Department of Health approval**
- 5. obtain Dutchess County DPW work permit**
- 6. applicant's engineer to submit documentation regarding the number of current employees at Kirchhoff Companies versus the proposed use and provide narrative on traffic entering from and exiting onto West Road**
- 7. Town Board approval of the modification of Brookside Meadows transportation corporation for sewage**
- 8. install split rail fence as discussed at Planning Board meeting on 9/11/07**
- 9. the two properties in this application will be combined into a single lot**

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 6-0-0

8. 90-DAY EXTENSION OF CONDITIONAL FINAL APPROVAL OF GORDON SUBDIVISION

Mr. Labriola read into the record a letter dated 8/27/07 from Mr. Michael Gordon (original on file) requesting a 90-day extension for completion of the subdivision application. Mr. Gordon stated that the one requirement left to complete is a deed consolidation and that he is waiting for response from the lending institutions and for their approvals.

Mr. Labriola: **MOTION TO EXTEND FINAL APPROVAL**

Whereas an application for approval of subdivision entitled Gordon subdivision at 92 Creek Road was submitted to the Planning Board on 12/15/06 by Bly and Huston, and

Whereas a conditional approval of the final plat was granted by the Planning Board on 3/13/07, and

Whereas in accordance with Town Code said approval is valid for 180 days beginning 3/13/07 and ending 9/13/07, and

Whereas the applicant has requested an extension of said approval due to the delay in preparation of the finalization of deed consolidation documents,

Now, therefore, be it resolved that the final approval be extended for a period of 90 days to begin 9/13/07 and to end 12/13/07.

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 6-0-0

9. APPEAL #903 GORDINEER – VARIANCE

Mr. Labriola noted that this appeal is for a variance from the minimum side setback requirement relating to the height of the proposed construction of an addition to the home on the parcel. He noted that it is an addition to the back of the house. He stated that he visited the site and that it is very, very tight on the side. He stated that he does not see a problem given that the proposed side line for the addition is further from the side lot line than is the edge of the existing house.

Mr. Labriola read into the record a letter dated 9/5/07 from the Fire Advisory Board: no comments.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION BECAUSE THE PROPOSED ADDITION IN THE BACK IS FARTHER AWAY FROM THE LOT LINE THAN THE EXISTING EDGE OF THE HOUSE**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-0-0

10. APPEAL #904 DARIA – VARIANCE

Mr. Labriola stated that this application is for a deck. Mr. Fracchia pointed out that it is also a subdivision. Ms. Bramson stated that this application troubles her.

Mr. Labriola stated that this is a 26 acre parcel, which the applicant wants to subdivide into 3 lots, that there are already existing homes and, therefore, no future work at this point. He stated that on Lot #3 the applicant is saying that they can only get 9'8" from the lot line. However, he noted that there is plenty of room on Lot #2 to adjust the lot line to accommodate the proposed deck.

Mr. Karis stated that the property does not exist and, therefore, there is nothing to setback to. Mr. Friedrichson stated that they need the variance first. Again, Mr. Karis pointed out that it is a variance from a lot line that does not exist. Mr. Fracchia noted that it is all one piece now which he wants to subdivide. Lots #1 and #2 are conforming, but Lot #3 is the one that is not conforming, because of the side setback.

Mr. Labriola stated that his view is that if they are coming for a subdivision, then they can jog the lot line to accommodate the required setback. He noted that if they came to the Planning Board with the subdivision application with a substandard setback, the

Board would not be likely to approve that as they have plenty of room.

Mr. Karis again stated that they cannot issue a variance to a lot line that does not exist. Ms. Bramson agreed and stated that the appeal is moot. Mr. Karis stated that redefining the lot line will be part of the subdivision process.

Mr. Labriola read into the record a letter dated 9/5/07 from the Fire Advisory Board (original on file): no comments.

Mr. Labriola: **MOTION TO PASS THIS APPLICATION ALONG TO THE ZBA WITH A NEGATIVE RECOMMENDATION BECAUSE THE PLANNING BOARD DOES NOT BELIEVE THAT THEY NEED THE VARIANCE, THAT THEY DO NOT NEED TO HAVE THE LOT LINE BETWEEN LOTS #2 AND #3 WHERE IT IS, THAT THERE IS AMPLE ROOM FOR THE APPLICANT TO JOG THE PROPOSED LOT LINE TO MEET THE NECESSARY SIDE SETBACK REQUIREMENTS – THAT DURING THE SUBDIVISION APPLICATION THE PLANNING BOARD WILL REVIEW AND BELIEVES THERE IS AMPLE ROOM TO JOG THE PROPOSED PROPERTY LINE BETWEEN LOTS #2 AND #3 TO MEET THE NECESSARY SET BACKS**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-0-0

11. APPEAL #905 KUKLIS (VINYL TECH) – VARIANCE

Mr. Labriola stated that this applicant wants to add a 10' x 15' 3-season sun room and that they cannot meet the side setback requirements. He stated that the front of the house is even closer to the center of the road and that, therefore, they are not encroaching on the setback any worse than the existing condition.

Mr. Labriola read into the record a letter from the Fire Advisory Board dated 9/5/07 (original on file): no comments.

Mr. Labriola: **MOTION TO PASS THIS APPLICATION ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION FOR THE FOLLOWING REASONS:**

- 1. the setback to the proposed sunroom is greater than the setback to the front of the house to the center line of the road**
- 2. the side setbacks have been maintained**
- 3. if they did try to hit the 70' setback, the sunroom would no longer be attached to the primary residence**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-0-0

12. APPEAL #906 SWANSON (OUT ON A LIMB) – SPECIAL USE PERMIT

Mr. Matthew Swanson, owner and operator, was present. He stated that he is in contact with Fields on the one parcel of land, 1.8 acres, to build a shop to support his company. He stated that now he is operating out a garage across from the Town Hall. He stated that he is looking to store his equipment inside.

Mr. Labriola asked if he will use the entire site or a portion of it or if the property will be subdivided. Mr. Swanson stated that he is looking to clean up the site, to use the shop space to store his equipment inside. He stated that he is not looking to store logs.

Mr. Labriola asked if there is an existing shop on the site. Mr. Swanson stated that it is now vacant land which he thinks is considered non-conforming residential. He stated that it has been used in the past for renting storage space and auto body repairs and salvage.

Mr. Karis asked if it is a vacant parcel. Mr. Swanson stated that it is vacant but that it has been storing cars over the last 40 years.

Mr. Labriola asked for clarification, noting that there is a building and the area to the east where there are all manner of cars. Mr. Swanson stated that there are 3 lots, that the buildings sit on 2 lots, and that he is looking to purchase the largest parcel (1.8 acres) which is a separate lot that was never combined with the others. He pointed out that Friendly Honda used to store cars there.

Mr. Karis asked whether it is zoned R 1. Mr. Swanson stated that it is non-conforming. Mr. Friedrichson stated that it is R1 and was part of Fields auto body and that the current use as far as he's concerned is auto body. He stated that Mr. Swanson wants to change that use to another non-conforming use.

Mr. Swanson stated that he wants to build a 50' x 80' building, that all garage doors would be out back, nothing will be seen from the road. He stated that he will build a privacy fence around the back for security. He stated that it will be barn style, that he will do some landscaping in the front, provide employee parking for his small office and his secretary. Mr. Karis asked what will happen with all the cars. Mr. Swanson stated that he is getting rid of them and that it is already in process and that he's working with Fields on that together.

Mr. Karis noted that this project will require site plan approval. Mr. Labriola concurred and stated that if the ZBA grants the appeal, the application must come back to the Planning Board for a full site plan review with engineered drawings, etc.

Mr. Labriola stated his feeling that Mr. Swanson's project would improve the site. Further, he noted that there are other commercial properties along there. Mr. Swanson stated that he will make it look nice and will increase the value of the property. He stated that he has outgrown the space that he currently occupies. Again, he stated that he is not looking to store any waste material on the site at all. Mr. Labriola stated that those are issues that will be addressed during site plan approval process.

Mr. Labriola and the Board agreed to proceed with a positive recommendation to the ZBA.

Mr. Labriola read into the record a letter from the Fire Advisory Board dated 9/5/07 (original on file): no position as there are no fire or safety concerns and it is strictly a matter for the ZBA.

Mr. Labriola: **MOTION TO PASS THIS APPLICATION ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION FOR THE FOLLOWING REASONS:**

- 1. it will be an improvement on the site**
- 2. no adverse effect to the character of the neighborhood because there are other commercial properties in the area**
- 3. if the ZBA grants this variance, the application must come back before the Planning Board for a full site plan review**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

13. APPEAL #907 BERGER – VARIANCE

Mr. Labriola stated the applicant wants to put in a 24' x 24' garage that meets the side setbacks but does not meet the center of the road setback. He stated that he drove by the site and that they have plenty of room on the site. Ms. Bramson stated that she also drove by and asked how much of the property is theirs. She noted that there are no fences and that all of the lots seem to merge together.

Mr. Labriola reviewed the submitted drawings which seem to show plenty of room to fit a garage. He noted that it is very wet in the back yard, but he thinks there is room. Ms. Bramson stated that she was unclear where they were planning to put the garage because there is already a shed on the site.

Mr. Fracchia noted that the proposed garage is huge. Mr. Labriola agreed. Mr. Fracchia also pointed out that there is no indication of the height of the proposed garage.

Mr. Labriola stated that his recommendation is to pass this along with a negative recommendation for a few reasons. One, he stated that they did not indicate the height of the building. Two, he stated that it appears that they have sufficient room on the property to meet the front setback requirements. Three, he stated that because of the size of the shed the Board is unclear of what the use of the proposed garage is going to be and it should not be a commercial use.

Mr. Labriola read into the record a letter from the Fire Advisory Board dated 9/5/07 (original on file): no comments.

Mr. Labriola: **MOTION TO PASS THIS APPLICATION ALONG TO THE ZBA WITH A NEGATIVE RECOMMENDATION FOR THE FOLLOWING REASONS:**

- 1. they did not indicate the height of the building**
- 2. it appears that they have sufficient room on the property to meet the front setback requirements**
- 3. that because of the size of the shed the Board is unclear of what the use of the proposed garage is going to be and it should not be a commercial use**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

Meeting adjourned at 10:30 p.m.
Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the September 11, 2007, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

____ Approved as read
____ Approved as corrected with deletions/additions

PLEASANT VALLEY PLANNING BOARD
October 9, 2007

A regular meeting of the Pleasant Valley Planning Board took place on October 9, 2007, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:38 p.m.

Members present: Joe Labriola, Chairman
 Kay Bramson
 Rebecca Seaman
 Rob Fracchia
 Peter Karis
 Henry Fischer
 Michael Gordon

Also present: Pete Setaro, Morris Associates
 Jim Nelson, Esq., Town attorney
 Dieter Friedrichson, Zoning Administrator

1. CAPELL (FOX RUN) SUBDIVISION – PUBLIC HEARING – FINAL APPROVAL

Ms. Rebecca Seaman and Mr. Henry Fischer recused themselves from this application.

Mr. Christopher Lapine, Chazen Companies, and Mr. Joe Kirchhoff were present.

Mr. Labriola asked Mr. Lapine to update the Board on any changes. Mr. Lapine reported that they made a couple of changes based upon the feedback from the Planning Board. He stated that they added a note to the map indicating that the proposed dry hydrant is being installed and that they changed the proposed plantings in the vicinity of the dry hydrant. He stated that they have also modified references to Town of Pleasant Valley highway to more accurately describe it as a private road. He explained the note added to the Covenants and Restrictions.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that at this time they are all set regarding engineering issues.

Mr. Gordon stated that the real unresolved issue is the buffer. Mr. Labriola explained that there are a number of documents that are being prepared which the Board has not had a chance to review. Therefore, he stated that he would like to spend some time after the Public Hearing is completed and closed to have a discussion regarding the buffer so that all persons present can be clear on what and where the buffer is.

Mr. Labriola noted that the Board received correspondence recently and that Dr. Fischer provided a couple of e-mails which were passed along to Mr. Nelson and to Ms. Anderson Gomez who are working with the applicant's attorney. Also, he noted that Ms. Seaman had sent the Board an e-mail that was also passed along. And, he noted that

Mike Burdis sent an e-mail. Mr. Labriola expressed the Board's appreciation for these written comments.

Mr. Labriola: **MOTION TO OPEN 2ND PUBLIC HEARING; SECONDED BY K. BRAMSON; VOTE TAKEN AND APPROVED 5-0-0**

Ms. Rebecca Seaman stated that she wanted to speak with regard to the buffer zone. She stated that there have been e-mails about the conservation easement and buffer zone in the conservation easement. She stated that, as far as the conservation easement and the DLC, that it was not a negotiated part of the DLC easement. She stated that, to protect the buffer zone, you need actual language for that buffer zone. Also, she stated that the conservation easement does not cover the full part of Malone Road, to the right of the private road. She stated that there are a number of interested parties interested in seeing that area as a no-clearing, no-pruning, and no-cutting to protect the visual barrier to the greatest extent possible. Again, she stated that the language of the DLC is not meant to cover that.

Ms. Seaman stated that, as has been discussed during the course of this application, the Town should have the right to enforce that buffer zone, which if it is not clearly defined and placed on the plat, they will not have. She stated that the Town has no right to go in and enforce anything that the DLC has agreed to as a private contract between the property owners and the DLC.

Mr. Labriola expressed the Board's appreciation for Ms. Seaman's written and verbal comments.

Mr. Chris Roper stated that his wife and he moved to their house in 1979 (adjacent property owner). He pointed out on the map the horse trail that, at that time, coincided with the farm road that wound up to the barn and had close to 175 years of use. He stated that it is much more beaten down from years of use than the rest of the horse trail and has become the entrance of choice for hunters and property viewers. He stated that people continue to use this entrance and that he hopes that it becomes very clear to all the workmen for this project this is not an entrance. He stated that very soon it will become very inviting for everybody to use as a shortcut. He stated that, except for horses, this should not be used and noted that it also crosses a wetland.

Mr. Labriola responded that the DLC conservation easement is very specific about the uses of that trail. Mr. Roper stated that it is too inviting. Mr. Labriola agreed with Mr. Roper and acknowledged the difficulty of enforcing the prohibition. He asked Mr. Kirchhoff to make clear in his construction plans that it is not a dump truck entrance. Mr. Kirchhoff stated that they will clear this up.

Mr. Labriola thanked Mr. Roper for his comments.

Mr. Henry Fischer, adjacent property owner on Fox Run. He reviewed the content of the e-mail that he sent to the Board and offered to answer any questions from the Board.

Mr. Fischer underscored that the DLC involvement is not the same as the Town involvement. He explained that any buffer that is desired by the Town, which went along with the negative declaration as a visual and sound barrier, has to be written up and controlled by the Town, not by the DLC. He stated that the DLC does not have the manpower or the desire, and it's not the DLC's responsibility to monitor such a buffer.

Mr. Fischer stated that his presentation tonight comes from him and also from a number of people who stopped by his property and mentioned things to him and asked him to bring up certain points to the Planning Board. He stated that he is appearing before the Planning Board as the spokesperson for the Salt Point Conservancy.

Mr. Fischer stated that appropriate notes should be placed on the deeds or the appropriate legal documents regarding the buffer zone so that the information is able to be transferred to anyone who will buy the property or deal with any of the property.

With regard to the issue of ingress and egress: Mr. Fischer stated that the Homeowners Association documents state, in several areas, that ingress and egress be allowed to the members, their guests, and all different people. Mr. Fischer stated that they support that because otherwise it is an unusable parcel. However, he stated that their request is that the Planning Board have verbiage relating to the buffer zone that no ingress or egress be allowed along or through the buffer zone – that any ingress or egress internally from the other properties be along the private roads. Mr. Labriola asked for clarification whether Mr. Fischer is asking that walkers along Fox Run or Malone Roads not be able to enter the property from the Town Road, but only from the private road. Mr. Fischer stated that it is their hopes that there will be verbiage that free ingress and egress from along Malone Road and Fox Run not be allowed except for the entrance via the private road and the entrance across from Mr. Roper's house, which is the current situation. He stated that the brush and overgrown material is currently too thick for anybody to walk through. He stated that they are asking that paths not be cut through.

Mr. Labriola stated that he thought the DLC conservation easement was fairly specific about allowing ingress and egress through the property. Mr. Fischer stated that that is correct. Mr. Labriola stated that he's trying to understand what problem they are trying to solve by being more restrictive than the DLC easement. Mr. Fischer stated his understanding that the point of having a private road was in order to have one entrance for the private properties, versus having other paths and entrances that become, at first, pathways and over time become wider and wide enough for a 4-wheeler and then perhaps wide enough for driving. Mr. Fischer stated that they hope that the Planning Board will consider this request and will bring it up to the developer and the applicant.

With regard to the entrance that is across from Mr. Roper's property and next to the shed: Mr. Fischer stated that they believe that this entrance should remain and be maintained as it is – grass cover – and not to be paved or stoned or otherwise made to look more inviting as an entrance to the HOA parcel. He stated that the DLC easement may state, but he's not sure if it does, that this not be used as an ingress or egress to DLC land. He

stated that their additional hope is that that road not be used as a common road for ingress and/or egress to the HOA parcel. He stated their desire is that ingress and egress to the HOA parcel be anywhere along the private road and that shortcuts not be cut into the property which, over time, will undoubtedly become wider and wider.

With regard to the length of the buffer zone: Mr. Fischer stated that initially the concept was that there be an area around the entire parcel that was going to be the buffer zone. He noted that as the project evolved with housing and roads, it became evident that the 100' buffer around the entire parcel was impractical for several reasons: it didn't accomplish a lot, it infringed on some of the rights of the potential owners, and there was going to be a horse trail along a portion of it anyway. Therefore, he stated that the area of the buffer decreased to along the visual portions of Malone Road and Fox Run, which is where he believes the concept now stands. He stated that their hope was that it would go along Malone Road and Fox Run and extend up his property line, and extend up to the area of the easement. He stated that, in conversation with Mr. Kirchhoff, Mr. Kirchhoff did not agree to that. He noted that it is up to the Planning Board to request that and stated that the reason for this is to provide a visual buffer for the traffic along Fox Run - pedestrian, bicycle, and car traffic. He noted that on his side of the property line he has been able to plant landscaping in some areas to act as a buffer, but not in all areas. He stated that they are requesting a visual buffer in that area.

Mr. Fischer stated that it was their hope that the buffer would be 100' wide and noted an area that he believes is 80' wide. Further, he stated that they hope the buffer is designed as a visual and a sound attenuating buffer. He stated their hope that it be as wide as possible. He noted that the first little bit is already cleared as the Town right-of-way, and he stated their request that the 100' would be measured from the edge of the Town right-of-way.

Mr. Fischer stated that he noticed that the well head for Lot #1 is within the buffer, which means that the owner will have to be allowed to do anything he or she wants in there to be able to get to the well head.

Mr. Fischer stated their assumption that Mr. Kirchhoff has agreed that after the road is put in, the area in the front will be cleared up and replanted or left to go wild so that it is contiguous with the rest of the buffer. He stated that their hope is that there is also a buffer along the outside of the DLC property.

Mr. Fischer stated that the DLC agreement states that only legal chemicals may be used on their land, which he noted is not a bad idea, and only used in accordance with appropriate use. He stated their request that there be some language that no chemicals, either selective or non-selective - herbicides, pesticides, or fertilizer - be used in the 100' buffer. He stated that that is really outside their water control plan that anything used there is going to seep elsewhere and at the same time the hope is that it not be used to kill any of the foliage in there. Therefore, he suggested that it would be best to say that no chemicals be allowed to be used in the area.

With regard to what should be done or be allowed to be done in a buffer: Mr. Fischer agreed with Mr. Labriola's comment that everyone has a different opinion of what a buffer means and stated that his opinion is perhaps more inclusive than other people's. He stated that most of the people who have stopped by and talked with him felt that what they really wanted was for the area to look the same as it does now. He stated that nobody is against the current owner developing the land, and no one is trying to prevent people from living on the property. He stated that he and other members of the Salt Point Conservancy hope that all of the property owners on that land will join the Salt Point Conservancy group and make it even stronger to be able to do other things in the Town. He stated that the point is that they and the Town people have gotten used to how it currently looks, that it's kind of nice. He stated that they would like it to stay as it is now, which means that nothing should be done in the buffer – let it be wild buffer zone. He stated that just like a wetland area, it just grows naturally the way nature says it's going to grow. He noted that in the past there was a time when it was cleared out, but that since he's lived there it has been left to grow wild and that's what they hope will be maintained. He stated that's what most of the neighbors would like and what all the people who use the road for bicycling and hiking have expressed to him.

Mr. Fischer stated that that means nothing gets cut out, which includes no cutting of dead trees. He noted that Mr. Kirchhoff does not agree with this and that he respects his point. He noted that Central Hudson and the Town takes care of everything that they have to, and that the other stuff falls and decays naturally. He stated that Mr. Kirchhoff says that the owners have to have the right to cut down dead trees and asked wouldn't he want that on his own property. Mr. Fischer acknowledged that he would want that right. However, he explained that people have pointed out to him that a person clears a large area to get in to cut out the one tree, and the fear is that someone is going to bring in their brush hog or the front loader on their tractor and clear out a great big area to get out one tree or two trees. He stated that that is not the purpose of the buffer zone. He stated that Mr. Kirchhoff mentioned to him verbiage that would permit a path, the width of a person with a chainsaw and helper, to be cleared to remove dead trees and once taken out the path would be allowed to grow back. He stated that they do not want a large area cleared to remove one dead tree.

With regard to owners along Malone Road and Fox Run: Mr. Fischer stated that they want to make sure that they are aware that they will have a buffer zone, that they will be in the DLC land – they want to make sure over and over again in as many ways as possible to the different lot owners that there is a buffer, why it's there, what's its purpose is, and what can be done in it. He stated that it is not necessarily to prevent anything but, rather, it will enhance the entire property.

Mr. Fischer noted that the entire area over the past 50 years has been densely brushed and sparsely treed land, that the other land around it has been farm land, and that it has been a pocket for wildlife. He stated that because of the overgrowth it has been habitat for a bobcat family, for several fox families, that a small black bear has been seen in it, and numerous large deer use it for cover, and all of those animals will need to move elsewhere. He stated that a good dense buffer around the edge will provide good hiding

place and breeding ground for the multiple birds and small animals in the area and this will ultimately enhance the people living on the property and those nearby. He stated that this is another reason that they would like as much buffer zone as dense as possible.

With regard to drainage from the pond on the property: Mr. Fischer stated that there is a problem with drainage from the pond. He noted that the pond was put in by the first person who bought the land from Mr. Meyer and was put in as a quick budget, dig a hole. He noted that the grading around the edge was not addressed at all and that the drainage was put in an area that is not ideal. He pointed out on the map the route that the water takes every spring across his property, which he does not mind and for which he has made appropriate channels. He noted, however, that much of the water runs along the edge of the road and washes out the edge of the road yearly. He noted that the Town comes in yearly putting in different fill along the edge of his property. He stated that he talked with Mr. Kirchhoff and that they might look at it to see what would be best and have it done and re-piped and taken care of.

Mr. Labriola asked if Mr. Fischer is suggesting that that pond have a natural flow into the pond that is on his property. Mr. Fischer stated that now it has a relatively natural flow. He pointed out on the map how it used to flow, but that because it washes out the road so much the highway superintendent trenched into his property to redirect the flow. He noted that it still overflows that and catches with debris and flows onto the road. He stated that if they are working on it now, it could be looked at and done right. He stated that he does not want to disturb any of the buffer area there and would want as minimal amount of disturbance as possible. He stated that if it is not possible to do this, then he suggested that it be left for nature to take its course. He stated, however, that he thinks it could be better.

With regard to the specificity of the verbiage for a buffer: Mr. Fischer stated that this is very important. He stated that some people have said that it is restrictive for new homeowners buying in the area. But he noted that in today's world people buying into subdivisions have different restrictions that they didn't have in the past. He stated that land is becoming even more scarce, it is getting developed on poorer soils, and they accept the different restrictions on their properties. He stated that he thinks that what the Planning Board wants and what the developer is willing to acquiesce to has to be specifically put in regarding herbicides and pesticides, the cutting, the ingress and egress. He stated that he's looking ahead 100 years and making an effort that it look nice that far in the future. He noted that a lot of the land has been given to the DLC all around it. He stated his desire that as a legacy that are be nice 100 years from now.

Mr. Fischer stated that he has some questions that he would like to be able to answer for people who stop by and talk to him. First, he asked how the buffer restrictions will be enforced – what does a landowner do, what does a resident do, what can somebody do, what is the way the buffer restrictions are enforced. Second, he noted that changes can be made to the homeowners' agreement by vote and that changes can also be made to the DLC agreement. He asked how the adjacent property owners and the Town are made aware of those changes.

Mr. Fischer commented on some of the documents that were handed in:

- Under the Conservation Easement Deed, in that area which is the DLC there is no statement at all about a buffer zone, which points out the need for a Town defined buffer zone.
- Under the Declaration of Easements maintenance agreements, he stated that specifically several times there is mention of the use of sand during the winter months. He stated that he thinks this is great and that he wished the Town only used sand. He asked for clarification as to whether salt would also be used and, if it is, whether the planned water retention area is appropriately designed for salt runoff onto the property.
- Under the Certificate of Incorporation of the HOA, he noted that the HOA can donate their parcel, which he stated again brings up the importance of the Town having buffer defined, rather than leaving it up to the DLC or the HOA.
- Under the Road Improvement Agreement, under #2, he noted that it states that a preconstruction meeting will be held at Town Hall before any construction on the road is undertaken and he asked if land owners or members of the Salt Point Conservancy or anyone who wished to attend that meeting would be able to attend.
- Under the Declaration of Protective Covenants, etc., he noted that it states in many areas that people can have ingress and egress along the homeowners' parcel, which again brings up the need for stipulating that there is no ingress or egress along the road frontage.
- Under the Compliance, he noted a Section 410 that states that if one of the homeowners does not comply that an organization is set up which tries to make the homeowner comply. He asked what happens before the transfer of the parcel to the homeowners association, in other words, how is the current owner, Mr. Capell, held in compliance with the different statements in the document.

Mr. Fischer also offered, at no charge, that he has 20-30 white and northern spruce trees and Douglas fir trees for planting on the site.

Mr. Labriola thanked Mr. Fischer and the Salt Point Conservancy for the very thorough punch list of things for the Board to consider and address.

Ms. Janet Lind stated that she has lived on Fox Run Road for 25 years and that she concurs with the statements made by Ms. Seaman and Mr. Fischer about the buffer zone. She stated that she thinks it is very important because it is such a beautiful neighborhood and that she does not want to see a negative impact in the area. She stated that she wants to make sure that the development is limited to 6 houses with no further development on each parcel and that the deed for each property specifies that. She stated that the size, style, and color of the houses should be in keeping with the neighborhood. She noted that Mr. Kirchhoff at one time mentioned that only natural materials would be used on the exterior of the houses. She stated that she also has a concern about out buildings, that the number, size, style, color, and materials of out buildings that would be allowed on each lot be specified. She also expressed a concern about the construction of tennis courts,

swimming pools, volleyball courts, or other such additions on the parcels. She stated that she is unclear about whether a central pool or recreation facility is planned and that she hopes one is not. Mr. Labriola stated that there is no provision in the plan for central facilities such as that. He stated that, if at some point in the future the HOA proposed to build a tennis stadium, they would have to go through a review process with the Town. He pointed out that, if it is something that could be proposed in the future, it would require an application and review with the Town. He explained that that pertains to something that the HOA would want to do on HOA property, but that if a private owner wanted to put in a basketball court or a swimming pool or a storage shed or a volleyball court, they are allowed to do that because zoning allows for that. He pointed out that they would have to meet the necessary setbacks, but that he is not aware of any subdivisions that the Board has approved that had any restrictions as far as people being able to put amenities such as that onto their property.

Mr. Gordon suggested that the HOA might come up with a list of things that would be permitted and things that would not be permitted, but it is not in the Town's authority to impose such restrictions. Ms. Lind stated that she did not know if there would be plans for a community tennis facility. Mr. Setaro stated that there's no room for that.

Ms. Lind provided the Board with a written copy of her comments. Mr. Labriola thanked her.

Ms. Tibby Fischer, adjacent landowner and member of the Salt Point Conservancy, stated that she echoes what has already been said and thanked the Board for considering their concerns for the past few years. She noted that this open space now is gone forever for this generation and for future generations. Therefore, she stated that it is her hope that his project will respect and protect the land as best it can.

Mr. Labriola: **MOTION TO CLOSE 2ND PUBLIC HEARING; SECONDED BY K. BRAMSON; VOTE TAKEN AND APPROVED 5-0-0**

Mr. Labriola stated that this application has been before the Board for a while and that there has been a lot of interest from the public. He noted the significant changes to the plan from its original inception and stated that the DLC suggestion provided a very creative and innovative way to deal with some challenging planning issues. He stated that he is convinced that this plan would not be in its present form without the adamant support and interest of the public and the SPC. He stated that the Board rarely gets input from the public and expressed the Board's deep appreciation for the considered and proactive input from the adjacent property owners. He stated his opinion that the plan is better as a result of their involvement and acknowledged that the Board and the developer still owe them some answers. He stated that Mr. Kirchhoff, Mr. Capell, their attorneys and the Board's attorney will need to meet and review all the documentation, which can be discussed at next month's Planning Board meeting and which will hopefully bring the project to the point where the Board can move ahead.

With regard to the buffer, Mr. Labriola noted that originally the plan was for 100' and pointed out the area on the map – to the east of the private drive - where it has been reduced to about 80'. He stated that along Malone Road and Fox Run, the buffer has been discussed at 100'. He stated that, looking at the DLC documentation and the restrictions, those restrictions seem to be pretty restrictive and that he views the DLC line to be a buffer – that it is much more than 100'. He noted that it restricts ingress and egress, the use of pesticides, the horse trail, cutting of trees, maintaining of trees – that to him is very specific language that is pretty clear on what you can and cannot do. He stated that he views the entire area as a buffer that is controlled by the DLC. However, he pointed out another section of the site where there needs to be equally specific restrictions on what can and cannot be done and that the DLC easement can be used as a template almost word for word. He explained that it is important that all those present are on the same page and have a common understanding with regard to what a buffer is and that from his perspective the DLC easement clearly defines to his satisfaction what a buffer is.

Mr. Karis noted that this project was started before the Town Wetlands Ordinance went into effect and, therefore, it is not subject to Town regulated wetland buffers. Mr. Labriola stated that that is correct. Mr. Karis stated that as soon as this plat is filed, it becomes a Town regulated 100' wetlands buffer around it and anything that is prohibited within a Town regulated wetland ordinance applies to the property owners in that HOA parcel. Mr. Labriola noted that this is an excellent point. Mr. Karis stated, therefore, that this will bring the buffer line well into the DLC easement, and therefore there is another level of Town regulation, that someone would have to go through a review with the Planning Board to do any regulated activity all along Fox Run Road. Mr. Karis stated that, after this project is completed with all the improvements shown in this plan, once filed and built the buffers apply. He stated that any future project must come before the Planning Board for a permit. He asked for confirmation of this point – that although wetlands ordinance does not apply now, it will once the plat is filed.

Mr. Kirchhoff stated that he does not disagree with Mr. Karis, but that he does not understand the fact that it was grandfathered, but that once it is filed it must then live up to the law. Mr. Labriola stated his understanding that the reason Mr. Kirchhoff did not have to adhere to it for this subdivision application is because the application predates the ordinance. Mr. Kirchhoff stated that he understands that part, but asked again why, once it is filed, it then has to live up to the ordinance. Mr. Labriola explained that any subsequent activities outside of the application ... (many voices speaking at once). Mr. Karis stated that once everything is constructed as proposed associated with the subdivision application, any further construction must comply with the Wetlands Ordinance. Mr. Kirchhoff stated that now he understands. Mr. Karis gave examples of potential violations – someone cutting a path through the wetlands out to the Town Road. Mr. Labriola stated that there is a fairly good set of things in place that will protect along Fox Run.

Mr. Setaro asked whether reference to the Town Wetlands Ordinance needs to be included in any of the documents. Mr. Labriola stated that he does not think it does because any subsequent activity has to adhere to the regulations.

Mr. Labriola referenced the Avalon Hills project where the applicant put in a stone wall to mark the buffer and wondered whether on the in-board side of the buffer area – both the DLC and the 80' buffer – if there could be either signs posted or a split rail fence or something that would make it very apparent that you've crossed the boundary. He noted that this was also done at Innis Park with a split rail fence, which made it very clear to people with a physical representation of the boundary of the buffer. Mr. Karis stated that at a minimum there should be some monumentation put on the site at those critical intersection points that could be recovered at a later date if need be – iron pins – which are not uncommon to monument the easement. Mr. Setaro noted, however, that the buffer lines are through some pretty thickly vegetated areas. Mr. Kirchhoff stated that he, personally, would never agree to a fence, because of what would have to be done to install a fence would greatly disturb the natural site. He suggested the type of boundary markers that are used to locate the underground pipelines – fiberglass markers with a sign. Mr. Karis suggested that they be placed at the critical intersections of property lines. Mr. Labriola agreed that there be something more permanent at the intersection of the property lines – a pin, a concrete monument, fiberglass. Mr. Kirchhoff stated that pins would confuse surveyors in the future and suggested an alternate fiberglass marker across every property line in the back. Mr. Setaro stated that this should be added to the map. Mr. Labriola suggested that detail of what it looks like, where located, how high it is, be on the map. Mr. Kirchhoff agreed to this plan. Mr. Labriola stated that this represents best practices going forward and that, depending upon the application, it might be a stone wall or a split rail fence or signs.

Ms. Bramson asked for clarification on who would be cutting down the dead trees, whether it would be landowners or the Dutchess County Conservancy or the Town. Mr. Labriola stated that the DLC is very specific about the clearing of trees and read from the document.

- “No removal, destruction, or cutting of mature live trees on the property except as follows: trees may be removed which endanger public safety, are diseased, damaged or fallen, etc., or in connection with the construction of trails; and all clearing of trees and vegetation permitted under this section shall be conducted in conformity with land and forest practices to minimize erosion and adverse effects.”

Ms. Bramson asked who would do that. Mr. Labriola stated that if it is within the DLC easement it would be somebody that they would be contracting with to do that. Mr. Kirchhoff said, property owners. Mr. Labriola stated that he is personally very interested in the safety aspects and that if there are any diseased trees they need to be removed to control the spread of disease. He stated that the Board can have this conversation at a future meeting and noted that the DLC is specific about what is permitted and what is not permitted.

Mr. Fracchia asked what will be done if some opportunistic weed is present in that area, such as the mile-a-minute weed. He asked if it can be cleared out. Mr. Kirchhoff stated that under the DLC it could be cleared, but under the way Mr. Fischer would want, it could not be cleared. Mr. Fracchia noted that there may be some stuff growing in the area that they don't want and noted that the Town of LaGrange is trying to kill that stuff. Mr. Labriola suggested that there will always be some opportunistic plants and that prohibiting that kind of ongoing maintenance could actually end up damaging what the buffer is trying to accomplish. He stated that clearing 4 acres in order to put in a tennis court is a different problem from pruning and maintaining. Additionally, he thinks that the families will have children playing in the backyard right up against the buffer and that the children and people need to be safe from widow makers, etc. He stated that people must use a level of logic and reason on what can and cannot be done there and that being too restrictive could be detrimental in the long run.

Mr. Fracchia asked if there are any elms in the area. Mr. Fischer responded that there are none in the area. Mr. Fracchia stated that the best thing to do to address the Dutch elm disease is to cut them down and burn them.

Mr. Fischer pointed out that opinion differs on what sort of plants would be considered noxious. He stated that for some people poison ivy would be noxious. Mr. Fracchia noted that the mile-a-minute weed takes over whole trees. Mr. Fischer stated that, if NYS or Dutchess County would require such plants to be removed, he would have no problem with that. However, he stated that if it were something that an individual deemed to be noxious, then he might have a problem with that. Mr. Roper stated that the DLC pointed out a lot of non-native species, purple loosestrife (spelling?) among others. Mr. Fracchia noted that, eventually, poison ivy will kill a tree. Mr. Fischer stated that poison ivy provides habitat for wildlife and that everyone has their own definition of noxious.

Mr. Gordon asked about the 80' buffer along Malone Road. Mr. Labriola suggested that, as a starting point, they would look at the DLC easement for the types of restrictions on what is and is not permitted, that it should be a very consistent view along the entire buffer area in order to eliminate confusion. He stated that the DLC easement could be a starting point for language that would be very similar if not exactly the same as what the DLC requires.

Mr. Karis asked whether the 12" pipe outletting the pond is functioning. Mr. Lapine stated that it's overflowing onto the road. Mr. Labriola asked if that is because the pipe is undersized. Mr. Roper stated that he thinks it is undersized and is plugged. Mr. Karis stated that it looks like it is a private pipe, that it is not in a Town right-of-way, and suggested that the time to fix it would be now. Mr. Labriola concurred. Mr. Kirchhoff stated that they will take care of it. Mr. Setaro noted that it is all on private lands. Mr. Fischer agreed that he will cooperate with this repair. Mr. Setaro asked that, whatever will be done to fix the situation, it be put on the map. Mr. Fischer and Mr. Kirchhoff both agreed that it should not be included on the map. Mr. Kirchhoff stated that he and Mr. Fischer can resolve the pipe issue on their own. Mr. Setaro concurred. Mr. Kirchhoff stated that it will be resolved privately with Mr. Fischer.

Mr. Kirchhoff expressed his appreciation for the neighborhood for sticking with this project and never getting personal and never getting nasty and for always being approachable. He stated that it has worked very well because they have always been available. He also noted that Ms. Seaman did a great job with the DLC to help get that.

Mr. Kirchhoff stated that he agrees with 85-90% of Mr. Fischer's statements. He stated that there are a couple of things that he does not agree with. Specifically, he stated that he does not agree with drawing this (the buffer) further (into Mr. Fischer's property), because he thinks 100' plus the wetland is a lot and is enough to protect that area. He also stated that he does not agree with restricting people from walking on their property wherever they want and be able to walk out onto Fox Run and take a walk with their family. He stated that restricting pedestrian traffic is excessive. He stated that he agrees with the control of herbicides and pesticides. He stated that he agrees with Mr. Roper's concern about the driveway that would be for foot traffic and horse traffic only. He stated that the 80' buffer is fine. He stated that he will let the Board decide what it wants to do with the buffer, how restrictive they want to make it. He stated that he understands the community's concerns and that he thinks the owners should have the right to maintain the trees on their property.

Mr. Fischer asked about ingress and egress along the DLC/HOA parcel. Mr. Kirchhoff stated that he does not think it needs to be legally restricted, that it does not need to be put into language, because in reality there is no area where one could cross because it is just too wet. He stated that all the protected areas are for animals and for people to be able to enjoy and walk along the wetlands. He does not want to create a situation where someone who walks out across a frozen marshland onto Fox Run is breaking the law. He stated that he does not imagine that people will be walking through the HOA. And, he pointed out that, as members of the HOA, they will own a portion of that lot.

Mr. Labriola read from the DLC easement, under Section 411 "Trail Maintenance, Construction, and Management" the last sentence: "this conservation easement does not grant the general public any right to enter upon any part of the property." Therefore, Mr. Labriola noted that that statement is very specific. Mr. Kirchhoff stated that he thinks it would be a rare occurrence for someone to try to walk from Fox Run. Mr. Fischer asked about restricting vehicles from crossing that area. Mr. Kirchhoff stated that he does not have a problem with restricting any vehicle crossing the entire DLC area. Mr. Labriola asked, as a construction restriction as well. Mr. Kirchhoff stated that they have no plans to cross that area during construction and pointed out where they will enter and exit during construction. He stated he does not think cars or trucks would be allowed in the area at any time. Mr. Fischer stated that, unless it is specifically restricted, it is a possibility. Mr. Labriola stated that he understands the point and that it would never occur to him that anyone would drive a car through that area. Mr. Kirchhoff stated if they want to restrict it more, it is OK with him.

Mr. Kirchhoff pointed out the area along Malone Road that they will clear out and replant and try to get it to go wild again. Mr. Roper noted that it has become an unfortunate dumping ground with lawn mowers and tires and such.

Mr. Labriola read from Section 411 where it states: “the land owner may construct, manage, use, and maintain trails on the property to support a regional trail system for purposes of equestrian use, walking, cross country skiing, or other non-motorized recreational use.” Mr. Labriola, therefore, stated that the DLC easement covers the issue. Mr. Fischer referenced Section 405 of the Declaration of Protective Covenants that states: “that many people (owners, guests, others) will have the right to ingress and egress by vehicles, horses, etc., across roadways, driveways, trails, and walkways in existence or which may be constructed.” Mr. Kirchhoff pointed out that the DLC will be more restrictive over top of that document.

Mr. Frankel stated that the purpose of that document was to be global in terms of the lot owners having the rights to go through the driveways and private roadways and the horse trails that are intended to be constructed. But, he noted, that one cannot go into an area that is regulated as a wetland or an area that is regulated by the DLC. He stated that the HOA would not be able to construct something or give a right to someone to do something that they are restricted from doing either by the DLC easement or by the wetland regulations. Mr. Fischer stated that the DLC will allow you to go across there with 4 wheels. Mr. Labriola disagreed and referenced “non-motorized recreational use.” Further, Mr. Labriola noted that Mr. Karis pointed out that the entire length of Fox Run is under the control of the Town wetland ordinance.

Mr. Gordon asked if the HOA document refers to the DLC easement. Mr. Frankel said, yes, it is referenced and that he has since added to the HOA declaration a definition of the conservation easement so that all the lot owners are subject to that and are aware of it and the restrictions. Mr. Frankel stated that the by-laws mention clearing of snow on horse trails, which they are taking out so that there will not be any issues on that respect. Further, he noted that there it will be reviewed by the Attorney General’s office when they file the HOA and that there may be some further changes to the document as relates to their requirements and their restrictions. In answer to the specific question, however, Mr. Frankel stated that the conservation easement is referenced in the HOA documents.

Mr. Labriola requested that any language in the HOA that is in direct conflict with the language that is in the DLC easement be removed. He stated that if the HOA says that motorized vehicles are OK but the DLC says they are not, he would be confused. He wondered why, if the DLC is the ruling party, similar language is not used or at least there be language that points to the DLC. Mr. Frankel stated that the DLC does not cover the entire property and pointed out the lots that are not encumbered by the DLC. He stated that the HOA is the global document and the DLC limits some of the lot owners as to what they can do on their property. Mr. Labriola asked if the HOA agreement has language that designates lots that must live up to the DLC easement (i.e., Category A) and the lot at the top (Category B) which has specific buffer requirements that are again different from other lots to the southeast portion (Category C) which aren’t ruled by

either of those. Mr. Labriola expressed his thought that there are three categories of properties in this subdivision with different language that applies to different categories. Therefore, he noted the problem with doing something global that does not apply to one category, thereby creating confusion potentially. He suggested that it would be clearer to specify what is allowed in each lot, to point to each lot and note that restrictions on the individual lots may be different from restrictions on the lots to the left or right. He expressed the need for it to be explicit so that people can say that they understand what does and does not apply to them.

Mr. Frankel stated that he can simplify and perhaps add a chart which delineates which lot applies to which restriction. He also noted that the HOA document does say that the deeds must contain any references to these items and, therefore, the lot owners should know what pertains to their lot. Mr. Labriola agreed with the idea of adding a chart.

Mr. Kirchhoff noted that Mr. Fischer had suggested an informal booklet for each property owner and stated that he agrees with this suggestion. He stated that he thinks it will be easier for each home owner to get the booklet that will contain all the material for the HOA, DLC, and also a foldout map of their lot showing where the lines are with distances. He stated that they will put together a little package that will be handed to the owners at closing. Mr. Labriola stated that that is a great idea for the initial transfer of title, but 40 years in the future people will forget. He stated that the attorneys are working on the chain of title documentation that will include everything and that will stay with the land.

Ms. Lind asked who monitors these restrictions and whether they are being adhered to. Mr. Labriola stated that the Board will respond to that question next month and that the answer is that it depends.

Mr. Fischer stated that what he is concerned about now and in the future is bicycles and motorized vehicles – such as 4 wheelers which are becoming more and more common – coming out along the roadside there. He stated his concern for the sight distance and the speed of the cars and noted that that is why they wanted a single road into and out of the subdivision. He stated that he would be satisfied with language that disallows any motorized vehicles to cross the 100' buffer and noted that that is all people have asked him for. Ms. Bramson and Mr. Labriola stated that that restriction is already in the easement. Mr. Fischer pointed out the question of whether the HOA document conflicts with the verbiage in the DLC document. Mr. Frankel stated that he will clean this up. Mr. Labriola noted that all agree that there will be language that will prohibit motorized vehicles going through that area.

2. CENTRAL HUDSON TINKERTOWN SUBSTATION EXPANSION – SITE PLAN REVISION

Mr. Labriola announced that the Planning Board had hoped that the acoustical report from Bagdon Engineering would be prepared in time for this evening's meeting. Mr. Labriola stated that he spoke with Mr. Bagdon this morning and, unfortunately, the report is not completed.

Mr. Labriola reported that Bagdon did their field testing last Thursday 10-4-07 and that they need to do more testing, specifically some late night testing. He stated that Bagdon had planned to do that night time testing Monday evening, but the rain made that impossible. Therefore, he stated that Bagdon is rescheduling that testing and will report to Mr. Labriola when the testing has been done and when the Board can expect the completed report. Mr. Labriola stated that the report will be distributed to all interested parties – engineers, Board attorney, Ms. Horn, Central Hudson. He stated that the plan is to provide all engineers and interested parties with an opportunity to review all reports prior to the next Planning Board meeting, which is scheduled for 11/13/07 at which time Mr. Bagdon will make a presentation on this methodology and his findings, conclusions, and recommendations.

Mr. Labriola expressed the Board's apologies to the Central Hudson team and to Ms. Horn for this delay.

Ms. Van Tuyl, attorney for Central Hudson, expressed their appreciation for the information and the Board's efforts to get the testing done and expressed their understanding of how delays happen. She submitted to the Board a response from Central Hudson to the most recent submission from Ms. Horn. She stated that she has mailed a copy today to Dan Reisel and handed a copy to Ms. Horn, Mr. Setaro, and Mr. Nelson. She stated that this submission is something that Mr. Bagdon should receive and asked the Board to provide him with a copy. She asked the Board members to review this submission prior to the next Board meeting.

3. APPEAL #908 TEBOLT/DONALDSON – VARIANCE

Mr. Labriola and Ms. Bramson noted that they did not do a site visit. Mr. Fracchia stated that he did and noted that the applicant has plenty of other places on the site to put the shed without needing a variance.

Mr. Labriola read into the record (original on file) a letter from the Fire Advisory Board dated 10/3/07: no position as the application presents no fire or safety concerns.

Mr. Labriola: **MOTION TO PASS THE APPEAL #908 ALONG TO THE ZBA WITH A NEGATIVE RECOMMENDATION BECAUSE THE PLANNING BOARD BELIEVES THAT THE PROPERTY OWNER HAS SUFFICIENT AREA TO PLACE THE STORAGE SHED WITHOUT REQUIRING ANY SETBACK VARIANCES**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

4. MISCELLANEOUS

Central Hudson Tinkertown Substation: Mr. Gordon noted that the letter that the Board received from Ms. Suzanne Horn listed all of the members of the ZBA but did not list the

Planning Board members. Mr. Labriola explained that that appeal is before the ZBA, as well, for an area variance. Further, he noted if this gets to the point of conditional final approval, one of the conditions must be that they get the variance from the ZBA. He stated that his understanding from talking with ZBA Chairman Mr. Dunn is that the ZBA is waiting for the Planning Board to do its SEQRA determination first. He noted that this is an element of the coordinated review process.

Recreation Fees: Mr. Labriola reported that Jeff Battistoni contacted him about how the Planning Board assesses recreation fees. He stated that there was a change to the Town Code 8223: "In the event that a subdivision application is made for a parcel which already has a residential unit on it, the recreation fee imposed shall be based upon the total number of units approved on the subdivision plat less one since a residential unit already exists on the parcel." Mr. Labriola noted that they are doing that now, but also noted that recently the Board reviewed a 2-lot subdivision – Mirabilio – on which the Board assessed one rec fee. Ms. Bramson stated that there are no houses there at this time. Mr. Labriola agreed and stated that the way the Town Board is interpreting this is if there are no homes then this subdivision created 2 net new. He noted that since the Planning Board makes a recommendation to the Town Board, the Town Board corrects it on their end and decides what is accurate. Board discussed how this requirement is accurately applied.

End of Year Educational Requirements: Mr. Labriola reminded Board members about their education requirements.

Taconic Homes – Workshop: Mr. Labriola and Board members discussed the suggestion for a workshop to consider all the input received from the Public Hearings as well as Dutchess County Department of Planning's ideas on alternate designs. Mr. Gordon asked how much jurisdiction the County Department of Planning has. Mr. Labriola stated that it may not be a jurisdictional issue; rather he suggested that the Department reviews and provides written comments which the Planning Board must factor into its decision-making process. He noted that if the Department denies the application, then the Planning Board must have a super majority and document the rationale for choosing not to follow the Department's recommendations. He noted that the Department is a review body but is not an approval body. He noted that the Planning Board is ultimately the ones who own the decisions and that the Board values their input.

Board and Mr. Kirchhoff agreed to hold this workshop on 11/1/07.

5. MINUTES

Mr. Labriola: **MOTION TO APPROVE JULY 2007 PLANNING BOARD MINUTES AS AMENDED; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 4-0-0**

Mr. Labriola: **MOTION TO APPROVE AUGUST 2007 MINUTES AS AMENDED; SECONDED BY R. FRACCHIA; VOTE TAKEN AND APPROVED 6-0-0**

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Meeting adjourned at 8:30 p.m.
Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the October 9, 2007, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

____ Approved as read

____ Approved as corrected with deletions/additions

PLEASANT VALLEY PLANNING BOARD
November 13, 2007

A regular meeting of the Pleasant Valley Planning Board took place on November 13, 2007, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:38 p.m.

Members present: Joe Labriola, Chairman
 Kay Bramson
 Rebecca Seaman
 Rob Fracchia
 Henry Fischer
 Michael Gordon

Members absent: Peter Karis

Also present: Pete Setaro, Morris Associates
 Jim Nelson, Esq., Town attorney
 Dieter Friedrichson, Zoning Administrator

1. CAPELL (FOX RUN) SUBDIVISION – PUBLIC HEARING – FINAL APPROVAL

Ms. Rebecca Seaman and Dr. Henry Fischer recused themselves from this application.

Mr. Christopher Lapine, Chazen Companies, and Mr. Joe Kirchhoff were present.

Mr. Lapine stated that the update to the overall plan has been very minor. He stated that they removed Note 12 to the driveway specifications that referred to town road requirements. He stated that they have also incorporated the fiberglass posts at various locations on the western portion of the site to identify the DLC easement and the buffer.

Mr. Labriola asked about posting signs for the buffer area in Lot #1, the 80' buffer. Mr. Lapine stated that they can do that.

Mr. Setaro stated that there are no remaining engineering issues.

Mr. Labriola stated that he met with Mr. Nelson and with Mr. Frankel and together they reviewed a number of documents. He stated that additional language has been added to certain documents. Specifically, he stated that language has been added to the Covenants and Restrictions document regarding "no further subdivision." He stated that that is a note that will be recorded on the map, as well as in that document.

Mr. Labriola stated that there was a question relative to the storm water management system and who is responsible for inspection and maintenance. He stated that there are portions of the storm water management system that span multiple lots. He noted that the owners of those lots are responsible for inspection and maintenance. He stated that it is

his understanding that there is language in the documentation that says that the Town has the right to go onto the property to inspect and to compel the property owners to comply. Mr. Nelson stated that, with regard to the Town assuming obligations to do inspection and enforcement, historically Mr. Volkman has informed him that it is not the Town's preference to assume those obligations because it creates questions for insurance and staffing and potential for claims. He stated that he is waiting to hear from Mr. Volkman on this question and suggested that this could be made a condition that the Town attorney or the Town Board could waive. Mr. Setaro asked why it would not be the responsibility of the HOA. Mr. Nelson stated that the HOA and each of the homeowners could be responsible and pointed out that the question was raised whether an additional layer of protection (via Town responsibility) was desired. Mr. Setaro noted that this is a common issue on other development projects where there is a question about a second entity assuming responsibility for the storm water management system. Mr. Nelson mentioned the possibility of an easement but noted that this is not the type of easement that any of the not-for-profits are interested in assuming regulation on. He also noted that there are some costs associated with this. Therefore, he noted that it comes back to the HOA and the homeowners. He stated that, as far as the Town, rather than requiring this offer, he suggested making it a condition that the Town attorney or the Town Board could waive. Mr. Labriola stated that he would like it to be offered to the Town for their consideration.

Mr. Kirchhoff stated, therefore, that his attorney said that the offer should just be signed and filed and that it does not need to be approved by the Town Board. He stated that all the drainage is managed by swales and is in-board to the properties. He stated that they are all pockets of control inside the property. He stated that if it is going to affect somebody negatively, it will affect somebody with the HOA and will not run across to adjacent properties. He stated that 10-12 years in the future if it has not been maintained properly and a neighbor complains, the HOA would be responsible to respond and is the governing body of their entire project. Mr. Gordon suggested that if it is something serious, it can become a civil action and they can seek a remedy in court. Mr. Nelson stated that if it reached the level where it was washing out roads that it might be a public nuisance where the Town would want to come in even if this condition were not included. Mr. Kirchhoff pointed out that there is little impervious surface in this project and that there is a lot of control in the design.

Mr. Labriola stated that he is comfortable with the property owners being able to take action against one another and with the HOA stepping in and then tendering the offer to the Town which they can accept or reject. He stated that there are safeguards in place if the Town chooses not to intervene. Mr. Kirchhoff stated that he thinks that plan makes sense because of the way that this was designed by Chazen. Mr. Setaro stated that he agrees and that any issues that will occur on this property will only affect the private road and will not affect the Town roads.

With regard to the HOA and DLC restrictions, Mr. Labriola stated that there was also a question about who enforces compliance. He stated that the HOA is responsible for policing themselves and that there is a document that covers the policies and practices of the HOA.

Mr. Labriola stated that there were questions to subsequent changes to language in the DLC easement or the HOA documentation. Mr. Nelson stated that the DLC easement is not something that the Planning Board has any involvement with and advised that the Planning Board steer clear of involvement in issues regarding enforcement of the DLC easement.

Mr. Labriola mentioned the “Buffer Booklets” – the booklets that will be given to the property owners. Mr. Kirchhoff described these booklets as including information on the DLC and the further restrictions on the individual properties. Mr. Labriola stated that the intent is for all of that language to be in the chain of title documentation, which stays with the land and persists from buyer A to B to C. He stated his belief that the booklets can only be guaranteed to be exchanged at the first exchange of title as, in the future, things get lost and people forget. He stated that making it mandatory for someone to hand the booklet along would be something that might never happen and, therefore, he questions whether it provides the level of protection that is desired. He stated that having the language in the chain of title is exactly what is needed because that stays with the land and is apparent every single time there is a sale of the property. Mr. Kirchhoff stated that he agrees with that, although he also stated that he believes that the booklets will survive and be transferred because of the HOA. He noted that the booklets will serve as their property bible – “buffer bulletins.”

Mr. Labriola stated that some specific notes are to be added to the plat. Mr. Gordon stated that he received an e-mail from Dr. Fischer dealing with a couple of those concerns. He stated that the first concern is that there is no further subdivision at all. Mr. Labriola stated that that is included in the resolution and directed everyone’s attention to item #5 of the resolution, which lists the notes that will be added to the map.

Mr. Gordon raised the subject of entering the buffer from the exterior of the parcel and asked if there would be any signs on the outside of the buffer. He asked what tells the public at large about the protected zone. Mr. Labriola stated that there are no plans to put anything on the outside and noted that it is private property and that the public should not be trespassing. Mr. Kirchhoff stated that it would take away from the character that they are trying to create there to have signs posted along the road.

Board members reviewed the conditions of final approval of the subdivision. Mr. Nelson reviewed the conditions listed in the resolution. He noted that, in addition, the Planning Board wants the applicant to provide proof that an offer has been tendered to the Town to give the Town a dedication of the storm water inspection easement and right to seek compliance.

Mr. Nelson also discussed the notes to be added to the map that are included in the resolution. He read two additional notes:

1. With respect to lots #1, #5, and #6 within the buffer areas, ingress and egress to any public road shall be allowed by foot path for pedestrian traffic and or equestrian path for equestrian traffic only.

2. With respect to lot #7, no ingress or egress from any public road will be allowed within the buffer area except for the existing equestrian trail on the edge of lot #7.

Mr. Labriola asked for clarification of whether this is being proposed under #5 of the resolution – the notes section. Mr. Nelson asked if these were being proposed as additions to the chain of title or as being put on the map. Mr. Labriola stated that they should already be on the chain of title. Mr. Kirchhoff stated that they are not included in the resolution. Mr. Labriola asked whether they already appear in the Declaration of Protective Covenants, Conditions, and Restrictions and, therefore, stays with the chain of title. Mr. Kirchhoff stated that he does not have a copy of that document, but stated that if these are included in it then that's fine. Mr. Labriola reviewed the document that he received from Mr. Frankel and stated that it can be checked that this language did not get dropped.

Mr. Labriola listed an additional note to the map that states that the applicant will add buffer signs along the 80' buffer line on lot #1. He asked how many signs would be appropriate. Mr. Kirchhoff suggested 2 signs. This was agreed to.

Mr. Labriola: **MOTION FOR FINAL APPROVAL** - and was interrupted by Mr. Nelson and Mr. Kirchhoff for a discussion of the process by which an amendment of the declarations of covenants and restrictions can be made. Mr. Nelson stated that normally such an amendment can be made by all people who have an interest. Mr. Labriola agreed that this is also his understanding, which means that everybody in the HOA who wish to make a change is empowered to make such a change. He also stated his understanding that the notes on the map cannot be changed, which is why the Board has been very specific about what everyone thought were the high priorities around no pesticides, no new roadways or driveways, and very clear language about what people can or cannot do relative to cutting down trees and clearing with the 100' or 80' buffer areas. He stated that those are the notes that are wanted on the map along with "no lots shall be further subdivided."

Ms. Seaman suggested that the homeowners will possibly be a little bit confused because they may think that they can do those things as most people are unaware of what notes and restrictions are on a subdivision map. Therefore, she suggested making a note in the homeowner's Covenant that restrictions that appear on the subdivision map cannot be modified by homeowner agreement. She stated that those restrictions will be stated both places and will create confusion if the declaration says this can be modified. Mr. Labriola asked for guidance from Mr. Nelson. Mr. Kirchhoff pointed the two hot spots on the declarations issue and suggested that they be added as notes to the map.

Ms. Seaman stated that whatever appears on the plat cannot be changed by homeowner agreement. However, she noted that it gives the perception to the homeowners that they can eliminate the buffer when it is recited in the Declaration of Covenants, etc., that they can be changed. Mr. Kirchhoff stated that he does not have a problem with changing language to prevent the HOA from changing the restrictions. Mr. Nelson stated that if they want to change the HOA agreement it will have to be done through NYS. Mr.

Labriola read #9 from the Declaration of Protective Covenants, Conditions, and Restrictions that makes it subject to “any and all notes and conditions as set forth on the subdivision map.” Therefore, he suggested that this is handled by putting the two additional notes on the map. Ms. Seaman and Mr. Kirchhoff agreed with this strategy.

Mr. Labriola read the two additional conditions that will be added to the map. He questioned how enforceable these are but noted that he’s OK with adding them to the map.

Mr. Labriola: **RESOLUTION TO GRANT FINAL SUBDIVISION APPROVAL (original on file)**

Discussion: Mr. Nelson pointed out a modification to item 4(a) regarding offering to give to the Town a storm water inspection easement and the right to seek to compel compliance. He noted that it is unknown whether the Town will want those documents to be submitted.

Mr. Labriola: **AMENDMENT TO THE RESOLUTION OF SECTION 4(a):
The applicant will demonstrate that they have provided an offer to give the Town a Storm Water Inspection Easement and Right to Compel.**

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 4-0-0

Mr. Labriola: **MOTION FOR RECREATION FEES**

Whereas, the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town, and

Whereas, that finding includes an evaluation of the present and anticipated future needs for parks and recreational facilities in the Town based on the projected population growth to which this subdivision or site plan will contribute, and

Whereas, the Planning Board has determined that a suitable park or parks of adequate size to meet the requirements cannot be properly located on the subdivision or site plan, and

Whereas, per Town Law 274 (a)(6) and 9825 (p) and 9844.1 of the Code of the Town of Pleasant Valley, the Planning Board recommends to the Pleasant Valley Town Board that the sum of money in lieu of land be imposed for the subdivision plan entitled Fox Run located at Fox Run and Malone Roads for 7 residential units.

SECONDED BY R. FRACCHIA

VOTE TAKEN AND APPROVED 4-0-0

Mr. Labriola expressed his and the Planning Board's deep appreciation for the hard work of the adjacent property owners, the willingness of the developer to work with them, and Ms. Seaman's help getting the DLC involved. He noted that the approval process has resulted in some very creative answers to some very critical planning issues. He thanked all those who have been involved in this application and noted the significant changes that have been made from its original design. He stated that he is happy to have been involved in this application as it has turned out to be an outstanding result.

2. TOWN SUPERVISOR-ELECT FRANK SUSCZYNSKI

Mr. Frank Susczynski, newly elected Town supervisor, spoke briefly to the Planning Board and expressed his appreciation to the Board for all the work that the members do. He appreciated the voluntary service on the part of the Board members and expressed his enthusiasm for working together in the future.

Mr. Labriola thanked Mr. Susczynski for his words and his presence at the meeting.

3. MORRISON SUBDIVISION – CONTINUED REVIEW

Mr. Chris Lapine, Chazen Companies, was present. He stated that this application was last before the Planning Board in September 2007 at which time they were asked to look at a couple of issues, one of which was the sketch plan of the shared drive versus two separate driveways. He stated that they were also asked to identify all trees over 12" diameter associated with the construction of the driveway. They were also asked to visit the drainage scheme and take another look at how they can incorporate the use of dry wells and a direct connection to the existing catch basin. Lastly, they were asked to flag the wetlands, which he stated they have done.

Mr. Lapine stated that the size of the wetland does not require a buffer for the Town Code but they will maintain a 100' setback from it, nonetheless. Mr. Labriola expressed the Board's appreciation for this. He mentioned that they have also maintained a 15' buffer from an intermittent stream on the property.

Mr. Lapine provided two driveway schematics, one of which is the same as the Board received in September. He stated that the only difference in the original plan is on Lot #3 that they took into consideration the Board's comments regarding the grading. In terms of the grading associated with both designs, he stated that they are fluctuating between 6% to 15% and within 30' of the right of way. He noted that by incorporating the shared driveway they will eliminate approximately 4 more trees. He noted that they have gone from 52 trees to be eliminated on the share driveway scheme and 48 trees on the separate driveway scheme. He stated that both plans have been approved by the highway superintendent. He stated that they hope to receive guidance from the Planning Board on their preference so that they can then advertise for the public hearing.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that Butch issued a letter stating that he prefers the common driveway scheme because it will require fewer curb cuts. For the Board's information, he noted that in accordance with the MS4 storm

water requirements on any residential project the applicant is required to show where the footing drains and the roof drains will be. He stated that they must make sure that if they are contemplating tying into the Town's drainage system they must do an approval on that as part of the subdivision plan and this must be shown on the map. He stated that this is something Morris Associates will be asking for on all future projects.

Mr. Setaro stated that the main thing to talk about is the driveway configuration.

Mr. Labriola read into the letter (original on file) from Mr. Kurt Gardner dated 11/5/07 which documents that he reviewed both proposed subdivision maps for the Morrison Subdivision and that he prefers the common drive because it requires less curb cuts. Further, Mr. Gardner noted that the portion of the common drive should be completed and blacktopped before any permits are issued and any footing or roof drains should be shown on the map and should not be installed directly into the Town's drainage system.

Board members discussed and agreed with the common drive design.

Mr. Labriola authorized Mr. Lapine to advertise for a public hearing.

4. ERRICO SUBDIVISION – SKETCH PLAN APPROVAL

Mr. Donald Errico, owner, and Mr. Charles May, consultant, were present.

Mr. Labriola stated that the last time this application was before the Planning Board was in January 2007 at which point it was a proposed 8-lot subdivision. He asked the applicants to brief the Board on changes to the proposed subdivision.

Mr. Errico stated that they have reduced the plan to 5 lots. He stated that there is one lot off of Ward that is 2+ acres and the remaining 4 lots would be off of a common drive and would be about 7 acres each. He stated that they would like to keep the drive as a gravel road to access the 4 houses in the back. He stated that they have maintained the 100' buffers around the Federal, DEC, and Town wetlands. He stated that the wetlands were professionally flagged and were verified by the DEC. He stated that they are talking with the DEC about doing the crossing of the wetland and that they will supply them with an SWPCP report and a few other documents.

Mr. Setaro reviewed the Morris Associates comment letter. He noted that the EAF must reference a 6 lot subdivision as there is one house that is already on site. He stated that at this time they have not reviewed Part II because they first need a set of preliminary plans and a chance to review the drainage report and the grading details. He stated that he talked with Butch who expressed concerns with flooding in the area – he'll submit those in writing.

With regard to the crossing of the wetland, Mr. Setaro stated that a grading plan and a drainage plan must be done. He stated that on the map Lots #1, #2, and #3 where the houses and the septic are, that they are pretty well clustered together. He noted that there are relatively steep slopes in that area and depending on the grading and drainage it

may work out that this may not be the final configuration of the lots and houses. He stated that, until more information is available and the sketch plan phase is complete, there is nothing more that they can comment on at this time.

Ms. Seaman stated a concern about the proposed bridge and its height. She noted that the area is highly subject to flooding and that last year Ward Road was closed in that section for a number of days. She stated that, with only one bridge to the 4 houses, emergency vehicle access is potentially prevented if that bridge is flooded out. She stated that there are major wetlands through that area. She recognized that this is on for sketch plan at this time and stated that she expects a lot of reservations about a bridge in that area.

Mr. Errico stated that they are not going to have a bridge *per se*, but rather they will have a bottomless arched culvert. He stated that they will keep the streambed as it was prior to the bridge being removed and being replaced. He stated that the bottom is arched substantially and will be a bridge designed to have H20 loading. He stated that they presented it to the DEC and met all of their requirements; however they want to see a storm water pollution prevention plan to go with it. He stated that he wanted to get comments from Morris Associates so that they can take this to a higher level and provide the Town and the DEC with the storm water pollution prevention plan and the drainage plan.

Ms. Seaman stated that the flood stage at that level was such that unless this was substantially above level it would be flooded out with no access to those 4 houses. Mr. May stated that there is an existing one-car wooden bridge at that site now and during the flood it washed over the bridge. He stated that the existing bridge has 2' clearance to the water; the proposed bridge will have much more clearance so that the opening for the water will be much higher than the existing bridge.

Mr. Labriola stated that it would be the bridge and the driveway as well and observed that the grading not only at the home sites but also in the wetland and buffer area will need to be factored in to determine how much disturbance there will be. He stated that it looks like it will have to be built up significantly to avoid having the stream overrun it.

Dr. Fischer asked if the area of the proposed roadway was also flooded when the water was going over the bridge. Mr. Errico stated that it was not flooded as it is much farther up. He stated that the bridge was still standing when the flood was all done and he noted that the proposed bridge will be a lot higher than the one that now exists. Dr. Fischer stated that he's getting a concept of half of a Quonset hut. Mr. May stated that that is correct and is what the DEC prefers. Dr. Fischer asked if they will have to build up the road. Mr. Errico responded yes and described what they are planning. Board members reviewed the map and the areas that were flooded.

A member of the public asked to speak to the application. Mr. Labriola explained the sketch plan process and described when and how the public hearing will happen and how to access the documentation in the Planning Office in Town Hall.

Mr. Setaro stated that a detailed flood study done by a professional engineer will be needed and advised that before it gets to that stage that a meeting should be held with the highway superintendent. He suggested that it will be vital to get that input before any design is initiated. The applicants agreed with this suggestion. Mr. Setaro stated that drainage will be a big issue on the site.

Mr. Labriola read into the record a letter dated 11/13/07 from Kurt Gardner (original on file). The letter notes that the site plan received was minimal and noted issues that need to be addressed:

- drainage easement needed on Lot #5
- sight distance issues for the common drive
- box culvert or bridge to cross over the stream
- flooding
- steep grades for driveway
- common drive construction prior to issuance of building permits

The letter concludes that “this looks like a very difficult and expensive subdivision and that there are several wetland issues to address.” Mr. Labriola advised the applicants that they can obtain a copy of the letter from the Planning Office.

Mr. Labriola read into the record a letter dated 11/9/07 (original on file) from the Conservation Advisory Council. The letter noted the following issues:

- wetlands and pond protection
- avoid bridge over the wetlands
- flooding on the site preventing access to the houses
- runoff into the wetlands with no filtering resulting in pollution
- MS4 regulations
- Septic discharge
- Proposed house adjacent to the wetland buffer
- Habitat report ignores wetland protection
- Steep slopes are prone to erosion
- Placement of houses and construction of bridge impact wetlands and pond
- Project could be considered prohibited activity under the Town’s wetland ordinance
- CAC recommends positive declaration for SEQRA

Mr. Labriola again advised the applicant that a copy of this letter can be obtained from the Planning Office.

Mr. Labriola stated that, based on comments from the Board and from Mr. Setaro, he echoes these concerns and that it appears that there are fairly large lots with a number of houses just clustered together because it is the only buildable area. He stated that there are steep slopes on the site and that they will have to look at the grading plans to understand what will happen with that. Also, he noted that they are proposing 4 homes off of a common drive and that the Town Code allows for 3. He stated that there have been instances where the Board has exceeded that if there is a good reason but noted that this application has not gotten there yet. He stated that he wants the applicants to know that the threshold is 3 on a common drive.

Mr. Gordon suggested that the Board do a site visit. Dr. Fischer agreed and stated that it should be done early on in the process. Mr. Labriola agreed. Mr. Gordon stated his concern that this property has a lot of inherent problems for development. Mr. Labriola agreed and asked the applicants to stake the lots and mark the center of the 5 proposed house sites. Mr. Setaro asked that they use different color flagging for the houses versus the roadways.

Mr. Nelson stated that, in addition to the open development area issue, one of the correspondences that the Board received was in reference to Ward Road. He stated that it has been the subject of some form of litigation, and that this needs to be looked at. He stated that someone wrote to the Planning Board and said that there has been a law suit that has been settled. Mr. Labriola confirmed this is the letter from Heidi Walker. Mr. Gordon read the letter into the record (original on file). The letter addresses issues:

- A bridge over a very active and sensitive wetland
- Ward Road is a user road
- The law suit was settled with “the prepared dirt surface dimension of Ward not allowed to be greater than 14’.”

Mr. Setaro advised the applicants to obtain a copy of that letter and have it reviewed by their attorneys. He noted that Mr. Nelson will also review it. He stated that a lot of the settlement had to do with maintenance, what the Town could and could not do with the road. Mr. Labriola noted that it needs to be checked into.

Mr. Labriola: **MOTION FOR SKETCH PLAN APPROVAL**

I move that the Planning Board grant sketch plan approval to the Errico subdivision in the form of the resolution prepared by the Board’s engineer and now before the Board subject to the following conditions:

- 1. payment of all fees**
- 2. Morris Associates letter dated 11/9/07**

SECONDED BY R. FRACCHIA

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola advised the applicants that the next step will be a site visit and explained the process to the neighbors in the audience.

5. CENTRAL HUDSON TINKERTOWN SUBSTATION EXPANSION-SITE PLAN REVISION

In attendance were:

- Jennifer Van Tuyl, attorney for Central Hudson
- Ed Potenta, noise engineer for Central Hudson
- Patrick Harder, engineer with Central Hudson
- Gary Courtney, engineer with Central Hudson
- Suzanne Horn, neighbor

- Dan Riesel, attorney for Ms. Horn
- Stephen Smith, environmental engineer, Bagdon Engineering

Mr. Labriola stated that the intent of this meeting is for Mr. Stephen Smith, the Planning Board's noise consultant, to walk everyone through the noise report and the study that he concluded. He specifically asked Mr. Smith to talk about:

- the methodology he used
- where the readings were taken from
- how long the readings were
- the process used
- the length of time, the time of day, the time of night
- report on findings and conclusions
- offer recommendations to the Board
- and to explain about the Federal guidelines and the DEC guidelines

Mr. Labriola displayed a map that lays out where all of the noise consultants took their readings from. Mr. Van Tuyl notified the Board and all present that there are several errors in the legend on this composite map. She explained the errors: the blue dots which are identified as the Potenta locations are actually the Collings locations. Mr. Riesel stated that he is not sure, with the exception of two locations, that he agrees with this. He stated that there appears to be certain issues but that he did not think he could resolve at this time without additional research. He stated that the green readings which are the Bagdon readings can be verified by Mr. Smith. Ms. Van Tuyl agreed with that statement. Mr. Riesel stated that he thinks there may even be some missing data from Potenta. He stated that he does not think it is possible at this meeting to straighten this out. Ms. Van Tuyl stated that the error is simply a reversal between the Collings sites and Potenta results. She stated that there is no dispute as to the locations of where the testing was done, only a dispute as to who took the readings. Ms. Van Tuyl stated that they believe that the yellow locations from the HUSH testing are accurate, except that there is one test location shown close to the Horn house that they do not believe was tested. Mr. Riesel pointed out locations on the map where he thinks readings were taken.

Mr. Labriola asked who actually placed the colored dots on the map. Ms. Van Tuyl explained the process by which the composite map was compiled. Mr. Labriola stated that Mr. Takacs will need to review the source documents and correct the master map.

Mr. Stephen Smith, Senior Safety and Environmental Engineer, Bagdon Environmental confirmed that all the dots on the map for the testing locations that he conducted are accurate. Mr. Smith provided the following summary of his noise study.

On 10/4 and 10/9 at about 4 a.m. Mr. Smith took a series of sound pressure readings at the Tinkertown Substation and on some of the adjoining properties. He used a type 1 sound pressure meter, which is capable of integrating sound that records over any period of time. Most of the readings he took were only of 10 second duration. He took several readings at each location, up to 10 in some places. He took a few locations with a 5 minute duration.

Mr. Smith continued: they were asked to attempt to identify, first, the ambient sound pressure levels at the site and on the surrounding properties. He did that by taking measurements. Those measurements appear in the tables in his report. He took two different lengths of measurements for a reason. He was looking for the L min, which is the minimum amount of sound that occurred during the 10 second period. Because it is just a single instance, it is almost an instantaneous reading. The reason he took that is because he was attempting to determine what the sound level of the transformer, itself, was. He stated that they know, statistically, during either of the 10 second periods there will be some interferences from birds, crickets, or cars, or airplanes. He checked the minimum sound level that occurs over that 10 second period and then repeated that several times, they know that there will be at some point in that 10 second period a lull in that sound to a level where there is a minimum of background noise and attempted to determine the level of the transformer, itself.

Mr. Smith stated that they took longer term readings in order to get an idea of how the sound of the transformer was either masked or not masked by the other sounds that occur. Traffic going, etc., all makes a certain amount of noise. He stated that they were helped in determining the sound of the transformer, itself, by the fact that transformers emit sounds in a very specific frequency pattern. The frequency pattern occurs at intervals of 120 cycles per second, starting at 120, and there is another stronger level of 240. These are relatively low pitched sounds, characterized as a hum, which on a sound pressure meter appear as a single peak in one or more of the octaves of sound that are being measured. There are other sounds in those areas – car tires on the road also makes a little noise in that frequency. However, he feels that, because they were taking the min and there were times when there were no cars going by, they have a fairly good idea of what the transformer, itself, sounds like.

Mr. Smith stated that it was mentioned that it might be preferable to use the LEQ, which is a measure over time, it's an average. It is used extensively in the EPA information. The reason they use that is because their interest is long term sound and how it might affect a person's hearing or how it might affect the ability of two people to communicate with one another. That is the main focus of the EPA information. He stated that he calls it information because it is not a guideline and is not a standard. It is only information because a standard requires that you look at not only the impact but also the financial impact and the feasibility, none of which is considered in the EPA report. They simply attempt to determine what levels of sound affect people. Having noted that detail, he stated that there will be a lot of comparisons to the levels that are mentioned in the DEC guidance and the EPA guidance.

Mr. Smith stated that the EPA states in its information that it is not interested in setting a national noise standard or a national zoning ordinance or attempting to enforce any particular noise level on the entire country. This is because some people live next to airports and deal with incredible amounts of noise and other people live in remote areas and hear almost nothing. He stated that each community has to make up its mind as to what level of noise is acceptable. Therefore, he stated that while he can provide the

Planning Board with conclusions based on his findings, he cannot provide recommendations because the final decision rests with the Board. He stated that it is more a social and a political issue than it is a scientific one, however he noted that it is informed by the science of what they found.

Mr. Smith stated that they chose 13 to 14 locations on the property. First, they picked 4 that were about 30' distant from the transformer and measured the sound and aimed right at the transformer and attempted to get its level. Then they moved back to the west and took 2 more readings. Then they moved to the east and took a series of readings up the hill. He stated that the transformer is behind a screen of about 50' of woodlands. Mr. Smith described the terrain. He stated that as you go down from the crest of the hill towards the house and the barns, you move into a depression. At some point in that area, you lose line of sight with the transformer and are behind a bit of a hill, which he suggested is the reason that you hear very little noise at that point. They also took readings to the north and drove around and took readings in the factory area to the west.

Mr. Smith stated that the first item they looked at in the daytime LEQ spectrum with the primary fans on. Outside of what they found in the report, he stated that he did a bit of an analysis with the fan sounds. He stated that they recorded sounds in all locations with the fans off, with the fans on, and with the auxiliary fans on – therefore three conditions of fan operation. What they found is that the fan noise tends to very quickly get lost in the background. He stated that they did not find the fans, themselves, to be that significant in terms of impact on any of the properties. He stated that, certainly, you could hear the difference if you were standing on the Tinkertown site and you could hear the fans coming off and on. But he noted that once you move a distance away, it was not that noticeable. He stated that the reason for that can be seen in the first chart in his report. He explained the depictions on the chart that show that the fan sounds are in with the background noise. He stated that the fan sound is a little bit more prominent at night, as depicted in chart 2, but it does tend to fade off as you move away. Mr. Gordon asked if this is because the transformers are not working as hard at night. Mr. Smith responded no and stated that they did take a look at that. He stated that it is true that the amount of electricity going through the transformers is a bit lower at night, but that it has very little impact on the sound. He stated that this is because the sound is actually generated inside the transformer by the pulsating magnetic field that actually stretches and compresses the layers. He stated that the physical structure, itself, is expanding and contracting in time with twice the frequency of the electricity. So, that even though less power goes through, that action is still occurring. Therefore, there is very little difference between how much sound occurs when the transformer is at full output and when it is at a bit less at night.

Mr. Labriola stated that it is minimally different based on the load. Mr. Smith confirmed this and stated that it is 2 or 3 decibels, which is almost an unnoticeable amount. He stated that 95% of the people in the world cannot hear that difference.

Mr. Labriola asked for confirmation that the noise created by either the primary or auxiliary fans is less than the noise that the transformer, itself, creates. Mr. Smith stated that that is accurate. However, he noted that the noise that the fans make is in a much

broader spectrum of frequencies, whereas the sound of the transformer, itself, is isolated to relatively few frequencies. He stated, also, that it is a bit louder.

Mr. Smith stated that he would like to say something about weighting. He stated that they cover a whole frequency spectrum from the lowest sounds to the highest, from about 20 cycles per second to about 20,000 cycles per second. The human ear is amazing in its ability to hear a wide range of frequencies, and the difference between the softest whisper that we can hear and the loudest sound that is physically possible is 1 to a million. He stated that the human ear hears a huge range of sounds and, therefore, is the reason that they use a logarithmic scale to define the sound pressure level.

Mr. Smith stated that they attempted to first determine what the ambient sound level and then compare that to the sound of the transformer. They found the transformer to be a bit louder in its own frequency band. Then they attempted to calculate what the effect would be if there were two transformers located in close proximity to one another. He stated that most of the sound guidelines will tell you that if you add a second sound of equal magnitude you will get a 3 decibel increase in the sound pressure level. In other words, two individually at 60 will add up to 63. This is because we are adding energy, not adding sound. He stated that, for example, if one person starts clapping in a room, there will be a certain level of sound. If two people clap, it is not twice as loud; it is just a bit louder. He stated that as the whole room begins clapping, the sound does not go up to the point where it shatters the windows, which it would do if it doubled each time. So the sound pressure only increases a small amount per each doubling of the sound level.

Mr. Smith stated, therefore, that normally you would expect a 3 decibel increase. What they found was that because the two sound sources are in phase with each other – two that are pulsating at exactly the same rate – an interference pattern is created. He explained that if you imagine two pebbles thrown into a lake at precisely the same time, as the waves meet they would emphasize one another and they would tend to cancel as they crossed against one another. He stated that it is called a standing wave or an interference pattern. What that means is that instead of getting – you are actually getting an overall increase of 3 decibels – but because of this phenomenon you have a theoretical increase of a maximum of 6. He stated that the actual geometry of where these standing waves would occur is outside of the scope of their report and would require quite a bit more modeling – an incredible amount - to actually determine what the effect would be. He stated that he could describe it as – if the sound was to his right, as he walked past it, it would be like walking past a widely spaced picket fence. The sound would decrease and increase as he moved through those lines of interference. He stated that that is what they found.

Mr. Smith stated that, at the most, the increase – due to the second transformer – would be 6 decibels. They believe that because the transformers are, themselves, not point sources there would be some blurring of that effect. Therefore, it may range from as much as 5 decibels and maybe up to 6. He stated that that is what they felt the Board would be making a decision on. The reason being that the transformer is there, now, and so the increase is what is of concern and is what they were asked to evaluate.

Ms. Bramson asked for confirmation that the second transformer would increase it by 6. Mr. Smith stated that it would increase it by 6 in some places and it may increase it by absolutely none in others, depending just on where you are standing. He stated that their analysis is based on those two frequencies of tone that the transformer emits.

Mr. Smith stated that tonality of sound is mentioned in the EPA report very briefly. Basically, they say in the EPA report that tonal sound is more annoying and, therefore, they recommend that manufacturers avoid them, if possible, in their design of equipment. He noted that that is simply not possible in the case of a transformer. He stated that there are a couple of things that might help – isolating the transformer acoustically from the pad might make less vibration through the ground. He stated that they looked at the possibility of phasing the two transformers so that they actually canceled each other's sound. That is a theoretical possibility which may involve more expense than building a sound wall and is something that Central Hudson would know more about.

Mr. Smith concluded his report and asked for questions. Mr. Labriola asked about Table #3. Mr. Smith noted the map errors in Table #3 and explained the corrections.

Mr. Labriola stated that Table #3 represents the calculation of the addition of the second transformer without the 5 decibel tonal penalty. He stated that he sees a handful of areas that, without the penalty, exceed the night time threshold according to the Federal or EPA guideline. Mr. Smith stated that it is really just information and explained that these agencies are first attempting for safety sake and then to help groups such as the Planning Board to determine at what level there might be complaints. He stated that it is a point of information for the Board that if you look at a project and see an increase between 5 and 10 or 5 and 7 you are likely to receive some complaints.

Mr. Labriola pointed out that there is a small number according to chart #3, without the 5 decibel penalty, exceed the 45 decibel night time. He noted that you would have to add the 5 decibel penalty both to the existing as well as the projected and stated that you end up having more locations exceed the nighttime threshold and introduce some daytime thresholds at 55 decibels. He asked if he is interpreting the data correctly. Mr. Smith stated that he believes that is correct and pointed out that it tends to be on one side of the crest of the hill. Mr. Labriola pointed out that it is on the transformer side – to the west of the crest of the hill on Ms. Horn's property. Mr. Smith stated that that is correct, and that it is to the east of the transformer, itself.

Mr. Labriola stated that beyond the crest of the hill, you lose line of sight and you can still hear the transformer but it tends to be drowned out by other noises – cars, etc. Mr. Smith concurred and stated that if the sound of the transformer were not isolated to a particular pitch, you would not notice it at all. He stated that the only reason it is noticeable at all is because it is tonal in nature. He stated that what happens when you are standing in the depression and you lose line of sight on the transformer, its noise tends to come and go as a car goes by or if someone speaks or if the animals bleat, you tend to not hear it and then it returns. He stated that at the area near the house, it is just a

faint end of hearing, but is noticeable and quite a bit less. Mr. Labriola read from the chart #3 and noted that at Location 10-3 it is sitting at just below 35 even with the 5 decibel increase and is still below the nighttime threshold of 45.

Mr. Gordon stated that he noted the variability of the sound during the site visit – that if you turned your head just a slight bit, it totally changed the sound that you were hearing. Mr. Smith stated that the meter can tell you what the sound pressure level is, but it cannot tell you what your reaction to the sound is. He stated that that is a psychological matter and noted, again, that some people live next to airports and are not bothered while others cannot stand it. Therefore, he stated that he cannot make recommendations to the Board. He stated that if there were standards he could recommend to the Board what the standard says and what the law says. But he noted that it has been left up to the individual local decision as far as what should be done.

Mr. Gordon asked where to go for advice as a Planning Board on mitigation measures. Mr. Smith suggested that if the Board determines that mitigation is required that they speak with Central Hudson to determine the best way to proceed. He noted that the standards do not take into account the economic impact.

Mr. Fracchia asked if Central Hudson ever received any specifications on the other transformer that they are planning to install. He reminded them that the Board had asked some time ago for the specs. Mr. Labriola stated that the Board has assumed that the second transformer will behave in every way like the existing transformer. Mr. Smith stated that in actuality it will and that his understanding is that the second transformer will be exactly as loud as the one that is there now, which should normally mean a 3 to 6 decibel increase. He stated that if a transformer that is 3 decibels quieter were installed, the sound increase would actually be negligible in all areas. He also noted that there are modern ones that make quite a bit less noise which are much more expensive than moving an existing one to that site. He noted that that would be a possible mitigation measure and that the economic impact on Central Hudson and on the surrounding community that would have to pay for it must be taken into consideration.

Mr. Labriola invited Central Hudson representatives to speak or question Mr. Smith about his report.

Mr. Ed Potenta stated that it might be beneficial for the Board to understand that what we're dealing with sound levels and particularly looking at the EPA and DEC code they do differentiate between areas inhabited by humans versus livestock and farmlands. He stated that most of the areas that we're talking about with a possibility of a 4-5 decibel increase are to the west of the crest of the hill in the area where the barn and livestock will be. He stated that to the east of the crest of the hill would not be impacted by the transformer. He stated that the standard regarding creating a hardship is much higher when you're dealing with farm animals. He stated that the DEC guidance documents state that you have a 65 decibel noise level in an area could be acceptable because the normal speech at 3' away from another person is 65 decibels. He noted that these noise levels are much lower than 65 in the area where the livestock are located and that you

should be able to stand there and have a normal conversation with any person and not be interrupted by the transformer noise, even with the second transformer in place. He asked Mr. Smith to comment on this.

Mr. Smith stated that it moves into an area in which he can only comment as a private citizen. He stated that the DEC guidelines are basically intended for the siting of industrial facilities, mines and such. He stated that they are very often used for more broad spectrum types of noises. He stated that some regulations require a certain sound level at the property line, and there are some that require a certain level at the residence. He stated that those are decisions that the Board must make – what is appropriate as a measuring place to determine what would be a mitigatable location for a sound increase. He stated that he cannot advise in that area.

Mr. Smith stated that some of the guidelines are looking at speech intelligibility, a lot of which comes from military studies to determine at what point a sergeant can be heard by his troops. He stated that it has been found that in areas where noises are impacting human beings on adjacent properties, one of the strongest indicators of the level of complaint would be the inability to communicate with a person. He stated that those apply to all sounds and that the tonal nature of the sound must be included, as well. He stated that even though you are at the top of the hill, you can hear it to some extent. And he pointed out that you have been able to hear it all along.

Mr. Labriola commented on the fact that the threshold for farm land is higher than the threshold for residential and asked if Mr. Smith recognizes the 65 decibel threshold for farm land. Mr. Smith stated that he believes that may be true in the DEC guidelines and stated that they give no level for general, unpopulated land and give only the hearing loss consideration on farmland. He believes that this is because at the time the report came out in 1974 there had been very little research done of any kind on the effects of sound on farm animals or on wild animals. Therefore, he stated that the appendix to the EPA report mentions that certain levels of sound will impact farm animals and that he believes that the levels they are talking about are extreme – such as loud startling noises – which impact the mating frequency and egg laying. He stated that they do know that there is an effect on animals but it is not known at what level. They tend to apply human guidelines but there is no scientific basis for doing that.

Mr. Potenta stated that most of the standards that are applicable use as guidance the LEQ averages. He noted that Mr. Smith's report references locations where there is no increase and locations where there might be a 4 to 5 decibel increase, but on average there is a 3 decibel increase. He stated that since we are dealing with averages, a 3 decibel increase is not really a significant effect, which he stated is an important point to understand.

Mr. Smith responded that he believes it is true that on average there will be a 3 decibel increase and that 3 decibels is generally not considered actionable. He stated that the fact that it is not uniform over the whole space does also add an effect and needs to be considered by the Board. Mr. Labriola noted that averages can be misleading. Mr. Smith

stated that it has been mentioned that he should have used more of the LEQ in finding these sounds. Meaning that if they listened over a long period of time, what would be the effect. For example, he stated that you could have an LEQ of 70, which could include a long period of silence followed by several gun shots because it is an average over a long period of time. He pointed out that because it is an average you cannot say that those gun shots don't matter. And by the same token, he stated that it has been found physically true that even though those gun shots occur, a person's ability to hear is not impaired until you see that 70 decibel level, no matter how it comes.

Dr. Fischer asked about what constituted the background, if it was the traffic going by. Mr. Smith explained the 10 second readings. He stated that Mr. Bagdon and he were both on the site and attempted to choose periods of time with the least amount of traffic. He stated that they stopped taking readings and in some cases discarded readings where an airplane was overhead. In one case, they heard someone speaking and they discarded those readings in an attempt to capture the quietest period possible. Then, by taking the L min of that 10 second period find that discrete instant where it was absolutely quiet.

Dr. Fischer asked how the daytime and nighttime backgrounds compare. Mr. Smith stated that this is an interesting question. He stated that he was on site after a rain storm and that he had intended to be there between 12 midnight and 1 a.m. but was actually there closer to 4 to 4:30 a.m. because of the earlier rain. He noted that he was very startled when the goats came up behind him. He stated that at night there is a lot more insect noise, which is depicted on one of the charts in the report. He stated that birds are predominate during the day, that it is much quieter at night although truck noise by 4 a.m. is prevalent. He stated that he feels confident about the nighttime readings that they took close in and that he did listen and wait for times when there were no trucks going by as best as he could. He stated that there is a very noticeable difference at night on the north side of the transformer closer to the wooded area with the insect noise.

Dr. Fischer asked whether background noise constitutes real life with all the noise that's present rather than just a moment of silence. Mr. Smith responded yes, except that in normal life there will occur moments of silence. He noted that a transformer is a constant sound, which when normal life stops and we get to the lowest level that's when we hear the transformer the loudest. Mr. Labriola noted that that is what they were trying to determine. Mr. Smith concurred and stated that they were trying to get to the quietest time of the background. He stated that the other way they could have done this is if Central Hudson would have agreed to turn the transformer off for 24 hours in order to measure the sound without the transformer running, which would have provided a perfect determination of the actual sound level of the transformer. But, of course, that is not available.

Dr. Fischer stated that does not tell us what the sound of life is during a period. Mr. Labriola wondered what one would do with that information and noted that Central Hudson cannot control life as represented by the number of trucks, or birds, or insects. Dr. Fischer stated that he is wondering if the transformer is really below what is going on in life whether it is having an effect. Mr. Labriola stated that what he's taking away from

Mr. Smith's presentation is that real life ebbs and flows and there are points where real life drowns out the transformer and there are other times where there's a lull and the transformer is a constant sound. He stated that they are trying to determine what is the constant base point to come from and that they have demonstrated that there are times when the transformer is the predominate sound that one can hear. Mr. Smith concurred and stated that this is particular to where you are standing and the time day and how much noise is going on around you.

Mr. Gordon noted that Mr. Smith had also said that the constant sounds are the most annoying. Mr. Smith stated that annoying is a personal determination and that he would say that they are the most noticeable. He stated that they are not natural sounds, but that the sounds of life tend to be intermittent – birds chirp – but we as human beings tend to make some constant repeating noises that are not exactly natural. He stated that noticeability is really the issue.

Dr. Fischer asked for more information about a change in orientation of the transformer, which may cancel things out. Mr. Smith stated that there are theoretical means that are put into practice in the noise canceling headphones and computers that can read sound levels and create an opposing sound. He stated that there is research in that area going on. He stated that some of the earlier research used loud speakers that would cancel the sound of the transformer, which were found to be not as reliable and to require constant maintenance. He stated that there's a researcher in Australia who is working on vibrating plates that would be placed around the transformer and that the future holds some possibilities for cancellation.

Dr. Fischer asked if at this time there is a methodology that Central Hudson can use to do that. Mr. Smith stated that they did identify the possibility that the sound could be mitigated by placement of the transformers. He stated that the wave that is created at the frequencies is about 9' long. He explained that if you were to place a transformer that was emitting at the same frequency at a distance of approximately $\frac{1}{2}$ that wave, its sounds as it meets the others - the sounds could be canceled. He stated that they thought this was interesting and was something that Central Hudson could look at. He stated that if it were actually physically done, you would have to place the transformer on some sort of a moving platform to enable it to be tuned after it were placed and would probably be very expensive to accomplish. And he noted that if the science were perfected these effects could be mitigated in the future.

Mr. Harder stated that Central Hudson has looked at this in the past for a different reason – of putting the second transformer on top of the natural gas pipeline. He stated that the initial thought was that it would block the sound. He explained the physics of the distance required to achieve the sound cancellation and noted that it is not feasible to place the transformer over the pipe line.

Ms. Van Tuyl stated that it is important that each person's experience of sound is to some extent subjective but that nonetheless there needs to be objectivity and rationality. She stated that we cannot come to the point of saying that merely because something is

audible that it is *per se* a significant impact. She stated that certainly the standards in the DEC guidance talks about sounds, appreciating all of its various qualities, in terms of numbers because that is a rationale way to look at it. Ms. Van Tuyl read from the guidelines and stated that it is extremely rationale, when evaluating whether a significant impact exists, to look at what the various receptors are and what the impact is. She stated she does not think there is any question in Mr. Smith's study but that the impact on the Horn residence and the environment immediately around there is not significant and is not exceeding any of the parameters. Further, she noted that the report specifically said that the ambient levels of noise by the roadway are louder than any impact of the transformer. She stated that that is a sensitive receptor and it is rational to hold sound levels to a higher standard but that she does not believe that there is a rational basis for saying that that is a significant impact on that receptor. On the other hand, when talking about the west side of the hill, she noted that there is a higher level of sound being experienced but there are different receptors in that area. Movement in that area will result in a more audible sound, but she thinks that even on a conservative basis peaks are realistically 4-5 decibels and that there will be locations where there's no sound at all. Therefore, to that extent, she stated, the averages should not exclude consideration that there are peaks. Certainly, she noted that what is happening in the area is not akin to a shot gun every once in awhile and that the sound is more even. The DEC guidance says that an increase of 10 dba deserves consideration of avoidance and mitigation measures. She stated that the point she wishes to make is that the levels are well under that, that the impact on the house is insignificant, and the impact observed in the other areas where the sound levels are louder is also not significant when the receptor is properly considered. Therefore, she stated that in looking at this reasonably she urged Board members not to throw up their hands and say that if anybody can hear it or if it is theoretically audible that's *per se* an audible impact.

Mr. Riesel stated that there are significant differences in the published levels, such as 70, 55, and 45. He stated that 70 is when your hearing starts to get impaired. Mr. Smith explained that over a 24-hour exposure period hearing would be impaired at that level. Mr. Riesel stated that 55, 45 is when people start to complain about the level. Mr. Smith concurred. Mr. Riesel stated that 55, 45 is sort of an empirical figure and people in government and science have found that when there are those decibel levels or above there are problems and it is unpleasant and asked Mr. Smith if that is correct. Mr. Smith responded that it could be construed as unpleasant in certain areas and that there are people who live with louder sounds and that there are people who are used to hearing much quieter sounds. He stated that in the center of Manhattan you are listening to 70 decibels just about 24 hours a day. He stated that if it goes above that, there are people who have hearing damage from living in a constant 70 decibel environment. Mr. Riesel noted that that is why people move out of Manhattan.

Mr. Riesel asked about the areas that are on the western slope of the hill down by the barns and in the middle of the field – you have levels there when you add the 5 penalty that are above the 55, 45 level. Mr. Smith concurred. Mr. Riesel asked Mr. Smith whether it is correct that the sound of the transformer is damn annoying. Mr. Smith offered that the emphasis is Mr. Riesel's. Mr. Riesel asked whether it is accurate that the

more incessant a sound is, the more irritating and the more potential exists for making the lifestyle unpleasant. Mr. Smith offered that that is true for most people.

Mr. Riesel stated that the picket fence description is fascinating to him. He asked whether it is accurate that if someone were working in the fields, bottle feeding the animals, for instance, at night, they would be exposed to more than 45 decibels. Mr. Smith responded that it would depend on how close they were to the property. Mr. Riesel asked if the picket fence effect is an additional irritant. Mr. Smith stated that it could be construed as such.

Mr. Smith stated that he wants to be careful because he is appearing before the Board to represent a study that was performed, that when he says something that includes a person's opinion or a person's impression, he is not really speaking to what they measured. Therefore, he stated that it is hard for him to say what is annoying, what is incessant. Mr. Labriola agreed that what is annoying to one person may be different from what is annoying to someone else.

Mr. Riesel pointed out that the picket fence effect describes the fact that as you walk across the western slope or work in different places you hear the transformer and then you don't hear the transformer. Mr. Smith concurred. Mr. Riesel stated that what is heard is the incessant mechanical sound. Mr. Smith stated that, again, that is a description of the sound depending on how loud it is.

Mr. Riesel noted that Mr. Smith stated that he is not making any political or social judgments and also is not making any judgments under the SEQRA either. Mr. Smith concurred. Mr. Riesel stated that he realizes that he's taking advantage of his adversary's allocutions and that he would like to have an opportunity to pull some of the data together on behalf of his client and have time to digest the report. Basically, he stated that we all know what we heard and that he does not think that anybody would like to be out working there. He stated that he represents a client who is protected by the NY SEQRA, basic concepts of land use, and the basic concept not to interfere with the neighbor's use of the property. He stated that his client lives and works in this area where Mr. Smith has sort of acknowledged that there is an irritating, constant, incessant sound. He stated that he does not think anybody should be forced to live with that when somebody else can take care of that as a matter of doing business. He stated that he does not think it is fair to talk about the cost to the taxpayers, the ratepayers, or to Central Hudson unless we have a degree of analysis of how those costs are treated by the Public Service Commission and whether they really are costs that are extraordinary and should be considered in the SEQRA analysis.

Mr. Labriola stated that, based on what has been presented this evening and the many letters the Board has received, he interprets the Bagdon report as follows. He stated that, with the addition of the second transformer, there are areas to the east, primarily in the area of the fenced line of Ms. Horn's property to the top of the rock knob where there are some locations that exceed with the 5 decibel penalty the nighttime guideline of 45 and other locations that exceed the daytime guideline of 55. He noted that at the Horn

residence, the impacts of the second transformer are negligible. He stated that there are some areas to the west that exceed daytime and nighttime, but that the points where the readings were taken were still far enough away from the residences to the west that it will not have any impact to them. It also seems, based on Mr. Smith's presentation, that the raw increase would be 3 decibels of adding a like sound source. However, he noted that because of other reasons that could go to a range of 4 to 5 to 6 decibel increase depending on where you are located. And, he stated that once again that is starting to get to the threshold from a DEC perspective that this could become an annoyance.

Mr. Labriola stated that if you look at the way that the property to the east is zoned, it is R2. Ms. Horn concurred that that is correct. Mr. Labriola stated that he's been considering that since it is zoned R2, at some point in the future it could be developed. He stated that, today, the land is being used as farmland, but that there could be some development there in the future based on its zoning. He noted that Ms. Horn may at some point sell the property and it may be developed. He stated that one of the things the Board needs to consider at it does its SEQRA determination is the ultimate use of that property. He pointed out that if it were zoned as agricultural, it might be held to a different standard than if it is zoned as residential regardless of the current use. He stated that that is something that the Board needs to think about.

Mr. Labriola stated that there is data that shows the areas that we are concerned about – which is the property line and to the east – there are areas that have exceeded the thresholds and some areas are significantly increased. Therefore, he stated that his feeling, because the eventual use of the Horn property cannot be known at this time, is that the Board needs to think about the R2 implication and if somebody were to develop there, would that be something that would be annoying. He stated that it may not be annoying now because no one is living there. He noted that Mr. Riesel made an interesting point that there is time spent in the field tending to animals. He stated that he thinks the consideration is whether, in an R2 environment, this is something we would want to have next door.

Mr. Gordon stated that the report has very clearly presented the information and was understandable. He stated that he thinks the Board has to rely on the findings of the report and make a determination as to whether some mitigation ought to be put in place. He offered that the Board needs to make a decision soon as this has involved a lot of the Board's time and the time of the attorneys for both sides and that Central Hudson has been held up for many months. He suggested that the Board make a decision soon that it needs to see some sort of a plan for some mitigation, or not. Mr. Labriola concurred and stated that the Board now has the data and the numbers necessary to reach a decision on whether we think there's a problem here from a noise perspective and then move to a decision about whether there are any visual impacts. Thereafter, Mr. Labriola stated that he would like the Board to be able to direct the applicant on what they either need to do or not do to move the project forward. He reiterated that because of the zoning on the property, it put him in a different mind with regard to potential impacts and the thresholds that should be considered.

Dr. Fischer pointed out that anybody that owns property knows that not all of it can be developed. Further, he stated that nothing prevents Ms. Horn from selling the 2 acres to Central Hudson in which case there's no impact on anybody. He stated that one of the points that the attorney brought up is that you have to look where it is and consider whether it is a natural site for building a house. He stated that he recalls it as a relatively steep hill and some rocks there, so that you may not be able to build there even though it is in an R2 area. Mr. Labriola stated that that is a good point. Dr. Fischer stated that the easiest solution is to make a deal with Central Hudson to buy the land and then it's over with. Mr. Gordon pointed out that they have the buffer on the other side with the Iroquois Pipeline property.

Dr. Fischer stated that he agrees with the report that it is an emotional issue, it is a hearing issue, but that there are other noises that occur on a relatively regular basis in the area and it is hard for him to isolate the transformer sound. He stated that it would be different if this were open farmland with no transformer in the area and that they now were to put a transformer directly across the street. He stated that in that case there would be a big difference in the noise level.

Mr. Labriola pointed out that, although it may not be a buildable lot, it may be somebody's back yard at some point. Secondly, he stated that he does not think that the Board can task Central Hudson with being responsible for sound that they are not creating. He stated that the Board cannot ask them to mitigate something that they have no control over. If the real life sounds, such as trucks and airplanes, are drowning out the transformer, there's nothing Central Hudson can do to solve that problem. The Board can only ask them to solve for the problem they are creating. Mr. Labriola stated that, absent the trucks and planes, Central Hudson is creating the constant ambient noise from the transformer for which they are responsible. All of the other stuff ebbs and flows, but the transformer noise is constant and at some point is the only noise that you can hear. Dr. Fischer agreed and pointed out that it is the tonal sounds that are the most persistent and annoying.

Ms. Seaman asked if it is usual, when Central Hudson installs a transformer, that they consider mitigating the sound impact. She stated that her first question when she looked at this application was why the sound was not mitigated all the years that the existing transformer has been in place. She stated that, when these installations go in, there should be consideration for the neighbors and for enjoyment of property. Therefore, she stated that this existed without any mitigation for years. From her standpoint, she stated that these are the type of installations that, for enjoyment of property and public policy reasons, should be mitigated. She stated that she does not know what form this mitigation should take or how extensive it should be – is it a few trees in a row or is it a wall. She stated that that is what she is interested in considering. She stated that when there are increases in sound, she looks from the public policy standpoint. When there are installations like this, she stated that sound should have been mitigated originally, as well as the visual screening. She noted that that is what SEQRA has now instituted to require of people.

Ms. Bramson stated that until the zoning issue was brought up she had been thinking of it as a farm. She stated that when she thinks of it as properties that are zoned so that they could be developed, this makes her feel that the value of Ms. Horn's property is diminished. She stated that it is a difference between a little inconvenience, perhaps, and a little irritating when you're out in the field and, maybe, now the value of the property will be diminished because of this. She stated that it makes her take a second look.

Mr. Fracchia stated that he agrees with many comments and thinks that there is an unknown variable created by the installation of the second transformer. He stated that we don't know what the real sound of it will be, because there is no data or specs on the actual transformer. He stated that as far as the hill that blocks Ms. Horn's property, if you were to have access there that would probably have to come down – to excavate that to make it an access point. Therefore, he noted that that would eliminate that natural barrier to Ms. Horn's property. He stated that he thinks Central Hudson will have to come up with something to mitigate the impact.

Mr. Gordon stated that he agrees and that he thinks Central Hudson needs to look at some sort of baffling or some measure, which was talked about early on in the review process. He stated that they need to do something to mitigate the noise. He noted that in populated areas, they put transformers underground, such as in Manhattan. He stated that the Board needs to look to Central Hudson for a plan to mitigate the impact.

Mr. Labriola stated that there is consensus on the Board that it appears, based on the data received, that this could pose a potentially significant environment impact and that the Board will look for some sort of mitigating measures.

Mr. Nelson stated that, as a technical matter, to do a determination of significance which is the next formal step, there are criteria in the regulations that need to be looked at, and that determination needs to be generated in writing. Mr. Labriola stated that the Board is not at a point of doing any kind of declaration, but rather is trying to understand if there are mitigating measures that will be required. He stated that this is not a SEQRA determination this evening, but rather a point at which the Board decides whether a problem exists. And, he noted that, this evening, the Board has said that it believes there is a potential noise problem.

Ms. Van Tuyl stated that Central Hudson is disappointed at the determination by the Board this evening and, while they don't agree with it, an issue that has become of much greater importance to the company and to its customers is the delay in processing this application. She stated that understanding that the company has already lost the ability to install this transformer in 2007, they can see an effective ready ability to prevent it from taking place in 2008, which is not something they can consent to because it damages customers of the company. Therefore, she stated that, irrespective of their own conclusions, her instructions are to try to wrap this up if it can be wrapped up promptly. She stated that she would like to ask the Board to address the landscaping issues tonight so that this situation could result in a negative declaration being adopted at next month's meeting to allow them to move forward. She stated that if that is the case Central Hudson

would agree to install noise mitigation walls around the new transformer to assure that there would be no increase above present levels. Again, she noted that they do not do that willingly, but they do it in acknowledgement of their responsibility to Central Hudson's rate payers and only if it really will move the application forward.

Ms. Van Tuyl mentioned that they had previously introduced to the Board a landscape report from Susan Jainchill, which suggested a plan for planting. She stated that she received a letter report from Ms. Jainchill stating that she anticipated that the amount that it would cost to plant her landscaping plan, which included five 10' tall evergreens, 5 large leaf shrubs, and 200 lineal feet of 46" fencing – the idea being that landscaping on the Horn property would actually be much more effective than landscaping on Central Hudson property. She stated that Central Hudson would propose to pay the costs of the Jainchill plan on the Horn property; the cost of which they estimate is \$6,100. She proposed that the money would be deposited with the Town to be paid to whatever landscape professional Ms. Horn chooses to do the planting. She stated that this estimate includes one year maintenance, meaning that the plants would be nurtured. She also noted that it is Ms. Horn's choice regarding whether she wants the landscaping on her property or not. She also stated that Central Hudson is happy to put landscaping on their own property and that they are happy to contribute to this plan. She stated that they do not want to go through months and months of debating and negotiating and talking about licenses and easements or anything else. She stated that Central Hudson thinks this is a more than reasonable way of mitigating visual impacts and believes that the screening that is there is fairly substantial even in leaf-off conditions. She stated that they are happy to plant evergreens on Central Hudson's property instead of Ms. Horn's property, if she wants that. She reiterated that the idea is to get to closure on this rapidly.

Mr. Labriola recalled that when the second transformer is stacked to the north it is more sparsely vegetated where the new transformer is going to go. Therefore, he stated that as a minimum there needs to be some level of planting on the Central Hudson property. He stated that he had not thought of doing something on the Horn property for a couple of reasons: one, because there is livestock and, two, he recalled the aerial photos that showed that that pastured had been somewhat treed. He questioned putting more trees in an area where trees were already removed. He stated that as a minimum the Board would look for some level of planting on the Central Hudson property and recalled that Ms. Jainchill had mentioned some mixed breeds that are native and at different heights.

Ms. Fischer also agreed that the planting should be 100% on Central Hudson's property which they maintain. He noted that plantings on the neighbor's property may not be welcome and may be cut down at some time in the future. He stated that if the decision is reached that the landscaping is necessary, then it should be done on a place where there is assurance that it will be preserved, which he suggested is the Central Hudson property.

Ms. Seaman stated that the closer you are to it, the less is required because you get right up against it, you screen it, and you're done.

Ms. Van Tuyl asked if it is the Board's consensus to plant on Central Hudson's property. Board responded yes. Ms. Van Tuyl noted that the wall is going to take up some room and noted that they don't have much room. She stated that before next month's meeting they will develop a plan for landscaping on the Central Hudson property as much as they possibly can.

Mr. Labriola asked Ms. Van Tuyl for confirmation that she had referenced the noise wall around the second transformer only. He stated that the initial submission had the barrier along both transformers with a 45 degree wing. He asked if Central Hudson is only erecting a barrier on one transformer. Ms. Van Tuyl confirmed that they are putting a barrier only on the new transformer and referenced the Bagdon report which concluded that that would absorb the noise and that there would be no increase.

Ms. Fischer noted that if what the Board is looking for is no increase then this plan accomplishes this.

Mr. Labriola noted that the sound barrier combined with the landscaping and the oil containment system will address all of the issues that have been raised both by the Board members and the adjacent property owners. He stated that if the applicants come in with the plans that have been discussed there would be no reason why the Board could not move forward with the SEQRA determination and a conditional final next month. He explained that the final will be conditional on the ZBA variance appeal. He noted that the ZBA is waiting for the Planning Board's SEQRA determination, which will be made, conditioned on the ZBA approval.

Ms. Van Tuyl stated that Central Hudson will submit plans for the noise wall and for landscaping on their property. Mr. Setaro stated that he would like Steve's office to look at the noise wall plan, too, because they were involved in the original report. With regard to landscaping, Mr. Harder recalled that initially it was agreed that the existing vegetation was the best natural barrier and anything that would be planted on the Central Hudson would require them to cut down the existing vegetation, which would take years to grow back up.

Mr. Riesel stated that he would like to look at these plans prior to their submission. He stated that they submitted a landscaping plan for the Central Hudson property. He stated that they can work out any minor differences and that they do have some issues that they would like to discuss with the applicant. He referenced 200' of 48" high wire mesh fencing material may be more objective and detrimental to the natural setting as anything else. He stated that he thinks these issues can be worked out.

Ms. Van Tuyl stated her understanding that that proposal has been withdrawn in light of the Board's preference to have planting on the Central Hudson property. Mr. Labriola concurred with that statement.

Mr. Riesel stated that he would like to see the plans in draft form so that his client can comment on them. Mr. Labriola stated that at this point the discussion is between Central

Hudson and the Planning Board. Therefore, he stated that there is not a lot of room to do a lot of planting by virtue of the geometry of the site. He stated that the Board is asking Central Hudson to submit its landscaping plan for the Board's review. He stated that they recognize that they are trying to solve the problem of visual screening. Further, he stated that the Board will provide the barrier information to Bagdon Environmental for their review. Mr. Labriola noted that Bagdon has already looked at the HUSH reports and the other materials and that Bagdon concurs that the plan is heading in the right direction and asked that Bagdon confirm that for the Board. Mr. Smith stated that he will inform Mr. Bagdon that they will be looking at a design for a sound wall around one of the transformers.

Ms. Van Tuyl stated that she is more than happy to speak with Mr. Riesel, but noted that the proposal that she made this evening is made on the basis that the Board comes to closure on this. She stated that they do not have any time to spend more months debating planting plans, etc. She stated that if they are going to be litigating this for months, then that will have to happen. Mr. Labriola stated that it would probably serve Central Hudson to collaborate with Mr. Riesel on their planting schedule prior to submitting anything to the Board, but that he views the process at this point is between Central Hudson and the Planning Board on the level of acceptability of that landscaping plan. Getting input, he noted, is suggested but not required.

Mr. Fracchia asked how the containment system works. Ms. Van Tuyl stated that the Board has already reviewed this. Mr. Harder stated that there is a clay liner buried under the ground that is impervious to water and to oil and that it comes up like a bathtub on three sides. He stated that the fourth side has the trench that has an engineered rate at which the water will pass through. On the other side of that, he explained, there is a drainage pipe that drains out the storm water that gets into that bathtub. He stated that the plans document the flow rates for the water versus the oil.

Mr. Fracchia asked, in the event of a storm and a transformer leak, how it works – is it all going to come out or is the oil going to be separated. Mr. Harder stated that if it goes through the soil berm, yes, the water will pass through something like 18 times faster than the oil. Ms. Van Tuyl stated that in the interest of complete description and in fairness to the detail of the plan that was developed, rather than this late in the evening asking Mr. Harder to recall the plans, she suggested that this issue was resolved several months ago. She stated that, with the Board's permission, before the next month's meeting they will again send copies of the detailed plans to the Board and can describe it at length at the next meeting. She cautioned that anything that Mr. Harder could say at this time would not do justice to the detail that is on the plans and that she does not want to create confusion or fodder for more arguments.

Mr. Labriola stated that the Board and the applicants have discussed the oil containment system to his satisfaction and after review by Morris Associates the Board is comfortable that the plan does what it sets out to do. He stated that the Board has already received plan drawings that contain the information, and he considers this to be complete.

Dr. Fischer stated that there is nothing that he is aware of that will slow up the process next month.

Mr. Labriola stated that next month the plan should be to complete a SEQRA determination and a negative declaration and then a conditional final approval.

Ms. Van Tuyl expressed her appreciation to the Board for taking one of the hardest looks that she has even seen as part of a SEQRA evaluation. She noted that everyone has spent a great deal of time on this and certainly looked very long and hard at all of the issues. She stated that she appreciates all the many hours that the Board has spent on this. Mr. Labriola expressed the Board's appreciation to Central Hudson for working with the Board every step of the way. Mr. Riesel echoed these sentiments. Mr. Smith appreciated the Board's interest in these matters and stated that he was impressed with the quality of the questions and with the interest shown.

6. KIRCHHOFF CONSTRUCTION – SIGN PERMIT

Mr. Paul Beichert, Timely Signs, was present. He submitted plans for a monument sign at Mr. Kirchhoff's property at 199 West Road. Mr. Friedrichson stated that the design meets all the regulations. Mr. Labriola stated that this is an outstanding sign design.

Mr. Gordon asked about a stone planter as a base. Board, Mr. Beichert, and Mr. Kirchhoff discussed the base design. Mr. Kirchhoff explained his concept for presenting the building with a modern industrial look and expressed his preference not to soften up the base with plants, etc. Board agreed to go with the design as presented.

Mr. Labriola: **MOTION TO GRANT SIGN PERMIT**

Whereas the Town of Pleasant Valley Planning Board has received an application from Kirchhoff Construction for the approval of one sign dated 10/25/07, and

Whereas an environmental assessment form has been submitted and reviewed, now

Therefore, be it resolved that the Planning Board determines the application to be a Type 2 unlisted action and that it will not have a significant effect on the environment, and

Further, be it resolved that the Planning Board grants approval for one sign as shown in the application and drawing and consisting of the materials, sizes, and colors shown in the application except as follows: NONE

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

7. APPEAL #909 KIRCHHOFF PROPERTIES, LLC – VARIANCE

Mr. Joe Kirchhoff and Ms. Paula Vincitore were present. Mr. Labriola stated that this is for a variance on 4 Clinton Heights.

Ms. Vincitore stated that this project, which they call Habitat for Happy, is for one of Kirchhoff's less fortunate employees. She stated that without Mr. Kirchhoff's help and the help of the rest of the people in the Kirchhoff company, this employee would never have the ability to own a home. Therefore, she reported that Mr. Kirchhoff secured a piece of property and that they originally thought they could renovate the house. However, she stated that they found the house to be in such poor shape that they demolished the house and built a new dwelling. She stated that many of the Kirchhoff employees have volunteered their time and their energy and their talent to this project. She stated that many of their subcontractors have donated materials, and that the house is about 50% done. Ms. Vincitore explained that they would like to put a small one-car garage on the side of the house which will require a variance from the side yard setback.

Mr. Fracchia stated that he did a site visit. Board reviewed the map and noted the adjacent vacant lot.

Mr. Labriola read into the record a letter dated 11/7/07 (original on file) from the Fire Advisory Board: no position as they feel it presents no fire or safety concerns.

Board agreed to pass this appeal along to the ZBA with a positive recommendation.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION AS THE BOARD DOES NOT BELIEVE THAT THE VARIANCE BEING REQUESTED REPRESENTS ANY PLANNING ISSUES. THE BOARD ALSO TAKES NOTE OF THE VACANT PROPERTY NEXT DOOR AND THE FACT THAT IT IS HIGHLY UNLIKELY THAT SOMEONE WOULD PLACE A HOME ON THE LITTLE SECTION OF PROPERTY ADJACENT TO THIS SITE**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-0-0

8. APPEAL #910 BERGER – VARIANCE

Mr. Labriola noted that this appeal was on the agenda last month. Mr. Friedrichson explained that the ZBA denied the appeal and that the applicant is now back with a request for a smaller variance. Mr. Labriola noted that the original request was for 80' variance and that the current appeal is for 50'.

Mr. Fracchia pointed out that the height of the proposed garage is not known. Ms. Bramson stated that the angle is odd. Mr. Labriola agreed and noted that the house does not meet the setbacks. He suggested that they line the garage up with the house and make it parallel to Salt Point Turnpike. Board members concurred that they do not understand the rationale for the proposed positioning of the garage.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION BASED ON:**

1. **that the garage should be resituated so that it runs parallel with the front of the house and so that it will maintain the same setback as the pre-existing house and that it is not on a 45 degree angle**
2. **that the ZBA better understand the use of the garage and the height of the garage as compared to the existing home and the adjacent properties because this information was not provided**

Discussion: Dr. Fischer suggested that this should really be a negative recommendation since the Board does not like the current design of this application. Mr. Labriola agreed.

AMENDED MOTION: MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A NEGATIVE RECOMMENDATION BASED ON THE CURRENTLY PROPOSED APPLICATION. THE PLANNING BOARD BELIEVES IF THE ZBA GETS THE APPLICANT TO MOVE THE GARAGE SO THAT IT IS PARALLEL WITH THE EXISTING HOUSE AND THAT THE FRONT OF THE GARAGE IS AT THE SAME POINT AS THE FRONT OF THE HOUSE, THEN THEY ARE MAINTAINING EXISTING ROAD SETBACKS. THE PLANNING BOARD DOES NOT BELIEVE THAT THE GARAGE NEEDS TO BE ON AN ANGLE. THE PLANNING BOARD ALSO ASKS THE ZBA TO UNDERSTAND THE PLANNED USE OF THE GARAGE AND THE HEIGHT OF THE GARAGE RELATIVE TO SURROUNDING BUILDINGS.

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

9. APPEAL #911 – WEST ROAD PROPERTIES, LLC

10. APPEAL #912 – WEST ROAD PROPERTIES, LLC

Mr. Joseph Kirchhoff was present and explained these two appeals. He stated that there are two different spaces in the building. One is in the middle, and the other one is way in the back. He explained that the one in the back is for the children and is adjacent to the grassy backyard and a fenced in playground.

Mr. Kirchhoff explained that there have been two schools of thought regarding this appeal. The first one is that the zone allows industrial and for-profit school. He explained that one view is that NYS and private people pay Anderson School to provide services to its clients, which Mr. Friedrichson does not agree with. Further, he explained new information that they just found out is that NYS Education Law 2853a states that a charter school be viewed as a public school. He stated that Anderson School is a charter school, and under that classification they can go anywhere they want. He stated that the attorneys will work with Scott Volkman the next day on exactly how they want to address this. He explained that he's looking for the Planning Board to give a positive recommendation to the ZBA and noted that this is a great use for these offices. He stated

that Frank Pepe wrote a letter because he serves a tremendous number of children from Arlington Central Schools and they are right next door. He noted that the busing works and it is not a heavy industrial zone and that they are using the building as offices. He stated that they have dressed up the building to a high level and the Anderson School is the kind of tenant and the kind of use that they want for their building.

Mr. Labriola stated that he reviewed the Code for allowable uses and that there was nothing in there that fits this. Ms. Seaman suggested that this is one of the problems with the Town Code because the term "light industrial" implies big machinery moving steel around, which is not accurate. Mr. Kirchhoff pointed out that he has Redl Park on his right side and the school on the left side. He stated that Anderson School as a tenant in the building works very well with the neighborhood.

Mr. Labriola stated that he has no problem with this application and read into the record a letter from the Fire Advisory Board dated 11/7/07 stating that they take no position on this appeal. Mr. Labriola stated that this is a clean use of the property and asked how many children there would be. Mr. Kirchhoff stated that the count is surprisingly low and estimated about 6-7 kids in each of 4 classrooms for a maximum of 25-30. Mr. Labriola asked if they run to a typical school day and how they are transported.

Mr. Kirchhoff stated that the children are bussed in via minivans and that the adults come from the community and from the school where they live. He stated that the clients would be transported in the minivans and that the staff helps them to become functioning children and functioning adults in the program.

Mr. Labriola noted that part of this application specifically for the children's classrooms showed the addition of a fenced in playground, which he pointed out is a site plan question. Mr. Kirchhoff stated that they will come back regarding that and noted that they will need more ADA spots. Mr. Labriola concurred that both the playground and the issues with ADA parking spots will need to be added to the site plan.

Mr. Labriola: **MOTION TO PASS ALONG APPEALS #911 AND #912 TO THE ZBA WITH A POSITIVE RECOMMENDATION BECAUSE THE PLANNING BOARD BELIEVES THAT THE CURRENT CODE DOES NOT COVER THIS TYPE OF A SITUATION. FURTHER, THE PLANNING BOARD THINKS THAT THE ANDERSON SCHOOL DOES, IN FACT, QUALIFY AS A FOR-PROFIT ENTITY AND IS AN EXCELLENT, CLEAN USE FOR THE SITE. IF THE ZBA DOES GRANT THE VARIANCES FOR THESE APPEALS, THE SITE PLAN WILL NEED TO COME BACK BEFORE THE PLANNING BOARD FOR AN AMENDMENT AND A REVIEW.**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-0-0

10. TACONIC HOMES

Mr. Labriola asked Mr. Kirchhoff about plans for a workshop regarding this project and noted that Mr. Kirchhoff was going to meet with DC Department of Planning and with the Rockefeller University Field Research Center.

Mr. Kirchhoff stated that he met with DC Department of Planning and that the Department gave him some difficult challenges. He stated that they have accomplished about 95% of what they requested. He stated that they changed the site plan and that he thinks they are in very good shape with the Department and that he anticipates that the Board will receive a positive letter from them.

Mr. Kirchhoff stated that they moved the buildings away from the Rockefeller property line and have put the clubhouse down front and made some nice changes. He stated that, as far as the Rockefeller group, he has reached out to them to have a meeting with them. He stated that they wanted to put him through a whole situation where he would have to send them a lot of information and drawings and sketches and an agenda of what he wanted to talk to them about and that he became a little frustrated with that. Therefore, he stated that he did not have a meeting with them at this time. He stated that his partner in Connecticut is potentially meeting with them from the foundation in Manhattan.

Mr. Kirchhoff stated that, based on what Dutchess County wanted and knowing what Rockefeller wanted, they made some changes on their own that will soften their property line. Mr. Labriola stated that it sounds like the workshop may not be needed and that the next step would be a revised set of plans. Mr. Kirchhoff stated that he thinks that's probably where this project is at.

11. MINUTES

Mr. Labriola: **MOTION TO APPROVE THE PLANNING BOARD OCTOBER 2007 MINUTES AS CORRECTED; SECONDED BY R. FRACCHIA; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **MOTION TO APPROVE THE PLANNING BOARD SEPTEMBER 2007 MINUTES AS SUBMITTED; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 5-0-0**

12. MISCELLANEOUS

Storm Water Management workshop: Discussion regarding 11/19/07 presentation on Storm Water Management and the possibility of scheduling a separate workshop just for the Planning Board members.

DC Planning Federation Annual Awards: Discussion regarding DC Planning Federation Annual Awards. Mr. Labriola received an e-mail from Ms. Vincitore asking if the Planning Board would consider nominating Fox Run Capell subdivision for open space preservation consideration. He explained that the Planning Board would have to submit this as something to be considered for an award in the category of Open Space Preservation. Mr. Labriola concurs that the Board did some creative things with this application.

Ms. Seaman explained that the Board can submit it, but that usually they look to properties that preserve more than 50% of the property for open space. Mr. Gordon stated that this is a type of plan that could be replicated. Ms. Seaman stated that for Open Space Preservation they really want designs that preserve 50%. Mr. Gordon advised the Board to submit it.

Dr. Fischer stated that he does not think it's worth it as it is not really open space preservation and is wetlands that they could do nothing with. He stated that he does not think it really fits the category. Ms. Seaman stated that there were a lot of factors outside of just that development why the DLC accepted that easement. She stated that it would be highly unusual if you took that parcel out of context, and from a policy standard she is reluctant to have something held up as something that other people think they can emulate when they probably cannot. Mr. Labriola stated that this is very unique. Ms. Seaman stated that for conservation open space planning you need a lot more open space.

Mr. Gordon stated that things that win awards are things that break new ground. He stated that things that work on a smaller scale and might be replicated time again and again. He stated that it is great when someone preserves 300 acres, but how many opportunities for that are available. Ms. Seaman pointed out that she does not think this project could be replicated time and time again because the conservation easement was so important to it. Mr. Gordon stated that there may be other parcels that border already protected land and that he thinks it is very unique.

Board decided not to submit this for consideration.

Errico: Mr. Labriola stated that nothing will be done with Errico until they notify the Board that they are staked and are ready to go.

Meeting adjourned at 10:30 p.m.
Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the November 13, 2007, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

____ Approved as read

____ Approved as corrected with deletions/additions

PLEASANT VALLEY PLANNING BOARD
December 11, 2007

A regular meeting of the Pleasant Valley Planning Board took place on December 11, 2007, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:37 p.m.

Members present: Joe Labriola, Chairman
 Kay Bramson
 Rebecca Seaman
 Rob Fracchia
 Henry Fischer
 Michael Gordon
 Peter Karis

Also present: Pete Setaro, Morris Associates
 Mike Takacs, Morris Associates
 Jim Nelson, Esq., Town attorney
 Dieter Friedrichson, Zoning Administrator

**1. DUTCHESS QUARRY/TOWN OF PLEASANT VALLEY/BOWER PARK
LOT LINE REALIGNMENT – SKETCH PLAN APPROVAL**

Mr. Mark Williams, Manager of Environment Services, H2H Associates, was present. Mr. Williams stated that this is a simple lot line realignment, taking a 44.54 acre parcel and breaking it into two pieces. He stated that 3.77 acres will be deeded to the Town of Pleasant Valley and that this parcel is the southern most portion and abuts the Wappinger Creek as well as the northern end of Bower Park. He stated that Dutchess Quarry will document in the deed that there are no thoughts of extending the Quarry to the South in that direction. He stated that the Quarry does not plan to change anything associated with its operations. He stated that, yesterday, they received comments from Morris Associates; and he submitted to the Board their response to those comments.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that because the property is adjacent to an agricultural district they need to fill out an agricultural data statement. He stated that they need to make sure that the next plan conforms to Section 82-26 of the Town Code and that the requested waivers be submitted in writing. He suggested that the Board may want to see a map that includes the Town of Pleasant Valley Bower Park and noted that it is not something that is required to file the plat. Finally, he stated that the County Health Department will have to sign off on permission to file.

Mr. Karis pointed out that his copy of the subdivision application is not signed. Mr. Labriola noted that the file contains the signed copy. Mr. Setaro noted that his copy of the application is also signed.

Mr. Fracchia asked whether there is anything stored or excavated on this parcel. Mr. Williams stated that it is pretty much open meadow, forested land with trails and is not part of the operational scheme of the quarry, itself. Mr. Fracchia asked if the Quarry ever used it for piling debris. Mr. Williams stated that it is vacant land.

Mr. Labriola concurred with Mr. Setaro's suggestion that the map should include the full Town of Pleasant Valley parcel and asked that they include this on their next submission. He explained that this is so that the Board understands the boundaries of all of the lots being proposed.

Mr. Labriola read into the record a letter dated 12/5/07 from the Pleasant Valley Fire Advisory Board: no position as it presents no fire or safety issues.

Mr. Gordon asked why this came up. Ms. Seaman explained that it was initiated by the CAC. Mr. Williams stated that the CAC had been looking at the property for some time for the purpose of gaining access to the Wappinger Creek. He noted that the CAC has been talking with the Quarry for some time and stated that it will be of tremendous benefit to the Town.

Mr. Williams stated that they have addressed all of the concerns in the Morris Associates letter with the exception of showing on the map the entire Bower Park lot.

Mr. Labriola: **MOTION TO GRANT SKETCH PLAN APPROVAL**

I move that the Planning Board grant sketch plan approval to the Dutchess Quarry Town of Pleasant Valley Bower Park Lot Line Realignment in the form of the resolution prepared by the Board's engineer and now before the Board subject to the following conditions:

- 1. address comments in Morris Associates letter dated 12/6/07**

SECONDED BY K. BRAMSON

Discussion: Dr. Fischer asked for more information regarding CAC's interest in this application. Mr. Labriola stated that the CAC has not spoken with him and noted that this will be coordinated through the Town Board and that the Town Board is aware of this and supports this. Mr. Williams stated that Ms. Plotnick has attended Town Board meetings regarding this. Dr. Fischer asked if the CAC made a specific request for 3.77 acres. Mr. Williams stated his understanding that the CAC wanted access to the Wappinger Creek. Mr. Labriola noted that the current property does not border the creek. Mr. Williams spoke about access for canoes, etc. Dr. Fischer reviewed the map to discern the creek frontage and the Town's property line, which is off of the creek. Ms. Bramson stated that it makes sense. Mr. Williams stated that the superintendent of the Quarry walked the site with Ms. Plotnick several times and they discussed additional trails to serve the Town, to promote conservation of land within the Town, and to take advantage of the recreational opportunities on Wappinger Creek.

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola enumerated the next steps: post the subdivision sign; updates to the drawings; and advertise for a public hearing.

2. CRAIGE SUBDIVISION – SKETCH PLAN APPROVAL

Mr. Brian Franks, surveyor, was present. Mr. Franks explained that Mr. and Mrs. Craige want to subdivide off the Town of Pleasant Valley property with the Town of Clinton Property with a 200' access strip with the Town of Clinton.

Mr. Setaro asked if there was a reason for selecting 200'. Mr. Franks stated that he had originally proposed 100' but that the Craige's wanted 200'. He stated that his understanding is that they have someone who is interested in buying the Town of Pleasant Valley property and that the Craige's will retain the Town of Clinton property.

Mr. Setaro asked if there is an application made to the Town of Clinton. Mr. Franks stated that this has not yet been done. Mr. Setaro stated that this needs to be done in both Towns. Mr. Labriola stated that it will be a coordinated review and that one of the Boards will declare, itself, lead agency. Mr. Labriola stated that Pleasant Valley Planning Board should be lead agency because the Town of Clinton property is landlocked and must go through Pleasant Valley. Therefore, he noted that any implications on future buildouts will be solely in the Town of Pleasant Valley.

Mr. Setaro stated that there should be a coordinated SEQRA review, also, and stated that the Planning Board should pass a motion on the floor to declare its intent to be lead agency and then circulate to all involved agencies.

Mr. Setaro reviewed the Morris Associates comment letter. He noted that Mr. Franks needs to contact the Highway superintendent to look at the access for a driveway for the future lot in the back. He stated that the next round of plans needs to conform to Section 82-26 of the Code.

Mr. Labriola stated that there are two lots labeled as Lot #1. Mr. Franks stated that he will correct this. Mr. Labriola pointed out that there are wetlands on the Clinton lot. Mr. Franks stated that they will be shown on the map. Mr. Labriola asked that they be shown with the buffers. Mr. Franks concurred.

Mr. Karis asked that Mr. Franks provide a topography map. Mr. Franks stated that he asked for a waiver of this because there are no physical changes at this time. Mr. Karis stated that the concern is for future buildouts and the impacts on a 60 acre lot that's being created. He stated that he would like to see some indication of the topography to understand what exists on the property.

Mr. Setaro asked if there are any physical or environmental restrictions on the 200' strip in the back. Mr. Franks stated that there are none and noted that the wetlands are further north. Mr. Setaro asked him to provide a topo.

Mr. Labriola reviewed the waivers being requested:

1. location of trees and outcrops: OK
2. 1" to 200' vicinity map: Mr. Franks stated that it will be on the plan
3. primary control points: OK
4. new proposed tax zone: OK
5. short form EAF versus long form: Mr. Franks is requesting this because there are no physical changes. Mr. Karis and Mr. Labriola noted that this subdivision enables someone to make changes in the future and, therefore, the long form breaks out the characteristics on the site – land uses, wetlands, pasture, woods. Mr. Karis stated that this Board, as lead agency, needs to circulate as much information as it can for the SEQRA review. Board agreed to deny this waiver and to require the long form EAF.
6. showing topography: denied

Mr. Labriola: **MOTION TO ACCEPT THE FOLLOWING WAIVERS THAT HAVE BEEN REQUESTED:**

- **#1: location of trees and rock outcrops**
- **#3: primary control points**
- **#4: proposed tax map parcel numbers**

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola read into the record a letter dated 12/5/07 from the Fire Advisory Board: no position as there are no fire or safety issues.

Mr. Labriola: **MOTION FOR SKETCH PLAN APPROVAL**

I move that the Planning Board grant sketch plan approval to the Craige Subdivision in form of the resolution prepared by the Board's engineer and now before the Board subject to the following conditions:

- **address comments in Morris Associates letter dated 12/6/07**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

Mr. Karis asked if the Board would wait to receive the additional information from Mr. Franks before declaring its intent to act as lead agency. Mr. Labriola agreed that it would be a more complete package to circulate. Mr. Setaro suggested that the Board could make the motion tonight and wait to circulate till all the documents have been received. Mr. Labriola suggested that the Board wait for the next submissions to declare lead agency. Board concurred. Mr. Labriola informed Mr. Franks that the Board would like to see the next set of drawings before authorizing him to advertise for a public hearing.

3. CENTRAL HUDSON TINKERTOWN SUBSTATION EXPANSION – SITE PLAN REVIEW

Ms. Jennifer Van Tuyl, attorney, Mr. Patrick Harder, engineer, Mr. Gary Courtney, engineer – all from Central Hudson - were present. Ms. Suzanne Horn, adjacent property owner, was also present.

Ms. Van Tuyl stated that as of the last Planning Board meeting there were 3 elements that were being incorporated as integral aspects of the proposed project. She stated that these are: the landscape proposal, the noise wall around the proposed new transformer, and the plan for oil containment, which has been discussed extensively at prior meetings.

Ms. Van Tuyl stated that the proposed landscaping plan is totally new for the Board's review. Mr. Labriola noted that the Board has received copies of this plan. Ms. Van Tuyl reminded the Board that this plan comes from Susan Jainchill, registered landscape architect and certified planner. She stated that the area around the new transformer has been found to be more sparsely vegetated and noted that Ms. Jainchill has designed a plan to supplement the proposed vegetation in that area. She stated that the general idea is to keep the existing mature canopy trees that provide shade for an understory planting and recognize that they had to choose evergreen trees, because of the life cycle of the existing cedar trees. She stated that the species that have been chosen have been selected for their tolerance of light shade. She described the proposal to plant two groupings and pointed out on the plan the height of the trees at their maturity which are 14' for one species and 30' for another. She stated that they are planned to be planted at the heights of 5'-6' for one species and 8'-10' for the other species. She noted that the landscape architect believes that trees planted at that stage of growth will adjust to their new environment better and grow better. Further, she stated that there are only 4 deciduous trees that are planned to be removed, in order to remove shade that would be harmful to the new trees.

Ms. Van Tuyl also reported that this planting will be done under the supervision of the project landscape architect AKRF, that it would take place during the appropriate seasons of the year. She stated that existing mature trees in the vicinity of the existing transformer will remain and will not be disturbed.

Mr. Labriola polled the Board on this landscaping plan. The Board concurred that this is a reasonable selection of tree types, that the applicant is minimizing the number of trees being removed, and agreed with the landscape plan as described.

Ms. Van Tuyl reported on the noise wall that is planned for the new transformer. She stated that the main issue here is that the plans for the proposed transformer wall were to be reviewed by the Board's noise consultant. She described the design for the wall and asked about the Board consultant's report.

Ms. Van Tuyl noted that the oil containment system was discussed extensively at Board meetings last summer. She stated that it was the oil containment plan that necessitated raising the grade of the existing transformer because the Board wanted oil containment to incorporate both transformers. She stated that an issue arose in a letter received today

from Mr. Riesel regarding whether raising the grade of the transformer has any impact, which question has been referred to the Board's consultant.

Ms. Van Tuyl stated that these are the 3 elements that have been incorporated as integral elements of the project and that they are not asking for a conditioned negative declaration. She stated that they believe that the analysis has been extensive. Further, she submitted a list of all the submissions that the Planning Board has seen. She stated her belief that it cannot be disputed that this Board has taken a very hard look at all aspects of this proposal, which they believe supports a negative declaration and she asked that the Board consider that tonight.

Mr. Labriola stated that the latest set of plans was referred to Bagdon Engineering and that everyone should have received a copy of their report. He noted that their conclusion was "that the proposed barrier will provide a sufficient level of attenuation of the sound pressure levels of the second transformer to render it unnoticeable."

Mr. Labriola referred to the fact that the existing transformer will be raised 1' to accommodate the oil containment system. He noted that the Board has received something in writing from Bagdon that states that the elevation change of the transformer will not create any new impacts, that the rock ledge on the Horn property will still do the blocking.

Mr. Labriola stated that, from a noise perspective, what is being proposed is absolutely going to mitigate any potential noise increases. Ms. Van Tuyl offered that, rather than mitigating it, they have incorporated all these elements into the project so that the Board can be assured and make a finding that the project will not cause a significant impact. Mr. Labriola concurred that, with these design changes, they have eliminated noise as a problem.

Mr. Labriola asked about the color of the materials of the noise wall. Mr. Harder offered the Board a color chart, and the Board concluded that the wall will be tan green. Ms. Bramson asked about the plan to put slats in the fence. Ms. Van Tuyl confirmed that there will be slats in the fence. Ms. Bramson raised the issue of the fact that slats often deteriorate over time. The Board and Mr. Harder discussed maintenance of the slats and settled on the same color for the slats as for the sound wall – tan green.

Mr. Labriola read into the record from a fax dated 12/11/07 from Mr. Mark Bagdon commenting on the plan to raise the existing transformer 12" to accommodate the oil containment system: "It is my judgment that this would have no impact on transformer noise levels in the surrounding areas."

Mr. Nelson outlined the review process of the submitted EAF. He stated that the Board has copies of Part 1 of the EAF, which describes the action and which was prepared by the applicant. Tonight, he stated that the Board needs to review Part 2 of the EAF, which is a document that looks at the potential impacts and their potential magnitudes. He stated that the Board needs to consider the standards for the magnitude of any potential

impacts under the SEQRA regulations, take a look at Part 3 if there is a potential impact that the Board thinks might present potential for a significant impact. Further, he stated that the Board will consider a SEQRA resolution – negative or positive – and if a negative, then proceed to a substantive resolution. He reminded the Board that they have all seen the Part 1, which has been distributed in the past.

Mr. Nelson reviewed the Part 2 document and suggested that the Board adopt it by motion after the Board has approved the contents. He stated that it has been prepared in draft form and asks 20 questions dealing with the project impacts and their potential magnitude. He pointed out that there is one potentially large impact, which is the possible oil spills, which is identified in question #1 and #5.

Mr. Nelson and the Board reviewed each question and the answers to them. Question #1, regarding oil spills, is answered “yes” and discussed in a Part 3. Questions #2, #3, and #4 are answered “no.” Question #5 is answered “yes”, with a footnote regarding the storage of petroleum products. Questions #6, #7, #8, #9 are answered “no.” Board discussed some of the remaining questions and determined that #10 through #19 are answered “no” and that question #20 is answer “yes.” Mr. Nelson pointed out that questions #11, #12, and #17 have been footnoted regarding the issues of noise, views, and odors. He pointed out that #18 is also footnoted.

Mr. Fracchia asked how the new transformer will be installed given the proximity of the Iroquois pipeline. Mr. Harder described on the map how the transformer will be installed on the site. He explained that Central Hudson will inform the Iroquois authorities of the installation and stated that it will never be in the right-of-way of the pipeline. Mr. Karis asked if there will be any impact on top of the pipeline that should be aired. Mr. Harder stated that they will not be on the pipeline at all and that there will be coordination between Central Hudson and the pipeline for the installation. Ms. Van Tuyl stated that they do not expect that there will be any issues with the installation vis-à-vis the pipeline. Mr. Harder stated that if there are, they will take care of it.

Mr. Nelson advised the Board that, if this draft Part 2 says what the Board thinks it should say, they should accept it by motion.

Mr. Labriola: **MOTION TO ACCEPT THE PART 2 EAF AS WAS JUST DISCUSSED; SECONDED BY K. BRAMSON; VOTE TAKEN AND APPROVED 7-0-0**

Mr. Nelson stated that, now that the project has been described and the Board has taken a look at the potential impacts and their magnitude, the Board must do an assessment of the project’s potential magnitudes and whether they present the possibility of a significant and adverse environmental impact. Mr. Nelson reviewed the regulations and stated that there are a number of criteria that the Board must keep in mind as it discusses the draft negative declaration. He stated that the question is whether any of these impacts could result in an adverse effect associated with air quality, surface or ground water quality, noise levels, traffic patterns, solid waste production or disposal, potential erosion,

drainage or flooding, aesthetic, agricultural, archeological, historic or other natural or cultural resources, or community or neighborhood character, vegetation or fauna, fish, shell fish, wildlife, significant habitats, or threatened or endangered species, changes in the use or intensity of land use or other natural resources, growth, subsequent development or related activities which were likely to be induced by the proposed action. He stated that, when looking at each of these individual things, the regulations call upon the Board to consider the long term, the short term, cumulative and other effects of them and as well as other effects not listed.

Mr. Nelson explained to the Board that the Part 3 is an evaluation and an explanation of the impact of the items that were identified in Part 2. He offered the Board the choice of reviewing a Part 3 that discusses all identified impacts or reviewing a Part 3 that only discusses the impact of the oil storage on the site. Mr. Labriola noted that the Board has deliberated and narrowed it down to the single impact regarding the oil storage on the site. He stated that the design, as submitted, has removed all other impacts. He suggested that the Board review the Part 3 that discusses the oil. The Board concurred.

Mr. Van Tuyl stated that she would like the record to show that the applicant submitted a Part 3 that dealt with all of the relevant issues of environmental concern that the Board had raised throughout the process. She stated that some of those issues have dropped out because they have been fully discussed. Therefore, she stated that even if they are not discussed tonight, it is clear that the Board has been discussing them and evaluating them throughout the process. She asked that the fuller Part 3, which they submitted with their application, be considered be part of the record. Mr. Labriola stated that it is part of their application and concurred with Ms. Van Tuyl's analysis. He stated that he does not want to minimize the work that the Board and the applicants have done going through this application. He noted that there are minutes, copies of every application Central Hudson submitted, the list of all submissions as compiled by Central Hudson. He stated that the official record has a lot of information about the analysis, the things that were reviewed, and the considerations and, ultimately, the conclusions reached.

Mr. Nelson stated that the information in the Part 3 was drafted by Ms. Van Tuyl's office and advised the Board to review the document and, either, accept it as drafted or amend it as appropriate. Mr. Nelson reviewed the contents of the Part 3 document regarding the issue of oil containment on the site and whether there will be a potential impact on public health by virtue of oil spills from the facility by accident or leak. He noted that the Tinkertown site is subject to the rules and regulations of the EPA; and, under those rules, there is no requirement for secondary containment of oil at this site. The document states that there is no indication that there has ever been a spill at that site and that the proposed transformer is a non-PCB transformer. The document states that transformer oil is not considered a hazardous material; and that Central Hudson conducted a mineral oil spill evaluation analysis, and concluded that there is no reasonable expectation that an oil spill at that site could reach navigable waters. The document states that the substation of this size is inspected monthly and is continuously monitored via alarms for oil levels.

Mr. Nelson noted that Central Hudson is proposing, as part of this application, to install the same type of secondary containment system that it used on larger distribution sites. The Part 3 document states that this containment system has worked well in all situations where it has been installed and is the containment system that has been previously discussed at Board meetings and that Morris Associates has reviewed. Mr. Gordon noted that the statement that this system worked well indicates that there has been a spill at some time. Mr. Nelson stated that this statement could also be based on an engineering model.

Mr. Nelson described the oil containment system outlined in the proposal and in the drawings submitted. He also described the clean up process and Central Hudson's inspection and monitoring routines, as stated in the proposal. He noted that the system permits rain water to exit the system while containing the mineral oil. Finally, he noted that the proposal states that all of these measures will ensure that, in the unlikely event of a spill, there will be no impact on the public health, land, water, plants, or animals. Mr. Nelson noted that the Part 3 states that, for all the foregoing reasons, it has been established that the proposed action will not have a significant impact on public health, land, water, plants, or animals based on potential oil spills.

Mr. Nelson, again, advised the Board that it may adopt this document as drafted or change it as appropriate. Mr. Labriola stated that the document accurately represents the input the Board has received from Central Hudson and the many discussions on oil containment. Board members concurred.

Mr. Labriola: **MOTION TO ADOPT THE PART 3 ANALYSIS AS WAS JUST REVIEWED BY MR. NELSON; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 7-0-0**

Mr. Nelson reviewed the draft negative declaration which he distributed to the Board along with the Bagdon letter that was very recently received. He noted he made some changes to the negative declaration, which was originally drafted by Ms. Van Tuyl. Mr. Nelson advised the Board that its choice is to adopt either a negative or a positive declaration at this time. He stated that a negative declaration represents a decision that there is not a likelihood of a potential significant adverse environmental impact arising from this project and that a positive declaration is a decision that there is a potential for such adverse impact.

Mr. Nelson, Ms. Van Tuyl, and Board members discussed the complete list of documents to be included on the insert list. Ms. Van Tuyl handed Mr. Nelson the list of all documents submitted up to the time of this meeting. Mr. Nelson provided this list to Mr. Labriola for inclusion in the formal file. Mr. Nelson noted that reference to all those documents, as well as the Bagdon report from this evening and the Bagdon fax should be included in the negative declaration. Mr. Labriola noted that Dan Riesel's letter of 12/11/07 should also be included. \

Mr. Nelson continued to review the negative declaration document and the listing of potential environmental issues – noise, oil spills, aesthetic resources, visual, agricultural resources, and historical resources. He noted that the balance of the document is an analysis of those impacts. He reviewed the documentation of the noise impact and of the steps taken to assess that impact. He reviewed the documentation of the potential oil spill impact and the steps taken to assess that impact. He reviewed the documentation of the visual impact and the steps taken to assess that impact, including a landscaping plan. He reviewed the agricultural and historic impacts and the assessment of those.

Finally, Mr. Nelson reminded the Board that this is a draft of a negative declaration which the Planning Board must be comfortable with. Ms. Van Tuyl requested that at the end of the noise analysis mention be included of the second Bagdon report which commented on the impact of raising the level of the first transformer to accommodate the oil containment. Mr. Nelson stated that given that the Bagdon report of 12/11/07 will be attached there is that additional fact which relates Bagdon's opinion that raising the pad for the existing transformer would not change their analysis of the impact.

Ms. Horn asked about the design of the wings on the planned noise wall. Mr. Harder explained the design for Ms. Horn – the wing is 10' in length and the space between the edge of the transformer to the edge of the wing is 16'.

Mr. Labriola amended the last paragraph under noise: "The Board has analyzed the December 11, 2007 Bagdon environmental assessment of the potential noise impact of raising the existing transformer by one foot and determined that the proposed action will not have a significant adverse impact."

Mr. Labriola expressed the Board's appreciation for Mr. Nelson's cogent summary of many months' worth of discussion and an incredible amount of engineering data that was reviewed in this application process.

Mr. Nelson reviewed the proposed resolution to adopt a negative declaration.

Mr. Labriola: **MOTION FOR NEGATIVE DECLARATION (original on file)**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

Mr. Nelson stated that the remaining document is the substantive resolution that was prepared by Mr. Takacs of Morris Associates. He noted that it recites the conditions as required and pointed out the one condition that calls for an outside date for the installation of the landscaping. Mr. Labriola asked the applicants for this information. Mr. Harder suggested fall 2008. Mr. Labriola asked for the end date in November. Ms. Van Tuyl stated November 1, 2008. Mr. Labriola and the Board agreed with this plan.

Mr. Karis asked for clarification that this approval by the Planning Board is contingent on the ZBA grant of the necessary variance. Mr. Labriola confirmed that this is accurate and explained that the SEQRA determination was required for the ZBA to proceed with its ruling.

Mr. Labriola: **MOTION FOR SITE PLAN APPROVAL (original on file)**

Discussion: With regard to condition #4, Mr. Karis asked if the Board would like to request a report after one year of growing season to make sure that the plantings have survived. Dr. Fischer agreed that this is a good point. Mr. Labriola noted that Central Hudson is a good corporate citizen and if they say that they are going to install these plants and keep them in a vigorous growing condition, the Town will expect that they will do that.

Dr. Fischer noted that Mr. Karis's point is good and wondered how to address this on other projects. He stated that it happens frequently, he has noticed, on other projects where some months later the plants are dead or ripped down or cut down and nothing is done about it. He suggested that the Board should address this in some fashion. Mr. Karis concurred.

Mr. Setaro noted that, technically, if an applicant does not maintain the landscaping plan which was a condition of their site plan approval, they could be cited for a violation. Mr. Labriola took note of this as on the list of things the Board will work on in early 2008.

Mr. Friedrichson stated that he ascertains at the time of the C.O. whether the conditions of approval have been met, but that 6 months later he does not inspect the site.

Ms. Van Tuyl noted that only conditions #1 and #2 are prerequisites for the issuance of a building permit and that the remaining conditions only pertain to the C.O. She suggested a revision to the language on the resolution. Mr. Labriola revised the language as suggested – ORIGINAL ON FILE.

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

Ms. Van Tuyl expressed Central Hudson's appreciation for all the time the Planning Board has spent reviewing this application and the great attention to detail that this shows.

Mr. Labriola expressed the Board's appreciation for Central Hudson's cooperation and willingness to work with the Board. He also expressed the Board's appreciation to Ms. Horn for her presence at the many meetings and for her consistent interest and input into the process. He noted that good things happen when members of the public are involved in these processes.

4. GORDON SUBDIVISION – 90-DAY EXTENSION OF FINAL APPROVAL

Mr. Labriola announced that this application is a request for a 90-day extension of final approval and noted that Michael Gordon has recused himself from this application.

Mr. Labriola explained that this extension is being requested because the financial institution's acceptance of the easements is still under review. Mr. Gordon stated that they have made progress and have approved the concept and, hopefully, within 2-3 weeks the paperwork will be complete.

Mr. Labriola: **MOTION TO GRANT THE 90-DAY EXTENSION**

Whereas an application for the approval of a subdivision entitled Gordon Subdivision at 92 Creek Road was submitted to the Planning Board on 12/15/06, and

Whereas conditional approval of final plat was granted by the Planning Board on 3/13/07, and

Whereas in accordance with the Town Code Section 82-15 (i) said approval is valid for 180 days beginning 3/13/07 and ending 9/13/07 with an additional 90-day extension beginning 9/13/07 and ending 12/13/07, and

Whereas the applicant has requested an extension of said approval due to a delay in the financial institution's acceptance of the easements to be imposed on the property, now

Therefore be it resolved that the final approval be extended for a period of 90 days to begin 12/13/07 and to end 3/13/08.

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-0-0

5. MORRIS ASSOCIATES – THANK YOU!

Mr. Labriola expressed his personal thanks to Mr. Setaro and to Morris Associates for representing the Planning Board and for providing excellent assistance to the Board for another year. Mr. Setaro expressed his appreciation for the continued association with the Board. Mr. Labriola noted that the Planning Board and Morris Associates have been working together on applications for a long time and he especially noted that the applications are becoming progressively more complex and that a lot of new ground is being broken. He stated that Morris Associates is helping the Town navigate through these complicated applications and he expressed the Board's thanks. Mr. Setaro stated his appreciation for working with this Board over the years.

6. PLEASANT VALLEY MEDICAL ARTS – SIGN PERMIT

Ms. Stephanie Basciano, applicant, was present. Mr. Labriola asked her to describe the application.

Ms. Basciano stated that they put up their building many years ago and that the original sign was removed. She stated that they put up the appropriate sign that met with the dimensions as required by the Town. She stated that she was not handling the process at that time. She stated that they thought it was a legitimate, legal sign and they put it up. She stated that they had the electric installed for the sign, but that it did not go any further. She stated that, now, since they have had some complaints from people not being able to see the sign in the dark hours of the day, they have decided to eliminate the sign. When she asked for information on procedures on erecting a new sign, she was informed that they never had a sign permit. Therefore, she explained that she is now applying for the appropriate sign permit and for permission to illuminate the sign.

Ms. Basciano provided the Board with photos of the sign and with its dimensions. She stated that the sign meets the Town's size standards. She stated that it is 27' from Route 44, which is also in compliance. She provided information to the Board regarding the type of illumination they want to use. She stated that it is a very small focused lamp that will shine only on the sign from both directions and that it would be on from dusk until 9 p.m. or 10 p.m. when it would automatically turn off.

Ms. Basciano stated that their electrician is Kilo Electric and that once he has permission to go ahead with this, Bill Jaycocks will be the inspector.

Ms. Seaman asked about their intention to providing plantings. Ms. Basciano stated that they had plantings that have died back and that they intend to replant the pachysandra and some larger red bushes in the spring. She stated their intention to make the lamps less visible. Mr. Labriola suggested a stone planter base for their sign similar to the signs across the street. Ms. Basciano agreed to that suggestion.

Mr. Friedrichson explained the history of this sign which goes back to 1993 when they put up a sign that was too big.

Ms. Basciano asked for dimensions on the stone planter base. Mr. Karis stated 18" high, natural stone or concrete base. Board members and Ms. Basciano discussed revisions to the design – cutting the posts down to lower the sign and removing the 1335 that hangs below the body of the sign.

Mr. Labriola: **RESOLUTION TO GRANT A SIGN PERMIT**

Whereas the Town of Pleasant Valley Planning Board has received an application from Pleasant Valley Medical Arts for the approval of one sign dated 11/11/07, and

Whereas an environmental assessment form has been submitted and reviewed by the Board, now

Therefore be it resolved that the Planning Board determines this to be an unlisted action and that it will not have a significant effect on the environment, and

Further be it resolved that the Planning Board grants approval for one sign as shown in the application and drawing consisting of the materials, sizes, and colors as shown in the application except as follows:

- 1. the addition of 1.5' stone or masonry planter and plantings around the base of the sign**
- 2. cut the support posts so that they will extend 12" maximum above the top of the sign**
- 3. remove the second 1335 sign from the site**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

7. APPEAL #913 LUKAITIS – VARIANCE

The applicant was not present.

Mr. Labriola stated that the applicant is requesting a variance from the road setback. He stated that he drove by and that it looks like the shed has been there for many years. He stated that it looks like there is plenty of room on that property to locate the shed. Ms. Bramson asked if they would have to cut down their woods to relocate the shed. Mr. Labriola stated that there is already a second shed on the property, which looks to be very far away from the home. Ms. Bramson asked if it can be seen from the road. Mr. Labriola stated that it can absolutely be seen from the road and wondered about the neighbor's ability to see it also.

Ms. Seaman noted that their previous appeal to house goats was denied in 2004 and asked if this shed is now for the goats. Mr. Labriola stated that this shed is approximately 8' by 12' and is for lawn equipment not for livestock.

Board discussed the size of this property, which is large, and agreed that there are other places on the site to locate the shed.

Mr. Labriola read into the record a letter dated 12/5/07 from the Fire Advisory Board: no position because it presents no fire or safety concerns.

Mr. Labriola: MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A NEGATIVE RECOMMENDATION BECAUSE THE PLANNING BOARD BELIEVES THAT THERE IS ADEQUATE ROOM ON THE PROPERTY TO SITE THE SHED WITHOUT REQUIRING A VARIANCE; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 7-0-0

- 8. APPEAL #914 WEST ROAD PROPERTIES, LLC – SPECIAL USE PERMIT**
- 9. APPEAL #915 WEST ROAD PROPERTIES, LLC – SPECIAL USE PERMIT**

Mr. Labriola explained that these applications were before the Board last month for an interpretation regarding the question of the for-profit or not-for-profit status. He explained that now they are asking for a special use permit.

Mr. Friedrichson clarified that they did apply for a special use permit which was denied. Then they applied for the interpretation, which was discussed by the ZBA. The ZBA decided that they wanted to hear from the Town attorney before rendering an interpretation. In the meantime, the applicant has resubmitted their applications for a special use permit. Mr. Friedrichson explained, therefore, that this might not happen depending on the Town attorney's response to the ZBA.

Mr. Labriola read into the record a letter dated 12/5/07 from the Fire Advisory Board regarding both of these appeals: no position as there are no fire or safety concerns.

Mr. Labriola stated that based on the Planning Board's conversation last month, the Board is in support of these appeals.

Mr. Labriola: **RESOLUTION TO PASS THESE APPEALS ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION BECAUSE THE BOARD SUPPORTS THIS USE FOR THAT SITE. HOWEVER, IF THE SPECIAL USE PERMITS ARE GRANTED, IT IS MANDATED THAT THIS COME BACK BEFORE THE BOARD FOR A FULL SITE PLAN REVIEW.**

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 7-0-0

10. MINUTES

Mr. Labriola: **MOTION TO ACCEPT THE MINUTES AS CORRECTED OF THE 11/13/07 PLANNING BOARD MEETING; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 6-0-0**

11. MISCELLANEOUS

Mandatory 4 hours of training: Mr. Labriola thanked all Board members for completing their mandatory 4 hours of training.

Appreciation to Mr. Nelson: Mr. Labriola expressed his thanks and the Board's appreciation to Mr. Nelson for his help throughout the year. He noted that the applications are getting progressively more complex and thanked Mr. Nelson for helping to keep the Board well advised. Mr. Labriola stated that the Board processed some remarkable applications during the year and thanked Mr. Nelson for helping the Board accomplish this with grace and ease. He stated that Mr. Nelson's assistance throughout the year contributes significantly and that he looks forward to working with him in the new year.

Mr. Nelson stated his appreciation for the opportunity to work with the Planning Board and is happy to continue his association with the Board.

Audrey Friedrichson Scott: Mr. Nelson informed the Planning Board that his firm extended an offer of employment to Audrey Friedrichson Scott, Dieter Friedrichson's daughter. He stated that he does not think this presents a technical legal conflict and if there is any possible conflict or discomfort, he will make sure that there will be no discomfort or conflict.

Appreciation to Board Members: Mr. Labriola expressed his deep appreciation to the Board members for their interest and commitment to this Board. He stated that he consistently receives compliments on the way this Board behaves and treats applicants and noted that the Board has developed a good reputation. He stated that he's looking forward to seeing the comprehensive plan move forward and the recodification.

Comprehensive Plan: Ms. Seaman stated that the Planning Board can have a lot of input into the comprehensive plan when the public hearings start in February 2008. She invited the Board to come to those meetings and stated that they are trying to put more teeth into the Code so that the developers know from the very beginning that the Town means business. Mr. Labriola asked for early notification of the dates of those meetings and copies of the latest comprehensive plan.

Ms. Seaman listed some of the issues they are talking about. She mentioned that in Milan the developers must do an environmental review before sketch plan. She stated that they look at the environmental resources and where they are going to have an impact, and that is the first order of business. She stated that they come in with a resource map before they come with a plan, which the Board reviews and notes the important resources. Ms. Bramson asked if they are going to do buildable acres. Ms. Seaman stated that that is what she thinks will pass in the comprehensive plan and is something that the Planning Board needs to comment on. She stated that under the current Code, a 10-acre parcel with 7 acres of wetlands still gets 2 houses. She stated that under the proposed plan, 7 acres of wetlands you only get 1 house on 3 acres. She mentioned steep slopes, as well. She stated that this is understandable, especially as you don't pay taxes on wetlands. She thinks that it will be part of the plan and that it will be opposed by the developers.

Mr. Gordon referenced maximum average density – that a 50 acre parcel in a 2-acre zoning district does not have to be subdivided equally into 2 acre lots. He stated that closer to the road you can have 1 acre lots or possibly $\frac{3}{4}$ acre lots with a good plan for the rest of the 50 acres still limited to 25 lots but of varying sizes and with a lot of open space preserved. Ms. Seaman noted that this is not clustering.

Ms. Seaman stated that they are looking at the aquifer recharge and septic density map. She stated that a lot of the Town's acreage is already overburdened and that a lot of the proposed acreage would be overburdened under the current zoning. Therefore, she stated that a lot of areas in 2 acre zoning, it is indicated that you should have 3.5 or above for septic density. She stated that there is no problem in many of those areas now because it

is still farmland. But she noted that they are looking very strongly at not impacting that. He stated that all the other Towns around Pleasant Valley are 5 acre zoning. Ms. Bramson asked if the Town is going 5 acre. Ms. Seaman stated that it is a very controversial proposal and that the comprehensive plan committee will take a roll call vote very soon because there is dissension on the committee but that they have to move on. She stated that it has also been proposed that they will give a range of acreage. She stated that the committee has been directed to move on this and noted that it will be decided at the Town Board level.

Follow up on Landscaping Plans: Mr. Labriola asked the Board to think about ways to follow up on landscaping plans that are conditions to final approval – how to make sure that a year later the plantings are healthy. Dr. Fischer pointed out that the need to monitor them beyond one year. Mr. Labriola suggested that perhaps the Board needs to do something more systemically, such as a performance bond or something that it is in place to guarantee their survival.

Errico Application/Discussion of Site Visits: Dr. Fischer stated that he does not think the Board has enough discussion on different items. He noted in the past when the Board used to have 2 meetings a month and a workshop meeting for discussion. He cited the Errico application where there were 7 conversations going on at any one time, which he would like to have been part of to become aware of what different people think about. Mr. Labriola reminded the Board that site plan visits are not the forum for discussion. He noted that the next time Errico is on the meeting agenda, there will be a recap and time for discussion.

Dr. Fischer expressed his disagreement with that as a procedure for sharing information among Board members. He stated that he would like to know what people are feeling and what their thoughts are so that they are prepared for the next time the applicant appears before the Board. Mr. Labriola suggested that the Board could have a discussion at the next meeting following a site visit, but that the applicant and their engineer needs also to be invited to attend. Dr. Fischer agreed with this idea, as did Ms. Seaman.

Dr. Fischer expressed his desire to more fully discuss applications among Board members because he stated that he does not know what others are thinking. Mr. Labriola disagreed and stated that he thinks the Board does discuss things and reiterated his suggestion to have a discussion following the site visit to which the applicant would be invited.

Dr. Fischer referenced the fact that Mr. Fracchia had an issue with the oil containment plan and stated that he did not know how other Board members felt about that plan. Mr. Gordon asked for an executive session. Dr. Fischer stated that such discussions involve the applicants and that the applicants should hear what the Board members think about their application. He stated that Errico should hear what the Board thinks about his application so that he can proceed with that information. Dr. Fischer stated that he is making uninformed decisions because he does not have input of other Board members. Mr. Labriola suggested that any Board member who is wondering what is on other Board

members' minds should ask. Dr. Fischer noted that often Mr. Labriola will ask during a meeting if their Board has any concerns, and that the Board is quiet in response. Dr. Fischer stated that when the Board takes the time to visit a site, he would like to know what everyone's opinion is now. Mr. Karis and Ms. Seaman agreed that when the Board conducts a site visit, that the application should be on the next agenda for discussion of the site visit. Ms. Seaman agreed and stated that it would be very helpful for Mr. Errico to hear the Board's discussion. Mr. Labriola stated that he will have the Errico site visit discussion added to the January 2008 agenda and that from this point forward the Board will always do a recap of a site visit at its next meeting.

Appreciation to Mr. Labriola: Mr. Karis expressed the Board's appreciation to Mr. Labriola for his leadership and his commitment and all the time he puts in outside of meetings to make sure that the Board is prepared. He stated that from his experience Mr. Labriola is one of the best Planning Board chairpersons he has experienced. Mr. Karis stated that people feel that they get treated fairly and stated that Mr. Labriola does a very good job. Mr. Gordon especially thanked Mr. Labriola for effectively running the meetings and knowing when to move ahead on applications and being decisive and maintaining control of the meetings.

Meeting adjourned at 9:15 p.m.
Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the December 11, 2007, Pleasant Valley Planning Board. They are not official and should not be construed as the official minutes until approved.

____ Approved as read

____ Approved as corrected with deletions/additions