

PLEASANT VALLEY PLANNING BOARD
January 8, 2008

A regular meeting of the Pleasant Valley Planning Board took place on January 8, 2008, at the Pleasant Valley Town 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
 Kay Bramson
 Rebecca Seaman
 Rob Fracchia
 Michael Gordon
 Peter Karis

Members absent: Henry Fischer

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

1. MORRISON SUBDIVISION – PRELIMINARY APPROVAL – PUBLIC HEARING

Mr. Christopher Lapine, Chazen Companies, was present. Mr. Labriola stated that this application was last on the Planning Board agenda in November 2007 at which time the decision was made to go with a common driveway. He also noted that the applicant has advertised for a public hearing this evening.

Mr. Lapine stated that the applicant is proposing to subdivide an existing 6.8 acre parcel located between Cary Road and David Drive in a medium residential district which allows 1 acre lots. He stated that the applicant is proposing to subdivide his property into 3 lots: lot #1 is 2.66 acres and has an existing dwelling; lots #2 and #3 will have access off of David Drive via a shared driveway that has been reviewed by the Highway Department. He stated that both parcels will be served by private sewer and well.

Mr. Lapine stated that one of the comments from the Town engineer was to distinguish between the trees that will be removed and those that will be saved. He stated that they have submitted a plan that provides that information.

Mr. Lapine stated that they have made no changes to the drainage plan from November but have addressed the concerns about removing or retaining the catch basin at the intersection of the two driveway swales. He stated that the decision has been made to retain the catch basin with a sump to capture sediment particle.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that most of the comments have been addressed by Chazen's office. He stated that there is some additional grading to be looked at. He stated that once they go to the Health Department

and work with them regarding the septic, there may be some additional grading that's incorporated as part of that.

Mr. Gordon expressed his concern for the protection of the trees that will remain. Specifically, he asked about protecting around the trees out to the edge of the canopy, which is where the feeder roots are located. Mr. Lapine and Mr. Gordon discussed the potential problem of keeping heavy construction equipment away in order to prevent root compaction, which kills trees. Mr. Lapine noted that there will be barriers around the trunks of the trees to be saved. Mr. Gordon responded that the fragile area includes the soil around the trees out to the perimeter of the canopy. Mr. Lapine stated that they have provided a detailed plan for preserving the trees and noted that this is a small, residential subdivision which will have one excavator, a small dozer, and maybe a dump truck. He stated that they can contain those vehicles within the path that is delineated for construction. He did note that it is possible that they will lose one or two additional trees during the course of the construction. He stated that accidents happen but also noted that they have identified those trees that will be in the path of the construction. He acknowledged the need to protect the area around the trees to the perimeter of their canopy.

Mr. Setaro asked if they are planning on saving any trees that will be in the disturbed area. Mr. Lapine stated that there are one or two trees between the lots. Mr. Setaro stated that those are probably the ones that Mr. Gordon would be concerned about. Mr. Lapine pointed out on the map the trees that are to be saved. Mr. Gordon stated that a number of neighbors are concerned about how many trees will be gone.

Ms. Bramson asked if they will be doing any planting. Mr. Lapine stated that there is no replanting proposed. He pointed out that they will retain the existing tree line between the proposed lot and the neighbor's property. He stated that along David Drive nothing will be disturbed adjacent to the right-of-way line.

Mr. Karis asked about plans for blasting. Mr. Lapine stated that at this time he does not know what method of rock removal will be used and that he has asked the owner what he prefers. He stated that the preference is to hammer, if possible. Mr. Karis stated that blasting out basements for the houses has a definite impact to adjacent neighbors; also he noted that there is a big cut as the driveway splits from common to individual. He stated that there should be a protocol established if they plan to blast.

Mr. Setaro stated that a note can be added to the map that if any rock excavation will be by hammering. He noted that on this small site it would not be cost effective to bring a blaster. Mr. Karis stated that he would rather that they be conservative and have some kind of procedure in place in the event that blasting becomes necessary.

Mr. Karis stated that there are some common elements between the lots that will result in shared responsibility. He asked about maintenance agreements regarding the driveway and drainage. Mr. Lapine stated that this is in process.

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

I move that the Planning Board determine as set forth in the attached declaration dated 1/8/08 prepared by the Board's engineer that the Morrison 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:

- 1. soil erosion and sediment control measures have been proposed**
- 2. storm water measures are proposed to control the run-off in the areas of the common driveway – the storm water system in David Drive**
- 3. Dutchess County Department of Health will approve the sewage disposal and water supply systems**

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 6-0-0

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

Mr. Nestor Vojarczuk, neighbor, thanked Mr. Karis for bringing up the blasting issue. He asked if the decision has been made not to blast. Mr. Labriola stated that they will put notes on the map that say that the approach will be to use a hammer. He noted that if for some reason blasting is required, there will be a need for permits and notification of adjacent property owners. Mr. Vojarczuk expressed his personal concern for his well, which is very close to the proposed driveway and the potential that blasting could collapse his well. He asked what recourse he would have if they broke the aquifers to his well.

Mr. Nelson responded that it would be a matter between the neighbors. He stated that, if Mr. Vojarczuk's question to the Planning Board is whether blasting will be allowed as a condition of this subdivision plan, there are separate permits required for such blasting. Again, Mr. Vojarczuk asked what recourse he has if the blasting happens and if it damages his well. Mr. Nelson reiterated that that is a matter between neighbors and that his recourse would be against his neighbor. He stated that the Town does not indemnify people against such things.

Mr. Nelson stated that he wondered if Mr. Vojarczuk was asking if the Board can make mechanical rock removal a condition of this subdivision. Mr. Labriola stated that, if for some reason the applicant needs to blast, there is insurance available. Mr. Setaro noted that it goes even further, that if they blast they must look at the particular hazards existing within a specific radius of the blasting area. He noted that whatever hazards do exist, such as a well, will determine the size of the charge that can be used. He stated that for a small project such as this one, it could be specified that any rock removal will be by

mechanical means. He stated that this is not a big enough job for a blaster, unless the rock was impenetrable.

Mr. Karis stated that if it comes to blasting the Town should be notified and have some input to ensure that the appropriate protocol is in place for the blasting. Mr. Labriola suggested that mechanical means are primary, and if blasting is required all the protocols are put on the map so that all are informed about proper procedure. Mr. Labriola suggested that blasting would be Plan B and documented with appropriate procedures.

Mr. Vojarczuk asked if there will be trees removed from the area of the 60' offset. Mr. Lapine responded that yes. Mr. Vojarczuk asked if they would be removed adjacent to his lot or just along the driveway. Mr. Lapine pointed out on the map the trees that will be removed. Mr. Gordon asked how many feet from Mr. Vojarczuk's property will the trees be maintained. Mr. Lapine stated that in the rear of the site where Mr. Vojarczuk's house is located is will be 60' off the property line.

Mr. Vojarczuk asked for clarification of the drainage and the pitch and where the water will flow. Mr. Lapine carefully delineated on the map how the water will flow and the measures that will be in place to capture the drainage.

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

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

I move that the Planning Board grant preliminary approval to the Morrison Subdivision in the form of the attached resolution dated 1/8/08 prepared by the Board's engineer and now before the Board subject to the following conditions:

- 1. Morris Associates letter dated 1/3/08**
- 2. Dutchess County Department of Health approval**

SECONDED BY K. BRAMSON

Discussion: Mr. Setaro stated that he would like to add a third condition stating that the rock will be removed primarily by mechanical means, if possible, and noting the protocols that will be followed if blasting is required. Mr. Labriola concurred.

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

I move to amend the preliminary approval resolution to include a third condition:

- 3. Incorporate rock removal notes on the plan**

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 6-0-0

2. 199 WEST ROAD – SITE PLAN REVISION

Mr. Labriola explained that this application was before the ZBA for an interpretation and is now before the Planning Board for site plan revision.

Mr. Mark DelBazo, engineer, was present. He explained that previously in December Mr. Scott Volkman, attorney for the Town, made an interpretation of the variances and determined that a variance was not required. Therefore, he stated that they withdrew their application from the ZBA and can now go forward with the site plan revision.

Mr. DelBazo explained some of the minor modifications to the site plan. He stated that it is a redevelopment project of an existing building and that they have received Morris Associates comments which they will address.

Mr. DelBazo described the modifications to the landscaping plan and revision to the traffic circulation in the rear of the site to provide a drop off area for clients of the Anderson Center programs. Further, he stated that they have identified an outside play therapy area and that they will address Morris Associates comments regarding that area.

Mr. Setaro reviewed the Morris Associates comment letter. He asked if the Board has received comments from the Dutchess County Planning Department. Mr. Labriola read into the record that County Planning's letter states that this project is a matter of local concern.

Mr. Setaro commented on the reduction in the number of parking spaces from 139 to 130 and asked that a note be added to the map regarding this. He asked Mr. DelBazo to check if there is adequate turning radius for the tractor trailer trucks loading and unloading at the Kirchhoff Warehouse. He asked for additional information about how the clients of the Anderson Center will be transported to the site, what type of vehicles will be used, where they will be dropped off, and what signage will be provided. Mr. DelBazo stated that they will provide this information in writing and noted that passenger vans will transport the adult clients and that the drop off will be in the back of the building. He stated that they will use the smaller school buses for the children.

Mr. Setaro noted that there were additional comments regarding the play therapy area.

Mr. DelBazo stated that they have requested a waiver of the topographical requirements. Mr. Labriola and Board members approved this waiver. Mr. DelBazo stated that, in general, the play therapy area is flat and was previously used as an outside picnic area. Mr. Labriola asked what will go in the outside space behind the adult program area. Mr. DelBazo stated that it will be fenced in and screened and provided with picnic tables. He stated that he will formally answer these questions in writing.

Mr. Labriola asked about the well that is next to the fence. Mr. DelBazo stated that that is the existing well.

Mr. Labriola asked if they plan to do any landscaping around the pre-school play therapy area. Mr. DelBazo noted that this is a good thought and that he will check into this.

Mr. Karis stated that the drop off area is too tight for children attending an autistic pre-school program to have other cars moving in the area. He stated that they need to pay some attention to having enough safe area to get the children into the school safely. He suggested that they remove the closest angled parking space coming in on the one-way aisle and that they make a curbed island there to separate parking from the drop off area. He stated that they would, thereby, be able to stack two buses and have cars be able to drive by. Mr. Labriola concurred with this analysis of a safety issue for the drop off. Mr. Karis stated that it looks tight to the corner of the building and that it looks tight to that first parking space.

Mr. Gordon asked if they will primarily use the small buses. Mr. DelBazo responded that they will be the small school buses for the children and the passenger vans for the adults. He stated that he will take a hard look at that suggestion. Mr. Karis noted that they have made a nice entrance to all the other parts of the building and suggested that this area needs a nice entrance, too.

Mr. DelBazo stated that they will establish a protocol for the drop-off procedure that will be distributed to all. Ms. Seaman stated that she disagrees with a plan that would allow cars to drive by while other cars are stopped. She noted that at most grade schools there is an absolute restriction against that in case children dart out from the side. She stated that it should be the rule that when people are dropping off, there are no cars passing on the side. Mr. DelBazo will look into this carefully and review their protocols at other facilities.

Mr. Karis stated that they need to make sure that they have enough room for the tractor trailer trucks to get in and out of the active loading area. He asked if they will provide at least a vertical separation between those areas.

Mr. Karis asked what exactly they will be screening in front of the Anderson habilitation program and the offices. Mr. DelBazo explained that they wish to provide additional landscaping for the sidewalk as people approach so that it is a little bit softer in appearance and not the traditional warehouse entrance.

Mr. Karis stated that in his experience schools become public water supplies and that they will have to address that with the Health Department as well as the septic system. Mr. Setaro stated that this has already been handled because of the number of people the building did serve in the past. Mr. Gordon noted that they ran 3 shifts in the building previously. Mr. Setaro stated that he will check this out.

Mr. Labriola read into the record a letter dated 1/2/08 from the Fire Advisory Board that states that they reviewed the building plan specifications and the alterations for the proposed use within the building and "find they are compliant with the applicable building code requirements" and, as such, there are no fire or safety concerns.

Mr. DelBazo asked about the procedure for SEQRA. Mr. Labriola asked for another set of plans before they circulate.

3. NEW HORIZONS RESOURCES, INC. – SIGN PERMIT

Mr. Regis Obijiski, executive director, New Horizons, was present.

Mr. Labriola noted that it is a proposal for a single unlit ground sign 6' by 4', which meets the permitted size limitations, with a stone planter base.

Mr. Karis asked that the design of the sign fit into the final landscaping plan that was approved for the front. Mr. Obijiski stated that he spoke with the landscaper about achieving that.

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

Whereas the Town of Pleasant Valley Planning Board has received an application from the New Horizon Resources, Inc., for the approval of one ground sign dated 12/29/07, 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 that 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 as shown in the application except as follows: NONE

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-0-0

4. ERRICO SUBDIVISION - DISCUSSION

Mr. Labriola reported that the Board went on a site visit on 12/9/07 to get a better idea of the logistics and the physical characteristics of this site. He stated that the following people were in attendance: Planning Board members Michael Gordon, Rob Fracchia, Peter Karis, Kay Bramson, Rebecca Seaman, Henry Fischer, and himself. He stated that Mr. Errico, the owner and applicant, was present as was Jerry Ottoway, representing the Conservation Advisory Council.

Mr. Labriola noted that the Board had asked Mr. Errico to stake the approximate location of the common driveways and the approximate location of the center points of each of the homes. He stated that they walked the site. He stated that it gave them an opportunity to understand a couple of things. First, when they crossed over the stream via the existing bridge, they were able to see the potential disturbed area that might be required to install

a new bridge. He stated that they must be mindful of the boundaries of some of the recent flooding in designing the contours of the new bridge.

Mr. Labriola stated that they walked up the area of the common drive, they saw where it would split off, and that they visited each of the proposed home sites. He stated that they looked at grades and at a 360 degree view to see what the visual impact would be for adjacent property owners. He stated that there were no leaves on the trees at the time which gave them a very good chance to assess the visual impact on the neighboring properties.

Mr. Labriola stated that they proceeded down the side of the hill and returned to Mr. Errico's home. Thereafter, they had a brief discussion with Mr. Errico about some of the engineering challenges associated with this proposed subdivision, primarily with regard to steep slopes, encroachment in wetland and wetland buffer areas, and the costs associated with building the common drive and bridge. Mr. Labriola stated that Jerry Ottoway, from CAC, offered information on his experience of selling development rights of his farm as a way to protect open space and reap some financial rewards in the process. Mr. Labriola stated that this was offered as an alternative that they asked Mr. Errico to think about.

Mr. Labriola stated that they asked Mr. Errico to get a more detailed estimate of some of the engineering costs associated with this subdivision and also to get some idea of costs to develop the common driveway as well as to build the bridge. He stated that this will enable Mr. Errico to have clear information as he moves through this process and, thus, to avoid any surprises.

Mr. Labriola asked if Board members had any other comments or observations arising from the site visit and asked Mr. Errico if he had any questions for the Board.

Mr. Errico reported that they are proceeding with evaluating the related costs and are addressing the issue with one of the neighbors possibly purchasing a portion of the land. He stated that they will confer with some real estate people to get a better understanding of whether they will venture across the stream and their options for selling it as an equestrian parcel or to a neighbor.

Mr. Labriola provided Mr. Errico with a written copy of his summary of the site visit.

5. CAPELL "FOX RUN" SUBDIVISION - DISCUSSION

Ms. Rebecca Seaman recused herself from this discussion.

Mr. Labriola stated that this application was approved in 2006 at which time a recreation fee of 7 lots was erroneously assessed. He stated that one lot is the non-buildable HOA lot. Therefore, he stated that the correct number of lots, as pertains to recreation fees, is 6.

Mr. Labriola: **REVISED 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 based on the projected population growth to which this subdivision contributes, 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, and

As 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 a sum of money in lieu of land be proposed for the plan entitled Fox Run Subdivision for 6 residential units.

SECONDED BY K. SEAMAN

VOTE TAKEN AND APPROVED 5-0-0

6. APPEAL #916 WIKANE-DOGGIE DOO'S – SPECIAL USE PERMIT

Mr. Pete Karis and Mr. Rob Fracchia recused themselves from this application.

Ms. Jacqueline Wikane was present. She stated that she is proposing to purchase the house and relocate her dog grooming business to the home.

Mr. Labriola asked if she will board dogs overnight. Ms. Wikane responded no and stated that people drop off their dogs on a rotating basis. She stated that when the grooming is finished, the owner picks up the dog.

Mr. Labriola asked where the applicant is planning on installing a fenced in area. Ms. Wikane described that she is planning on installing a privacy fence between her property and the neighbor. She pointed out the area on the aerial photo and explained that it is not a fenced in area but rather to provide privacy between the properties.

Mr. Labriola asked if the dogs will always be inside the house. Ms. Wikane responded, yes, that is correct, except when they need to relieve themselves. She explained that the dogs are always on a choker chain and are walked by somebody and then brought back into the house when they are done.

Ms. Bramson asked about employees. Ms. Wikane stated that she has one employee.

Mr. Labriola asked about the number of dogs and the number of people in and out of the business on a typical day. Ms. Wikane stated that they have from 7-10 dogs a day, that the dogs are dropped off around 9 a.m. and the last dog goes home around 5 p.m.

Mr. Labriola asked if she thinks she has adequate room on her long drive for cars to pass one another without having to back up onto Rossway Road. Ms. Wikane stated that she has enough room to create a gravel driveway and a pull out so that if someone is coming in when someone is leaving, one car can pull around.

Mr. Labriola asked about sufficient parking. Ms. Wikane noted that she has one employee and that the client appointments are staggered – that is that they come in at different times during the day. She stated that she takes appointments throughout the day, that her hours of operation are usually 9 a.m. to 5 p.m.

Ms. Seaman asked if she owns the home and if she plans to live there. Ms. Wikane stated that she would like to purchase the home and that she plans to live there.

Mr. Labriola stated that one of the things that the Board will need to understand is whether the current septic system will be approved by the Dutchess County Department of Health for this commercial use in addition to the residential use. Ms. Wikane explained that a dog's usage of water will only be around 5-10 gallons per dog and that the house was rated at 600 gallons of use. She stated that in a typical day, with one resident (herself) in the house, the water usage will only be about 300 gallons, which is probably comparable to a 2 bedroom house. She stated that the house is a 4 bedroom house. She stated that it has a 1000 gallon septic tank. She stated that she usually does one to two loads of laundry for the dogs per week. And she noted that her laundry will be a lot less than is usual for a family in a 4 bedroom house.

Mr. Gordon asked if the Zoning Code allows this in-home business. Ms. Wikane explained that there will be 7-10 clients per day, the owners will travel down Rossway Road and drop off their dog on their way to work and pick up on their way back before the commuter traffic starts at the end of the day. She stated that most of her clients are gone by the time the commuter traffic hits Rossway Road in the evening. Mr. Labriola stated that the ZBA will look at this.

Mr. Gordon expressed concern for how the neighbors will feel about this. Ms. Wikane stated that her dog grooming business is a quiet business, that the dogs are not outside. She stated that she has been grooming dogs in Pleasant Valley for over 10 years. She stated that she is well respected and that she does a very good job at what she does. She stated that she is careful with her business and thoughtful of her community.

Mr. Gordon asked if the CAC has commented on the wetlands. CAC member indicated no.

Ms. Seaman asked what the Code says about commercial use when it is not one of the proscribed usages. Mr. Nelson read from the Code regarding a home occupation that is not something that is customarily carried on in a dwelling:

- needs to be carried on by a member of the family residing

- needs to be incidental, accessory, or secondary to the use of the dwelling for residential purposes
- the activity needs to be carried on wholly within the premises of the building

Mr. Nelson read from the Code regarding the requirement for a Special Use Permit. Ms. Wikane confirmed that the Zoning Office instructed her to apply to the ZBA for a Special Use Permit.

Mr. Labriola stated that the Planning Board could ask the ZBA to consider things like traffic, septic and water, parking, lighting implications and noted that if the Special Use Permit is granted this application will come back to the Planning Board for site plan review. He stated that he is not concerned for noise implications since the dogs are not going to be outside much. He stated that the hours of operation are normal and noted the fact that they do not board dogs.

Mr. Gordon stated that he would be concerned for the neighbors who live next door regarding the increase in traffic. Ms. Wikane explained, again, the privacy fence that she plans to install in the area between the two houses. She emphasized that the client appointments are staggered and that they do not drop off or pick up at the same time.

Mr. Labriola: **MOTION TO PASS THIS APPLICATION ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION AND ASK THAT THEY PAY PARTICULAR ATTENTION TO:**

- **TRAFFIC IMPLICATIONS**
- **THE ABILITY OF THE EXISTING SEPTIC AND WATER SYSTEM TO SUPPORT THE INCREASED USE**
- **THAT THERE IS SUFFICIENT PARKING**
- **AND THE LIGHTING IMPLICATIONS FOR THE PARKING AREA**

Discussion: Ms. Wikane stated that she does not believe there will be an increase in water usage, because it is a scheduled 4 bedroom house. Mr. Labriola stated that if it is a 4 bedroom house there must be a septic and an SDS system that will handle 4-bedrooms worth of usage as well as the additional commercial usage on top of that. He explained that whether the actual usage is less does not matter, that she must have a system that can handle it. He stated that the Dutchess County Department of Health will review and assess these systems and the planned usages. Ms. Wikane explained that there are hair traps installed in the tub underneath which creates a two trap system. Mr. Gordon asked if dog grooming is regulated by any NYS agency. Ms. Wikane stated that, unfortunately, dog grooming is not yet regulated.

Ms. Seaman asked if the Planning Board should pass this along with a neutral recommendation due to the number of concerns listed. Mr. Labriola stated his view that since the ZBA is asking for an opinion, the Planning Board needs to come down on one side or the other. Further, he stated that he is not particularly concerned with this application, that the applicant has answered some important questions, but that there are some planning implications that will need to be addressed if this application receives the Special Use Permit.

Mr. Labriola read into the record a letter from the Fire Advisory Board dated 1/2/08: no fire or safety concerns.

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 4-0-0

Meeting adjourned at 7:45 p.m.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the January 8, 2008, 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 12, 2008

A regular meeting of the Pleasant Valley Planning Board took place on February 12, 2008, 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
 Kay Bramson
 Rebecca Seaman
 Rob Fracchia
 Michael Gordon

Members absent: Henry Fischer
 Peter Karis

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

ANNOUNCEMENT: Mr. Labriola announced that the application from Dutchess Quarry/Town of Pleasant Valley/Bower Park Lot Line Realignment that was on for Preliminary Approval and Public Hearing has been pulled from this meeting's agenda. He stated that he had a number of phone conversations with the new Town supervisor and reported that these applicants need to return to the Planning Board with a revised set of plans that show:

1. access onto North Avenue: the Quarry is going to update the plans to show a 50' strip from Bower Park up to North Avenue
2. Town of Pleasant Valley is going to do a land swap with the Quarry which has not yet been reflected on any drawings

1. JOSHUA WARD HOUSE (ALBRECHT) SUBDIVISION – SKETCH PLAN APPROVAL

Mr. Brian Franks, surveyor for the applicant, was present and reported that the Albrechts want to subdivide out the old farm house from the rest of the farm so that they can sell it. Ms. Bramson asked for clarification on what they want to sell. Mr. Franks stated that they want to sell the house. He stated that they are providing 1.3 acres with the house with an easement for access over the existing driveway into the rest of the farm.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that they had comments on the EAF and noted Mr. Frank's request for waivers and the need for an easement and maintenance agreement.

Mr. Gordon asked about maintenance of the drive and whether it is part of the subdivision. Mr. Franks explained the property line and the need for easement for ingress and egress over it. He pointed out the parking area on the map. Ms. Bramson asked

about the need for a new driveway in the chance that something would happen to that property in the future. Mr. Franks noted that they could apply to NYS for a new drive but stated that the Albrechts are assuming that it will be a permanent easement that will run with the land. He stated that he can mention this to the Albrechts.

Mr. Labriola read into the record a letter from the Pleasant Valley Fire Advisory Board dated 2/6/08: no position on this application as there are no fire or safety concerns.

Mr. Labriola noted the following waivers and the Board discussed these:

1. vicinity map: 1" to 400' vicinity map is large enough to show the location of the site. The Board approved this waiver.
2. primary control points: rationale for the waiver is that the nearest primary control points are too far away to be located economically. The Board approved this waiver.
3. tax map parcels: Mr. Labriola noted that this can only be done at the end of the review process. The Board approved this waiver.

Mr. Labriola: **MOTION TO APPROVE THE THREE REQUESTED WAIVERS; SECONDED BY R. FRACCHIA; VOTE TAKEN AND APPROVED 5-0-0**

Mr. Fracchia asked if there is a well that serves the shop area. Mr. Franks pointed out the location on the map where he believes they have a well and stated that he will find out. He also pointed out which buildings he believes have water and pointed out the pole barn that does not have water.

Mr. Fracchia asked if there are any setback issues by creating this new property line. Mr. Franks stated that they meet all the required setbacks.

Mr. Franks asked if he can enlarge the area map and noted that there are no deeds for metes and bounds. Mr. Setaro and Mr. Franks discussed and agreed upon a procedure for mapping the site.

Mr. Gordon asked about the property line. Mr. Franks pointed out the line on the map.

Mr. Setaro brought up a question of the need for an easement for the power lines to get to the workshop and the silo. Mr. Franks noted that it is private pole and that it is something that they should do. He and Mr. Setaro discussed the easement area as 10' on either side for a total of 20' and noted that the easement is also for maintenance.

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

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

1. **Morris Associates letter dated 2/8/08**
2. **the addition of an easement for the utility lines of 10' on each side of utility line**

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 5-0-0

Mr. Labriola advised Mr. Franks to advertise for a Public Hearing at such time as he is ready.

2. CRAIGE SUBDIVISION – CONTINUED REVIEW

Mr. Brian Franks, surveyor for the applicant, was present. Mr. Labriola noted that this application was last before the Board in December 2007. Mr. Franks reported that the survey is more than half complete and that they are waiting for the stream to freeze so that he can complete the rest of it.

Mr. Franks noted that he was asked to provide a long form EAF, a topo map, and some other information from the Board, which they have provided. Also, he noted that the Town of Clinton requires him to show the soil zones and such. Mr. Labriola asked if this application has been submitted to the Town of Clinton. Mr. Franks stated that it has been submitted with a letter noting Pleasant Valley's intent to be lead agency and that he has not yet been notified of a date for the review.

Mr. Franks stated that they still have the 200' for the road and that he has to submit a copy of the map to the Highway superintendent. He stated that they have marked the driveway site in the field so that the superintendent will be able to find it. He hopes to get a letter from him by the next meeting.

Mr. Setaro stated that there's nothing new to report on. He reiterated the need for a letter from the highway superintendent and that the application to the Town of Clinton has been submitted.

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

I move that the Planning Board assume lead agency status with regard to the Craige subdivision in the form of the resolution prepared by the Board's engineer and now before the Board.

SECONDED BY R. FRACCHIA

VOTE TAKEN AND APPROVED 5-0-0

Mr. Setaro stated that this Board needs to receive some documentation from the Town of Clinton consenting to Pleasant Valley as lead agency before any further action can be taken on this application. Mr. Labriola concurred with this statement. Mr. Franks noted that he is in limbo until Clinton meets and reviews this application.

3. 123 & 129 WEST ROAD LOT LINE REALIGNMENT – SKETCH PLAN APPROVAL

4. 123 WEST ROAD SITE PLAN REVISION

5. 123 WEST ROAD WETLANDS PERMIT APPLICATION

Mr. Labriola stated that these three applications are all tied to the same piece of property and asked for an overview of what is being proposed after which the Board and applicants can talk about next steps and the sequencing of these three applications.

Mr. Mark DelBazo, engineer for the applicant, and Mr. Joseph Kirchhoff, applicant, were present.

Mr. DelBazo stated that they have submitted to the Planning Board three different applications for approval:

1. Lot line realignment: represented by a survey map that he displayed for the Board's review. He pointed out the parcel being carved out from 129 West Road which still will be a performing lot with .3 acres that was then merged into the existing 123 West Road parcel. He noted that originally there were two parcels that were merged to provide additional parking area.
2. Town Wetlands Permit application: he pointed out the area that is within the 100' buffer of the DEC wetlands. He stated that there is no proposed disturbance within the wetlands, but that more than half the lot is covered by the buffer.
3. Revised Site Plan Application for 123 West Road: will now show the expanded parking area to help with the day to day parking needs of the building tenants. He stated that they have a DC DPW access permit and that they are well aware of this proposed addition through a previous application and discussion with them. Also, he reported that they have a valid DEC permit and that they are well aware of this proposed application, as well.

Mr. Labriola stated that when they came in for their original site plan they had provided a conceptual outline of what they might do in the future. He asked if this current proposal is consistent with that previous concept. Mr. DelBazo stated that it is basically the same with the same area and close to the same number of proposed parking spaces. He stated that originally he showed 18 spaces, and now there are 14 spaces. He explained the current traffic flow and circulation. He also mentioned the additional landscaping being proposed and pointed out the post and rail fence that is planned to stop any further encroachment into the wetland buffer.

Mr. Kirchhoff stated that they negotiated with the DEC on this application. He explained that they gave up land in the back that was already being used, behind the existing building. He stated that they pulled up black top and stated that the DEC is fully aware of this application. Further, he explained that if the Board approves this application, they have some other areas they will change to impervious surfaces with the DEC's knowledge to mitigate as much sheet flow as possible. He noted that the DEC is more concerned with the area behind the building. Mr. DelBazo pointed out on the map the area where they will provide some vegetation buffer. He stated that they have put in some water quality swales and developed other run off filtration measures. He stated that

the DEC was well aware of this application and that they received the drawings as part of the review process.

Mr. DelBazo discussed proposed lighting for the parking area and noted that he will address Morris Associates' comments. Further, he stated that they will address questions regarding handling of the wetlands permits. Mr. Setaro asked if they are modifying the permit. Mr. Setaro noted that this new parking lot was not covered in the permit they were granted. Mr. DelBazo stated that there's a statement in the permit that states that the DEC will take a hard look at any additional parking and that they understood the applicant's intent to bring in additional parking. Mr. Setaro pointed out that they must make sure that the permit applies to this additional area.

Mr. Fracchia asked what the biggest truck that will access the site is. Mr. Kirchhoff stated that it will be UPS and noted that the site is strictly offices and parking for passenger vehicles and access for occasional FED EX or UPS trucks. Mr. Fracchia pointed out an area on the lower end of the site of a 150 degree turn and asked about ways to soften that area. Mr. DelBazo reviewed the previous thinking about traffic flow and landscaping and suggested that the area in question could be striped and the landscaped island could be relocated, if needed. Mr. Labriola asked if they have had any difficulty. Mr. DelBazo stated that there has been no difficulty so far. Mr. Kirchhoff noted that a fire truck would not make that turn, but since there's nothing curbed they could pass through.

Mr. Labriola read into the record a letter from the Fire Advisory Board with regard to the lot line realignment: no position as the application presents no fire or safety issues.

Mr. Labriola read into the record a letter from the Fire Advisory Board with regard to the revised site plan: no position as the application presents no fire or safety issues.

Mr. Labriola read into the record a letter from the Dutchess County Department of Planning dated 2/11/08: the application is not complete as the materials submitted do not include a map showing existing/approved site plan for comparison to proposed and requested a written narrative describing the details and the need for the proposed amendments. The Department is asking for a resubmission.

Mr. Setaro reviewed the Morris Associates comment letter. He noted, in particular, that if the McDonald's septic ever fails, there is not a lot of room to relocate it. He stated that everything is within the buffer, already. Mr. Labriola asked if there is a possibility of tying this into the plant. Mr. Kirchhoff stated that it would need Town Board approval, like they did with another building. He stated that if it became a real problem, they could pursue that. He stated that it is fortunate that the entire front of the property is all sandy gravel, that the soils are so good that there probably won't be any problem. He stated that if there were a problem and they could not get an expansion area, they could tie it in and noted that the hard part has already been done. Mr. Labriola noted that they would have to tear up the parking area to lay the pipe. Mr. Kirchhoff acknowledged that this is a good point and that this work should be done now against a potential future need.

Mr. Setaro listed the items that need to be addressed:

- grading
- landscaping
- lighting
- amend the DEC permit
- more details of the parking lot

Mr. Kirchhoff asked for any further guidance on landscaping and stated that they will screen the parking from West Road.

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

I move that the Planning Board grant Sketch Plan Approval for the 123 and 129 West Road 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:

- **Morris Associates letter dated 2/8/08**

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 5-0-0

Mr. Labriola advised the applicant to advertise for a Public Hearing for the lot line realignment. Further, he stated that the applicant needs to resubmit the application to the DC Department of Planning so that they can provide comments on the revised site plan. He stated that the order of sequence is Lot Line Realignment occurs first for approval, then the Wetland Permit, and finally the Revised Site Plan. He stated that the changes appear to be fairly minor and that the Board had looked at this proposed parking concept when the original site plan was processed. Mr. Kirchhoff expressed his appreciation to the Board for everything it did to help get it done given the hard deadlines they were working against.

6. 199 WEST ROAD – SITE PLAN REVISION

Mr. Mark DelBazo and Mr. Joseph Kirchhoff were present.

Mr. DelBazo provided photos of the existing conditions and topography of the area to support their waiver request. He stated that the revisions are minor and are being proposed in order to accommodate their tenants' needs. He stated that the use for the tenant is classified as a professional services office. He stated that for Anderson Day Hab they have extended the green area and provided some additional landscaping to help define their entrance. He stated that they have provided an outside fenced area and a sidewalk for them to access the parking lot and the drop off area. Also, he stated that the Anderson Pre-School is also a tenant and that they have revised the outside play therapy area and have fenced off the proposed propane tank risers. He stated that they have relocated the existing trees and tried to incorporate the fencing. He stated that the tenant now is requesting a black chain link fence without slats so that they can observe the

children. He stated that the play therapy structure will be constructed from an engineered wood fiber material.

Mr. DelBazo stated that he met with the Town engineer and reviewed the traffic circulation patterns and some turning templates. He stated that they lost a few parking spaces and provided some additional signage to help direct traffic to the drop off area. He stated that he talked with Anderson and that they provided some information, protocol, and procedures on how they handle their drop off for their clients.

Mr. Setaro stated that the only thing he looked at after reviewing the plan with Mr. Takacs is to remove an island and put in concrete curbing. Mr. Labriola concurred. Mr. Labriola and Ms. Seaman discussed an area that they think should be made one-way. Ms. Bramson mentioned her concern for creating more traffic as a result. Mr. Kirchhoff concurred and stated that they looked at that possibility and determined that the car traffic would be held up in a queue waiting for the Anderson buses to drop off the children in order to park in the spots in that area. Board and Mr. Kirchhoff discussed alternate signage for the area and paint on the pavement.

Mr. Labriola reminded the applicant that the Board received a comment letter last month from the DC Department of Planning which said that this application is a matter of local concern.

Mr. Labriola mentioned concern about the proximity of the propane tanks to the play therapy area. Mr. Kirchhoff stated that there is no regulation regarding this and that typically those tanks are extremely safe and stable. He stated that he would expect that Anderson would make sure that the children are back inside the building when the gas deliveries are made. Ms. Paige Grill, of Kirchhoff Construction, stated that she has spoken with Bottini and that they will work out a delivery schedule to coincide with when the children are not outside. Mr. Labriola requested that this delivery procedure be formalized.

Mr. Labriola mentioned the need to do a SEQRA determination. Mr. Setaro stated that he thinks it was covered under the previous application – the site plan approval of the entire building and parking area. He stated that they are making minor modifications that will have no environmental impacts. Mr. Labriola concurred.

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

Whereas a formal application for site plan approval for West Road Properties LLC for the purpose of 199 West Road site plan revision located at 199 West Road was submitted to the Planning Board on 1/28/08, and

Whereas the requirements for Site Plan in Chapter 98, Section 9841 of the Code of the Town of Pleasant Valley have 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, and lighting, and

Whereas the Planning Board has requested a review of the site plan information by the Planning Board engineer and has obtained comments from the engineer, now

Therefore be it resolved that the site plan entitled 199 West Road Site Plan Revision be approved and the Zoning Administrator may issue the necessary building permits upon completion of such conditions as noted below:

- 1. Morris Associates letter dated 2/8/08**
- 2. Payment of all fees**
- 3. Install a solid island near the drop off area per Morris Associates sketch**
- 4. Add drop off area sign on the refuse enclosure fencing**
- 5. Add a one-way do not enter sign painted on the pavement near the drop off area**
- 6. Develop a procedure to ensure that the children are not in the play therapy area when propane tanks are being refilled**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 5-0-0

7. TACONIC APARTMENTS (TACONIC HOMES) – SITE PLAN

Mr. Joseph Kirchhoff was present and provided the previous site plan with an overlay of the now revised site plan. He stated that he listened to the Board's comments, he listened to the comments from the Director of the Rockefeller University Field Research Center, and that they spent quite a bit of time with the County Planner Mr. John Clark. He stated that he gave Mr. Clark all the tools to redraw this design, which he did.

Mr. Kirchhoff displayed and explained the new design. He pointed out how they have pushed their construction back a significant distance from the border with the Rockefeller property. He pointed out that the road to the well and that the location of the well have stayed the same. He pointed out an area where they plan to create a focal green point at the end of the access road, which may become a park or a gazebo. He stated that they have condensed the design, not to increase the impervious, and have added affordable for-sale units in a stacked flat configuration – single level, two story, for-sale units. He pointed out that the rest of the housing is town houses, most of which have 2-car garages. He stated that the affordable units would have surface parking.

Mr. Kirchhoff stated that the Board and he can discuss in detail the formulas the Town wants to use to determine “affordable” – direct local income, county-wide income, or some other measure. He stated that it must make some economic sense for everyone.

Mr. Kirchhoff stated that there are some inherent flaws with this design. He stated that the County prefers this design and is pushing the applicant to do whatever they have to do to keep it this design. He pointed out the demarcation on the map between the multi-family zone and the commercial zone. He noted that in this revised design the affordable units are in the commercial zone. He noted County's comment regarding the stream and wetland area that actually splits the property much better than any other zone would. He mentioned that the affordable units really belong with the residential component. He pointed out the club house and the sales office that are in the front in the commercial zone. He noted that County wants to drive retail down toward Route 44.

Mr. Kirchhoff mentioned that the other flaw is that they are crowded and pushed into the new Pleasant Valley municipal setback. He stated that this was grandfathered. He stated that another option is to leave the playing field close to the Parkway, push the sewer plant down and move the affordable units up. He stated that County does not agree that this is a better plan, but noted that the investors are flexible and will work with the Board. Mr. Gordon asked why they would want the sewer plant between the residential and playing areas. Mr. Setaro shared this concern. Over all, Mr. Kirchhoff stated that this is a much better design than the previous one.

Mr. Labriola looked at the impact, from moving the affordable units, on the two-way portion of the traffic flow. Mr. Kirchhoff mentioned the possibility that people who live in the affordable units might want to be closer to mass transit. Mr. Kirchhoff estimated that the town houses will sell for \$550K-\$650K and that the affordable units might sell for \$285K. Mr. Labriola pointed out one of the affordable units and suggested that it be relocated in order to bring it farther out of the sensitive wetland area.

Ms. Seaman asked about visibility from the Taconic Parkway. Mr. Kirchhoff stated that he cannot answer that even though they are leaving a fairly heavy buffer. He stated that he does not know in the winter what can be seen and that it is something that they should discuss regarding proper screening as the site plan review progresses.

Mr. Labriola stated that he likes this revised design and mentioned his concern for emergency vehicle access. He pointed out on the map choke points which, if they were blocked off, would prevent any access to a group of homes beyond the blockage. He stated that for every grouping of homes, there ought to be two access routes. He pointed out three areas on the map where there should be connector roads so that there is always two ways to get to every cluster of homes. Mr. Kirchhoff pointed out the problem with the topography in certain areas and that consideration must be given to what could be built in those areas for emergency access that would normally never be used. Mr. Labriola stated that it needs access that is maintained, perhaps with pavers. Mr. Kirchhoff pointed out a slope that, to meet the safety requirements and what's reasonable, they may have to disturb so much earth around it with cut and fills that they may end up destroying more and maybe the engineers could work on some paving system that allows them to go over a 12% or 15% grade in an emergency situation. Again, Mr. Labriola stated that for every loop there should be two ways in and out.

Mr. Gordon asked about how this redesigned plan relates to the need for retaining walls. Mr. Setaro recalled that the previous redesign cut back a lot on those walls.

Mr. Kirchhoff stated that this redesign is a concept plan for the Board to comment on regarding what they like or don't like. He stated that the beauty of building town houses is that very easily you can have a 12' to 18' rise between every single unit and get the grade up without big walls and without steep surfaces. He stated that the front of a lot may be one story and the back may be two to two and a half stories. He stated that they will try to get the architecture to work with the land as best that they can.

Mr. Labriola asked about the number of parking spaces per unit to accommodate visitors. Mr. Kirchhoff stated that this is also supported by the County and received a revised letter of support from them recently. He stated that there will be 2.5 parking spaces per unit. He stated that some of the studies that he has looked at, this type of buyer has a car for every person and possibly more than one car for every person. He stated that the current plan has 630 parking spaces, which is what the Code requires. He stated that there are 368 spaces inside the garages, 189 parallel spaces, and 73 spaces in the two parking lots. He stated that there is space for some visitor parking in the apron behind a car in the garage.

Ms. Seaman asked if there will be walkways through the buildings. Mr. Kirchhoff stated that there will be walkways through and some that go around depending upon topography.

Mr. Kirchhoff stated that the plan that the County was not in favor of was putting big strips of perpendicular parking through the project. Mr. Labriola and Ms. Seaman concurred that this would use up too much green space and change the nature of the living spaces.

Mr. Gordon asked if the utilities will be underground. Mr. Kirchhoff responded that they will be 100% underground.

Mr. Setaro asked for confirmation that the affordable units will be located in the commercial zone. Mr. Kirchhoff stated yes and asked for direction and support from the Board to deal with the required use variance. Mr. Labriola stated that the options are to either get a use variance or rezone. Ms. Seaman pointed out that both are problematic. Mr. Kirchhoff also stated that he would hope that this would not hold up the environmental review and does not think it changes the FEIS issues whether it's zoned commercial or residential. He stated that he does not want to move the affordable units just because it's zoned commercial. Mr. Gordon asked if he has combined the parcels yet. Mr. Kirchhoff stated that they have not, but that it would not help the issue of zoning.

Mr. Seaman asked about their time line and mentioned that these issues are being looked at with the new master plan. Mr. Kirchhoff stated that it does not hold up their environmental review and then they could move into site plan design. Mr. Labriola asked

how the new master plan affects this. Ms. Seaman explained that it is subject to redrawing lines and what is being passed is also the new subdivision and zoning code. Mr. Kirchhoff asked what the timing of these revisions would be. Ms. Seaman estimated that everything would be before the Town Board for consideration within the next 3-4 months. And she said that then they have to go through SEQRA and public hearings and that it would depend on how quickly the Board wants to move. Mr. Kirchhoff mentioned that the SEQRA process could be long.

Mr. Labriola offered that they could go to the ZBA for a use variance. Mr. Nelson cautioned that the standards for a use variance as opposed to an area variance are very stringent. Mr. Setaro pointed out, also, that this is a self-imposed hardship. Mr. Kirchhoff stated that it is the result of pushing the development back from the Rockefeller property line.

Mr. Labriola pointed out the alternative of swapping the location of the affordable housing units and the playing field area, which removes the problem entirely. Mr. Kirchhoff pointed out the County's desire to keep those units closer to Route 44 and the future potential retail, but that it would not hurt to have the playing fields lower down. He stated they would have to pay attention to buffering from the Parkway. Mr. Labriola stated that the need to buffer from the Parkway is present wherever the units are located. Mr. Kirchhoff asked if the Board would like them to come back with another map showing that change. Mr. Labriola weighed the options of not developing in that space and that he does not see any problems with moving the units farther away from Route 44 and that they will have to shield them from the Taconic wherever they are located. He also pointed out another advantage of moving them away from the road noise from Route 44.

Ms. Bramson brought up a concern about the affordable units versus the town houses. Mr. Kirchhoff stated that they did not want to stick a two-story product without garages and with a parking lot in the middle of the town house community. He noted that moving the affordable units up creates less of a separation between the two residential areas. Mr. Labriola pointed out that it also allows them to move the playing fields adjacent to the recreation area. Ms. Seaman pointed out that it also moves the units out of the wetlands.

Mr. Gordon asked who decided on the number of those units. Mr. Kirchhoff stated that he thinks it was decided by his master planner and the County based on a mathematical formula. Ms. Seaman asked about the possibility of someone buying a unit for investment and then renting it out. Mr. Kirchhoff stated that this is not possible because the buyers must qualify under the income criteria.

Mr. Kirchhoff displayed a color-coded map of land ownership. He pointed out the Taconic Homes property (almost 80 acres), the Rockefeller property (1140 acres), Innisfree (184.4 acres), and Institute for Ecosystem (46.26 acres). He stated that it disturbed him the way the director of the Rockefeller University Field Research Center was attacking. Further, he stated that Ecosystems called Kirchhoff offering to sell them

46 acres. He stated that he declined the offer and suggested that they offer it to Rockefeller. He noted that Rockefeller also declined to purchase the property.

Mr. Labriola read into the record a letter dated 12/20/07 from DC Department of Planning from Commissioner Roger Akeley that says that the redesign is on the right track. Mr. Labriola commended the applicant for sitting down and having a workshop with the Department to engage them in the redesign.

Mr. Labriola also referenced a letter dated 12/11/08 from the DC Department of Planning that says that they still view it as an incomplete plan.

With regard to next steps, Mr. Kirchhoff stated that they would like to start preparing their FEIS.

Mr. Labriola mentioned a couple of options. He stated that the Planning Board has declared the DEIS as complete and had a public hearing that spanned a couple of the Board's meetings and from which the Board received a lot of input from a lot of people. He pointed out that this revised plan is evidence that the applicants listened to what the people had to say. Based on this recent history, Mr. Labriola suggested that the Board circle back and look at all the comments that came out of the public hearing and make sure that they are documented and provided as input to the applicant. He stated that the Board needs some EIS update before going to the FEIS.

Mr. Gordon stated that the two main issues that he recalls were the comments from the neighbor, Mr. Mort, concerning run off. Mr. Kirchhoff pointed out Mr. Mort's property on the color-coded map. Mr. Kirchhoff stated that the topography change between the Taconic Homes property and Mr. Mort's property is unbelievable, that it goes down into a huge declivity and comes back up and then goes back down on Mr. Mort's side. He suggested that anything short of a tidal wave from his property will not drain onto Mr. Mort's property. He pointed out that by regulation they have to control all of their own water and not ever increase water impact on any adjacent property. But due to the natural topography, Mr. Kirchhoff stated that anyone could see that nothing they can do on their property will impact Mr. Mort. He expressed his appreciation for Mr. Mort's concerns.

Mr. Labriola asked where the road storm drains flow to. Mr. Kirchhoff stated that after being cleaned up and treated that water will flow into the pond. Mr. Labriola asked if that is tied into a water system that flows through Mr. Mort's property. Mr. Kirchhoff stated that right now it flows behind the plaza.

Mr. Gordon asked about any changes to this concept and whether the County will go along with them. Mr. Kirchhoff stated that he's not concerned about that, that his biggest concern was about the parking and parallel parking and how to deal with the 2.5 parking code. He noted that the County got a very good feel about the project and that they understand that, potentially, the affordable units will be relocated. He stated that it is not a deal breaker if those units are moved.

Mr. Labriola suggested that, based on the public hearings, the Board needs to identify the key issues that need to be addressed. He asked whether the Board should reopen the process for public comment on the revised design. He noted that there are enough changes and that the public's prior input has been instrumental in improving the plan. Because of the scale of this project, Mr. Labriola stated that he would feel more comfortable being conservative in the process. Ms. Seaman agreed with this analysis and that it would help people to see how the design is now working into the topography better and now making less of an impact. She stated that it may be too early for that and asked to have sketches of how this works – how the grades change and how the architecture works in. Mr. Kirchhoff stated that they can do some sketches that are directly relevant. Ms. Seaman pointed out that it is a much more environmentally sensitive plan now that they work in with the topography.

Mr. Setaro stated that they can target the specific things that need to be looked at in a supplemental EIS, that they don't need to go back and review everything. He suggested that the supplemental can be very targeted.

Mr. Nelson stated that scoping is optional, that if they wanted to go through an informal issue identification process and then do an SDEIS that would be a good way to address it. He stated that a public hearing could follow that process. Mr. Labriola stated that the informal scoping would include the Board and that DC Department of Planning would provide input, and that is what would get built into the SDEIS, which would be opened up for a public hearing.

Mr. Kirchhoff asked about timing for these events. Mr. Labriola stated that the informal scoping would happen at a regular Planning Board meeting and would provide Mr. Kirchhoff with data that would need to be built into the SDEIS. He stated that Mr. Kirchhoff would prepare those documents and the Planning Board would review them. Once the Board declares them to be complete, then a public hearing on the SDEIS would be noticed and held. Mr. Setaro stated that after that hearing is closed the process moves to the FEIS. Mr. Kirchhoff asked about timing. Mr. Setaro estimated 2-3 months and noted that during that time Mr. Kirchhoff can be working on the SDEIS.

With regard to relocating the affordable units and the recreational amenities, Mr. Nelson asked if any of the recreational facilities will be in what is now the commercial zone. Mr. Kirchhoff stated that it would go into the commercial zone. Mr. Nelson raised the question of whether tennis courts or fields are a commercial use or a residential use and noted that this is a question for the zoning administrator.

Mr. Fracchia asked about the water tower and whether it is possible to move it closer to the units and lower. Mr. Kirchhoff stated that it is one or the other, that you can slide it back or raise it. He stated that overall the impact would be less where it is currently located and noted that it may turn out that it may end up being a tank that is laid on its side with a berm over it. He stated that the end design will be determined by head pressure and storage.

8. MIRABILIO SUBDIVISION - CONDITIONAL APPROVAL

Mr. Labriola stated that this is a request for a 90-day extension on the Mirabilio subdivision as a result in the delay in the approval of the common driveway and drainage easement and related maintenance agreement. Mr. Labriola stated that these documents are in process, but that this application runs its course tomorrow 2/13/08.

Mr. Labriola stated that there is some common infrastructure associated with this application – a retention pond and some drainage that handles runoff from both properties. He stated that Mr. Takacs went and took a look from the drawings and that there is no specific trigger for when those common infrastructure pieces need to be installed. He stated that the Board needs to understand how this will proceed and expressed the need for the pond and the drainage components to be installed before the C.O. is granted. He noted that this will ensure that these important things will be completed and he asked Mr. Mirabilio if it would be OK with him if this were added as a condition of this 90-day extension – specifically, that prior to the issuance of a C.O. the retention pond and associated drainage components of the plan would be completed.

Mr. Mirabilio stated that the retention pond is already installed. He stated that the pipe is in, the overflow pipe and the drainage going down. He stated that you cannot see it from the road. Mr. Mirabilio pointed out these structures on the map and stated that Mr. Ernie Martin looked at it and said it's OK. Mr. Labriola stated that, therefore, there should be no problem with putting that in as a condition which will ensure that before the C.O. is issued it will get inspected. Mr. Mirabilio stated that that would be OK.

Mr. Nelson pointed out the question of whether the Town might have an interest in being able to enforce the terms of the drainage maintenance. He stated that in the past, whenever there was a somewhat complicated drainage system, the Board has sometimes asked the applicant to go to the Town and ask if the Town would like the ability to enforce compliance with the easements and maintenance agreements. He stated that to his recollection the Town has never felt that that was necessary. However, he noted that there have been some changes on the Town Board and the philosophy of the current Board is not known. Therefore, he raised the question of asking Mr. Mirabilio to ask the Town Board whether they want the right to be able to compel the owners of these two lots to comply with the maintenance conditions as they relate to that retention pond and the ripwrap swale.

Ms. Seaman asked, in terms of liability, if the Town does not have the ability to compel should these structures fail and impact someone's property or violate the storm water management regulations, isn't the Town liable. Mr. Gordon offered that the Town needs to create the law that would allow someone in the Town to oversee it – the CAC, the Planning Board, or Zoning Administrator or Wetlands Administrator. When that is in place, Mr. Gordon stated that the Town can go to the property owners when it is not being maintained and impose sanctions. Mr. Nelson stated that he does not disagree with this view and reiterated the question of whether the Planning Board would like Mr. Mirabilio to make this offer to the Town.

Ms. Seaman asked what the current standing with the Town is in the event that conditions of site plan approval are not met or are not being maintained. Mr. Nelson stated that if there were a problem, even if no one had formally given the Town the right to enforce it, if there were a health and safety issue, his guess is that the Town would have standing to be able to enforce it. He stated that the question is whether it should be laid out that the Town clearly does, as between Mr. Mirabilio and the future owners, have the right if somebody falls down on the job and does not fulfill the conditions of approval to compel them to live up to the terms. Ms. Seaman stated her opinion that this should pertain to every property.

Mr. Labriola stated that the issue that he and Mr. Nelson have been discussing is that the Planning Board has been consistent about putting such notes on a map, but that it may be a meaningless if the Town has a policy to never exercise that right. He pointed out that the Planning Board may think it is building in safeguards that, in fact, will never be exercised. Further, he stated that now that there is a new Town Board with new members there may be a different perspective and philosophy on the Town's approach to this. Therefore, he stated that the Planning Board ought to approach them and get a reading. He pointed out that if the Town Board comes back and says absolutely not, then the Planning Board will have to think about other ways to put protective measures in place for any time there are complex situations. He suggested that it is timely to test the water and get a reading from the new Town Board whether the Planning Board is being effective in solving problems or not.

Mr. Gordon suggested that the Town requires these measures and infrastructures and is, therefore, liable for not enforcing them. Mr. Nelson stated that he understands this concern but stated that he is not sure that the relationship is close enough to put the Town in that situation legally.

Board and Mr. Nelson continued the discussion regarding how to manage the enforcement of conditions and the responsibility in the event of their failure. Mr. Labriola pointed out that you can lock things in place as either a condition on the final approval or on a map – the retention pond and associated drainage infrastructure will be installed prior to a C.O. being issued – that will solve the construction check point. However, he questioned what recourse remains 30 years and 12 owners later when the maintenance has been abandoned. He stated that this is the long-term issue that the Board is trying to deal with as title passes and owners forget or ignore these conditions.

Similarly, Ms. Seaman asked about maintenance of landscaping that is cited as a condition of site plan approval – what happens when that landscaping dies. She pointed out that conditions of site plan – whether they are landscaping or retention pond and drainage maintenance – are required and that owners must continue to meet these conditions and cannot alter the site plan years in the future. She stated that if they don't maintain the retention pond they are altering the site, according to the site plan. Mr. Nelson referenced the Plaza review process on the Route 44 and the Town's ability to compel upgrades as a function of the fact that they wanted new changes and it was out of compliance with the existing site plan. He stated that this application is different because

it is a subdivision and that there was no site plan application. He stated that what he is not clear on is whether the Town has the same authority as lapses in subdivision approval once the C.O. has been granted.

Mr. Labriola suggested that the Town needs to discuss and set policy on how to deal with this. Ms. Seaman agreed and suggested that this Board needs to talk with the Town Board regarding including this in the Zoning Code and subdivision regulations. Mr. Gordon pointed out that 30 years in the future in order for someone to get a mortgage the bank is going to require the purchaser to get a C.O. at which time the building inspector will review the file and note the conditions imposed. He pointed out that theoretically all these conditions will have to be met and in working condition in order to get the new C.O., which determines whether they get the mortgage and can purchase the property.

Mr. Labriola pointed out that this will be a topic that he and Mr. Nelson will discuss with the Town supervisor and the Town's attorney, that it needs to be systematic in policy and procedure.

Mr. Labriola: **MOTION TO GRANT 90-DAY EXTENSION OF THE FINAL APPROVAL FOR THE MIRABILIO SUBDIVISION LOCATED ON SALT POINT TURNPIKE. THE PLAN WAS SUBMITTED TO THE PLANNING BOARD ON 5/25/07. CONDITIONAL APPROVAL OF THE FINAL PLAT WAS GRANTED ON 8/14/07. IN ACCORDANCE WITH THE TOWN CODE 8215(i) SAID APPROVAL IS VALID FOR 180 DAYS BEGINNING 8/14/07 AND ENDING 2/14/08.**

WHEREAS THE APPLICANT HAS REQUESTED AN EXTENSION OF SAID APPROVAL DUE TO A DELAY IN THE APPROVAL OF COMMON DRIVEWAY AND DRAINAGE EASEMENT AND RELATED MAINTENANCE AGREEMENT

THEREFORE BE IT RESOLVED THAT THE FINAL APPROVAL BE EXTENDED FOR A PERIOD OF 90 DAYS TO BEGIN 2/14/08 AND TO END 5/14/08. IT IS THE RESPONSIBILITY OF THE APPLICANT TO SUBMIT PLAT IN FINAL FORM PRIOR TO THE EXPIRATION OF THIS TIME PERIOD.

AN ADDITIONAL CONDITION FOR EXTENSION IS THAT THE RETENTION POND AND ASSOCIATED COMMON DRAINAGE IMPROVEMENTS WILL BE INSTALLED PRIOR TO A C.O. BEING ISSUED.

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 5-0-0

Mr. Nelson asked if the Planning Board wanted to ask Mr. Mirabilio to offer to the Town the rights to enforce these conditions. Mr. Labriola stated that the Planning Board will

take care of that. Mr. Nelson stated that Mr. Mirabilio's attorney did tell him that if, as the Board moves through this review, the Town wants that added as a condition it will be put in.

9. APPEAL #917 HAHN – VARIANCE

Ms. Seaman asked about the previous structure on this property – a shed - and described it as a structure under the Town's code. She pointed out that Mr. Hahn replaced this structure with a much larger building. Mr. Labriola concurred that this building is already constructed. He pointed out that the pasture area is flat for another 30' to 40' and, therefore, the building could be moved farther away from the road, which may still require a small variance but not a 40+' variance. He suggested that it can be moved.

Ms. Seaman asked about agriculture standards and impact on setback requirements. Mr. Nelson stated that if this property is in an agriculture district and if it is used for agricultural purposes, local zoning cannot unreasonably impede the ability of the farmer to do their farm operations in a reasonable way. He stated that the NYS agricultural market people take a position which is a lot closer to actually saying that zoning is not applicable. However, he stated that they do acknowledge matters where health and safety are involved. He stated that in a case like this – line of sight for the driveways and people leaving the property – it would be a legitimate request to address the health and safety concerns if not to the actual setback requirements. Ms. Seaman stated that her concern is to avoid entering into a protracted situation with the agricultural markets.

Mr. Labriola stated that the Board is not saying that he cannot have the building or that he cannot have a variance from the required setback, but that it seemed that it was an arbitrary placement and that there's plenty of room to move it back from the road. Ms. Seaman pointed out that the applicant makes a large amount of his income from his pumpkin sales, his petting zoo, and his fall festival around building. She pointed out that, because of the pond, moving the building complicates placement of the zoo. Mr. Labriola asked whether he could put the building in the back and the zoo in the front. Again, he stated that there is room to relocate the building and, therefore, require less of a variance, which is desirable.

Ms. Seaman asked if this building is movable. Mr. Fracchia stated that it will be a problem moving the building. Mr. Labriola stated that this is a situation where the applicant is asking for approval after having completed the construction, which is a self-imposed hardship. He stated that if the Planning Board is expected to just back off and grant the approval, it sets the precedent and sends a message to future applicants that it's best to build first and then ask for permission. He stated that this is not the kind of process the Board or the Town wants to put in place.

Ms. Seaman suggested asking the Highway superintendent to weigh in on this application with regard to sight distance for the driveways. Mr. Fraccia stated that he pulled into the site and turned around and that there's no problem with sight, that the biggest problem is the falling-down fence and not a problem with the building.

Mr. Gordon pointed out that it's a barn and that barns have a lot more latitude, even though he should have come to the Board prior to erecting it. Mr. Labriola stated that he understands the latitude, but noted that the requirement is 80' and that the applicant could have taken this requirement into consideration. Ms. Seaman cautioned that there's some confusion created because the ag market people say that he's not subject to zoning. Therefore, she pointed out that they are confusing people.

Mr. Nelson offered a suggestion that the Board report this back to the ZBA with the suggestion that it grant the variance consistent with the ag market standards while at the same time ensuring that there are no impediments to the health and safety of the public. He suggested that if there are health and safety issues then, notwithstanding that it is a farm, the ZBA can impose requirements.

Mr. Gordon noted that the new building is on the site of a pre-existing shed. Mr. Labriola pointed out that it is not the same footprint, however. Ms. Seaman concurred with Mr. Nelson's suggestion that the Board not set a precedent for building first and applying for approval later. Mr. Labriola asked whether this would be with a positive or a negative recommendation, because a "no recommendation" is not helpful. Ms. Seaman suggested a "conditional positive." Mr. Fracchia asked if the Board could suggest that the applicant move the building farther back. Ms. Seaman suggested including all the above mentioned conditions.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION AND ASK THAT THE ZBA CONSIDER THE FOLLOWING THINGS IN THEIR REVIEW:**

- 1. this property is in an agricultural district and this building is part of the ongoing farming operations**
- 2. pay particular attention to public safety and welfare, making sure that there's appropriate sight distance and visibility for people pulling in and out of the parking area**
- 3. consider that it appears that there is adequate room on the property to move this building farther away from Salt Point Turnpike and the Planning Board asks that the ZBA consider this as one of the alternatives to reduce the amount of variance that is required**

SECONDED BY R. FRACCHIA

VOTE TAKEN AND APPROVED 5-0-0

10. MISCELLANEOUS

Dormant Applications: Mr. Labriola reported on the status of applications that have been dormant for some time.

- Bil Val = active
- The Commons at Beckwith = withdrawn
- Cookingham site plan = withdrawn

- Pinucci Wetland Permit = active
- Stegler = withdrawn
- Richard Lot Line Realignment = withdrawn
- Errico = withdrawn
- Tassone – Beverly Hills = withdrawn
- ECM Realty = active

11. MINUTES

Mr. Labriola: **MOTION TO APPROVE AS CORRECTED DECEMBER 2007 MINUTES; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 5-0-0**

Mr. Labriola: **MOTION TO APPROVE AS CORRECTED JANUARY 2008 MINUTES; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 4-0-0**

Meeting adjourned at 9 p.m.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the February 12, 2008, 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 11, 2008

A regular meeting of the Pleasant Valley Planning Board took place on March 11, 2008, 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
 Henry Fischer
 Peter Karis
 Rob Fracchia
 Michael Gordon

Members absent: Kay Bramson
 Rebecca Seaman

Also present: Mike Takacs, Morris Associates
 Jim Nelson, Esq., Town attorney

ANNOUNCEMENT: Mr. Labriola announced that all Board members have received a copy of the proposed Code of Ethics for the Town. He stated that there is a hearing tomorrow evening on this. The Town Board is planning to vote on this at their April 2008 meeting. Mr. Labriola asked that the Board members review the proposed Code and submit any comments.

Mr. Labriola announced that Nancy Salvato has resigned her position with the Town.

1. JOSHUA WARD HOUSE (ALBRECHT) SUBDIVISION – PRELIMINARY PLAN APPROVAL – PUBLIC HEARING

Mr. Labriola stated that this application received Sketch Plan approval at last month's meeting. Mr. Brian Franks, surveyor for the applicant, was present.

Mr. Franks stated that he addressed all of the comments in the previous Morris Associates letter. He stated that the easement over the existing power lines from Route 44 to the workshop has been added to the map.

Mr. Takacs stated that there are only two outstanding items to be addressed, which are the maintenance agreements for the driveway access and the utility easement. Mr. Franks stated that a copy of the driveway document will be delivered to the attorney this evening. Mr. Labriola asked Mr. Nelson if he needs to see the utility easement, as well. Mr. Nelson asked if it is being modified. Mr. Franks stated that he held a 25' wide easement over the existing pole as recommended by Mr. Setaro. Mr. Nelson stated that there should be a utility easement so that when the transfer is made it is made subject to that easement. Mr. Franks will supply Mr. Nelson with a copy.

Mr. Takacs mentioned the well that serves the workshop. Mr. Karis asked where the septic for the workshop is located. Mr. Franks stated that Mr. Albrecht told him that he has a cess pool and pointed it out on the map. Mr. Karis asked if there is a sewer connection between the properties. Mr. Franks stated that there is just the well. Mr. Takacs stated that he will use the existing well near the body shop and that Morris Associates has asked that a note be placed on the plan that the connection be made prior to the plan being signed. He stated that Morris Associates will inspect it before the plan is signed.

Mr. Fracchia asked if the DOT needs to be notified. Mr. Franks stated that he does not know and that he did not notify them because they are not changing any use. He stated that they are just granting an easement.

Mr. Labriola stated that the file does not contain a response letter from the DC Department of Planning. Therefore, he stated that the Planning Board can open the Public Hearing and adjourn it till next month because the Board must have a response from DC before going forward with SEQRA. Mr. Labriola stated that he will ask the Zoning office to contact DC Department of Planning regarding this application.

Mr. Gordon stated that he is an adjacent property owner and he did not receive a registered letter regarding this application. Board members and Mr. Franks discussed the legal notification requirements – 500’ from the property line. Mr. Franks acknowledged that he only notified the neighbors who are within 500’ of the building and omitted the ones who are within 500’ of the property line.

Mr. Labriola stated that a notice that there is a pending subdivision application before the Board needs to be mailed certified to all adjacent property owners. He stated that the second notice is for the public hearing, which is a general notice. He stated that it is OK to open the public hearing this evening and adjourn to next month when, hopefully, the DC Department of Planning will have responded to this application. He stated that notice of the hearing will be posted on the Town’s website and in the bulletin board in the hallway of Town Hall.

Dr. Fischer raised an issue with there potentially being people who do not know that there is a subdivision application and, therefore, would not look in the newspaper for notice. He stated that for the future this needs to be worked out and asked for Mr. Nelson’s opinion. Mr. Nelson stated that it is measured from the border of the property and, therefore, per the Code mail notice must be given to the adjacent property owners within 500’ of the border. In addition, he stated that proper public notice has been made in the newspaper. Dr. Fischer pointed out that the adjacent property owners who should have been notified of this subdivision application but were omitted from that notification will not have known to look in the newspaper for notice of the public hearing. Therefore, they will have no idea that the hearing will take place. Board members and Mr. Franks discussed the need for some procedure to ensure that all necessary property owners are notified. Mr. Nelson stated that the mail notice is a separate notice from the published

legal notice and is designed to one way or the other to reach people who would be interested. Therefore, Dr. Fischer noted that for anybody who may not have received something in the mail there is something in the newspaper and they should be checking the newspaper. Mr. Gordon pointed out that few people read the legal notices in the newspaper. Mr. Labriola reiterated that these notices are posted to the Town website and on the bulletin board in Town Hall.

Mr. Labriola: **MOTION TO OPEN THE PUBLIC HEARING; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 5-0-0**

No one from the public spoke.

Mr. Labriola: **MOTION TO ADJOURN THE PUBLIC HEARING UNTIL NEXT MONTH; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 5-0-0**

2. CRAIGE SUBDIVISION – PRELIMINARY APPROVAL – PUBLIC HEARING

Mr. Brian Franks, surveyor for the applicant, was present. Mr. Labriola asked him to report on where this application stands with the Town of Clinton Planning Board.

Mr. Franks stated that he attended the Town of Clinton Planning Board and that the chairman was not there. He stated that the vice chairman and the Planning Board members who were in attendance want to make themselves lead agency over this subdivision. He stated that their reasoning is that “most of the land mass is in the Town of Clinton” even though all of the activity is happening in the Town of Pleasant Valley. He stated that they see it as a large piece of property that will have the potential to be subdivided in the future and that they want to address those conditions now rather than when an applicant submits a plan. He stated that he does not think this is right and that the only thing he could get them to agree to is if Mr. Craige would put a note on the map saying that there is going to be no further subdivision of the Town of Clinton property then they would turn lead agency over to the Town of Pleasant Valley. He stated that he explained the situation to Mr. Craige who is not willing to impede someone’s chances to subdivide. Further, Mr. Franks stated that Mr. Craige now wants to sell both lots – the property in Pleasant Valley and in Clinton. Mr. Franks stated that Mr. Craige has no future plans for these properties other than to sell them. Mr. Franks stated that he is hoping this will convince the Town of Clinton to drop their argument to be lead agency.

Mr. Karis stated that this is being set up to be subdivided. Mr. Labriola concurred with this analysis. Mr. Karis stated that that is called segmentation. He stated that future impacts must be looked at – that they are setting this 50+ acre piece up with 200’ right-of-way onto a town road where right now it does not have any. Mr. Franks stated that it will not be a right-of-way, that they will own it. Mr. Karis stated that it is being set up for future development and that one school of thought is that all future impacts are considered at the time that it is set up for development. He stated that, although most of the property is in the Town of Clinton, it drains to Pleasant Valley, all the impacts come to Pleasant Valley, and it’s in the Pleasant Valley fire district. He stated that this property

just happens to be at the end of the Town of Clinton. He stated that, from an environmental review standpoint, Pleasant Valley has a strong argument for being lead agency.

Mr. Labriola pointed out that the entire Town of Clinton parcel is landlocked and that the only way access is available is through the Town of Pleasant Valley. He suggested that he will call the chair of the Town of Clinton Planning Board if necessary.

Mr. Karis asked if the Town of Clinton Planning Board has responded in writing and within the 30 day time limit of this Board's declaration of lead agency. Mr. Takacs stated that today is day 28. Mr. Karis stated that after 30 days with no written response, this Board can declare lead agency by default. Mr. Labriola stated that the 30 days will be up this week and that hopefully this Board will hear something from Clinton either officially in writing or their willingness to move off of their position and allow Pleasant Valley to move forward. Mr. Karis mentioned another option of the Towns serving as co-lead agencies, which he noted would add a level of complexity.

Mr. Labriola reviewed the situation as it now stands:

- A letter from Mr. Craige is going back to the Town of Clinton Planning Board, which may convince them to move off of their position
- If the Town of Clinton persists in their position to be lead agency, Pleasant Valley can either concede to them, or bring in a 3rd party to decide, or do a coordinated review.

He suggested that this Board will wait to decide on next steps pending the response to Mr. Craige's letter to the Town of Clinton.

Mr. Gordon asked Mr. Franks his opinion of a coordinated review. Mr. Franks stated that he does not know how it would proceed with the Town of Clinton Planning Board. Mr. Karis stated that he's interested in seeing how many lots can be developed as far as a subdivision in the future, given the wetland and the potential significant environmental impact associated with this application.

Mr. Labriola read into the file a letter dated 3/5/08 from Highway Superintendent Gardner (original on file) reporting on his site visit: substantial cut back of the bank is required to acquire the sight distance; drainage problems must be addressed; entire driveway will have to be paved; other conditions may apply.

3. (See p. 8, below)

4. DOGGIE DOO'S (WIKANE) SITE PLAN

Mr. Karis and Mr. Fracchia recused themselves. Mr. Labriola announced that, therefore, there is not a quorum on the Board in order to make any final decisions tonight.

Mr. Brian Franks, surveyor, and Ms. Jacqueline Wikane, applicant, were present. Mr. Labriola stated that the ZBA has granted the Special Use Permit and now this applicant is before the Planning Board for a site plan.

Mr. Franks stated that they have done the boundary survey of the property showing the existing location of the house, driveway. He stated that he has taken the neighbors' houses from aerial photos and file maps. He stated that according to the ZBA requirements, he has shown their requirements regarding number of parking spaces and the turn around. He stated that according to the Department of Health an additional lateral to the septic system is required and has been shown on the map. He has also shown the existing wetlands as taken from the Town's documentation.

Ms. Wikane reported that the hours of business are Tues through Sat from 9 a.m. to 5 p.m. She stated that she has 1 employee, that the dogs are kept inside, that there is no kenneling or boarding of animals kept overnight. She stated that the customers drop their dogs off in the morning and pick them up as the day progresses and they are finished. Dr. Fischer asked how many dogs will be in the house at noontime. Ms. Wikane stated between 7-10 dogs.

Mr. Gordon asked if the Board has heard from adjacent property owners. Mr. Labriola stated that the ZBA heard from them, but that the Planning Board has not heard from them. Mr. Franks stated that they voiced their opinion during the public hearing at the ZBA. Mr. Gordon voiced his concern that this Board has not heard from the neighbors who are in close proximity to this property. Mr. Labriola stated that he reviewed the ZBA minutes and the concerns that were raised were regarding the amount traffic in and out versus a residence, the additional traffic onto Rossway Road, questions relative to shielding some adjacent property owners from some of the activity, trying to keep people from driving over their lawns. Mr. Franks pointed out that this was a problem with the previous property owner. Ms. Wikane stated that all of those issues have been addressed. She pointed out on the site plan that they have proposed to put up a fence between where the natural barrier has been taken down. She stated that it was her suggestion to put up a privacy fence and barrier.

Dr. Fischer reviewed the map with Mr. Franks and Ms. Wikane and asked about the location of the house on one of the adjacent properties. Mr. Franks pointed it out and stated that it is 70' away. Board members reviewed the location of the proposed fence. Mr. Franks stated that it will be a 6' stockade fence, which is what the Town permits to be installed on the property line. Mr. Labriola asked about adequate space for snow plowing. Board members and Mr. Franks and Ms. Wikane discussed this. Ms. Wikane stated that there is 6'-7' between the edge of the driveway and the location of the fence.

Mr. Takacs reviewed the Morris Associates comment letter. Mr. Franks clarified that the owner's name and the applicant's name are different because Ms. Wikane is in the process of purchasing the property. She is proceeding with this site plan prior to finalizing the purchase so that when the purchase is complete she can immediately commence her business on the site.

Mr. Labriola stated that there is nothing yet from the Fire Advisory Board.

Mr. Takacs pointed out that a certificate of septic compliance is required from the DC Health Department. Ms. Wikane stated that she has a letter from them. Mr. Takacs stated that Morris Associates wants to review the septic when it is done.

Mr. Takacs pointed out that the EAF stated that total anticipated water usage is 800 gallons per day. Mr. Franks stated that this is his mistake which he will fix.

Mr. Takacs noted the special conditions must be added to the plan.

Mr. Takacs noted that the applicant will need to apply for a sign permit in the future. Ms. Wikane stated that she will do so in the future.

Mr. Takacs asked about complying with the ADA requirements. Mr. Franks stated that he has not provided for a handicapped spot, but that there is plenty of room to do so along with providing detail for the paving. He stated that access to the house will be provided. He stated that one of the garage doors has already been made permanent so that it does not open and that Ms. Wikane will modify the other garage door. He stated that it will be removed and closed in with a normal doorway at grade. He stated that the business will be on the ground floor.

Mr. Takacs stated that the lighting and fencing must be shown on the plan. He pointed out a chain link enclosure that is on the map. Mr. Franks stated that that is something from the previous owner and that the previous owner did not know where the property lines were. He stated that they will move it and that it is overgrown and access to it is difficult.

Mr. Takacs noted the wetland on the map and questioned its size. Mr. Franks stated that it was taken from the Town information and pointed out the red line that represents the 25' buffer zone. Board members, Mr. Takacs, Ms. Wikane discussed the accuracy of the information regarding the size of the wetland area. Mr. Nelson reviewed the wetland code, as did Mr. Labriola. Mr. Takacs will verify the size and the associated buffer area. Dr. Fischer reviewed the map and pointed out that the color coding seems to imply extensive wet areas. Mr. Labriola suggested that the CAC should help the Board with this determination. Ms. Wikane noted that the representative from the CAC already spoke about the designation of the wetlands on the map. Mr. Labriola directed that someone from the CAC should review these wetlands.

Mr. Gordon again asked about neighbor's concerns. Mr. Labriola stated that having read the ZBA minutes he wondered about lighting of the entrance way and the parking area. Mr. Franks reviewed the proposed lighting – two proposed 100 watt motion detector flood lights and one on the corner of the building to light up the parking area.

Mr. Labriola stated that the Fire Advisory Board will review this application to make sure that they are comfortable with the plans for the turn off area in the driveway.

Mr. Labriola asked Mr. Takacs about the required width of the driveway now that this is a business. Additionally, Mr. Labriola noted that currently this driveway is not paved and that one of the neighbors was concerned about the amount of dust as a result of 5-7 customers and a dozen car trips per day. Dr. Fischer suggested that it could be up to 20 cars trips per day and noted that is why he is worried about a nearby house. Mr. Franks stated that the house is for sale and is empty. Dr. Fischer stated that he feels it is upon him to make sure that that house is protected given that there is no one there now.

Mr. Labriola suggested that the Board should consider having the driveway paved to reduce the amount of dust that is likely to get kicked up when it is dry. Dr. Fischer stated that it is a consideration but that he would like to see the driveway before voting on that. Mr. Gordon stated that he thinks it is a little onerous to require her to pave the driveway. Mr. Franks noted that it is a really long driveway. Mr. Labriola stated that he's aware of the length and that it is the length that concerns him because of the potential dust. Mr. Franks pointed out a natural hedge row of trees on one side of the driveway and another adjoining drive which is also not paved and that may also contribute dust. Mr. Labriola pointed out that the adjacent property owner will not be having 15-20 car trips per day. Mr. Franks also pointed out that the drivers will only be going 2-3 mph in the drive and not raising too much dust. Ms. Wikane pointed out that Mr. Mitchell's driveway is very short. Mr. Labriola also mentioned his concern for the impact on the pool on the neighbor's property. Dr. Fischer also agreed and stated that it is unfortunate that there is no public hearing but that he would not vote on paving it until he makes a site visit.

Mr. Labriola concluded that no decisions can be made tonight in any case. He stated that the Fire Advisory Board needs to comment on this application and the turn off and that the Planning Board needs to think about the width of the driveway. Mr. Franks pointed out that the driveway is straight and the line of sight is uninterrupted over its length. Mr. Labriola noted that handicapped access also must be provided. Mr. Takacs stated that the size of the wetland needs to be verified by the CAC.

Ms. Wikane mentioned her time limit for this approval. She stated that the seller put 4/15/08 as the deadline. Mr. Gordon advised her to have her attorney review her contract. Ms. Wikane also pointed out that her lease is up at her current location on 5/31/08 and that she's in a time crunch. Mr. Labriola reiterated that the Board does not have a quorum this evening and cannot make any decisions and that the next Board meeting is scheduled prior to that 4/15 deadline, in any case.

Mr. Nelson asked if there is an EAF on this application. Mr. Labriola responded yes. Mr. Franks stated that he will correct the 800 gallons. Mr. Takacs suggested that Mr. Franks meet with him prior to the next meeting. Mr. Franks agreed.

NOTE: Mr. Karis left the meeting for another engagement at this point in the proceedings.

3. 123 & 129 WEST ROAD LOT LINE REALIGNMENT – PRELIMINARY APPROVAL – PUBLIC HEARING

7. 123 WEST ROAD SITE PLAN REVISION

8. 123 WEST ROAD WETLANDS PERMIT APPLICATION

Mr. Labriola stated that these three applications will be taken together.

Mr. Mark DelBazo, engineer for the applicant, was present. He described that the lot line realignment involves the addition of .3 acres from the 129 West Road parcel, which will reduce that parcel to 1.19 acres, and combine with the parcel located at 123 West Road for a total of 2.1 acres. He responded to the Morris Associates comments. He stated that the lot line realignment is considered a subdivision and Board of Health signoff is required prior to the map being signed. He stated that they have submitted their extended wetland flagging with the 100' buffer to DEC which is reviewing it and will receive notice that they approve the limits flagged by the applicant's consultants and surveyed by the applicant's surveyor. He stated that he will provide those copies to the Town.

Mr. DelBazo requested a formal topo waiver for the wetland adjustment.

Mr. DelBazo stated that the remains of an existing shed will be removed prior to the plat being signed.

Mr. DelBazo stated that they have applied for a new wetland permit because the DEC required them to do so, rather than modifying the existing one.

Lot Line Realignment:

Mr. Takacs stated that all Morris Associates comments have been covered.

Mr. Labriola: **MOTION TO APPROVE THE REQUESTED TOPO WAIVER WHICH PROVIDES THAT THE PLANS DON'T NEED TO DEPICT CONTOURS AT AN INTERVAL OF LESS THAN 5'; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 4-0-0**

Mr. Labriola: **SEQRA NEGATIVE DECLARATION**

I move that the Planning Board determine as set forth in the attached declaration dated 3/11/08 prepared by the Board's engineer that the 123 & 129 West Road Lot Line Realignment 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 impact statement will be required:

- **No physical change to the property as it is merely a lot line adjustment.**

SECONDED BY R. FRACCHIA

VOTE TAKEN AND APPROVED 4-0-0

Mr. Labriola: **MOTION TO OPEN THE PUBLIC HEARING; SECONDED BY R. FRACCHIA; VOTE TAKEN AND APPROVED 4-0-0**

No one from the public spoke.

Mr. Labriola: **MOTION TO CLOSE THE PUBLIC HEARING; SECONDED BY H. FISCHER; 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 123 and 129 West Road Lot Line Realignment subdivision in the form of the attached resolution dated 3/11/08 prepared by the Board's engineer and now before Board subject to the following conditions: NONE

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED

Mr. Labriola: **HEARING NO COMMENTS FROM THE PUBLIC, MOTION TO WAIVE THE SECOND PUBLIC HEARING; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 4-0-0**

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

I move that the Planning Board grant final approval to the 123 & 129 West Road Lot Line Realignment subdivision in the form of the attached resolution dated 3/11/08 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 3/10/08**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 4-0-0

Mr. Labriola stated that this application is not subject to a parkland resolution as there are no new lots being created.

Site Plan Revision:

Mr. DelBazo reported that the lot line realignment has allowed the expansion of the existing parking approved in the 123 West Road site plan into the new obtained property. He stated that he has had a discussion with the DEC and he has to submit a revised application to them regarding the wetland buffer. He stated that he needs to follow up with the DPW to provide them with updated plans as well. He stated that he submitted a response to questions from the DC Department of Planning and has provided some additional construction details and will discuss drainage questions.

Mr. Takacs stated that Morris Associates comments have been covered and that he will meet with Mr. DelBazo prior to the next Planning Board meeting.

Mr. Labriola read into the record a letter dated 3/11/08 from Dutchess County Department of Planning (original on file): of local concern with comments regarding parking, pervious surface, and addition of evergreen trees. Mr. Labriola noted that the Board had already discussed the need for the additional parking and that he likes the idea of the mix of deciduous and evergreen trees and asked Mr. DelBazo to take that suggestion into account. With regard to making the additional parking of pervious surface, Mr. Labriola noted that the Board had discussed this on the original site plan and rejected it based on safety concerns for people wearing high heels and attempting to walk on uneven, soft surfaces. He stated that the applicant must make sure that the water management plan will handle that additional impervious surface in a way that is satisfactory to the Board's engineer as well DEC.

Mr. DelBazo reviewed the process of getting DEC approval. Mr. Takacs stated that the letter from DEC is forthcoming.

5. ROSSWAY ROAD PROPERTIES SUBDIVISION – SKETCH PLAN APPROVAL

Mr. Michael White, senior engineer and project manager with Spectra Engineering, and Mr. Jeff Ringler, Rossway Properties LLC, were present.

Mr. Ringler stated that they have 13 acres on Rossway Road east of the Taconic Parkway which is vacant land with a roughed-in, natural surface driveway. He stated that they are proposing to subdivide lots, that would be anywhere from 3, to 4, to 5 acres and that would be serviced off of a private driveway – a common driveway.

Mr. White stated that the driveway was graded to approximately the grades of the driveway specifications. He stated that the proposal is to create driveway extensions off of the existing driveway to the house locations. He stated that they have tested the site for perc tests. He stated that the idea is to show on the final grading plan the limits of disturbance and to disturb as little of the area as possible. He stated that the sight distances are more than adequate, and is well over 500' looking south and even more than that looking north. The property line is the corporate boundary with the Town of LaGrange, but the property does not go into the Town of LaGrange. He stated that they have notified the Town of LaGrange but that they do not have to appear before that Town Board.

Mr. White stated that they will address Morris Associates comments and noted that they will do whatever is required with regard to storm water management to reduce disturbance. Mr. Takacs pointed out on the map a problem area – Mr. Fracchia agreed that it is a problem area.

Mr. Labriola read into the record a letter dated 3/5/08 from Kurt Gardner, Highway Superintendent (original on file). The letter lists requirements needed prior to issuance of a driveway permit. Issues listed are:

- ability to construct the driveway in accordance with the Town of Pleasant Valley subdivision driveway specifications
- plans to show how the drainage will be handled so that it does not discharge onto the Town road
- entrance off of Rossway Road must be wider for a common drive with an additional cut back of the bank, additional trees removed, correct 15' driveway pipe with flared ends to be installed, grade for entrance to driveway completed to Code
- comments from Fire Advisory Board must be addressed
- no building permits for lots 1, 2, and 3 until the common driveway has been completed and signed off
- common drive must be wider than a single lot subdivision with the proper removal of trees and brush
- noted that this is a very difficult lot to construct

Mr. Labriola noted that the Fire Advisory Board will start to get involved in the review process.

Mr. Takacs stated that this application meets the Code requirements for sketch plan approval.

Mr. Labriola stated that the Board appreciates the applicants' comments about showing areas of disturbance because the Board would like to retain as many trees as possible. He asked whether any of these homes will be visible from the Taconic Parkway. Mr. White stated that he does not think so. Mr. Takacs pointed out that there are two lots between this property and the Parkway. Mr. White stated that he does not think anything is visible from Rossway Road and noted that it is really private. Dr. Fischer asked about retaining a 100' treed, undisturbed buffer around the perimeter of the site. He suggested that a note be added stating that the buffer will remain undisturbed by the property owners, which is something that the Board has done on other applications. Mr. Labriola noted that the owners would be allowed to do maintenance in the buffer for diseased or downed trees. He concurred with Dr. Fischer regarding keeping as much of a buffer around the entire perimeter of the property which will be an added benefit to the buyers. Dr. Fischer stated that, in this way, the roadside will continue to look good.

Mr. White stated that they also guarantee preservation of the stone walls on the property.

Mr. Fracchia pointed out the planned access to the site as designed on the original subdivision application. Mr. White displayed Chazen's previous plans dated October 1999. Mr. Fracchia pointed out the area that was under water on the site.

Mr. Gordon asked about the configuration of lot 2. Mr. White explained that it is to provide the required frontage on Rossway Road. Mr. Gordon pointed out the steep slope on that site. Mr. White pointed out the reason for using the common driveway for all

three lots and noted that the configuration of lot 2 is to meet the road frontage requirements. Mr. Gordon stated that it's not practical. Dr. Fischer and Mr. Labriola concurred that road frontage is also required to acquire mortgage.

Dr. Fischer requested a "no touch" zone – a buffer – around the site. Mr. Labriola concurred with this request.

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

Whereas a formal application for the approval of the subdivision entitled Rossway Road Property subdivision located at Rossway Road has been submitted to the Planning Board on 2/25/08, and

Whereas requirements for Sketch Plan in accordance with the Code section 8225 and the Zoning Ordinance of the Town of Pleasant Valley have been met by said subdivision plan, now

Therefore be it resolved that the Sketch Plan approval be accepted and the following conditions must be addressed within the preliminary plat: MORRIS ASSOCIATES LETTER DATED 3/6/08

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 4-0-0

Mr. Labriola asked to see the next set of plans prior to authorizing for the public hearing.

Mr. Fracchia pointed out the Taconic Parkway and the high point on the property. He asked about visibility from the Parkway. Mr. White stated that because of the trees you cannot see the property, although he does not know what happens when the leaves are off the trees. Mr. Ringler stated that you can hear the traffic but cannot see the cars from anywhere on the property.

Dr. Fischer reiterated the request for the 100' no-cut zone.

6. CENTRAL HUDSON – TINKERTOWN SUBSTATION – SITE PLAN REVISION

Ms. Jennifer Van Tuyl, attorney, Mr. Patrick Harder, Central Hudson, and Mr. Gary Countney, Central Hudson, were present.

Ms. Van Tuyl stated that they are before the Board to add a sound barrier around the existing transformer, which has been required by the Zoning Board. She stated that the ZBA conditioned their approval on:

"The installation of a sound barrier around the existing transformer located on the property. The sound barrier shall be of similar size, construction, materials, and appearance as shall be installed around the second transformer so as to create a uniform appearance. The sound barrier shall be

installed simultaneously with the improvements authorized by the Planning Board.”

Mr. Labriola recalled that the Planning Board approved the site plan in December 2007 with the condition that it had to go to the ZBA for an area variance because the footprint was greater than the Code permitted. He noted that the ZBA approved the area variance with the above-noted condition, which now requires approval by the Planning Board.

Ms. Van Tuyl stated that the ZBA acknowledged the Planning Board’s determination that there would not be any significant impact but they felt that they had authority under their right to impose conditions. She stated that the ZBA was not in any way disputing what the Planning Board had done, but were applying their own legal authority. She stated that everyone agrees that the final map which the building inspector and the zoning administrator will be using and judging in conformance with the plan should have that wall on it. She noted that there was never any question about where the wall should be located, because both Boards have seen maps showing both walls. She displayed a map that had been updated as of 3/6/08, which shows the sound wall around both the transformers. She pointed out that the walls are identical, that the notes identify them as identical, and that it has been referred to the Board’s engineer to confirm that they are identical.

Ms. Van Tuyl stated that they wanted to make sure that the record was clear that the placement of the second wall around the existing transformer does not impose any environmental issue or require reopening SEQRA. She stated that wall around the existing transformer is going to be inside the fence line and that there will be no removal of trees. She stated that it will be on an area that is already part of the substation.

Ms. Van Tuyl stated that they asked AKRF, the landscape architects who had done the previous analysis, to look at the addition of the second wall and analyze whether it would impose any additional impact. She stated that Ms. Jainchill’s report points out that the additional sound wall will be located fully within the fence, that it will not require the removal of any vegetation. Ms. Jainchill’s report reviewed the existing trees and vegetation and noted that there is no need for mitigation because even if the transformers were partially visible in the winter they would be screened and softened. Ms. Jainchill’s report states their professional opinion that “the addition of the sound wall around the existing transformer will not create any adverse visual impact and will actually provide additional visual screening of the transformer during the winter months.” Ms. Van Tuyl stated that Ms. Jainchill points out that in the winter months what will be viewed, although screened by the vegetation, will be the tan green wall and does not recommend any additional plantings because that would necessitate the removal of existing mature vegetation. Ms. Van Tuyl stated that they believe Ms. Jainchill’s report supports the conclusion that the Planning Board’s previous negative declaration was appropriate and that could properly be confirmed by the Board. Again, she noted that the Planning Board had previously reviewed maps that had both walls on it.

Mr. Labriola recalled the site visit that the Board conducted and noted that the vegetation to the east was significantly better around the first transformer. Therefore, he stated that he agrees with the findings and recommendations. Further, he stated that he spoke with Mr. John Dunn, chair of the ZBA, to understand that Board's rationale for imposing this condition. He stated that Mr. Dunn explained that the ZBA considered this to be an opportunity to rehabilitate an existing site. Mr. Labriola stated that he has no concerns with what is being proposed and noted that it is consistent with a version of the plan that this Board has reviewed in the past. He noted that Mr. Takacs reviewed the plan and concurred that this is consistent with the Bagdon requirements for that second transformer's barrier – same materials, colors, size – and that the drawings represent what the Board wants done.

Mr. Labriola stated that, based on the fact that the Planning Board did a SEQRA determination of negative impact, this is a modest change which is essentially an improvement to the existing conditions. Therefore, he stated that the Planning Board will reaffirm the previous SEQRA determination and asked for any comments or questions from Board members. No one spoke.

Mr. Labriola read into the record a letter from Dutchess County Department of Planning dated 3/11/08: a matter of local concern. He noted that Planning had already seen the previous plans.

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

Whereas a formal application for site plan approval of the Central Hudson Tinkertown Substation for the purpose of the addition of a new transformer located at 1959 Route 44 in the Town of Pleasant Valley was submitted to the Planning Board by Central Hudson on 11/30/07 which proposed site plan included a sound barrier for the proposed new transformer, and

Whereas on 12/11/07 the Planning Board adopted a negative declaration for this project on the New York State Environmental Quality Review Act, and

Whereas on 12/11/07 the Planning Board adopted a resolution granting site plan approval for this project on condition, among others, that Central Hudson obtain a variance from the Pleasant Valley Zoning Board of Appeals, and

Whereas on 2/28/08 the ZBA granted Central Hudson an area variance on condition that it also install a sound barrier around the existing transformer, and

Whereas Central Hudson has submitted a site plan showing the addition of a sound barrier for the existing transformer and whereas pursuant to 617.7(f) of the NYS Code of Rules and Regulation the Planning Board must rescind the SEQRA negative declaration if changes to a site plan might result in a significant adverse environmental impact, and

Whereas Central Hudson has submitted a letter from AKRF Environmental and Planning Consultants dated 3/8/08 providing that additional sound barrier will not create any adverse visual impact, and

Whereas the Planning Board has reviewed the AKRF letter and requested a review of the SEQRA and site plan information by the Planning Board's engineer and has received comments from the Planning Board's engineer and members of the Planning Board, and

Whereas it appears that the installation of the additional sound barrier will not create any visual or other substantial adverse environmental impact such that no modification of the negative declaration is required and it further appears that it will have a positive environmental impact, and

Whereas the requirements for the site plan of Chapter 98, Section 9841 of the Code of the Town of Pleasant Valley have 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 this site, now

Therefore be it resolved that the 12/11/07 resolution of the site plan approval as modified to the extent of requiring the addition of a sound barrier for the existing transformer as shown as the site plan entitled Central Hudson Tinkertown Substation dated last revised 3/6/08 with the conditions and all other terms of the 12/11/07 resolution continuing without modification and the Zoning Administrator may issue the necessary building permits upon completion of such condition:

- 1. should information presented by the applicant or his representative either written or verbal be found to be erroneous the approval granted here will be subject to invalidation by the Planning Board**

(Ms. Van Tuyl pointed out that condition #1 was payment of fees.)

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 4-0-0

Ms. Van Tuyl stated that in the initial resolution, condition #3 requires the installation of oil containment for both transformers, and now it is amended to say "sound barriers around both transformers" – with which she stated they have no problem. She stated that the oil containment shall be completed and installed prior to the issuance of a Certificate of Occupancy/Operation or the new, second transformer. She stated that they have no problem with that for permanent operation, but noted that Central Hudson has to continue to run electricity through that substation. Therefore, she stated that to put the oil containment under the existing transformer, they must take it out of operation, and there must be some other transformer in there online. She stated that she does not think it is

necessary to change any of the language and stated that they want to make clear so that it is understood that the oil containment on the existing transformer will be done before they get a permanency OK for permanent operation and they will ask for a temporary permit – temporary C.O. or building permit – to run the electricity through the second transformer while they install. She stated that she does not think this protocol is contrary to the common understanding of this project, because Central Hudson has to keep this substation running.

Mr. Harder stated that their intention is to get the second one in and turned on before the summer peak and leave it like that. Then, he stated, they will take the existing one out when the weather starts changing and complete that towards the end of the year.

Mr. Labriola stated that Mr. Feldweg would want to see some sort of time frame for the stages of the project in order to issue a temporary C.O. He noted that it makes sense from an engineering perspective to proceed this way and noted that it is not possible to take the power down in the installation process.

Ms. Van Tuyl expressed her thanks to the Board. Mr. Labriola expressed the Board's appreciation for Central Hudson's cooperation.

Mr. Fracchia asked when they plan to install the new transformer. Mr. Harder stated that they want the new one done before July 2008. Ms. Van Tuyl stated that the oil containment on the second one will be done after the heavy months of usage.

9. EDDIE'S AUTO REPAIR & COLLISION CENTER – SIGN PERMIT

Mr. Edward Palmer, applicant, was present. He stated that he has an existing sign that he had for his previous shop, and that he wants to have a sign made to put on the left side of the building. Mr. Labriola asked if he is replacing a sign. Mr. Palmer stated that there are 2 signs on the building, and that he wants to replace them. Mr. Labriola asked if he is replacing the sign along Route 44 with the same exact size.

Mr. Labriola and Mr. Palmer discussed which signs are being replaced. Mr. Palmer explained that both signs are parallel with Route 44 and are both on the same part of the building. Mr. Labriola asked if Mr. Palmer is proposing to back light the sign on the wooden part of the building. Mr. Palmer said he is hoping to do so. Mr. Labriola noted that he is proposing a small spot light on the other sign. Mr. Palmer pointed out a shed that is 15' away from the building on which he plans to mount the spot light. Mr. Labriola asked if the light will be visible from Route 44. Mr. Palmer stated that it will not be visible. Mr. Labriola noted that Mr. Palmer is actually making the sign smaller than the original.

Dr. Fischer asked if the light will wash over and light up the entire side of the white building. Mr. Palmer responded that he does not know if it will light the whole building.

Mr. Palmer pointed out a large mercury light where the office door is and stated that he wants to remove it because it acts like a spot light in driver's eyes and lights up his

neighbor's yard. He stated that he wants to replace it with a smaller spot light that shines down. Board advised him that this would be fine and that he does not need a permit to do so. Dr. Fischer advised him that it would be preferable to install lighting that shines down rather than out. Mr. Palmer agreed with this.

Mr. Palmer asked if he needs to file for a permit to repair and paint the faded wood siding. Board responded that he does not need a permit. Dr. Fischer asked what color he plans to paint it. Mr. Palmer stated that he plans to paint it white. Dr. Fischer suggested that he put a darker color lower down to prevent dirt and mud splashing on it. Mr. Palmer stated that he will pave his parking lot and asked about guidelines. Board advised him to speak with the DOT.

Mr. Palmer stated that he plans to repair the fence on his property. Board approved and applauded his intentions to rehabilitate the property.

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

Whereas the Town of Pleasant Valley Planning Board has received an application from Eddie's Auto Repair for the approval of 2 signs dated 2/13/08, and

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

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

Further be it resolved that the Planning Board grants the approval for two signs as shown in the application and drawing and consisting of the materials, sizes, and colors shown in the application except as noted: NONE

**SECONDED BY M. GORDON
VOTE TAKEN AND APPROVED 4-0-0**

Meeting adjourned at 8:30 p.m.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the March 11, 2008, 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 8, 2008

A regular meeting of the Pleasant Valley Planning Board took place on April 8, 2008, 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
 Henry Fischer
 Peter Karis
 Rob Fracchia
 Michael Gordon
 Kay Bramson
 Rebecca Seaman

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

ANNOUNCEMENT: Mr. Labriola announced a couple of changes to the meeting agenda. He stated that the 123-129 West Road Lot Line Realignment application was approved at the March Planning Board meeting. Further, he stated that the documents pertaining to the 123-129 West Road Regulated Activities in Wetlands and pertaining to the 123-129 West Road Site Plan Revision were not received until late today. Therefore, Morris Associates has not had time to review them; therefore those applications will be on the May Planning Board agenda.

1. JOSHUA WARD HOUSE (ALBRECHT) SUBDIVISION – PRELIMINARY PLAN APPROVAL – PUBLIC HEARING

Mr. Brian Franks, surveyor for the applicant, was present. He stated that there have been no changes to the plan and that they have taken care of the comments from the last Planning Board meeting. He stated that he has not yet received from the attorney the easement for ingress and egress over the existing driveway and over the utility pole line. Mr. Labriola noted that Mr. Franks complied with the requirement to notify all adjacent property owners within 500'. Mr. Franks stated that two of the property owners did not pick up their certified letter.

Mr. Setaro reviewed the Morris Associates comment letter. He noted that Mr. Franks has covered the issue regarding the easement and maintenance agreement. He mentioned the agricultural data statement. He stated that the well line must be severed and will be a condition of approval. He stated that Morris Associates must be notified of this so that they can inspect it.

Mr. Labriola opened the discussion up to the Board members for comments or questions. No one spoke.

Mr. Labriola: **PARKLAND RESOLUTION**

I move that the Planning Board adopt the following parkland determination resolution for the Joshua Ward House subdivision in the form of the attached resolution dated 4/8/08 prepared by the Board's engineer and now before the Board subject to the following conditions: (FULL TEXT ON FILE)

Now, therefore, 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 there 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 M. GORDON

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola: **SEQRA – NEGATIVE DECLARATION**

I move that the Planning Board determine as set forth in the attached declaration dated 4/8/08 prepared by the Board's engineer that the Joshua Ward House 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 for this determination of non-significance:

- 1. The action involves a subdivision of the 24 acre parcel into two lots of 1.3 acres with an existing house and a 22.7 acre parcel which is the balance of the farm. There is no physical change planned to the property.**

SECONDED BY R. FRACCHIA

VOTE TAKEN AND APPROVED 7-0-0

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

No one spoke

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

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

I move that the Planning Board grant preliminary approval to the Joshua Ward House subdivision in the form of the attached resolution dated 4/8/08 prepared by the Board's engineer and now before the Board subject to the following conditions: NONE

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola: **MOTION TO WAIVE THE SECOND PUBLIC HEARING;
SECONDED BY R. FRACCHIA; 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 Joshua Ward House subdivision in the form of the attached resolution dated 4/8/08 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 4/8/08**
- 4. Completion of the disconnection of the existing well line to the workshop and verification by the Planning Board engineer's office**

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVE D7-0-0

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

I move that the Planning Board pass along a recommendation to the Town Board that they assess the appropriate recreation fees for one newly created lot.

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 7-0-0

2. CRAIGE SUBDIVISION – PRELIMINARY APPROVAL – PUBLIC HEARING

Mr. Brian Franks, surveyor for the applicant, was present. Mr. Labriola stated that this application was last on the agenda in February 2008 at which time the Board was still waiting to hear from the Town of Clinton regarding Pleasant Valley assuming lead agency status. He announced that a letter has been received from them complying with Pleasant Valley being lead agency.

Mr. Franks stated that nothing has changed and that a public hearing has not yet been held due to the fact that this was on hold pending Clinton's response.

Mr. Labriola advised Mr. Franks to advertise for a public hearing at next month's meeting.

Mr. Setaro asked if Mr. Franks had received the letter from the Highway Superintendent. Mr. Franks indicated that he received it.

3. LIBERATORE/WHITNEY LOT LINE REALIGNMENT

Howard and Kim Whitney were present. Mr. Whitney reported that his neighbor is giving him an acre of property. He stated that he had the property surveyed and provided the Board with a map. He noted that the acre will be a buffer and that nothing else is changing on the property. He stated that the driveway is staying the same and nothing is being constructed.

Mr. Setaro stated that Morris Associates has no comments with regard to this application at this time, that it meets all the requirements for Sketch Plan. He stated that they did provide some comments for the next phase, preliminary approval.

Mr. Gordon pointed out that part of Mr. Whitney's driveway goes into the White's property. Mr. Setaro stated that this is mentioned in Morris Associates comments for preliminary approval and that it either needs to be relocated off of the White property line or a lot line realignment should be included in this application.

Mr. Whitney stated that he was unaware that his driveway encroaches on the White's property. Mr. Labriola stated that either the map is incorrect or, if it is correct, then it must be addressed prior to the Planning Board's approval of this lot line realignment application.

Mr. Labriola also stated that the entire driveway must be shown on the map and asked if there is a shared driveway with the adjoining lot. Mr. Whitney stated that a portion of his driveway is shared with the neighbor. Mr. Labriola asked if there is a driveway maintenance agreement. Mr. Whitney stated that he has the right-of-way. Mr. Karis asked if there is an easement across his property for access over the driveway. Mr. Whitney stated that he is not sure and he thinks it may be in his deed. Mr. Labriola stated that there needs to be a reciprocal maintenance agreement in place that protects both property owners. Mr. Setaro noted that this issue is included in Morris Associates letter for the next phase of the application. Mr. Labriola asked Mr. Whitney to provide a copy of the original deed to the Planning Board's attorney, Mr. Nelson, prior to the next meeting. Mr. Karis noted that the surveyor should also show this on the map.

Mr. Fracchia asked if there are any easements for the telephone poles. Ms. Whitney stated that Central Hudson owns to the turn in the line and that the rest are private. Mr. Gordon stated that they normally come in 100'.

Mr. Labriola listed the next steps that are required prior to advertising for a public hearing:

1. provide the Board with an updated plan with revised drawings

2. provide a copy of the easements to Mr. Nelson
3. post the yellow subdivision sign

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

I move that the Planning Board grant sketch plan approval to the Liberatore/Whitney 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. Morris Associates letter dated 4/8/08**
- 2. copy of common driveway easement provided to Planning Board attorney**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

4. DOGGIE DOO'S (WIKANE) SITE PLAN

Mr. Pete Karis and Mr. Rob Fracchia recused themselves from this application.

Ms. Jackie Wikane, applicant, and Mr. Brian Franks, surveyor, were present. Ms. Wikane noted that her last name has been spelled incorrectly on a number of letters she has received from the Town.

Mr. Franks stated that they have incorporated all the changes requested by the Fire Advisory Board and have put the additional notes on the plan regarding the driveway. He pointed out that there has been one modification made to the Fire Advisory Board's request regarding the width of the pull off. He stated that there is not enough room on the property to provide a 15' wide pull off and that he spoke with the Chair of the FAB who authorized him to change the width to 13'.

Mr. Franks pointed out that they now show the adjoining owner's house on the map and that they took care of all comments in the Morris Associates letter. Mr. Labriola asked if details of the stockade fence are on the plans. Mr. Franks stated that they are, as is the driveway and the paving of the handicapped space.

Mr. Labriola asked if lighting has changed. Mr. Franks stated that it has not changed.

Mr. Setaro reviewed the Morris Associates comment letter. He asked if a building permit will be required. Mr. Franks responded no. Mr. Setaro stated that, therefore, there needs to be a procedure created to enable Morris Associates to track that the items are taken care of and to inspect for compliance, i.e., driveway dimensions as required by the FAB, adding the additional line to the septic. Mr. Setaro stated that they want to make sure that these improvements are made prior to Ms. Wikane starting to operate her business; and if there is no Town building permit required, then there is nothing in place to trigger an inspection by Morris Associates.

Mr. Setaro asked about hair traps in the sewer line. Ms. Wikane stated that the traps are already installed in the bottom of the tubs.

Mr. Setaro asked about the wetlands and stated that Mr. Takacs had plotted out a separate map that shows that there are two separate wetlands that do not appear to be connected. Therefore, he stated that the 25' buffer is, therefore, acceptable.

Mr. Labriola asked whether they have to widen the existing driveway to 12'. Mr. Franks responded that it is currently 10' and that they will widen it to 12'. Mr. Labriola asked how they are planning to improve the driveway, if they are planning to put new gravel down the entire length. Mr. Franks and Ms. Wikane confirmed that they will put item 4 the entire length of the driveway and then widen it. Mr. Labriola suggested that this be added as a condition. Mr. Setaro pointed out the detail on the map regarding the composition of the driveway. Dr. Fischer asked if that will be sufficient for the expected traffic. Mr. Setaro stated that it will be if it is compacted correctly and that Morris Associates will inspect it as one of the conditions of approval. Dr. Fischer stated that he's concerned about the length of the driveway and about the dust that is created by traffic. He asked about measures for keeping down the dust and asked what will be put on the driveway to keep down the dust. Mr. Franks suggested that they can water down the driveway 3 times a day. Dr. Fischer asked if he was being facetious. Mr. Franks stated that he was not. Dr. Fischer stated that no one is going to water down their driveway 3 times a day over the long term.

Dr. Fischer stated that he's asking the engineer what to do to establish the driveway correctly. Mr. Setaro stated that correctly it would be paved. Mr. Franks stated that it would cost Ms. Wikane \$25,700 to pave that driveway, which is a price that is out of her reach.

Mr. Labriola asked, with the item 4 installed and properly compacted, whether it becomes a hard surface. Mr. Setaro responded that it becomes hard and can also be dusty. Mr. Gordon suggested putting down pea stone on top of the item 4 which does a nice job and cuts down on the dust. Mr. Labriola asked if that needs to be replaced every year because of plowing. Mr. Gordon stated that it gels into the item 4 and stated that Dr. Fischer is right that Ms. Wikane is going to have a problem with dust on her driveway. He suggested the addition of some signs along the driveway asking people to drive slowly. Ms. Wikane mentioned that she was thinking of putting in a speed bump.

Dr. Fischer asked if Ms. Wikane was planning on putting down the item 4 with no topping. Mr. Franks stated that is what the Town highway specs require for a gravel driveway.

Mr. Labriola polled the Board members on their thoughts regarding the driveway. Mr. Gordon stated that he does not think the Board can impose a requirement on the applicant. Ms. Seaman stated her concern for the neighbor's house and pool that are right next to the driveway and suggested that pea stone be put in that area. Mr. Franks and Ms. Wikane agreed to add the pea gravel up to the end of the pull off.

Mr. Setaro suggested moving the pull off to the other side of the driveway. Mr. Franks pointed out that there is a natural buffer for the adjoining neighbor and driveway with trees and that the other side is a natural, open area that he is reluctant to disturb. Mr. Setaro stated that he is making this suggestion in order to keep any disturbance farther away from the neighbor's pool and from the seasonal stream that runs through there. Ms. Wikane pointed out that the pull off is designed for emergency vehicles and will be rarely used. Mr. Labriola stated his preference not to cut down any trees and agreed that, hopefully, the pull off will never be used.

Mr. Labriola noted for the record that the Board received a letter (original on file) dated 4/7/08 from Mr. Pete Karis, adjoining property owner, that identified three concerns:

1. wetland and wetland buffers: Mr. Labriola noted that the aerial maps as reviewed by Mr. Setaro show that it is less than an acre so that the 25' buffer is correct
2. issue regarding the existing driveway and additional measures
3. existing deed restriction

Ms. Seaman stated that it is not within the purview of the Planning Board to comment or act upon a deed restriction, that it is a private matter. She stated that under the current Code the Planning Board has no jurisdiction, but that she wanted to make sure for the record that the applicant understands that the Planning Board's approval of this project does not insulate Ms. Wikane from any action by a neighbor. She stated that the neighbor has the right to enforce a deed restriction. She emphasized that there should be no confusion regarding the Planning Board's approval and the fact that the deed restriction is a private matter. Ms. Wikane noted that the restriction runs to February 2009. Dr. Fischer noted that she can be prevented from doing anything until February 2009. Mr. Labriola stated that the Planning Board's pending approval does not allow Ms. Wikane any relief from the deed restriction. Ms. Wikane stated that she received ZBA approval for her business. Ms. Seaman and Mr. Labriola pointed out that the ZBA approval has nothing to do with and no effect on the deed restriction. Mr. Gordon asked if her neighbor, Mr. Mitchell, is aware of this deed restriction. Ms. Wikane stated that she believes he is aware of it.

Dr. Fischer asked for clarification of the wetlands. Ms. Wikane provided an aerial map for Dr. Fischer's and Board members' review. Ms. Teddi, Southworth, CAC representative, confirmed that the wetlands are not connecting and that the seasonal streams do not require a buffer.

Dr. Fischer suggested that the proposed stockade fence should face the neighbor because they will be looking at it. Ms. Wikane stated that it will be plastic.

Mr. Setaro asked about moving the pull off farther from the seasonal stream and closer to the house. Mr. Franks concurred and stated that he will move it as far as he can and will avoid removing any trees.

Mr. Labriola: **RESOLUTION FOR SEQRA NEGATIVE DECLARATION**

I move that the Planning Board determine as set forth in the attached declaration dated 4/8/08 prepared by the Board's engineer that the Wikane 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 shall be required.

The reasons for this determination of non-significance are:

- 1. There is not a significant change to the site, just the addition of parking area, enlargement of the subsurface sewage disposal system, and widening of the driveway.**
- 2. Item 4 and pea gravel will be installed on the driveway from the road to the east end of the emergency turn off area in order to reduce dust.**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 5-0-0

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

I move that the Planning Board grant site plan approval to the Wikane site plan in the form of the attached resolution dated 4/8/08 prepared by the Planning Board's engineer and now before the Board subject to the following conditions:

- 1. Payment of all fees**
- 2. Morris Associates letter dated 4/4/08**
- 3. Addition of pea gravel on the driveway from the road to the eastern edge of the emergency turn off**
- 4. Stockade fence will face the Daley home**
- 5. The Planning Board engineer will inspect the site prior to the Chairman signing the map to ensure that all conditions have been met**
- 6. Move the location of the emergency pull off eastward to increase the buffer to the stream**

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 5-0-0

5. 123 & 129 WEST ROAD TOWN OF PLEASANT VALLEY PERMIT FOR REGULATED ACTIVITIES IN WETLANDS

(6. 123 & 129 WEST ROAD LOT LINE REALIGNMENT - approved at March Planning Board meeting – removed from agenda)

7. 123 & 129 WEST ROAD SITE PLAN REVISION

Mark DelBazo, engineer for the project, was present. Although Mr. Labriola advised Mr. DelBazo that the documents were not received in time for Mr. Setaro to review them and, therefore, the applications had been removed from the agenda, Mr. DelBazo stated that he did not receive notice of this from the Zoning office and asked to be allowed to bring the Board up to date on the project. Mr. Labriola invited him to proceed with his presentation.

Mr. DelBazo stated that he received documents today from DEC and DPW and that he will provide copies to the Town tomorrow. Mr. Setaro stated that he received these notices via e-mail. Mr. DelBazo stated that the DEC deems this application to be acceptable and will issue the permit after the public comment period (15 days) has expired.

With regard to DPW comments, Mr. DelBazo stated that they were concerned with sight lines and pointed out on the map some landscaping that will be changed from trees to low shrubs per their request. Further, he stated that DPW thinks that one of the parking spots is within the setback limits of the county right-of-way. He stated that he will check the survey to make sure.

Mr. DelBazo stated that he met with DEC and pointed out on the map in the back portion where 7 paver stone parking spaces were planned. He stated that DEC has asked them to remove those parking spaces, which they have done. Further, he pointed out on the map an area that the DEC has asked them to remove asphalt pavement and replace with paver stones, which they will do. He pointed out on the map the throat area that was the DEC's main concern. He stated that DEC understood the circulation pattern for the dumpster and the recycling and that they asked them to put them on paver stones as well, which will be done. He pointed out the buffer line where the DEC asked them to put in some plantings, which they will do.

Mr. Gordon asked for clarification on which parking space is encroaching on the right-of-way. Mr. DelBazo stated that he will check this with the survey.

Mr. DelBazo stated that total parking spaces have been reduced by 5 because of the DEC's requirements – that the total is now 94.

Mr. Labriola stated that following the public comment period and receipt of final documentation this application should be ready to go forward.

Mr. Setaro asked Mr. DelBazo to update the map. Mr. DelBazo stated that this will be done.

8. PLEASANT VALLEY SHOPPING CENTER – PHASE II

Mr. Labriola recused himself from this application.

Ms. Kelly Redl-Hardisty, applicant, was present. She stated that this is Phase II of the renovation to the shopping center. She stated that they have changed the look of the free standing sign so that it matches the façade. She briefed the Board on changes to the lighting, that they have put some period lighting along the front of the shopping center which she will review with the DOT for compliance with photometric requirements. She stated that they are changing out the tall lights that are inside the property now.

Mr. Karis asked how tall the existing lights are. Ms. Redl-Hardisty stated that the new ones are 25', and that she does not know how tall the old ones are. Mr. Setaro stated that they were at least 35'. Ms. Redl-Hardisty stated that she had a lot of people look at this and that the idea is that the lights in the shopping center need to be about the height of the tallest part of the building and should not go any higher.

Mr. Gordon stated that the lighting that was installed at the credit union is high enough and is nowhere near 20'. He stated that they are 15'. Mr. Setaro stated that the shopping center is a larger area than the credit union. Mr. Gordon stated that the credit union has more lights that are lower and that, therefore, there is not as much spill with the lower lighting. He suggested that Ms. Redl-Hardisty look at the lighting at the credit union. She stated that she's been looking at lights for 6 months and is willing to check out the credit union.

Mr. Setaro reviewed the Morris Associates comment letter. He asked if this application has been sent to the County Planning Department for the 239M comment letter. Mr. Labriola stated that he will contact the Zoning office to make sure that this is referred to County. Ms. Redl-Hardisty stated that County Planning has not received this elevation yet.

Mr. Setaro stated they need to check whether the lighting along Route 44 is within the NYS right-of-way. He advised Ms. Redl-Hardisty to review the spacing of the lighting along Route 44 at the credit union, which worked out well.

Mr. Karis pointed out that there are a lot of mature trees along Route 44 and cautioned Ms. Redl-Hardisty about installing underground conduits so that the tree roots are not disturbed. Ms. Redl-Hardisty stated that there may be some conduits already installed and that she will check into this.

Mr. Setaro asked about the free-standing sign. Ms. Redl-Hardisty stated that they are all backlit and that nothing has been changed except for the decoration around it. Mr. Karis noted that the Board will need a sign permit application.

Mr. Setaro stated that the main issue is to refer this application to County Planning. Mr. Labriola stated that he will have the office do that tomorrow.

Mr. Karis asked Ms. Redl-Hardisty to provide cut sheets on the proposed lights and suggested that they be zero cutoff fixtures. He explained that this means that the lighting is completely within the housing so that there is no glare. Ms. Redl-Hardisty stated that she will provide the cut sheets. Mr. Karis stated that the sheets should be part of the package that is submitted to County Planning as well.

Mr. Gordon concurred with the concern about placing the underground conduit so that the trees are not disturbed. He stated that the trees have gotten to be nice and are well pruned and cleaned out and now look great. Mr. Karis concurred and asked that when the electricians determine how to run the conduit, it be done with minimal impact on the

trees. Mr. Gordon advised her not to leave it up to the electrician. Mr. Redl-Hardisty stated that she will check out what conduit exists and will work it out.

Mr. Karis asked about the colors and materials for this project, whether they will be the same as the rest of the center. Ms. Redl-Hardisty responded yes.

Mr. Fracchia pointed out an area on the map that seems alot bigger and asked if she is eliminating part of it. Ms. Redl-Hardisty stated that she does not know and will look into it. Mr. Fracchia also asked about a pedestrian-friendly access between the shopping center and the Post Office. He stated that he knows this is not their property but noted that a lot of people use it as a way into the Post Office and that someone put up a hand-made sign this winter stating that it is not a walkway. He asked her to create some access that is more pedestrian-friendly for people to access the Post Office. He and Ms. Redl-Hardisty discussed the fact that it is on Cole's property.

Mr. Karis asked if they are still working on Phase I and the removal of the kiosk. Ms. Redl-Hardisty confirmed that they are in-process with Phase I.

Mr. Labriola asked Mr. Setaro if referral to DC Planning should be postponed until the lighting details are received. Mr. Setaro concurred with this and advised Ms. Redl-Hardisty to resolve the lighting, update the plan, and provide this to the Zoning Office with the lighting details. The Zoning Office will then refer it to DC Department of Planning; once County responds with a letter, the application will be back on the Planning Board's agenda.

Dr. Fischer asked about the height of the lighting in the parking lot. Mr. Karis explained that 25' is lower than what is in place but is higher than what is installed at the credit union. He stated that this is a different situation with a larger expanse of asphalt. He stated that they don't want to sacrifice enough light and that it appears that they have to be 25' to achieve the lighting coverage. Ms. Redl-Hardisty stated that she had a lot of people review this lighting situation. Mr. Karis stated that another consideration is that the parking area is back from the road and is not out front, which may mean that it is not as big of an impact.

9. TACONIC APARTMENTS (TACONIC HOMES) REVISED SITE PLAN

The following people were present:

Ms. Paula Vincitore, Kirchhoff Companies

Mr. Nat Parish, attorney

Ms. Patty Hackett, Ken Nadler Architects

Ms. Karen Krauthem, The Richmond Group

Ms. Kristen Guerrero, The Richmond Group

Mr. Ralph Mastromonaco, consulting engineer

Ms. Vincitore explained that Joe Kirchhoff could not attend this meeting and that the team is present to explain the changes to the plan based on comments at the last Planning Board meeting.

Ms. Hacket displayed the maps and pointed out the sales office, the community center, a new play field and parking lot. She pointed out the affordable units and stated that they are behind an existing berm that will hide the buildings from the Taconic. She stated that they are working with a new urbanism concept – they have brought the front porches onto the main road to give a sense of community. She pointed out that, where the two main roads intersect, they have opened it up to create a more woodland view of the property. She pointed out the areas where they have created two ways in and out of each cluster for emergency vehicles. Also, she pointed out where they have moved the buildings back from the property line with Rockefeller University.

Ms. Hacket stated that the major changes in this plan from the previous plan are:

- the locations of the affordable housing and the playing field have been swapped – so that where the affordable housing is now located is where the playing field was originally located.

Ms. Hacket pointed out the existing berm between the affordable housing units and the Taconic Parkway and explained that it could be raised. Mr. Labriola asked how high it could be raised. Ms. Hacket stated that it could be raised 4 ½’.

With regard to the affordable housing units, Mr. Labriola asked about swapping the locations of the buildings and the parking areas so that the buildings are between the parking lots and the Taconic. He pointed out that the buildings will block some of the light emanating from the parking lots. He stated his preference that the buildings be located up against the wooded area and the parking be completely in front of the buildings. Ms. Hacket stated that their thought was that the parking lot is down lower and, therefore, you would not see the mass of the building. Mr. Labriola pointed out that there will be lights on poles in the parking lots and that it is more of a lighting issue. Dr. Fischer agreed that you don’t want to see the glow of the lights on the Parkway. Mr. Parish pointed out that they don’t have to install tall lights in the parking lots unless they are required by Code. He stated that there are the short bollards that shed light on the ground and don’t spread it off the site. Mr. Labriola questioned if that would be adequate for that parking lot. Ms. Krautheim agreed with Mr. Parish’s statement and pointed out that it is also annoying for the residents. Mr. Labriola asked if they have provided any lighting details and stated that he assumed the lights would be 12’-15’ high. Mr. Setaro asked whether there would be more of an impact for people driving on the Taconic from the bollards. Mr. Gordon asked how high the buffer is between the parking lot and the Parkway. Ms. Hacket stated that the existing berm is 12’ and that it can be raised another 4 ½’ plus a wall.

Mr. Labriola stated that the Board needs to understand what the lighting implications would be from the Taconic Parkway. Mr. Parish stated that they had a lighting plan and that they should add another lighting plan in the FEIS. Mr. Karis asked if they will include a photometric lighting plan as part of the FEIS. Mr. Parish responded yes.

Ms. Bramson stated that aesthetically for the development it looks better to have the buildings in the front and the parking in the back. Except for the lighting issue, she expressed her preference for the buildings to be located in the front.

Ms. Hacket displayed drawings of the units and how they work with the land and the rock outcroppings.

With regard to the parking next to the playing field, Mr. Labriola asked if that is strictly for the playing field or it is overflow parking for the club house also. Ms. Guerrero stated that it is also overflow parking. Mr. Labriola asked about sidewalks from the parking lot to the club house. Ms. Guerrero pointed out the walkways in that area.

Mr. Labriola asked if the applicants have spoken with the Zoning Administrator about the use in that new piece of property and if it is an allowed use. Mr. Parish stated that they reviewed the ordinance and concluded that it is a permitted use. He pointed out that the housing would not be, but that the sales building, the community building, and the recreation areas are all permitted uses in the district. Mr. Setaro asked Mr. Parish to get a letter to that effect. Mr. Labriola agreed with that request.

Mr. Labriola stated that they have put a new piece of property into the proposal – the Bonjovi property – and pointed out that there is a stream through that area. He asked if they are outside of the necessary buffers and stated that he cannot see any buffers represented on the drawings. Mr. Karis also asked about the flood plain in that area. Mr. Parish pointed out the buffer on the map. Mr. Mastromonaco stated that there is a 25' no disturbance zone.

Mr. Karis asked if the Bonjovi property been assessed relative to the flood plain. Mr. Mastromonaco stated that there is a small flood plain that is covered by the 25' no disturbance area.

Ms. Seaman stated that previously when the Board dealt with that piece of property she recalls that the buffer was required to be bigger. Mr. Setaro stated that that was because of the stream. Mr. Fracchia stated that it is a Class B stream. Mr. Parish stated that the Wetland Ordinance states that there is a controlled area and a buffer requirement of 25'. Ms. Seaman stated that when the Board dealt with this property before there was a bigger buffer requirement because it was a different designation for the stream.

Mr. Mastromonaco stated that if you read the Wetland Ordinance the way they read it, the stream itself is only a 25' no disturbance buffer because they consider it to be a small water shed – it is a 260 acre water shed. He stated that they consider that stream to be non-perennial and, therefore, they don't have the 100' buffer on a non-perennial stream. Mr. Karis stated that beyond the Town of Pleasant Valley Code, that it is a NYS DEC classified Class BT stream which requires beyond 25' buffer. Mr. Mastromonaco stated that he does not know that. He stated that if they disturb the stream itself, then they need a DEC permit. But, he pointed out that they are not disturbing the stream and, therefore, they don't need a DEC permit. Ms. Seaman stated that it is not an issue of the DEC,

rather it is an issue of Chapter 53. Mr. Mastromonaco stated that, as he reads the Code, the only thing that is an absolute requirement is the 25' buffer on each side of the stream, itself.

Mr. Labriola asked Ms. Teddi Southworth, CAC representative, how the stream designated. Ms. Southworth stated that it is a perennial Class BT stream. Mr. Mastromonaco stated that the word perennial is questionable. Mr. Gordon stated that the Board has dealt with this issue on two former applications and has a history with the wetland concern on this property. Mr. Mastromonaco stated that he did his own research on this and stated that a perennial stream is a stream that never goes dry. He stated that a stream with a water shed of 260 acres does go dry, although he has never seen it go dry but that it does not have enough water shed to sustain summer months. He stated that in that case, it is his understanding that it would be a non-perennial stream.

Mr. Gordon stated that the number of acres does not have anything to do with it and that it depends on the water table. Mr. Mastromonaco agreed and stated that if the Town had defined that a bit better in its Code it would be helpful. He stated that it's a question of definitions and that they are saying at this moment that it is not perennial because it has a small water shed.

Ms. Seaman stated that the Board has been proceeding based on the designations that are given by New York State. Mr. Labriola concurred with that statement and stated that the Board's actions are controlled by the NYS's directions on classifications of the streams. Mr. Mastromonaco stated that the classification and the perennial nature of the stream are two different things. Mr. Setaro stated that if it is a NYS designated stream it does not necessarily mean that it automatically has a 100' buffer on it. He stated that it would fall under the DEC stream disturbance permits, which he stated is 50' of the banks. He stated that he will research the history of the previous deliberations on this property.

With regard to the wetland map, Mr. Karis pointed out that this stream corridor and associated wetlands connects to the larger wetlands through the rear of the commercial properties. Mr. Labriola concurred. Mr. Karis stated that this stream is part of a bigger wetland, which why the previous discussions determined that 100' buffer was needed. Mr. Setaro and Mr. Labriola concurred. Mr. Karis stated that if a wetland is greater than a certain size, the required buffer is larger per the Code.

Mr. Mastromonaco stated that that is another problem because that's a separate lot. Ms. Krautheim mentioned the grandfathering concept. Mr. Labriola stated that the Board has already discussed this and pointed out that the Bonjovi property is a new addition to this and is not grandfathered. Ms. Krautheim stated that they understand this. Mr. Labriola stated that they cannot say that because they added something, therefore, they don't need to look at the rest of the waterbody. Mr. Gordon stated that wetlands do not recognize property lines. Mr. Labriola concurred.

Mr. Setaro stated that he thinks it can be solved and pointed to where the playing fields and parking lot can be moved. Mr. Labriola stated that this will not be solved at this

meeting and advised the applicants that they must come to a conclusion soon regarding what the accurate buffer is. He stated that it will determine the parking for the recreation field and will affect where the club house is located and the parking for the club house and sales office. Mr. Labriola asked Ms. Southworth for some help from the CAC on this and asked for some guidance on their interpretation and their recommendation from the CAC. He concurred with Ms. Seaman's statements that on a previous application there was a bigger buffer that they were working with. Mr. Fracchia suggested that the applicants can confer with Dutchess County Soil and Water on Route 44 on what the designation is.

Mr. Setaro stated that, assuming that the Planning Board likes the new plan, the question is how to integrate this new plan into the process. He pointed out that the Board already reviewed a different site plan and prepared a DEIS and held a couple of hearings on it. Mr. Setaro raised the question of how to proceed, now, with the changes to this site plan.

Mr. Parish responded to Mr. Setaro's question. Mr. Parish stated that the revised plan is in response to comments made by the Planning Board, by Dutchess County, and by public comments. He stated that this is a natural part of the process. He suggested that they will prepare a FEIS which would in its introduction present a plan that includes revisions that are responsive to the comments and then, in a tabular form, compare the impacts of this plan to those were in the DEIS. He stated that one of the requirements of the FEIS is to compare any impacts of any revisions. He stated that they would establish that with any external impact changes, which he stated the does not think there are any. He stated that the FEIS would also respond to the various other comments that were raised and suggested that, even though it is not required, at that point the Board would hold a public hearing before finally accepting the FEIS. He stated that this would satisfy having the public input before making any final decision and at the same time be responsive to the SEQRA process of establishing any FEIS plan changes that were a result from the various comments previously received.

Mr. Labriola stated that Mr. Parish's recommendation is different from what the Board and the applicants agreed upon a couple of meetings ago. Mr. Parish concurred. Mr. Labriola stated that he reviewed his notes. Mr. Parish stated that a supplemental is required under two conditions: if there are new circumstances, for example if there were a new shopping center across the street, or new information has emerged, for instance if it were found that there was a nuclear waste dump on the site. He stated that those are the two criteria normally used for a supplemental and, normally, it also includes a change of land use or a combination of different uses. However, he stated that, where a plan changes internally basically in response to comments, it is a normal part of the process and does not require a supplemental. He stated that he discussed this with Mr. Setaro and asked if they can establish that there is no radical change in any of the impacts and referenced a table that they have submitted to the Board which reviews each of the items. He stated that several of the impacts are about the same, some are less, and there is one that is slightly greater. He stated that as far as the external impacts are concerned there are no changes. He stated that traffic is the same because the same number of cars is being generated. With regard to domestic water, he stated that sewer requirements are

exactly the same because the same number of units is planned. He stated that the only thing that has changed is the location of the buildings. Mr. Setaro stated that the visual impact of the new buildings has changed.

Mr. Labriola stated that the Board and the applicants had already agreed to a process whereby the applicants would capture the issues and concerns that came out of the public hearings that spanned two meetings, Planning Board input, Morris Associates input, and the interested parties that weighed in to document the issues that came out. Mr. Parish stated that the FEIS would cover that. Mr. Labriola stated that the plan was to meet together and review that along with the revised plans and package that as a supplemental EIS and have a public hearing on the supplemental. He stated that the final step would be to incorporate any required changes coming out of that process into a Final EIS. He stated that this is the process that the Board and the applicants agreed to two or three months ago. He pointed out that now there are affordable houses along the Taconic Parkway and that they have added another piece of property to the application with a commercial use. He stated that the applicants have been thoroughly responsive to the input that has come from the Board, from Dutchess County Department of Planning. He stated his appreciation that the applicants had a workshop with Planning and that they are incorporating all of that Department's requests and suggestions. He stated that they took into account input from adjacent property owners and have made some changes.

Mr. Labriola stated that the level of interest and the scale of this project motivate him to be conservative rather than to be aggressive on the process that is used. He stated that he would like to provide the public and Dutchess County Department of Planning with another opportunity to see this as a supplemental, which will bring out any additional issues. He stated that in this way when the process reaches Final, it should be only a matter of crossing T's and dotting I's. He stated that this was his understanding of the previously agreed-upon process for going forward on this application.

Mr. Parish stated that the FEIS would include all of the things that Mr. Labriola just discussed. He stated that a supplemental is, effectively, creating a duplicate FEIS because it responds to all the comments. He stated that he is not suggesting cutting out the public input.

Mr. Labriola asked Board members for their thoughts on next steps.

Ms. Seaman commented on the legal technicality raised by the applicants adding another piece of property to the application. She stated that that piece was not part of the scoping session and was not part of the SEQRA process, originally, and legally it has not been through those processes. She stated that it must be incorporated as part of this site and is a piece that needs to have a SEQRA review. Legally and technically, she stated that the added piece of property has not been through the same review as the rest of the parcel and cannot just be incorporated by reference. Mr. Parish stated that they are not incorporating it by reference. Ms. Seaman stated that it cannot fall within the completed SEQRA process.

Mr. Parish stated that that piece of property was not ignored and was shown in the original EIS. Mr. Labriola stated that it was not represented as being developed. He stated that the property was shown, but now they are proposing development on it. Mr. Parish stated that the property was shown and that the environmental characteristics were also shown. He stated that the wetland was shown, the stream was shown, and the topography was shown. He concurred that the proposed land use on that property has now changed and stated that the proposed land use is an outgrowth of the comments that were made and their response to those comments. He stated that a piece of property that was assumed to be vacant is now shown to be used for specific commercial purposes and the rest of the plan is changed accordingly. Ms. Seaman reiterated that the review process has not dealt with that piece of property, which at the time was not even owned by the applicant. She stated that it is a legal technicality that the Board and the applicant need to address. Mr. Labriola agreed with her statement, that the proposed use of that parcel was not part of the original scoping and that the public did not comment on it because it was not part of the application. Ms. Seaman pointed out that it is also for the applicant's protection and stated that she thinks someone could challenge this if it is not done.

Mr. Parish stated that if the public hearing that he is proposing is held, then the public will be well aware of the proposed development. He stated that they will be documenting this in the FEIS. He stated that the SEQRA process certainly would be met by what he is proposing to do.

Ms. Krautheim stated that with regard to being responsive they already showed that parcel as part of their project but that they did not show a land use on it. She stated that some of the responsiveness to the comments that they got pertain to that site. She stated that they have always shown control on that site, but that they did not have buildings shown on it, per se. She stated that they were responsive to comments, that this plan shows these changes as a result of the public process, and now they propose to present this for a final analysis. She stated that the fact that there will be a community building on the site and a land use component would be expressed as one of the responses of how they dealt with one of the questions raised and here's the answer and here's the study on those impacts related to the change that they made.

Ms. Seaman reiterated her concern for the legal procedure. She stated that when the Board conducted the scoping session, the applicants did not own that piece of property. She stated that that property was not purchased at that time, that it was purchased later. Ms. Seaman stated that as the Board proceeds with this review, it needs to take another look at it, make a determination, and put on the record any part of the process that had been missed as being properly reviewed.

Mr. Nelson noted that the County, in a letter dated 2/11/08, stated that they had not finished their commentary on this project because they did not have a complete application. He asked if the DEIS has ever been accepted by resolution of this Board as complete so as to open up the public comment period. Mr. Labriola stated that it was done before the public hearing.

Mr. Parish stated that often as a result of public hearings there develops some need for offsite improvements – somebody has to buy an offsite property to take care of drainage or connect a sewer line, etc. He stated that in those instances the FEIS includes the offsite activity or the purchase of that land as part of the FEIS responsiveness. He stated that it is correct that it has to be identified; the action at the front of the FEIS has to note the additional action that is being taken and the response to it. He stated that it is accurate that they have to document that.

Mr. Nelson asked if the Board is proposing to do a completely new DEIS or a supplement to the existing DEIS. Mr. Labriola stated that it would be a supplement that would be very specific on all the comments that have been received and would describe the responses to them. Mr. Nelson pointed out that if the proposal is to create a supplement to the existing DEIS and to conduct a public hearing before the Final EIS, then the only difference is the sequence of events. He asked, then, what would be the prejudice to the applicant by doing a supplement, having a comment period and a public hearing, and then going to the FEIS as opposed to first doing the FEIS and having the public comment period after.

Mr. Parish stated that they are trying to avoid some redundancy. He stated that they would have to prepare a document – the supplement – and then would have to prepare another document – the FEIS. Also, he pointed out the timeframe, while they prepare a supplemental then the Board has 60 days to review the supplemental. He stated that then there is a 45 day period between the notice and the comment, and then the comment period after the public hearing on the supplemental. Therefore, he stated that, in total, it would be about 4-5 months of additional time that would be added to the process and the associated costs. He stated that in the other way they would have all the same information included in one document – the FEIS. He stated that 75% of the time Boards elect to have a public hearing on the FEIS in any case even though it is not required by the regulations. He stated that it is possible that this project could result in two more public hearings. He stated that it is a long delay and an extra document. He stated his desire to make it clear that they are not trying to circumvent any ability of the public to react to the plan or to shortcut the Board's process. He stated that what he is asking for is not a departure from what is intended.

Mr. Labriola stated that what the applicant is requesting is different from what they agreed to. Mr. Parish stated that he was not at the meeting when this agreement was made. Mr. Labriola stated that he thought they had a plan in place that outlines the steps for moving forward. Mr. Parish stated that he accepts this and that he read the minutes. He stated that he consulted with Mr. Setaro, per the recommendation in the minutes. Mr. Setaro stated that he understands where Mr. Parish is headed with this and advised him to outline the changes and the impacts and compare them. Mr. Parish stated that Mr. Setaro did not agree to this procedure. Mr. Labriola stated that the purpose for asking the applicants to meet with Morris Associates was to document all the issues.

Mr. Setaro asked for clarification from Mr. Nelson regarding his understanding that the supplement does not address the comments of the previous DEIS, rather those would be addressed in the FEIS. Mr. Setaro stated his understanding that the supplemental is strictly to show the change or the additional impact, that the comments received in the DEIS are addressed in the FEIS. Mr. Nelson concurred with this analysis. Mr. Karis stated that it would be a comparison from the accepted DEIS and the newly revised site plan. Mr. Karis stated, further, that the FEIS would consist of a comparison of all the impacts between the two plans and then that document would be sent out for comment. Then, he stated that the two sets of comments would be addressed. Mr. Setaro confirmed that this is an accurate description of the process.

Mr. Gordon asked about timelines. He stated that he's looking at the supplemental as a punch list of the things that were brought up. He stated that the Board has never seen a published list and mitigation of those things. Mr. Labriola stated that that is correct. Mr. Setaro stated that, if this new plan did not exist, that would be the next step for them to prepare the FEIS which addresses all comments received.

Mr. Gordon asked, if the Board proceeds with the steps previously agreed to, would the timelines have to be followed and would the process take another 3-4 months. Mr. Setaro stated that there is a procedure that must be followed as outlined by Mr. Parish and stated that it does not have to take another 60 days, but that the option exists to take that much time so that it can be 3 months versus 5 months. Mr. Setaro stated that it's a tough call and that we must make sure that we cover ourselves legally. He stated that it is a grey area and that it could go either way.

Mr. Nelson stated that it is in the discretion of the Planning Board. He stated that the applicant is concerned that this process not takes more time than it should. Further, he stated that the Board is concerned that the changes and the impacts that flow from those changes be documented and subjected to some form of public comment and public hearing sooner rather than later. Mr. Labriola stated that the Board's thought was that when all issues are reviewed and ironed out during supplemental, when the process reaches final approval, hopefully, all of the big issues are behind you. He stated that there may be some engineering issues to address at the final process. Mr. Setaro stated that the Board's plan was for the public to be notified and invited to comment only on the content of the supplemental and not what was already commented upon in the DEIS. Mr. Labriola pointed out that the supplemental will show a significantly shifted set of buildings away from the Rockefeller property and other changes. He noted that the revised plan touches on all of the issues and concerns that were raised. Therefore, he stated that he cannot imagine that someone from the public would completely ignore that since there is a plan that addresses all those concerns.

Mr. Labriola stated that he would still like to see the punch list, to go through it, and to consider whether all items have been addressed. He stated that he is not sure that all the items have been addressed and pointed out one that is not represented on any plan is the time of year that some of the wildlife studies were done. He stated that the study reported that certain types of animals were not found but did not document that the time of year

when that study was done is a time of year when those types of animals would not be present and, therefore, cannot be seen. He stated that that situation is not represented on a plan and that there needs to be some other documentation that reports on how that is addressed. He stated that he is concerned that conditions and issues exist that everybody thinks have been adequately addressed which have not been adequately addressed. Mr. Setaro asked whether Mr. Labriola is referring to the punch list of comments that were received in the DEIS as it would relate to this new plan. Mr. Labriola stated that that is correct and stated that he wants to see if any of those comments have not been addressed. Further, he stated that he cannot imagine that there will be input on this plan as a supplemental where people are not going to talk about the issues from before. He stated he does not know how one does that.

Mr. Parish stated that what Mr. Labriola and the Board are asking for is perfectly legitimate and emphasized that that is the purpose of the Final EIS and is what it normally does. He stated that the FEIS goes through item by item. He stated that in the FEIS there is the stenographic record and the reports and written comments submitted. He stated that the FEIS document is supposed to respond to all substantive comments, such as the time of year the wildlife study was conducted. He stated that that is what the FEIS is all about – responding to each and every comment that was made in the DEIS public hearing.

Mr. Labriola stated that the applicant is asking the Board to say that this plan is ready to move forward to final. Mr. Parish stated that they are not looking for the Board to approve anything. Mr. Labriola stated that they are asking the Board to say that it is ready to go to the next step. He reiterated that the Board does not have the punch list in front of us. Mr. Parish stated that they are not asking the Board to approve anything. Mr. Labriola reiterated that the applicant agreed to put together the punch list of all the comments and that agreement was in place months ago and it has not shown up. He stated that they agreed to do that and that, now, it looks like they are trying to say that they will do that later. He stated that they agreed to do that months ago and that the Board still has not seen the list. He stated that he does not understand why there is a reluctance to do what they agreed to do.

Ms. Krautheim stated that the word supplemental is a word that speaks to additional information. She stated that in the SEQRA vernacular, it's a term of art that triggers a certain kind of document versus another type of document. She stated that a supplemental DEIS is – that there is a definition of what the supplemental will carry and what the timing is for that and all the process related to that. She stated that what the chairman and the Board, apparently, are asking for is to show the Board that they got the DOT and a design for the left turn lane, show us how you addressed the Rockefeller University concerns, show the Board how the other comments were addressed. She pointed out that that content is the FEIS in terms of the nomenclature. She stated that DEIS is the document that articulates what the applicant wants to do. She stated that the comment period gives them the feedback from the DEIS, and now the FEIS. She stated that she is in agreement with the Board wanting to get supplemental information, but that a supplemental DEIS is a different and time consuming process. She stated that they are

trying to represent that the document that the Board is asking for and the information the Board is asking for will be provided in the FEIS. She stated that the list of questions and comments that were provided to them, the applicants, to which they have been responsive, is in the FEIS. She stated that the supplemental has grounds under which it is deemed to be required. Mr. Labriola stated that it is required if there have been significant changes to the plan from what was included in the DEIS. Ms. Krautheim stated that that is right and added that significant changes relate to unforeseen circumstances. She stated that there are two conditions under which the supplemental is required.

Mr. Gordon stated that there are two big issues that have surfaced tonight. He stated that one is the buffer issue and the other is the legal issue that Ms. Seaman raised on the SEQRA process on the additional piece of property. He asked if the applicant wants to wait till the process is at final to discover that the whole plan must be changed because the buffer is not accurate. He suggested that they may, in the end, lose time.

Mr. Gordon also pointed out that this is a very big project for the Town of Pleasant Valley and is probably the biggest project that has ever come along in the Town. He stated that it has a lot of impact and a lot of repercussions, some good and some bad, as the Town goes forward into the future. He stated that he takes his responsibility on the Board very seriously. He stated that he's read a lot of NYS planning board law suits, and it is reading that developers should also read. He stated that planning boards get in trouble by ignoring things such as public input because these boards represent the public. He stated that this Planning Board represents the public, the adjacent property owners, and everybody in the Town. He reiterated that this is a very big project and stated that he's in agreement with the chair of the Board on this.

Dr. Fischer asked the applicants why they agreed to a process which they now want to change. The applicants responded that they were not at the meeting when that agreement was made. Mr. Labriola stated that he will not accept their argument that they were not present when the agreement was made as an excuse because if different people represent this application at various meetings, they are bound by somebody making a decision that others might not have agreed to. Ms. Krautheim agreed with that sentiment and stated that it is unfortunate that this is the first meeting that Mr. Kirchhoff could not attend. She stated that she understood the Board to mean that it wants additional information but was not evoking the term as it relates to SEQRA law. She stated that, with regard to the public process and the Board's responsibility and the applicant's responsibility, NYS has developed this process in order to protect everyone including developers, and the public, and planning boards in doing their jobs to have a procedural process to follow. She stated that they are asking to follow that process.

Mr. Labriola stated that no decision will be made this evening with regard to moving forward. He stated that what is now before the Board is plan B and that the Board was operating under plan A. He stated that he would like to confer with Mr. Setaro and Mr. Nelson, look at some alternatives, review the pros and cons, and then maybe next month have a more informed discussion on the alternatives and how to go forward. Ms.

Krauthaim and Mr. Parish concurred. Mr. Setaro pointed out that this will give the applicants time to look into the question of the buffer. Mr. Parish stated that they will respectfully abide by whatever decision the Board makes and appreciates the Board members' concerns. He stated that they are also not blind to the fact that their client is at risk on this for litigation. He pointed out that he would never suggest a process where they thought their client would be vulnerable. He stated that he respects the Board's concerns for the legal process and legal ramifications for all involved. Mr. Labriola concurred and stated that it will be time well spent because, then, once all are locked in on the next steps for the plan, the discussion ends, and the plan can be executed.

Mr. Labriola stated that the Board received a letter dated 4/8/08 from Mr. Mort, copies of which he distributed to the Planning Board members, and stated that it will go into the official record.

10. 90 DAY EXTENSION – FOX RUN/CAPELL SUBDIVISION

Ms. Seaman and Dr. Fischer recused themselves.

Ms. Paula Vincitore, Kirchhoff Companies, was present.

Mr. Labriola read into the record a letter dated 3/12/08 from Ms. Paula Vincitore requesting a 90-day extension approval, which expires on 4/13/08, in order to fulfill the conditions of final approval.

Mr. Karis asked if this will be their second and last 90-day extension. Mr. Labriola responded yes.

Mr. Nelson stated that they received from Ms. Vincitore and Mr. Frankel all the necessary documents with required signatures. He noted that there are only very minor changes needed and that he expects all will be completed within 10 days.

Mr. Labriola: **MOTION TO GRANT APPROVAL TO FOX RUN CAPELL SUBDIVISION FOR A SECOND 90-DAY EXTENSION STARTING ON 4/13/08 AND ENDING ON 7/13/08; SECONDED BY R. FRACCHIA; VOTE TAKEN AND APPROVED 5-0-0**

11. MINUTES

Mr. Labriola: **MOTION TO APPROVE PLANNING BOARD MARCH 2008 MINUTES AS CORRECTED; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 5-0-0**

Mr. Labriola: **MOTION TO APPROVE PLANNING BOARD FEBRUARY 2008 MINUTES AS CORRECTED; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 5-0-0**

12. MISCELLANEOUS

Taconic Homes: Board members discussed the procedure for going forward on this application. Mr. Karis expressed his agreement with taking another month to consider next steps. He stated that the chairman's point is well taken with regard to there being multiple and different people representing the applicant at each meeting, that it creates difficulty in managing the process and chaos in adhering to agreements made at previous meetings. He stated that he takes a conservative position and that the new plan may look the same but that it is radically different from the plan that the DEIS was accepted on. Mr. Labriola stated that he wants to consider plan A and plan B, and here's the pros and cons, and then make an informed decision.

Mr. Gordon stated that if the Board treats the buffer area differently, the Board will hear about it from future applicants on other properties. Mr. Karis stated that the correct buffer is 100'. Ms. Bramson recalled that a prior applicant could not proceed with their project because of the 100' buffer. Ms. Seaman agreed. Mr. Karis stated that it is not grandfathered because that piece of property was not part of the project. Mr. Labriola concurred. Board members agreed that it is 100' because of the larger wetland and because of the stream. Mr. Karis read from the regulation regarding all lands within 100' of the Wappinger Creek. Dr. Fischer pointed out that the applicants are saying that the stream is not perennial. Mr. Karis stated that they don't get to make that determination. Ms. Seaman concurred and stated that NYS has labeled it a perennial stream. Mr. Karis stated that it is classified by DEC as a Class BT stream. Mr. Gordon stated that the applicant is claiming that the acreage determines the buffer, which is not accurate.

Mr. Labriola stated that postponing the process a month will provide everyone with more facts and no one will be pressured into making a decision. He stated that he will meet with Mr. Setaro and Mr. Nelson to come up with a recommendation that will be distributed by e-mail which all Board members can review prior to the next meeting.

Ms. Bramson asked about the realities of the timeline and the impact on the applicants. Mr. Labriola stated that when the Board considers the two proposals, there should be a timeline for each that will answer that question. Mr. Karis pointed out that the Board is constrained by statutory timeframes that determine when and how things have to happen in the process. He stated that it is up to the applicants – that it is a question of how long it will take them to pull together the information and documents that are required. Mr. Fracchia pointed out that the new plan only gives Rockefeller University half of what they asked for – that they asked for 600' and the new plan only gives them 300'. Mr. Labriola pointed out that this is a fine art of compromise and that he wants to make sure that all can live with the decision reached. He stated that if it takes another month to achieve that, then so be it. He noted that this application has been on the books for years and another month is not a meaningful setback. Mr. Karis stated that he is not concerned about the applicant's timing, rather that he is concerned about doing it right.

Meeting adjourned at 9:15 p.m.

Minutes submitted by:

Pleasant Valley Planning Board
April 8, 2008

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Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the April 8, 2008, 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 13, 2008

A regular meeting of the Pleasant Valley Planning Board took place on May 13, 2008, 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
 Henry Fischer
 Peter Karis
 Rob Fracchia
 Michael Gordon
 Kay Bramson
 Rebecca Seaman

Also present: Richard Harper, Morris Associates
 Jim Nelson, Esq., Town attorney

ANNOUNCEMENT: Mr. Labriola announced a couple of changes to the meeting agenda. Appeal #918 Havas variance is off the agenda because documentation shows that this substandard lot was approved as part of a subdivision in the early 1970's and, therefore, no variance is required. He noted, however, that they will be back before the Planning Board for a wetlands permit application. He stated that the other change to the agenda is the addition of the Mirabilio subdivision for a 90-day extension, which times out tomorrow.

1. CRAIGE SUBDIVISION-PUBLIC HEARING-PRELIMINARY APPROVAL-FINAL APPROVAL

Applicant was not present.

2. SALVAGIO SUBDIVISION – PUBLIC HEARING – PRELIMINARY APPROVAL

Mr. Labriola stated that this application received Sketch Plan approval in August 2007 and that there was some confusion about area coverage which has been resolved. Mr. Mike Duval, engineer, was present.

Mr. Duval stated that one of the Planning Board's concerns was the small lot size and whether they would be able to get Board of Health approval. He stated that for the last year he has been going back and forth with the Health Department and that they have finished their review and has received preliminary approval from them. He stated that they are waiting for stamped plans from the surveyor and from himself.

Mr. Duval stated that another concern was an easement for Central Hudson. He stated that towards the center of the property there is an abandoned right-of-way and that there is an existing guy wire from a pole adjacent to North Avenue with another pole on the

rear of the property. He stated that he has been in contact with Central Hudson and that they have agreed to abandon that line and remove the guy wire that traverses the property and put in a guy by the pole that is adjacent to North Avenue.

Mr. Duval stated that he has preliminary driveway approval from Dutchess County Department of Public Works for the proposed drive on lot #2.

Mr. Harper reviewed the Morris Associates letter. He stated that out of 21 comments from an earlier letter, there are only about 6-7 outstanding.

1. the location of the driveway for the proposed lot – issue with shifting its location to avoid a tree and the need for an approval letter from DPW of this changed location and a highway work permit
2. plans to be signed and stamped
3. approval from DC DPW for driveway access onto Route 72
4. erosion and sediment control plan
5. sewage disposal system – show additional grading around the house
6. sewage disposal system fill pad appears to block sheet flow drainage from North Avenue- how to address this

With regard to the erosion and sediment control plan, Mr. Duval stated that the property will have less than ½ acre of disturbance. Mr. Harper stated that there will still be disturbance and that they need to show how they will manage the run off. Mr. Duval stated that this will be done.

Mr. Gordon expressed his dislike for the size and shape of this lot and stated that it is stretched to the hilt. He stated that you walk out the back door of the house and you are in the septic fields. He stated that, if the Board approves this application, he feels sorry for the person who has to live in that house. He stated that, in his opinion, there is not enough room on the lot for what they want to do. He stated that he wants to go on the record that this application is a stretch and that this is the kind of lot that, looking ahead, smart towns today are not permitting. He stated that this is a substandard lot.

Mr. Labriola noted that Mr. Gordon has raised these issues in the past and stated that they do meet all of the required setbacks and the area bulk requirements.

Ms. Seaman asked about the line of trees that are along the back edge of the property and whether they will remain. Mr. Duval stated that those trees will remain. Mr. Labriola asked which property the trees are on. Mr. Duval stated that he does not know. He stated that the property line is just about at the border of the trees. Mr. Labriola asked if there is any plan to disturb them. Mr. Duval stated that there is not.

Dr. Fischer asked what can and cannot be done on top of the septic area. Mr. Duval stated that you cannot drive on top of the septic area and you cannot plant trees on it. He stated that it is, typically, lawn area and that the Health Department requires a minimum of 20' from the lateral of the septic field to the foundation of the house, which has been met. Dr. Fischer asked if it is raised. Mr. Duval explained that it is slightly raised with

12" of fill and explained how the grading is done so that the area between the fill pad and the house, itself, is level so that there is a usable yard.

Mr. Karis asked about elevations on the house and grading associated with the lot. Mr. Harper noted that this was mentioned in the Morris Associates letter.

Mr. Karis asked what the setback is for a water service line to the septic. He stated that the proposed well is in the acute angle of the lot and that there is going to be a water service line coming from the well to the house which will go by the septic. He asked if there is a setback between the septic and the water service line. Mr. Duval stated that he does not know and pointed out that the plans were acceptable to the Health Department and that that issue was never raised by the Health Department.

Mr. Labriola asked Mr. Duval to double check about this with the Health Department. Mr. Duval stated that he will check it out and stated that he does not think there is an issue because the water service line is under pressure and is a closed system.

Dr. Fischer asked about the sheet flow that was mentioned from North Avenue, whether there is drainage from the road onto this property. Mr. Harper stated that Morris Associates' comment was that the sewage disposal system fill pad appeared to block sheet flow drainage, that it should not create any ponding, and noted the need for grading. Dr. Fischer asked if there is sheet flow off of North Avenue onto that property. Mr. Harper stated that he does not know that. Mr. Labriola pointed out that the property slopes from North Avenue down, so that there would be some amount of sheet flow. Dr. Fischer stated that if there is sheet flow and if it is substantial, this is potentially a problem. Mr. Labriola stated that it is not possible to tell from the plan what the elevation is in the back of the lot. Dr. Fischer noted that even in bad weather he has never seen water lying in the field on the property. Mr. Labriola stated that Morris Associates has asked to see the grading plan, and that this should take into account the planned fill on the property. Dr. Fischer asked how they will know what the flow off of North Avenue is. Mr. Duval stated that it can be easily calculated and pointed out that that issue has not been raised by the Health Department. He noted that, generally speaking, the property slopes from the proposed well back towards Route 44.

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

I move that the Planning Board adopt the following Parkland Determination Resolution for the Salvagio Subdivision in the form of the attached resolution dated May 13, 2008 prepared by the Board's engineer and now before the Board subject to the following conditions. (FULL TEXT IS ON FILE)

Whereas the Planning Board has reviewed the subdivision application of Anthony and Karine Salvagio pursuant to the requirements of Town Law 2774 and hereby determines that if such an application is granted even in modified form the Salvagio subdivision will contribute to the increased population of the Town and will increase the burden on Town parkland and recreational facilities and that a

proper case, therefore, exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town.

Now, therefore, 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 the number of residential subdivision lots approved by the Planning Board.

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-1-0

Mr. Labriola: **NEGATIVE DECLARATION – SEQRA**

I move that the Planning Board determines as set forth in the attached declaration dated by May 13, 2008 prepared by the Board's engineer that the Salvagio 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. there is the creation of one additional building lot in an R-0 zoning district with lots being .51 acre and .59 acres**
- 2. Dutchess County Department of Health approved the water and septic system**
- 3. erosion and sediment control measures will be provided**

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 6-1-0

Mr. Duval submitted documentation of notification of the public hearing.

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

Ms. Mary Albrecht, representing Village Park Apartments for Tom Kirchhoff, was present. Ms. Albrecht stated that their only concern is in the back where they feel there is encroachment on to the Village Park property. She asked for a fence to be installed to prevent any further encroachment.

Mr. Labriola asked for clarification of what she means by encroachment. Ms. Albrecht stated that she does not have the survey map with her, but that Mr. Tom Kirchhoff has told her that the back of the Salvagio property has always been on Village Park property

but that they are good neighbors and that he never wanted to say anything. However, she stated that, with the addition of a new home, it changes things.

Mr. Karis asked Ms. Albrecht to clarify what she means by “always on the Village Park property.” Ms. Albrecht stated that Mr. Kirchhoff’s survey shows that their property goes through the back of the Salvagio property and through the existing shed and pool area. Mr. Karis asked if there is a conflict over property lines. Ms. Albrecht stated that that is correct.

Mr. Labriola stated that the Board has a survey upon which it relies to make decisions and that it does not show this conflict. Ms. Albrecht stated that Mr. Kirchhoff has had 3 surveys done over the past 10 years and apologized for not being able to provide the Board with a copy tonight. She stated that, no matter what, they are asking for some type of a wooden fence between the two properties. Ms. Seaman asked whether they want it in front of the trees which they probably do not want to disturb and expressed her concern for conflicting surveys. Mr. Labriola stated that the conflict in the surveys must be resolved first. Ms. Albrecht agreed and stated that they have always been very good neighbors and that they are not trying to stop their deal. Mr. Labriola pointed out that, whatever is done on this property, people will have to live with for generations.

Mr. Labriola advised Mr. Duval and Ms. Albrecht to review the surveys together. He pointed out that this may be a substandard lot if it turns out that an area is being shaved off of it.

Dr. Fischer stated that there are two issues. One is that possibly the pool is on the other property. Ms. Albrecht stated that a corner of the pool is on their property. Dr. Fischer stated that the other issue is that Mr. Kirchhoff is asking for a barrier so that the owner of the house will not freely go onto the Village Park Apartments property – that it is a physical barrier rather than a visual barrier. Ms. Albrecht concurred with this assessment.

Mr. Labriola emphasized that if it turns out that the property lines are not accurate, the lot does not work because it cannot meet the required setback. He thanked Ms. Albrecht for bringing this to the Board’s attention and asked her and Mr. Duval to review this together. Dr. Fischer stated that they must determine which property line is valid.

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

Mr. Labriola stated Morris Associates will review whatever comes out of the surveyors’ discussions.

3. PLEASANT VALLEY SHOPPING CENTER – PHASE II

Mr. Labriola recused himself from this application. Mr. Karis chaired this portion of the meeting. Ms. Kelly Redl-Hardisty was present.

Mr. Karis announced that the Board received correspondence from Dutchess County Department of Planning in a letter dated 5/6/08 (original on file). He stated that the Planning Department issued three general comments:

1. regarding the height of the proposed light fixtures: Pleasant Valley is a member of the Greenway Compact, which recommends that the currently proposed 25' pole mounted lights be reduced to a maximum height of 20'.
2. regarding the type and wattage of proposed lighting
3. regarding consistency with the architecture of the previously approved site plan: Mr. Karis stated that this has been achieved.

Mr. Karis stated that he is comfortable with reducing the height of the pole mounted lights as suggested and asked Ms. Redl-Hardisty for her thoughts. She mentioned that she worries about the foot candles and stated that they are going to change the fixtures. Mr. Karis stated that Ms. Redl-Hardisty would like to change the proposed pole mounted light fixture from gull wing to more of a square – “shoe box on a pole” – which will be a zero cutoff fixture – meaning that the entire bulb will be contained in the housing and there will be no glare from the light fixture as it will be all down lighting. He stated that this is an improvement to what the Board members received in their packages. Ms. Redl-Hardisty agreed that they will do the “shoe box” and stated that she will review the photometrics of these fixtures. Dr. Fischer agreed with the reduction in height to 20'. Mr. Karis summarized that Ms. Redl-Hardisty will do another lighting analysis based on a new fixture, dropping to 20'.

Mr. Karis noted that the proposed post mounted lights are high pressure sodium, which gives a yellow light, and the pole mounted lights are metal halide, which gives a whiter light. He stated that the Board has been consistent in asking for the metal halide bulb throughout and asked if the Board is comfortable with changing to that. Board concurred.

Mr. Karis summarized that the lighting will be “shoe box on the pole,” 20' mounted metal halide, and change the post mounted light to a metal halide bulb. He pointed out that DC Planning left it up to the Planning Board to make these decisions and that no vote is, therefore, required.

Mr. Harper reviewed the Morris Associates comment letter. He noted that the lighting issues have been covered by the previous discussion. He noted that the applicant is planning to install new conduit under the sidewalk and mentioned the need to protect the trees and their roots. Further, he stated that the sidewalk is in the DOT right-of-way and a DOT permit is required. Ms. Redl-Hardisty stated that the sidewalk in question is not in the DOT right-of-way, that it is a different sidewalk. She pointed out that the sidewalk they are talking about is in front of the building. Mr. Harper asked if Mr. Setaro is clear on this point. Ms. Redl-Hardisty stated that she does not know if he is. Mr. Harper will check into this.

Mr. Harper reviewed the parking calculation: 205 spaces are required per the Zoning Code; 179 are provided. He noted that a waiver will be required.

Mr. Harper stated that the applicant needs to submit an application for a sign permit.

Mr. Harper reviewed the comment regarding the intensity of the lighting along Route 44 and the need to calculate and show the individual actual foot candle numbers. Ms. Redl-Hardisty stated that she does not believe the parking lot lights will impact Route 44.

Mr. Harper stated that notes must be added to the plans regarding protecting the existing trees along Route 44 during any work done near them.

Mr. Harper stated that notes must be added to the plan regarding that the proposed lights will be provided with cutoff shields.

Mr. Karis asked if the architecture will be consistent in colors and materials. Ms. Redl-Hardisty confirmed that it will be exactly the same. Mr. Karis asked if the Board members are comfortable with the architecture; all concurred.

Mr. Karis asked Ms. Redl-Hardisty to reconsider the proposed post mounted lights along Route 44 which are double head lights and asked her to remove them. He stated that it seems unnecessary with the new post mounted lights. Ms. Redl-Hardisty stated that she will review the entire lighting design. Mr. Karis concurred and asked for a revised lighting plan on the next site plan.

Mr. Karis noted the light pole at the corner of the Key Food building that is out in the travel lane. He stated that this is a driving hazard and asked the applicant to make that a curbed island, similar to the island that replaced the kiosk. He stated that this is a good opportunity to introduce some landscaping on the site and suggested the addition of a flowering tree.

Mr. Karis noted that Ms. Redl-Hardisty will replace the sidewalk along the front and asked her to provide a handicapped ramp at either end of it. She concurred.

Dr. Fischer asked if the awning will remain. Ms. Redl-Hardisty stated that she has not yet considered the awning and does not know and will review it.

Along Magiacomo Lane, Mr. Karis pointed out that the space between the road way and the parking area is slanted and paved with bricks. He suggested that this is a tripping hazard for people using those spaces. He asked the Board for their thoughts on pulling the curb back about 2' and replacing the bricks with flowering trees along Magiacomo Lane. Mr. Gordon stated that this is a good suggestion. Ms. Redl-Hardisty stated that she will consider this suggestion.

Mr. Fracchia pointed out the area between the parking lot and the post office. He stated that people use that as a walkway to the post office, which is not cleared of snow and ice during the winter months and is, therefore, a hazard. He noted that it is not on the applicant's property, but asked if there is a way to make it more accessible. Dr. Fischer

asked for clarification of whether the inaccessibility is on the applicant's side or the post office side. Mr. Fracchia stated that it is on the other side and noted that the post office does not own that strip of land either. Dr. Fischer remembered that this was addressed with some difficulty in the past. Ms. Seaman stated that it is a good idea to attempt to address this as there is not enough parking at the post office and people are forced to walk out into the street. Ms. Redl-Hardisty stated that she does not know how a walkway could be created in that area and that the owner needs to maintain it. Ms. Seaman pointed out that the sidewalk is not maintained, there are people in jeopardy of slipping out into the street, and it is a very dangerous situation. She stated that the post office should be willing to work with its neighbors. Ms. Redl-Hardisty will check into this and stated that she does not have high hopes for a resolution. Mr. Karis asked her to reach out to the property owner. A Board member suggested that if the post office does not agree to do something, then a fence could be put up to prevent people from crossing in that area. Mr. Gordon suggested that the problem be addressed to the owner of the property in a cooperative spirit, and if that fails then it will propel the Board to require Ms. Redl-Hardisty to put up a fence. Ms. Redl-Hardisty pointed out that there is not enough parking in the post office lot and, therefore, people use the shopping center parking lot for access to the post office. Dr. Fischer noted that she wants to make the shopping center more attractive to people which will be enhanced if they can safely get to the post office. He stated that he's against putting any kind of fence there at all. Ms. Redl-Hardisty stated that she will attempt to negotiate with the post office and the owner of the strip of land between them.

Mr. Gordon affirmed the applicant for greatly improving the shopping center site.

4. ROSSWAY PROPERTIES SUBDIVISION – DISCUSSION

Mr. Labriola stated that this was last on the Board's agenda in March 2008 at which time some revisions to the plan were requested prior to authorizing them to advertise for a public hearing.

Mr. Geoff Ringler, Rossway Properties, and Mr. Michael White, Spectra Engineering, were present.

Mr. Ringler stated that this property is 13 acres and is located east of the Taconic Parkway. He explained that they are proposing to subdivide it into 3 lots:

1. a 3 acre lot
2. a 4+ acre lot
3. a 5 acre lot

He stated that these three proposed lots are serviced by a proposed private driveway in the east corner of the property off of Rossway Road. Per the Planning Board's request, he stated that they have put in a 100' no-disturbance buffer all along Rossway Road, which is shown on the map. He stated that they hope to have completed the legal language for this buffer, which will be incorporated into the deeds. He stated that they are also working on the common driveway operating and maintenance agreement.

Mr. White reviewed the changes made to the plan in response to Morris Associates' and Mr. Butch Gardner's comments. He stated that Mr. Gardner's biggest concern is drainage onto Rossway Road. He described what they have provided for that and have documented in the notes. He stated that the common portion of the road is 12' wide, with 3' drainage on each side, for a total of 18' wide. He stated that they are trying to work with what is there, with what has been graded, because they are trying to minimize the amount of land disturbance. He stated that they have a full grading plan shown; they have a 25' right-of-way for the common portion of the driveways; and a common driveway maintenance agreement will be drafted and submitted to the Town attorney for review.

Mr. White explained that the runoff will be caught in retention basins – one at the first intersection and a much larger one as the drive curves. He stated that the runoff will be detained and metered out very slowly so that the velocity is greatly reduced. He stated that as the drainage continues down the driveway, it will be caught by drainage catch basin treatment vaults, so that the runoff will be caught and treated and discharged to the natural water course in the stream to the north. He stated that this is a large watershed area, that it is a 235 acre watershed area. He stated that their plans provide that no water from this project will impact Rossway Road.

Mr. White stated that the Fire Advisory Board had 3 requirements for the plan. First, the FAB requested that the common portion of the driveway be at least 12' wide, which Mr. White stated that it is. Second, the FAB requested that the pull offs be at least 15' by 30'. Mr. White pointed out the two pull off areas, both of which exceed the required dimensions.

Mr. White stated that they cannot accommodate the FAB's third request for the 100' turning circle, which was intended to accommodate the fire engines. He explained that they would have to dig into the mountain by 30' to 40' to create the 100' turning circle. He presented an alternative plan that they propose which will enable the fire engines to turn around rather than being required to back out. He pointed out the pull offs shown by each house where a fire truck or emergency vehicle can back into and turn around, thereby exiting forward down the driveway. He explained that even if they could accommodate the FAB's request for the 100' turnaround, the fire trucks would still have to back down the individual driveways. Therefore, he stated that this alternative plan is a better idea.

Mr. Labriola pointed out that these pull off areas will need to be paved and maintained during the winter. He stated that this is a reasonable alternative and asked that this alternate plan be reviewed by the FAB. He asked Ms. Scofield, Zoning Secretary, to cycle the latest plans back through the FAB to show them the alternate for their proposed 100' turn around with individual pull offs at each house site.

Mr. White noted that there was concern for the preservation of the stone walls as a natural feature of the property. He stated that they have made some changes in order to do that. He stated that they will shift the house on lot #3 to the east so that any grading

necessary for the house will not impact the stone wall. He stated that they have corrected any encroachments that were planned to go over the stone walls. He stated that the plan will maintain the stone walls intact, that this is their goal as part of the character of the property.

Mr. White stated that they have shown some drainage facilities for the houses for storm water management. He stated that they don't need a full blown storm water management plan because it is under 5 acre disturbance, that they only need a partial plan, which they are working on and will be submitted to the Town engineer's office for review.

Mr. Gordon asked about the size of the houses. Mr. Ringler stated that they are now showing roughly 60' by 40' plus a garage. Mr. White explained that these houses are generic, a fairly large house, and are whatever the lot purchaser wants. Mr. Ringler stated that what they would like to do as they approach final approval is take away the typical house design and provide a building envelope, that they want to custom-build the houses for the purchasers. Mr. Labriola asked if there is a minimum size they are considering. Mr. Ringler estimated that they will be around 2500 to 3000 sq. ft.

Mr. White stated that they plan to meet with Mr. Gardner and resolve any issues regarding sight distance and drainage and grades.

Mr. Karis stated that, in his opinion, there are serious issues with access on this project. First, he stated that working the sight distance issues with the Town is good and that a sight distance profile is needed. He stated that, based on his review of the plan, the applicants do not have adequate sight distance on Rossway Road and that in order to get that they will have to cut the slope back. He stated that it needs to be determined now whether or not that access point is acceptable, whether or not there is an existing gravel driveway. He stated that, first, they need to do a sight distance profile for north and south and prove to the Board that their sight distance is adequate.

Mr. Labriola asked whether Mr. Gardner would do that as part of his approval process of the access. Mr. Karis stated that he does not know what Mr. Gardner's process is, but noted that general practice for engineers is to do sight distance profile 10' back from the edge of the pavement to determine if vegetation or topography is blocking the view and to determine what needs to be done to achieve adequate sight distance. He stated that this is general practice. He noted that the curve is signed at 25 mph and that the speed limit is 30 mph. Therefore, he stated that they need 325' of sight distance. Mr. White stated that right now they have 350'. Mr. Karis stated that this is a threshold issue.

Mr. Karis also pointed out that the grade of the proposed common driveway exceeds the maximum allowed by Code. He stated that it is proposed at 16%. He emphasized that, compounded to that, the 16% grade starts 20' in from the site, that there is a small 40' vertical curve that goes up to 16%, and that there is no platform at Rossway Road coming down on a 16% slope. He stated that on an icy day, someone coming down that drive will be across the street. He stated that Code allows for 15% maximum grade on driveways and that a variance must be granted to exceed that grade. He stated that there

are no waivers for driveway grades. He stated that driving on a 15% driveway is scary especially when there's snow on the ground. He stated that he will argue strenuously against a grade in excess of 15% and against not providing adequate platform at the entrance coming down at a steep grade because this is a safety issue for these homeowners. Mr. Labriola pointed out that if they have to come farther back from the road, it will compound the issue and create a grade that is greater than 16%. Mr. Karis suggested that they consider a different alignment rather than working with the existing driveway. He stated that he understands what the applicant is trying to do but that he is not comfortable with the current configuration of the driveway.

Mr. White stated that they tried increasing the landing area and reducing the grade to 15%. He stated that the amount of disturbance required for that configuration will require retaining walls which have associated problems one of which is snow storage in the winter. He stated that when you're driving on a 15% grade you're not going to notice an increase to 16%. He stated that in exchange for a short stretch at 16% they can provide a long stretch at a lower grade and hold the rest at 15%. Mr. Karis stated that he has less concern about retaining walls than he does for the potential for someone to not be able to stop at the bottom of the common driveway and being injured in an accident on Rossway Road as a result. Mr. White stated that they do not intend to sacrifice safety but suggested that no one will notice the difference between a 15% and a 16% grade. Mr. Labriola emphasized that the Code says that 15% is the threshold, and therefore it either needs to be to a maximum of 15% or they will have to go to the ZBA for a variance. He also pointed out that the ZBA will ask the Planning Board for a recommendation, which will be a short conversation.

Mr. Karis reviewed the location of the curve on Rossway Road and noted that 40' back from the edge of the road the driveway is on a 16% grade for 200', and then it flattens to 10%, and then it goes back to 16%. He stated that the point he is trying to make is that there are three houses coming down a grade that exceeds what is maximally allowed by Code with no platform at the bottom. Mr. Labriola pointed out that it will be more than just cars on that grade; it will be oil trucks, delivery vans, garbage trucks.

Mr. White stated that they will show the driveway scheme with the retaining walls.

Mr. Karis noted that they must provide a full grading plan and a storm water management plan. He also pointed out that the Board members did not receive the submitted plans in time to review them prior to the meeting.

Dr. Fischer stated that he cannot see how they will be able to adequately flatten out the driveway. Mr. Fracchia asked where the original entrance was when it was one lot. Mr. Ringler stated that there have been a couple of revisions to the original Chazen plan. Mr. Labriola stated that they were originally going to run parallel to Rossway and then switch back.

Mr. White stated that they will provide a plan with the retaining walls. Mr. Labriola noted a turn off for emergency vehicles at the intersection of lot #1 and lot #2 and

suggested that a pull off is needed farther down. Mr. White pointed out that there are two planned pull offs and suggested a third lower down on the drive.

Mr. Gordon stated that the deeds for the lots should reflect the buffer, where it is and what is permitted and what is not permitted within it. Mr. Labriola stated that they should use some of the language used in the Capell Fox Run project. Mr. Ringler stated that he has language for the restricted area that he has used in the past and will submit this at the next meeting.

Dr. Fischer asked about the size of the platform at the bottom of the proposed driveway that would be adequate for three houses. Mr. Karis stated that it is possible that there will be 2 cars backed up waiting to exit onto Rossway Road and that the Code does not specify this.

Mr. Labriola stated that they appreciate the applicants putting in the 100' buffer and asked for some mechanism by which to delineate it by putting signs on stakes. He stated that this would alert people that they are moving from a cut zone into a no-cut zone. Mr. White stated that on other projects they have created a small stone monument or a natural feature with a plate on it. Mr. Labriola concurred with that suggestion.

Mr. Labriola asked the applicants to show where they are planning to clear so that the Board will have an idea of the amount of cutting and buffers all the way around the property. Mr. Ringler stated that once they have finished the grading plan they will provide a plan with all that detail.

Mr. Labriola asked about the existing trail system on the property. Mr. Ringler stated that it is an existing jeep trail that someone can actually drive on. Mr. Labriola asked if it is a trail that is currently used by hikers or snowmobilers. Mr. Ringler stated that the owners of the property used the trails and kept them clear. Mr. Labriola asked if these trails articulate to other trails on adjacent properties and, therefore, invite people to continue to use the trails on this property. Mr. Ringler stated that he's spent quite a bit of time on the property and has never run into anyone using the trails. Mr. White asked if the Board would want the trails blocked to prevent such use. Mr. Labriola suggested that at the borders of the property a fence or a gate or boulders be put in the way to alert people to the fact that the property is not for public access. The applicants concurred with this suggestion.

Mr. Harper reviewed the Morris Associates comment letter. He noted that much of the comments have already been discussed and that the applicants are considering ways to address the concerns regarding:

- sight distances
- drainage calculations
- erosion and sedimentation control
- stone wall retention and maintenance
- grading on the site and driveway grading
- EAF comments were almost satisfactorily met

Mr. Karis suggested widening the driveway at the bottom to 18' and, then, tapering it to 12'. Also, he asked the applicants to increase the scale of the plan for easier reading.

Mr. Labriola asked the applicants to provide a revised driveway plan at the next meeting and before moving to the next step. Mr. White will provide this and stated that they will not change the configuration of the layout but the grade will change with the addition of the retaining walls. Mr. Labriola asked if they are convinced that this is the only access point they will do a design for. Mr. Ringler stated that they can make it work and that he is comfortable with what needs to be done to make it work.

Mr. Labriola polled the Board members on asking that they come back to the Board with a revised plan prior to advertising for a public hearing or whether the Board would review the revised plan prior to the next meeting and permit them to advertise for a public hearing. Board members concurred that they all want to see and consider the revised plan at the next Board meeting and decided postpone advertising for a public hearing.

Dr. Fischer asked if they have posted the yellow subdivision sign. The applicants stated that they have not received this sign, so that it has not been posted. The applicants will get that sign from the Zoning secretary.

5. 123-129 WEST ROAD – PERMIT FOR REGULATED ACTIVITIES IN WETLANDS – FINAL APPROVAL

6. 123-129 WEST ROAD – SITE PLAN REVISION – FINAL APPROVAL

Mr. Mark DelBazo, engineer, and Mr. Joe Kirchhoff, applicant, were present.

Mr. DelBazo stated that at the last meeting they were awaiting comments and information from Dutchess County DPW and NYS DEC on the wetlands permit. He stated that he received some correspondence from them. He stated that, after multiple meetings and correspondence from DEC, they need the SEQRA determination prior to DEC issuing the permit. He stated that DEC has stated that they have no issues with the proposed layout. He reviewed the modifications requested by the DEC all of which have been made. He stated that DEC has asked for a note stating that there will be no further southern expansion of the parking lot that is shown.

Mr. DelBazo stated that DC DPW had two requirements – one was to provide sight line distances and also to make sure that the shrubbery in the area is low in height. He stated that he has met these requirements.

Mr. Labriola stated that there was a question about one of the parking spaces being in the right-of-way. Mr. DelBazo stated that he checked the drawings and found that he was outside of the right-of-way. However, he stated that after meeting with DPW and hearing their concerns he slightly altered the layout of the parking lot and moved about 2' over and twisted a little bit.

Mr. Harper reviewed the Morris Associates comment letter. He mentioned that details regarding the stockpiling materials area, that it was shown to be within the DEC wetland buffer, but that it is not listed in the permit application. He stated that it needs to be cleared with DEC that they do not have any concerns with this when they issue the permit. Mr. DelBazo stated that he reviewed those comments with DEC and the application has been revised and now shows that the stockpiling materials storage area is shown and identified in the permit application.

With regard to the McDonald site, Mr. Labriola recalled that on another application one of the comments was that there is not a lot of room for the SDS expansion area. He stated that there was a suggestion made to tie the McDonald house into the septic facility at Brookside. He asked what became of the plan to run a pipe up to the property line and noted that it would require a change to the transportation corporation to support another off site location.

Mr. DelBazo stated that he discussed this with the Town engineer and explained that the process to handle that is a dry sewer – a dedicated empty pipe capped on either side for a future connection. He stated that it would have to be approved first with changes made to the transportation corporation and Health Department approval. He stated that at this time they are showing adequate area for the septic field where it is now. He stated that by Code they can expand if they have to. He stated that their concern is that if they show a dry sewer it would trigger a larger involvement relative to the Health Department and would impact a SEQRA action and would bring DEC in and require a SPEDS permit all of this for a hypothetical. He stated that they have discussed this with the property owner who is open to that suggestion. He stated that for this application, they are not proposing this addition at this time.

Mr. Labriola expressed his concern that if there is an SDS failure on the McDonald property, they are talking about months of approval to get anything done, which would not be a good situation to be in if the septic system is not working. Mr. DelBazo noted that the entire property is in the buffer. Mr. Labriola stated that it seems that this is the right time to take care of this. Mr. DelBazo stated that he would like to provide a sketched layout for the approval by the Town engineer for a future concept connection. He pointed out that there is a dry, non-flowing pipe, which would not be activated and is dedicated and which is not in violation of any permits.

Mr. Gordon stated that this is not that important at this time to the overall site plan and could be looked into in the future. Mr. Fracchia concurred with this analysis. Mr. Karis asked if the septic is functioning properly with no violation. Mr. DelBazo stated yes. Dr. Fischer stated that it is a good idea but that the Board does not have the right to hold up this application. Mr. Labriola stated that the thought is to take care of this now and put the infrastructure in place while they are making a major disturbance for the parking areas. Mr. DelBazo noted that during the installation of the pipe it would have to be inspected and that at the time it became operational it would have to be air tested again and, if blocked, would have to be dug up and replaced.

Mr. Labriola asked Mr. Nelson whether the transportation corporation would have to be updated in order to put in a dry pipe. Mr. Gordon suggested that it would not have to be done till such time as they wanted to use the pipe and pointed out the possibility of a future determination that where the pipe is located is not adequate and that it would need to be moved, which puts the situation back to square one.

Mr. Nelson concurred with Dr. Fischer's point that the pipe is nice but that it must be accessed from someone else's property. Therefore, he stated that it is not just a matter of putting a pipe in the ground but that it would also require an easement over the adjacent property. Dr. Fischer pointed out that it further complicates this application. Mr. Labriola wondered why an easement would be required at this time to put in an infrastructure against some potential future problem. Mr. Karis stated that the ownership could change. Mr. Labriola concurred with that point and noted that if this is not a priority for the applicant the Board is not making this a prerequisite. Dr. Fischer stated that the pipe, itself, means nothing without the associated legal processes in place. Mr. Labriola noted that this was a cost-avoidance idea which can be tabled at this time. Mr. Kirchhoff stated that it is a good idea but that at this time there are too many other issues. Mr. Labriola concurred.

Wetlands Permit:

Mr. Labriola: **SEQRA DETERMINATION – NEGATIVE DETERMINATION**

I move that the Planning Board determine as set forth in the attached declaration dated 5/13/08 that the 123-129 West Road Regulated Activity in the Wetland application is a Type 1 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 required.

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

- 1. the wetland buffers already contain existing black top and the impervious increase will be mitigated by water quality treatment methods**
- 2. the DEC will issue a permit to conduct work in the regulated wetlands buffer**
- 3. erosion and sediment control measures will be provided**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola: **PERMIT FOR REGULATED ACTIVITIES IN A WETLAND**

Whereas a formal permit application for regulated activities in wetlands, water bodies, water courses and buffer areas dated 1/30/08 was submitted by Mark DelBazo for regulated activities consisting of activities in a wetland buffer area for the establishment and construction of additional parking and landscaping servicing the adjacent professional office located at 123-129 West Road, and

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

Whereas the Planning Board has reviewed the factors pertinent to the site, and

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

Therefore be it resolved that the application for regulated activities be approved and that the Wetland Administrator may issue the necessary permits subject upon the completion of the following conditions:

- 1. erosion and sediment control measures will be provided**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

Site Plan:

Mr. Labriola: SEQRA DETERMINATION – NEGATIVE DECLARATION

I move that the Planning Board determine as set forth in the attached declaration prepared by the Board's engineer that the 123-129 West Road site plan revision 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 reasons in support of this determination of non-significance:

- 1. wetland buffer already contains existing black top and the impervious increase will be mitigated by water quality treatment methods**
- 2. the DEC will issue a permit to conduct work in regulated wetlands buffer**
- 3. the erosion and sediment control measures will be provided**

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola: FINAL SITE PLAN APPROVAL

I move that the Planning Board grant site plan approval to the 123-129 West Road site plan revision with regard to the application of New Horizons Resources Inc. in the form of the attached resolution dated 5/13/08 prepared by the Board's engineer and now before the Board subject to the following conditions:

- 1. Morris Associates letter dated 5/9/08**
- 2. payment of all fees**
- 3. issuance of the NYS DEC wetland permit**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

7. TACONIC APARTMENTS (TACONIC HOMES) – DISCUSSION

Mr. Labriola stated that this application is on the agenda for discussion. He stated that at last month's meeting there was a spirited discussion about next steps with regard to this application. He noted that he had a couple of conference calls with Mr. Nelson, Mr. Setaro, and Ms. Frederickson during the ensuing month.

Present were: Mr. Joseph Kirchhoff, Mr. Ken Nadler, Ms. Paula Vincitore, Mr. Ralph Mastromonaco, and Mr. Nat Parish.

Mr. Kirchhoff stated that through discussions with the Planning Board and CAC Board and in an effort to reduce the impact, they have redesigned the plan to stay completely out of the buffer. He stated that they meet the 80' setback on the Route 44 side and that they meet the 100' buffer along the entire edge of the property. He stated that they have also reduced the curb cuts. He demonstrated this redesign on the new plans.

Mr. Kirchhoff pointed out the berm area that is designed to shield the development visually from the Taconic Parkway.

Mr. Kirchhoff stated that they met with Mr. and Mrs. Mort and walked their property and got a feel of the impact from their perspective and their concerns about the development. He stated that they have discussed the possibility of installing a fence at the border of their property to prevent people from coming out of the back of the units onto the Mort property. He stated that they also walked the property to discuss how they will address downed trees and how to retain habitat.

Mr. Labriola asked how far the Mort home is from the property line. Mr. Mort stated that it is 400+/-'. Mr. Kirchhoff noted that there is quite a grade change between the two properties.

Mr. Kirchhoff summarized that there have not been a lot of changes but that it is significant that they are now completely out of the buffer. He pointed out the relocation of their sales office. Mr. Labriola expressed the Board's appreciation for them working with this redesign. Also, he expressed the Board's appreciation to Ms. Teddi Southworth, CAC, for her participation in this redesign.

Ms. Bramson asked about the playing fields. Mr. Kirchhoff stated that during site plan review they would like to revisit the plan for the parking area that serves the sales office and club house. He stated that right now the parking is designed as per current Zoning Code. He stated that in the Brookside development they moved away from that under direction from the CAC and the Planning Board. He stated that they would like to have this discussion later in the approval process.

Mr. Labriola and Board members expressed their appreciation for the changes made to the design.

Mr. Labriola summarized his discussions with Mr. Nelson, Mr. Setaro, and Ms. Frederickson. He stated that they reviewed the triggers, the process, and the timing that lead to a Supplemental DEIS. He stated that they also looked at triggers, the process, and the timing if you proceed to a Final Environmental Impact Statement. He stated that they reviewed these timelines and noted that the timelines are a factor but should not be the deciding factor. He stated that this application has been before the Planning Board for the 5 years, and that an additional month or two in the process is not unreasonable.

Mr. Labriola explained his thoughts and stated that there have been significant changes that arose out of the original scoping session, the preparation of the DEIS, and the public comments (two hearings were held). He listed these changes as:

- the addition of the C-1 piece of property
- the movement of the recreation center
- the addition of a sales office
- the addition of affordable housing

Mr. Labriola stated that all of this is significantly different to merit that, first, the plan is locked down as the plan of record. He noted that there may be future changes made to the plan as it moves forward into the site plan review process. He suggested that the plan, as it currently exists, be locked down and sent for review by DC Planning. He stated that right now DC Planning is viewing this application as incomplete. He acknowledged that the applicants have been working very closely with DC Planning and that the plan reflects their input. He stated that, for consistency, the plan needs to be locked down, comments need to be solicited from DC Planning, and then at the next Planning Board meeting have a public information session. He stated that this will offer the public the opportunity to comment on only the changes to the plan, which would be in the western portion of site. He stated that this will give the public the opportunity to comment on the changes.

Mr. Labriola stated that based on input received from the public, from DC Planning, and the Board's reviews, then the Planning Board can determine whether the changes and the potential environmental impacts of significance merit asking for a Supplemental DEIS or warrant going directly to Final. Mr. Kirchhoff noted that, typically, any of those changes would be included in a Final EIS, in any case. Mr. Labriola agreed and stated that the Board has received powerful information from the public which has significantly improved the design. He stated that he would like to offer the public another chance to view the design and comment on it. He stated that he thinks the Board would be able to make the decision regarding Supplemental DEIS or FEIS at the meeting following the additional public hearing and after receiving comments from DC Planning.

Mr. Labriola also requested a punch list of all the significant items that came out of Planning Board input, DC Planning input, and public hearings. He stated that it will be

almost like a scoping document, but is a punch list of key issues that will be folded into the next document.

Mr. Gordon agreed with this plan and appreciated the detail.

Mr. Labriola stated that Mr. Feldweg is still reviewing the question of whether the proposed usage of the C-1 parcel is allowed under Zoning. He stated that Mr. Feldweg is looking for a few more details at this point.

Mr. Parish expressed his opinion that what the Board is suggesting is excellent. He stated that the punch list would be more effective after the next public information meeting to include any comments that arise in that meeting and from DC Planning. Mr. Labriola concurred.

8. MIRABILIO – 90-DAY EXTENSION

Mr. Labriola explained that this request for a 90-day extension of final approval for the Mirabilio subdivision is being made because signatures on a couple of legal documents did not happen in time for this evening's meeting. He stated that this approval times out tomorrow, 5/14/08.

Mr. Labriola: **90-DAY EXTENSION OF FINAL APPROVAL**

Whereas an application for the approval of a subdivision entitled Mirabilio subdivision located at Salt Point Turnpike was submitted to the Planning Board on 1/23/07, and

Whereas conditional approval of the final plat was granted by the Planning Board on 8/14/07, and

Whereas in accordance with Town Code Section 8215.I said approval is valid for 180 days ending 2/14/08, and

Whereas an initial 90-day extension of final approval was granted on 2/14/08 and expired on 5/14/08, now

Therefore be it resolved that the final approval be extended for a final period of 90 days beginning 5/14/08 and ending 8/14/08.

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

9. MINUTES

Mr. Labriola: **MOTION TO APPROVE APRIL 2008 MINUTES AS CORRECTED; SECONDED BY R. SEAMAN; VOTE TAKEN AND APPROVED 7-0-0**

10. MISCELLANEOUS

Mr. Labriola asked all Board members to notify him when they complete their required continuing education hours.

Dr. Fischer asked for clarification on whether Board members are allowed to vote against an application based on their personal preference even though the application meets the criteria of the law. Mr. Nelson stated that the answer is yes, but noted that technically any application that meets the conditions of the Code is supposed to be granted approval. He postulated that, as an example, if it were impossible to get the machine that services the septic onto the Salvagio lot, then that would be something that based on general health and safety concerns, the Board could deny. Dr. Fischer noted that, unfortunately, that plan meets the Code requirements and stated his understanding that Board members were not allowed to vote based on their personal preference. He stated that he thought he was morally obligated to approve it. Mr. Nelson stated that the Board needs to articulate reasons for its decisions, which are issues of general health, safety, and welfare. Dr. Fischer noted that if all Board members voted against an application because, for instance, they did not like the color of the house, then the Board would be in trouble. Mr. Labriola suggested that the Board's reasons for denying an application must be defensible. Mr. Nelson stated that if an application is turned down, the reasons for the denial must relate to the Code.

Mr. Karis asked for an update on the comprehensive plan process. Ms. Seaman stated that comments on the draft plan can be e-mailed to committee members. She stated that they are meeting with the Town Board on 5/20/08 which is an open meeting. She stated that if the Town Board approves the plan, then it will start through the public hearing process. She stated that in the SEQRA process they are looking to do zoning, subdivision, and the comprehensive plan all at once. Mr. Karis asked about the projected time line. Ms. Seaman estimated 6 months and noted that the Town Board is talking about a limited moratorium to avoid a rush to the table. Mr. Labriola asked what the trigger for the moratorium would be. Ms. Seaman stated that it will probably be size of the lot. She stated that much of what they are concentrating on is water quality and size of septic, size of lots required for recharge and for septic viability. She suggested that a subdivision of 7-10 acre lots would not be included in a moratorium; but a subdivision of 2 acre lots would be included because that may not be a subdivision that will be allowed.

Mr. Labriola applauded the proposal to conduct the environmental review on the front end of the process – before planning dollars are spent, there will be a workshop and the discussion will be held and input will be given to guide the project. Ms. Seaman stated that the idea is that the Planning Board will have the power to encircle things on a plat, such as an important ridge line, steep slopes, wetlands, etc., and require the design to protect and maintain those features. Mr. Labriola suggested that it is vital for the Town to inventory important environmental features. He noted that when these features are on a list, they can be pointed to during the planning process, which helps to alleviate potential conflict.

Mr. Gordon stated that the part of his distress regarding the Salvagio plan relates to water quality. He noted that they are putting another septic into a part of the Town where there are problems already and have been for years with the water quality.

Meeting adjourned at 9:00 p.m.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the May 13, 2008, 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 10, 2008

A regular meeting of the Pleasant Valley Planning Board took place on June 10, 2008, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:30 p.m.

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

Members absent: Michael Gordon

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

ANNOUNCEMENT: Mr. Labriola announced a couple of changes to the meeting agenda. Liberatore/Whitney lot line realignment application was pulled from the agenda because they did not send a set of updated drawings. Also, a Public Hearing was erroneously announced in The Poughkeepsie Journal for the Taconic Homes. Mr. Labriola explained that the applicant, Taconic Homes, bypassed a couple of required steps in the review process – they did not provide the needed documentation to Dutchess County Department of Planning. Therefore, he stated that it is not appropriate to have that application on the agenda this evening and that he will ask the applicant to re-advertise for a public hearing for next month. He also noted that the applicant must make sure that they have a completed application submitted to Dutchess County Department of Planning so that the Pleasant Valley Planning Board receives the Department's comments on this completed application in time for the Public Hearing. He emphasized that the Planning Board must have the Department's comments prior to the Public Hearing and noted that the Department's input has been integral to this application. Mr. Labriola stated that the public needs to hear the Department's comments. Therefore, when the applicant provides the completed application to the Department of Planning will determine how long it will take for the Planning Board to receive comments back from the Department, which will determine when this application will next be on the Board's agenda.

**1. SALVAGIO SUBDIVISION-CONTINUATION OF PUBLIC HEARING –
PRELIMINARY APPROVAL**

Mr. Labriola noted that this application was on the Board's agenda last month at which time a Parkland Resolution and a SEQRA determination were completed. He stated that

during the public hearing an adjacent property owner, Ms. Mary Albrecht, brought to the Board's attention the possibility of a lot line boundary issue.

Mr. Labriola read into the record portions of a letter dated 5/22/08 from Mr. Brian Houston (ORIGINAL ON FILE). Mr. Houston states in the letter that, after reviewing the subdivision map prepared by Mr. Salmon and comparing it with the survey map, he concludes that there is no boundary line disagreement between the two properties.

Mr. Labriola read into the record portions of a letter dated 6/10/08 from Ms. Albrecht (ORIGINAL ON FILE). Ms. Albrecht states in her letter that they are in agreement with the findings of the survey done for the applicant and that there is no dispute in this matter.

Mr. Mike Duval, engineer, was present representing the applicant. He stated that the resolution of the boundary issue now enables them to go forward with this project. He stated that he researched Dutchess County Health Department regulations with regard to the question about setback for the well line and reported that there are no setback requirements for a pressurized water service line. He stated that he is still waiting on a letter from the DPW regarding the driveway. Mr. Labriola recalled that the Board had asked them to move the drive in order to protect one tree. Board and Mr. Duval reviewed the map and noted that the drive has been moved to accommodate this request and the tree is now protected.

Mr. Setaro reviewed Morris Associates' comment letter. He stated that the remaining issue is the grading around the house regarding the elevation around the house as it relates to the sewage system. Mr. Duval stated that he will bring this back to the Health Department for their review. He stated that it does not change the fill pad but it modifies the plan. Mr. Setaro also stated that they need to ensure that they are not blocking sheet flow that's coming from North Avenue. Mr. Duval stated that he reviewed the site with regard to this question of sheet flow and noted that there is a 6" raised area in the grass between North Avenue and the yard. He stated that it is not a curb, but that the ground rises up about 6". Therefore, he stated that water will run down the gutter line on North Avenue.

Dr. Fischer asked for clarification about the sheet flow issue. Mr. Setaro stated that Morris Associates will check this out and provide comments to the Board for final approval.

Ms. Seaman asked again about the line of trees on the boundary line. Mr. Duval stated that these trees will not be impacted.

Mr. Labriola: **MOTION TO REOPEN 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 Salvagio Subdivision in the form of the attached resolution dated 6/10/08 prepared by the Board's engineer and now before the Board subject to the following conditions:

- **Morris Associates letter dated 6/6/08**

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 6-0-0

2. PLEASANT VALLEY SHOPPING CENTER – PHASE II – FINAL APPROVAL

Mr. Labriola recused himself from this application; Mr. Karis chaired this portion of the agenda.

Ms. Kelly Redl-Hardisty was present.

Mr. Karis stated that the Board received some revised documents from the applicant, notably the revised lighting plan and that some other requested site improvements have been made to the plan.

Ms. Redl-Hardisty stated that the EAF has been signed, the owner certification has been signed and put on the blueprint, and that the signs conform to the Town's zoning codes. Mr. Karis asked if they will be using the signs that exist on the building. Ms. Redl-Hardisty stated that a couple of them will be used and the rest of them will be box signs. She stated that they will apply for sign permits for the ones that will change. She stated that they met with the Zoning Administrator on site and that it was determined that a flood plain development permit is not warranted. Also, she noted that the proposed lighting is not in the DOT right-of-way. She stated that they have requested a waiver for 26 parking spaces. She noted that the lighting has been lowered to 20' as requested by the County and that they are using the shoe box, flush mounted style of lighting.

Ms. Redl-Hardisty stated that they spoke with the Post Office regarding the cross walk. She stated that the problem is with the elderly tenants who park there all the time and do not move their cars so that snow can be removed.

With regard to the request for landscaping along Maggiacomo Lane, Ms. Redl-Hardisty stated that this would result in the loss of parking spaces. Mr. Karis asked about her plans to redo the curbed islands. She explained that she will look into this and will speak with NYS. Mr. Karis stated that Maggiacomo Lane is a Town road. Ms. Redl-Hardisty stated that they will fix it and clean up the bricks. She also pointed out a curb that the trucks run over. She stated that they will fix the radius of the curb in that area. Mr. Karis

asked her to add a note to the plan that they will reconstruct the entrance islands and stated that it will be a condition of final approval.

With regard to the two handicapped ramps, Ms. Redl-Hardisty stated that these ramps exist but have not been identified.

With regard to adding a tree in the area by the Movie Gallery and the Key Foods, Ms. Redl-Hardisty stated that it is not possible because of the required radius for truck access and also existing an drain in the area.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that most of the comments have been covered and that the Planning Board needs to act on the request for the parking waiver. He asked if the Board received a letter from County Planning. Mr. Karis stated that the letter was received in May in which they commented on the proposed lighting and stated that the final decision was up to the Planning Board. Ms. Redl-Hardisty stated that they have made all the changes to the lighting plan as requested by County Planning.

With regard to the parking issue, Mr. Karis explained that this is a pre-existing non-conforming condition that pre-dates Zoning and, therefore, the Planning Board does not need to take any action. Mr. Nelson confirmed that the Planning Board takes no action if this is a non-conforming use and if the only changes being made are cosmetic and that there is no additional square footage. Mr. Karis summarized that if the changes being made were adding square footage, then the parking implications would have to be addressed.

Mr. Fracchia pointed out an error on the map regarding a landscaped island that exists on the site but is not recorded on the map. Ms. Redl-Hardisty will correct the map.

With regard to lighting along Route 44, Mr. Karis stated that having more light on the public sidewalk is an advantage. He noted that they are planned as pedestrian scale lights and will range from 1 foot candle to 4 foot candle.

Mr. Karis: **NEGATIVE DECLARATION – SEQRA**

I move that the Planning Board determine as set forth in the attached declaration dated 6/10/08 prepared by the Board's engineer that the Pleasant Valley Shopping Center site plan revision is an unlisted action under SEQRA that will not have a significant effect on the environment for the following reasons and that no environmental impact study will be required.

The reasons are:

- 1. the site changes are upgrades to existing lighting and landscaping and building facades that do not create any environmental impact**

SECONDED BY R. SEAMAN

Discussion: Dr. Fischer asked about the canopy. Ms. Redl-Hardisty stated that the canopy will be removed and not replaced.

VOTE TAKEN AND APPROVED 5-0-0

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

I move that the Planning Board grant site plan approval for the Pleasant Valley Shopping Center site plan revision in the form of the application dated 6/10/08 prepared by the Board's engineer and now before the Board subject to the following conditions:

- 1. Morris Associates letter dated 6/6/08**
- 2. Payment of all fees**
- 3. Applicant will submit manufacturer specifications on lighting**
- 4. The curbed islands off of Maggiacomo Lane will be replaced**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 5-0-0

3. ROSSWAY PROPERTIES SUBDIVISION – CONTINUED DISCUSSION

Mr. Geoff Ringler, Rossway Properties, and Mr. Michael White, Spectra Engineering, were present.

Mr. Labriola recalled this application was before the Board last month and the issues that were identified at that time were:

1. the driveway grade
2. drainage
3. turn around on the drive

Mr. Labriola read into the record a letter from the FAB dated 6/4/08 (ORIGINAL ON FILE) which recommended that as a condition of approval of the site plan the driveway plan must include a 20' x 50' turnoff at the location where the driveway splits. The FAB also approved the proposed pull offs at each house site.

Mr. White pointed out a pull off that they have already proposed which does not meet the size requirements of the FAB. Mr. Labriola agreed that it is not the requested size or at the requested site. Mr. Ringler and Mr. White discussed how they could reconfigure the drive so that they can accommodate the FAB's request for the pull off at that site.

Mr. Karis brought up the question of how the pull off areas located at each house site will be kept clear for use in an emergency situation. Board members agreed that homeowners will be tempted to park their RV on that site and questioned the authority and capacity of the Town to enforce this. Mr. Labriola asked Mr. Nelson for thoughts on enforcement and whether this would be something that would be cited in a deed. Mr. Nelson stated that he just received a draft of the driveway maintenance agreement which can include a note that the driveway turnaround must be kept clear. Still, he stated, the question

remains regarding whether enforcement should be open to the Town. He stated that it should be put in the maintenance agreement that there is an obligation to keep it clear and that there is a prohibition against parking there. He stated that enforcement is a separate issue.

Ms. Bramson asked about paving in those turnarounds. Mr. Labriola stated that they will need to think about pavers. Mr. Ringler stated that the driveways will be paved, more than likely, and as an alternative some kind of pervious pavers. Mr. Labriola stated that those details will need to be put on the map as part of the approval process.

Mr. White reviewed the changes to the driveway profile, which now complies with the Town Code and has the proper grades. He pointed out the 30' landing area and showed how the grade goes from 15% to 12% and back to 15% and levels off. Mr. Labriola asked what the distance of the 15% grade is. Mr. White stated that it is 250' and then is 250' at 12% and finally 200' at 15%. Mr. Ringler stated that one of the turnoffs is within the 15% grade area, and the other turnoff is in the 12% grade area.

Mr. White pointed out the retaining walls and the detention basins. He stated that they are still working on the final drainage plan. Mr. Karis asked how high the retaining walls will be. Mr. White stated that they are 8'-9' in one area.

Mr. White pointed out sight distance profiles which provide 320' sight distance. He stated that if they need to extend it to 350', they will have to do a 6"-7" cut. He stated that sight distance to the north exceeds 500'.

Mr. White stated that they are getting more survey information so that they can design the final drainage discharge. He stated that now they are showing a culvert discharge to the north to hook into an existing concrete culvert flowing northeasterly under Rossway Road with a catch basin that goes to the pond. He stated that there may be other simpler ways of managing drainage, with possibly a culvert straight across Rossway Road to discharge to the existing ditch. He stated that they are studying existing conditions and the capacity to handle the drainage. He explained an area where they are trying to see how much of the drainage they can contain and treat in a sheet flow manner above so that they can reduce the loading down the driveway.

Mr. Fracchia asked how far back off the road they measured the sight distance. Mr. White stated that they measured 12' back and 24" high off the road. Mr. White stated that some standards are 10', but that they use 12'. Mr. Setaro asked if they have met with the Highway Superintendent. Mr. White stated that he has spoken with him several times but have not met with him yet.

Mr. Setaro reviewed the Morris Associates comment letter. With regard to the retaining walls, Mr. Setaro voiced concern for the fact that the walls are right on the edge of the pavement for 300' along the driveway. He stated that the walls vary from 2' to 4' high down at the entrance to 10' to 12' by the storm water pond. He pointed out a concern with water flowing down the edge of the driveway with no way to get off the edge of the

road because the walls are on the edge of the pavement. He pointed out the elevations of the storm water pond at a higher elevation – bottom of the pond at 478' – than the driveway grade at 470' and the top of wall at 480'. He pointed out that the discharge from the pond will come right through the wall right onto the edge of the black top and run along the edge of the road. Mr. White stated that they are going to change that with a gutter along the south side of the driveway. Mr. Setaro stated that he sees a problem in the winter with icing on a steep grade. Mr. Labriola stated that it's going to be like a bobsled run – a driveway 12' wide with walls on both sides that is slippery. Mr. Karis added that it will not be possible to plow it in the winter – that there will be nowhere to put the snow. Mr. White stated that the driveway will be wider than 12'.

Mr. Labriola also pointed out that on a snowy day in the winter the residents of these homes may need to leave their cars at the bottom of the driveway and walk up to their homes because they cannot get their cars up the drive. He asked about parking adequate for 3-6 cars for the residents at the bottom of the drive in that eventuality. Also, he pointed out that if someone gets halfway up the driveway and gets stuck, there needs to be someplace for the other residents to park their cars. He stated that he is concerned about the whole driveway design because it does not seem to be workable for a number of reasons arising from the fact that it is a shared driveway. He noted that if it were a single family driveway, the issues would be less acute. But with multiple dwellings and multiple families, access in and out of there becomes problematic. In addition, he questioned how emergency vehicles and delivery trucks access the site in the winter – problems with icing and snow removal.

Mr. Karis asked what the posted speed limit is at that site. Mr. Setaro stated that it is 40 mph. Mr. Karis asked what the required sight distance is at that speed. Mr. Setaro stated that the Code says 300' to 400'.

Dr. Fischer commented that this driveway situation does not appear to be safe nor does it appear to be able to make it safe.

Mr. Ringler pointed out portions of a stone wall that could be relocated which would provide more space – about 10' – to enable them to widen the area between the stone walls and allow them to grade differently. Mr. Ringler and Mr. White explained that efforts to retain the existing stone wall had placed restrictions on the location and, therefore, the grading of the driveway. They suggested that they could reconstruct the stone wall elsewhere, thereby gaining more space to redesign the driveway layout. Mr. Karis suggested that perhaps the best alignment for the driveway is not to follow the existing drive. He suggested pushing it to the northwest after the curve and run with the contour. Ms. Seaman stated that she continues to be concerned with 15% grade for 30' ending onto a public road and recalled that, due to winter icing, they have twice taken out the gate at the end of their 6% grade driveway. She stated that the applicant's design is dangerous. Mr. Karis noted the need for more of a platform at the bottom. Mr. Setaro reiterated that these issues are compounded by the fact that this is a common driveway that accesses three houses. Mr. Fracchia asked about the original driveway design. Mr. White pointed out the 50%-60% grades in that area. Mr. Setaro noted that there are

reasons that this site has not been developed. Ms. Bramson asked how many acres the property is. Mr. Ringler stated that it is 13 acres. Ms. Bramson suggested that perhaps it should be developed for just one house.

Mr. Labriola summarized the issues mentioned this evening. He stated that the primary issue is safety:

- very steep grades
- not much of a platform at the bottom of the drive
- maintenance of the driveway in the winter
- concerns for drivers being able to get up and down the drive in the winter
- where will drivers leave their cars if they cannot get up the drive in the winter – no space at the bottom of the drive
- for a multi-family subdivision and given the driveway design, it appears that there is too much traffic for the driveway design – 6-12 cars trips a day potentially plus deliveries and visitors
- if it were a single family home, some allowances could be made
- the current design does not appear to allow safe travel for the expected traffic

Mr. White suggested that this would be the case for any driveway that has a 15% grade, whether or not the drive serviced one home or several homes. Mr. Setaro underscored the compounding of the safety issues when there is more than one house serviced by the driveway. Dr. Fischer emphasized that the 15% grade goes right out to the road. Mr. Labriola stated that if this were a single family driveway, there would still be issues but the concerns would be less because the traffic would be reduced.

Mr. Labriola stated that the design needs to provide more of a platform at the bottom and something that gets away from the “bobsled” configuration bordered by 10’ retaining walls. Mr. White pointed out that the walls are not all 10’ tall and stated that if they slide the driveway to the northwest, the walls may not be needed. Mr. Labriola stated that that won’t address the problem with the drive that comes in 30’ and then hits a 15% grade. Also, he recalled that Mr. White said that if they flared the drive then there might be room for two cars, which is still not adequate for the volume of cars that will need to access the drive or be parked at the bottom if the drive is not passable. Mr. Karis again stated that he thinks there is a better alignment for the driveway. Mr. Setaro stated that they could improve it somewhat, but that they will still be faced with big cuts. He pointed out that with a larger landing at the bottom, then the walls need to be higher because they will keep chasing grade. He noted that it is a difficult design.

Mr. Labriola acknowledged that the applicants have done a lot of work in an effort to be ready to advertise for a Public Hearing. He pointed out that the next step is the SEQRA determination. He stated that a number of concerns have been raised this evening and stated that the Board is ready and willing to move forward to the SEQRA determination if the applicants wish this but offered that they may want to look at an alternate design prior to that step and before asking the Board to vote.

Mr. White stated that in considering the contours it does not appear that any area along the front of the property is usable for access, that the only possibility is the existing access point. Mr. Setaro suggested that perhaps they are planning too many houses on the property. Mr. White stated that it is planned for 3, which is not high use. Mr. Labriola reiterated the concern that 3 homes will generate a lot of car trips every single day. Mr. Setaro stated that the concerns for safety are of primary concern. He stated that the Board looks at each common driveway application, has approved other projects with 3 houses serviced by a common driveway, but each application is individually reviewed. He again emphasized that there are major safety issues with this design on this property.

Mr. White stated that they will see if there's a way to increase the landing area at Rossway Road.

Mr. Labriola and the applicants discussed an alternate design that would run perpendicular to the road and include a switch back, which would not completely eliminate the second steep grade but might reduce it. Mr. Karis suggested that the applicants look at all options. Dr. Fischer concurred with the comments about difficulties of getting the cars up the drive even several days after a snow storm and his concern for there being nowhere for a car to go in the event it starts to slide and will end up in the retaining wall and prevent plowing. He pointed out that access on the steep grade is made especially challenging by the curve that is part of the driveway design.

Mr. Labriola stated that right now this design is not practical and asked the applicants to reconsider alternatives. He stated that the next step for the Board is to do a SEQRA determination. Mr. White stated that they are not there yet. Mr. Labriola invited the applicants to come back when they are ready.

4. MORRISON SUBDIVISION – 90 DAY EXTENSION REQUEST

Mr. Labriola stated that this is a 90-day extension request for their preliminary approval. He stated that preliminary approval was granted on 1/8/08.

Mr. Labriola read into the record a letter from the applicant (ORIGINAL ON FILE) that requests the time extension due to the fact that the applicant is still awaiting approval from the Dutchess County Department of Health as a condition of final approval.

Mr. Labriola: **MOTION TO GRANT 90-DAY EXTENSION**

Whereas an application for the preliminary approval of the subdivision entitled the Morrison Subdivision located on Carey Road, original subdivision application having been submitted to the Planning Board on June 12, 2007, and

Whereas a condition of preliminary approval was granted on 1/8/08, and

Whereas in accordance with the Town Code said approval is valid for 90 days ending 6/10/08, and

Whereas an initial 90 day extension of the preliminary approval is being requested and will expire 90 days from today, now

Therefore be it resolved that the initial 90-day extension be approved at this meeting to expire on 9/10/08.

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 6-0-0

5. JOYCE – WETLAND PERMIT - DISCUSSION

Mr. Labriola stated that this application is on for discussion. Mr. Jeremy Joyce was present.

Mr. Labriola stated that Board members received a couple of 8 ½" x 11" subdivision maps that did not provide much detail and asked Mr. Joyce to brief the Board on this project.

Mr. Joyce stated that the road frontage variance is not needed because the property was subdivided prior to Zoning. Mr. Labriola concurred with this statement.

Mr. Joyce stated that he is now applying for a wetlands permit to construct the driveway and the bridge in order to get across to the building site. He asked what the next steps are in that process. Mr. Labriola stated that the Board needs larger maps that represent what is being proposed in the wetlands. Mr. Joyce provided a map that he got from the owners of the property. He stated that he does not own the property yet. He stated that there's no room to put in a driveway other than where it is now being planned. He pointed out that the building site is in the back. He stated that it calls for an 80' bridge but that he does not want to put in an 80' bridge. He stated that he talked with the Highway superintendent twice.

Mr. Karis stated that he stopped by the site and that there is no sight distance looking either way at the intersection. He stated that especially looking southeast, there is no sight distance – that there is about 100' to 120' at most. He stated that it is a very, very dangerous spot. Mr. Joyce stated that from the front of the driveway entrance to the nearest corner is 100'. Mr. Labriola asked what the speed limit is on that road. Mr. Karis stated that it is 30 mph. Mr. Joyce asked what the adequate sight distance is. Mr. Karis stated that it is 320'.

Mr. Karis also pointed out that on the other side of Drake Road there is a culvert across the frontage. He stated that there is a pipe underneath Drake Road that looks like the water drains from the southwest to the northeast and that there is a 20' wide drainage easement. He stated that there is an intermittent drainage channel that runs down this entire property and feeds into the stream. He stated that this project is not just dealing with the stream crossing but rather with a whole drainage situation on this site 400' from the road down to the where the existing stream is. Mr. Labriola asked how steep the

grade is in that area. Mr. Karis stated that the property falls from the road to the stream, that it drops about 60' to 65'. He stated that he does not know how one would grade a drive in that area, that there can be no switch back. He stated that it is a very challenging site.

Mr. Fracchia asked about a utility box on the property. Mr. Joyce explained the utility features on the site and what they serve.

Ms. Seaman stated that it looks like the proposed SDS is in the wetland buffer and that the grading will also be in the buffer. Mr. Joyce stated that this is correct and pointed out the berm. He stated that the grading would have to go into the buffer. Ms. Seaman asked if the house is in the buffer. Mr. Joyce stated that the corner of the house would touch the buffer.

Mr. Labriola noted that the disturbance is more than the stream crossing and includes disturbance to put in the house, the grading required to achieve that, and access for construction equipment. Mr. Karis stated that the well is in the buffer and that all the infrastructures are in the wetland and in the wetland buffer, except for the leach field.

Mr. Labriola stated that this is a very challenging site. Mr. Joyce agreed and asked what the next step is – is it moving the berm out of the buffer, is it moving the well out of the buffer, or is it figuring out how to get the driveway and the bridge constructed. He asked whether he should address the driveway design and wetland permit first or consider the entire building site at once.

Mr. Setaro asked if he owns this property. Mr. Joyce stated that he does not. Mr. Setaro advised Mr. Joyce to retain the services of an engineer. Mr. Joyce stated that he brought Mr. Barger to look at the site who offered information on what to do with the site. Mr. Setaro stated that it is hard to tell what's needed from the map that Mr. Joyce provided, but that it seems that it will be very challenging.

Mr. Setaro asked if it is a DEC regulated stream. Mr. Labriola read into the record a letter dated 6/4/08 from the CAC (ORIGINAL ON FILE) which lists concerns:

- stream disturbance, construction runoff and continual runoff from the developed driveway and house
- construction of the septic system on a rocky hill and how it might affect the stream
- the stream is a perennial stream, Class B trout, tributary that flows into the Wappingers Creek
- the stream makes a U turn on a rocky hill, elevation 300' where the house and the septic are to sit, there are many rocks in the stream
- it is not clear what kind of a bridge would accommodate a serious flood
- this development called Dutchess Corral has a number of deed restrictions
- it was structured so that a bridal path would come down the prospective driveway, continue through the property and circle the other house
- CAC suggests that:
 - the stream be properly surveyed

- that a 100' stream buffer be indicated on the map
- that in addition to DEC approval and a perk test, and an independent review of the septic system be done

Mr. Labriola stated that the applicant will need to retain the services of an engineer to start looking at some preliminary work on this site. He stated that this will help to identify the costs for the necessary infrastructure before the applicant spends a lot of money on engineering. Mr. Joyce stated that he brought an engineer to the site and that the engineer thought it was doable. Mr. Setaro stated that anything is doable. Mr. Labriola cautioned that he will want to consider how much it will cost.

Further, Mr. Labriola advised Mr. Joyce that anything that is in the wetland buffer will be closely reviewed by the Planning Board and the Board will want to talk with him about this – whether it's the driveway, the drainage construction, the bridge, the septic. He stated that if he needs to get into the buffer to do any construction, the Board will want to discuss the plans closely with the applicant. Mr. Labriola noted that the well is in the buffer and stated that there have been instances in the past where the Board has allowed a well to be in the buffer, that they will look at separation distances, etc. However, he stated that the applicant has a number of areas on the site that are going to be very challenging to construction. Therefore, he advised Mr. Joyce to get a construction estimate early in the process because it may impact his decision regarding moving forward on the project.

Mr. Setaro advised the applicant to try to get a meeting with the DEC to see what type of a crossing they would consider. Mr. Joyce stated that he went down there and they were OK with culverts across the stream and the material put on top of the driveway. He stated that they would prefer a box culvert. Mr. Karis and Mr. Setaro both asked if they were OK with multiple culverts. Mr. Joyce stated yes. Mr. Karis and Mr. Setaro both expressed disbelief. Mr. Joyce stated that they did not approve it. Mr. Setaro stated that the DEC has never approved multiple culverts on any project he's been involved on. Mr. Labriola asked Mr. Setaro what he sees here. Mr. Setaro stated that there must be a clear opening - a box concrete culvert.

Mr. Joyce stated that the Board would like to see a more detailed drawing of what is going to occur in the buffer. Mr. Labriola and Mr. Karis listed the details needed: bridge details, construction plans for the bridge, how to deal with the drainage easement that runs the full length of the driveway.

Mr. Labriola stated that the Board needs a copy of the deed restrictions. Mr. Karis noted that there are multiple easements on this property and that there might be deed restrictions on the property. Mr. Joyce stated that he has the deed but that he has not gone through it. Mr. Karis stated that Mr. Joyce needs to show the stream edge and associated wetlands that go beyond that stream edge and the 100' buffer. Mr. Joyce asked who determines the wetlands. Mr. Karis responded that a qualified professional makes that determination. Mr. Setaro stated that the DEC can do it. Mr. Joyce asked if

the Town does it. Board members responded no. Mr. Karis noted that in the past the Board has hired its own consultant to review the applicant's consultant's work.

Ms. Seaman pointed out that when a project crosses a wetland and a stream, such as this, it is not just looking at drawings and thinking that the project may work. She stated that this is the type of thing, with that kind of impact, the SEQRA process may require the applicant to pay for studies to determine what the impact of different bridges would be so that a reasonable determination can be made. Mr. Karis pointed out that habitat studies may be required.

Mr. Karis asked if Mr. Joyce was involved in the septic approval for this site. Mr. Joyce stated that it was previously done. Mr. Karis wondered how they got over the stream to do all the test holes for septic. Mr. Joyce guessed that they went right over it.

Mr. Labriola summarized that Mr. Joyce needs to engage the services of an engineer and start to do some of the preliminary designs and get some preliminary cost estimates and come back to the Board if he is serious about moving forward with the project. Mr. Labriola pointed out that, now, the Board has nothing it can act on, that the Board needs more details and specifics on what he is proposing. Mr. Setaro reminded Mr. Joyce to include the costs to bring power, telephone, and cable back to the house site. Mr. Karis also advised Mr. Joyce to think about construction sequencing. He pointed out the question of how they will cross the stream to build the other side of the culvert. Mr. Setaro stated that he may need a crane to put it in. Mr. Joyce stated that it is \$10,000 for the crane for one day and \$25,000 for the culvert. Mr. Fracchia stated that, in addition, he must build a road to get the equipment to the site.

Mr. Fracchia asked about the septic on the adjacent property line.

Mr. Labriola asked about alternate access to the property perhaps via a common drive from an adjacent property. Mr. Karis pointed out that the stream crosses all the properties. Mr. Joyce stated that there's no way to get in.

Mr. Labriola asked Mr. Joyce to drop off a copy of the deed to the Planning Office so that Mr. Nelson can review it.

Mr. Karis stated that the Board will want to see all proposed activities that are within 100' of a designated wetland area – the stream and all associated wetlands. Mr. Labriola explained that this includes all permanent structures that are planned within the buffer as well as any grading, any construction access, etc. Mr. Karis stated that in his view this property is a very sensitive area and that it will require a lot of consideration and a lot of explanation and a lot detail and that he does not know how long this will take. Mr. Joyce stated that he is not working under a time line.

Mr. Labriola stated that the Board needs a letter from the owner of the property authorizing Mr. Joyce to proceed with this application. Mr. Joyce stated that it should be in the file already.

CAC asked for permission to go onto the property. Mr. Joyce stated that he is not the owner and, therefore, cannot grant that permission.

Mr. Labriola suggested that, when the Board has a set of drawings and a pretty good idea of what Mr. Joyce is proposing, the Board and the CAC do a site visit. Mr. Labriola asked that, at that time, Mr. Joyce request permission from the owners for this site visit.

Mr. Nelson asked for a copy of the deed and a copy of the subdivision plat. Mr. Joyce will provide these documents.

Audience members stated that they received a certified letter in the mail regarding a public hearing. Mr. Labriola explained that this type of application typically does not include a public hearing as part of the process and that the letter they received would have been with regard to a ZBA variance and that the variance is no longer required.

Mr. Fred Apers, neighbor, submitted a letter dated 6/10/08 outlining his concerns regarding this application. He stated that he has lived across from this property for 30 years and has seen many dozens of people consider building on this property and then walking away from it. He stated that it is an unbelievably challenging lot.

Mr. Labriola read into the record Mr. Apers' letter (ORIGINAL ON FILE). Mr. Apers' concerns include:

- drainage swale needed along the driveway
- natural spring fed pond on his property utilizes a drainage culvert under Drake Road
- volume of water running through the culvert pipe is substantial and the water on the opposite side of the road can sometimes reach a width of over 20'
- asks that construction of a drainage swale meet the specifications of a licensed engineer and assurances that it be maintained by the new land owner
- the water will back up on his property if the natural flow of water becomes compromised and then will undermine his driveway and/or Drake Road.

Mr. Labriola thanked Mr. Apers for bringing this information to the Board's attention.

6. LA PUERTA AZUL – SITE PLAN REVISION

Mr. Chris LaPlante and Ms. Kyleigh Hernandez, managers at La Puerta Azul, were present.

Ms. Hernandez stated that they are planning an outdoor dining room in front of the building. She stated that the sidewalk in front of the restaurant is 18' wide and that they are planning on using 13' of that to be enclosed by a temporary fence to include 6 tables with 2 chairs at each table. She stated that the temporary fence is made of plastic resin; the posts are hollow and can be filled with water which acts to weigh them down. She stated that they have chosen metal, outdoor furniture that is stackable and foldable for storage in the winter.

Mr. Karis asked what zone this site is in and asked if outdoor dining is a permitted use. Mr. Setaro stated that it must be commercially zoned. Ms. Seaman stated that the Code is silent regarding outdoor dining and that a precedent exists at McDonald's, for instance. Mr. Karis asked if it is permitted when the Code is silent. Ms. Seaman responded that it is not always permitted but that the precedent already exists. Mr. Karis asked if McDonald's went to the ZBA. Mr. Labriola stated that they did not go to the ZBA.

Mr. Labriola stated that this was part of the original site plan and that he spoke with the Zoning Administrator about this who agreed that there is nothing specific that says this is not prohibited.

Ms. Hernandez stated that they have applied to the NYS liquor authority to revise their liquor license to include outdoor tables. She stated that they anticipate hearing back from them in about 3 weeks.

Ms. Seaman pointed out that this area is at the end of the row of businesses so that it poses no interference to people walking between businesses.

Ms. Hernandez pointed out the handicapped parking spaces and the ramp. Mr. Karis pointed out that per ADA they must have 4' clear flat behind the ramp. Mr. Labriola asked if the ramp is within the sidewalk. Mr. Hernandez stated that it is within the sidewalk. Mr. Karis stated that they need 4' platform at the top of the ramp per ADA. Ms. Hernandez stated that they can push the temporary fence back 2' to provide the necessary platform for the ramp.

Mr. Labriola asked about the location of the tables relative to the overhang. Ms. Hernandez stated that they are coming out about 4' beyond the overhang.

Mr. Labriola asked Mr. Setaro about the number of additional parking spaces that will be required per the additional square footage. Mr. Setaro stated that it is 1 per 50 sq. ft.

Mr. Karis pointed out that the site plan is for the entire shopping center and, therefore, will require an amendment to the overall site plan.

Ms. Seaman recalled that at the time of the original site plan review process, certain parking requirements were waived because the overlapping time of operation of the business. Ms. Hernandez stated that there's only one other business in the plaza that is open the same evening hours as this restaurant, which is tanning salon that has 2-10 customers. She stated that the restaurant's evening hours are 7 – 10 p.m. Mr. Labriola stated that the Board will need to understand how many additional parking spaces this will require and how many spaces are in the overall site. Ms. Hernandez stated that there are no parking issues on the site in the evenings and that the employees park in the back lot.

Mr. Setaro pointed out that, technically, this should be an amendment to the original site plan. Also, he stated that they will need a letter from the Board of Health stating that the

additional seating will not have an effect on the septic treatment system. He noted that when they got the original Board of Health approval, it was based on the number of seats on the inside of the building. With this additional seating, the Planning Board cannot act on this application until they receive a letter from the Board of Health saying that the additional outdoor seating will not be a problem.

Ms. Hernandez stated that their understanding was that they had to contact the NYS liquor authority first before they could apply for the certificate of occupancy. Mr. Setaro advised her to contact the Dutchess County Board of Health. Ms. Seaman explained that it will be entirely separate from their liquor license.

Ms. Hernandez stated that the landlord has given approval for this outdoor seating.

Mr. Labriola and Mr. Setaro agreed that this application is an amendment to the site plan for the entire plaza. Mr. Setaro stated that this revision should be added to the last site plan that was approved for La Puerto Azul, which can be done by hand.

Mr. Labriola stated that a fully engineered set of drawings is not required. He stated that the Board is interested in the number of tables, the fencing, and the details. He stated that they will need to recalculate the required number of parking spaces for the record. Also, Mr. Labriola stated that the Board will need documentation that the package plant is going to handle the extra load.

Mr. Setaro asked if anyone tracks water usage on the site via a meter. He advised Ms. Hernandez to check this out with the Board of Health.

Dr. Fischer asked how many additional diners are planned for the outdoor dining area. Ms. Hernandez stated that they were planning on purchasing extra chairs and that they can push the tables together for bigger parties. Mr. Labriola advised her to apply for the maximum number of diners they anticipate. Mr. Setaro stated that the Board of Health needs the maximum number of people. He explained that whatever number of people they get approval for is what they will be stuck with.

Ms. Hernandez asked about alternate designs, whether she should try to make the least number of changes, etc. Mr. Labriola advised her to fit the maximum number of chairs possible, which they may not build out to, but they should design it for the maximum so that they will not have to come back to the approval process in the future. He also stated that they should keep as much of the sidewalk free and open as possible.

Ms. Hernandez asked if the walkways need to be a certain width for handicap accessibility. Mr. Karis advised her to go online to access the ADA requirements and stated that they need a 5' circle to turn around and the aisles need to be 36".

Mr. Setaro noted that they need to get the original site plan that was approved for the site. Mr. Karis stated that there was an amendment to the original that was for the restaurant.

Therefore, this is an amendment to the amendment. Mr. Setaro stated that they need a letter from the owner of the plaza giving them permission to do this project.

Next steps:

- letter from the plaza owner
- updated amended site plan
- letter from DC Department of Health that says the package plant can handle this
- total maximum number of additional seats
- revised drawings to determine the revised sq. footage which will determine the require parking

Dr. Fischer pointed out that the County should know that this is a seasonal use.

7. ADB STRATFORD FARMS SUBDIVISION – SIGN PERMIT

The applicants were not present.

Mr. Labriola expressed the Board's desire for the applicants to be present to explain to the Board what is being proposed. He stated that it looks like there are two free-standing, stationary, metal signs – both of which are already constructed. Mr. Karis asked if they are in the right-of-way.

Mr. Labriola read into the record a letter from Mr. Gardner, highway superintendent, dated 6/9/08 (ORIGINAL ON FILE):

- the two large signs are already constructed on the entrance to the subdivision
- violation is pending with the Town for the constructing the entrance with no permit
- several drainage and paving items were to be completed on Bower Road which are incomplete
- section of the road where the signs are will be in the Town of Pleasant Valley and on the Town right-of-way
- signage of such elaborate size is not accepted because of maintenance issues
- signs will have to be removed prior to formal acceptance of the road
- issues regarding sewer and storm water that is being discharged into the Wappingers Creek on the Pleasant Valley side
- no documentation of who is taking ownership of this system

Mr. Labriola again stated that it would be helpful to have the applicant present at this evening's meeting. He suggested that with the current site violations the Board cannot entertain a sign permit for something that is currently non-conforming. Mr. Karis also pointed out that the Town probably does not want to own these signs. Mr. Labriola pointed out that it is problematic that the applicants are asking permission for something that they have already done. Ms. Seaman pointed out that there is no homeowners association or other organization charged with taking care of these signs. Mr. Labriola agreed and pointed out that they are in the Town right-of-way.

Mr. Labriola suggested that the Board can either deny the application or tell them that once they have brought the site into conformance, they are welcome to apply again for a

sign permit. Further, he pointed out that typically the Board does not allow multiple ground signs – monument signs – on a site.

Ms. Bramson asked which signs they are asking for approval of – whether they are asking about the flags and the a-frames. Mr. Labriola stated that it is unclear and if the applicants were present the Board could ask those questions. Ms. Seaman stated that it looks like they are asking for approval for the two standing signs and the a-frame. Mr. Labriola stated that those appear to be temporary signs.

Mr. Labriola: **MOTION TO DENY THE SIGN PERMIT APPLICATION AS SUBMITTED FOR THE FOLLOWING REASONS:**

- 1. it appears that some of the signs are in the Town right-of-way and it is not the Planning Board's practice to approve any signage in a Town right-of-way**
- 2. it appears that the applicant has already constructed two monument signs that are in the right-of-way and that the Town Code does not allow a second monument sign on any site**
- 3. based on the letter from Mr. Gardner, the highway superintendent, there are violations that need to be corrected on site that have still not been addressed and it is the practice of the Planning Board not to entertain any applications for sites that have violations and that are in non-conformance**

SECONDED BY R. SEAMAN

Discussion: Dr. Fischer stated that in relation to reason #3 above, the Planning Board does nothing and does not even have a discussion or a motion regarding the application. Mr. Labriola stated that in his review if the only issue was the existing violation, then he would agree with Dr. Fischer and the Board would not be having this discussion. However, Mr. Labriola pointed out that the fact that they have already built these signs, they are not approved, they are illegal, and the Town should ask them to remove them. Mr. Nelson stated that sign permits under the Town Code are considered as part of the site plan approval process. In the past, with regard to the shopping plaza, he stated that there was an application to modify the site plan and that there had been construction on the site that was inconsistent with the prior approval. He stated that the Board told the operator of the plaza that the Board could not entertain the application for a sign unless it also involved remedying the other violation. Mr. Labriola pointed out that this current situation is different because the signs have already been constructed. He suggested that if the application had been made prior to building them, they would not have been approved in the Town right-of-way and because they were two monument signs which the Code does not allow for. He pointed out that these circumstances are different from Milestone Plaza where they were asking for a net new sign to be added.

Mr. Labriola: **AMENDMENT TO THE ABOVE MOTION: to recommend that the Town take action to have the existing non-conforming and illegal signs, which have already been built, removed.**

SECONDED H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

8. APPEAL #919 – POPPLEIN – AREA VARIANCE

Mr. Labriola stated that the applicants are applying to connect an existing patio with an existing deck. He stated that he drove by the site and that there is an existing 6'-8' high white solid fence which is a visual barrier between this property and the neighbor and which prevents the neighbor from seeing the existing patio. He stated that they are not going outside the existing footprint and will not be visible.

Mr. Labriola: **MOTION TO PASS THIS ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION AS THE PROPOSED NEW PATIO WILL NOT EXTEND ANY FARTHER THAN THE EXISTING FOOTPRINTS OF THE PATIO AND THE GARAGE.**

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 6-0-0

9. MINUTES

Mr. Labriola: **MOTION TO APPROVE MAY MINUTES AS CORRECTED; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 6-0-0**

Meeting adjourned at 9:45 p.m.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the June 10, 2008, 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 8, 2008

A regular meeting of the Pleasant Valley Planning Board took place on July 8, 2008, 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
 Henry Fischer
 Peter Karis
 Rob Fracchia
 Michael Gordon
 Rebecca Seaman

Members absent: Kay Bramson

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

ANNOUNCEMENT: Mr. Labriola announced a couple of changes to the meeting agenda:

1. The Salvagio subdivision has been removed from the agenda because the applicant did not submit necessary documentation in time for this meeting.
2. Addition to the agenda for discussion: pre-application discussion on a potential subdivision on Netherwood Road.

1. TACONIC HOMES

Those present were:

- Joe Kirchhoff
- Ken Nadler
- Nat Parish
- Ralph Mastromonaco
- Karen Krautheim
- Paula Vincitore

Mr. Labriola reviewed the history of this application and explained to the public the Board's expectations for this evening's meeting. He stated that this application has been before the Board for a number of meetings. He stated that the Board did a positive SEQRA declaration a few years ago and has been going through scoping sessions and public information sessions and public hearings on the plan that's been submitted. He explained that a draft EIS has been prepared and has been accepted by the Board as being complete and then there have been some changes to the plan.

Mr. Labriola stated that, at this evening's meeting, the Board is asking Mr. Kirchhoff and his team to describe the changes to the plan and is soliciting input from the public on only

those changes. He stated that the Board has already received a fair amount of input on the existing previously submitted plan. Therefore, he explained that the areas the Board would like the public to comment on are:

- The addition of affordable housing units
- The addition of a commercial piece of property along Route 44 at entrance to the site. Mr. Labriola explained that a sales office is planned for the commercial piece of property and that the recreation center has been relocated onto that property.

Mr. Labriola stated that those are the significant changes to the plan since the last set of public hearing and that the Board would like to get input on those changes only. He explained that the Board is trying to determine whether there are any potential adverse environmental impacts as a result of these changes which they need to factor into the decision making process.

Mr. Kirchhoff displayed the current drawings of the project and pointed out the sales office, the affordable housing units, the water treatment area, and the multi-purpose recreation fields. He stated that they have also added a fence at the Morts' property line, which is more of a site plan issue.

Mr. Kirchhoff explained the addition of a sales office and community building between Route 44 and the wetland. He pointed out the 100' wetland buffer and explained that the building is narrow and long in order to meet the setbacks from Route 44 and from the wetlands. He pointed out the pool in the back and mentioned another design option for locating the pool. He stated that they hope to keep the pool in a protected, quieter area. He noted the heavily wooded area between the pool area, the property line, and the Parkway ramp. He also pointed out the recreational field area, which is now in the commercial area, between the wetland buffer and the water treatment plant.

Mr. Kirchhoff explained the location of an earth berm, part of which has a stone wall on top of it, which is to ensure that people on the Parkway cannot see the back of the affordable housing units. He stated that these units will be offered, hopefully, to people who provide services in Pleasant Valley and the surrounding areas, such as his employees who are plumbers and carpenters or firemen and policemen.

Mr. Kirchhoff stated that the road system stays the same.

Mr. Kirchhoff stated that the County planner saw this most recent design and asked them to do a study on pulling the commercial building to the front and locating the parking behind. He stated that he does not agree with that request for a number of reasons:

- it adds too much impervious surfaces
- requires a lot more black top
- crowds the entranceway

Further, Mr. Kirchhoff stated that with the parking in the front, as it is currently designed, they can very effectively screen it with lush landscaping. He stated that they are

concerned about creating an attractive entranceway. He stated that many years ago he talked with the Bottini family that owns the gas station to try to landscape in concert with this project, which he is sure that they will do. He stated that the current design protects the swimming pool, gives people a sense of arrival as they come in, and that they can landscape the area.

Mr. Nadler concurred that it is important to provide a nice sense of entry to the site.

Mr. Parish pointed out that the original plan provided a 50' buffer along the Rockefeller property line and that this current plan now provides a 300' buffer along that line.

Mr. Labriola noted for the record that the Board received a letter dated 6/26/08 (ORIGINAL ON FILE) from Dutchess County Department of Planning. He stated that their two comments were:

- visibility of the affordable housing units from the Taconic Parking, which has been designated a NYS Scenic Byway and is eligible for listing on the National Register of Historic Places. The Town should ensure that this project will not be visible from the north or southbound Parkway travel lanes in winter or summer.
- community/commercial building: in order to create a sense of community, the Department of Planning suggests that the building be shifted closer to the entrance and that all parking should be screened from view from Route 44 and as well as from the entrance road – the architecture of the building rather than the parking lot should define the gateway.

Ms. Seaman asked where the pool was located in the alternate plan. Mr. Kirchhoff explained its location.

With regard to the visual impact of the affordable units on the Taconic Parkway, Mr. Kirchhoff stated that they did a study in order to design the berm and the stone wall in order to hide everything from both directions.

Dr. Fischer asked about the design of the commercial building. Mr. Nadler explained that it is an historic barn and described the planned landscaping.

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

Ms. Meta Plotnick, representing the CAC, noted that there is no buffer between the Mort property and this site and asked about the phased building plan and whether construction adjacent to the Mort property line would be scheduled for the last phase. Mr. Kirchhoff stated that they can take that into consideration in the phased construction plan.

Mr. Kirchhoff stated that, as far as the screening for the Mort's property, they walked with Mr. Mort on his property. He explained the changes in elevation on the property that provide screening. He stated that Mr. Mort's biggest concern was not for the visual impact but rather that the residents would feel that his property was their backyard. Mr.

Kirchhoff stated that he completely agreed with Mr. Mort's concern and that they have agreed to put in a fence line to stop that from happening and that the design and materials of the fence will be discussed during the site plan approval process.

Mr. Labriola noted that the Morts' home is 250' – 300' away from the property line. Mr. Mort confirmed that it is greater than 250'. Mr. Kirchhoff explained the elevation change that provides some effective screening and also noted that there is quite a wet area between the Morts' house and the property line, which creates a natural buffer.

Mr. Labriola concurred with the plan for a fence. Mr. Kirchhoff also noted that it will have to be a fence that is not climbable and long enough that it is difficult to get around. Ms. Vincitore also noted that there is a stone wall on the property line.

Mrs. Rosemary Mort noted that the phased construction plan is such that the area adjacent to her property is to be built last. She stated that as you go into the woods on her property it is possible to see the upper portion of the buildings but that it is not possible to see it from her house. She noted, however, that they spend a lot of time riding through the woods. She stated that there are some areas where the buildings can be seen but stated that it does not offend her. She stated that she does not like it, but that they are not offended by it. Mr. Kirchhoff concurred that as they walk their property, they will see some of the buildings. Mrs. Mort noted that she and her husband are trusting that the applicants will do what they say they are going to do.

Mr. Labriola expressed the Board's appreciation for Mr. and Mrs. Mort's involvement and for their comments on this project and expressed the Board's hopes that they will stay involved in the site plan approval process. He explained that there is still a long way to go on this application and that there will be an opportunity for lots of additional changes to this plan to help accommodate some of the things that are being discussed this evening. He stated that part of the Board's job is to make sure that when Mr. Kirchhoff says he's going to do something, that he actually does it. He emphasized that the Board's experience with Mr. Kirchhoff is that he is a trustworthy person.

Ms. Linda Vogt, Tinkertown Road, stated that she lives very close to this project and close to the intersection with the Taconic. She asked what traffic studies have been done at that intersection. She stated that there are always traffic accidents there and, with regard to the access road coming out onto Route 44, she asked what will prevent even more traffic coming out onto Route 44 at that blind corner.

Mr. Parish explained that as part of the DEIS document they submitted a traffic study that looked at counts during peak morning and afternoon hours. He stated that this study was submitted to the NYS Department of Transportation for their review. He stated that the State DOT requested the installation of a left-turn storage lane at Route 44 before the entrance so that cars would not be making the turn from the travel lane but rather from a storage lane. He stated that they have designed this storage lane according to DOT's request. He also explained that they will be required to get the DOT's permit before the final approval of this project for that left-turn storage lane. He stated that he thinks this

will go a long way to mitigate traffic problems. He acknowledged that there will be additional traffic, that there's no question about that, but that it can be handled.

Mr. Kirchhoff offered to show Ms. Vogt the plans after the meeting is over. Ms. Vogt expressed her concern for the increase in traffic that this project will create and her disbelief that its impact can be mitigated. Mr. Kirchhoff explained that the majority of the exit flow of traffic from the development is focused on the top of the hill at Miracle Ford. He explained how the traffic flow was redesigned in order to address the exact problem Ms. Vogt was pointing out. He explained the areas on the project that are two-directional and the areas that are one-directional. Mr. Karis explained that the residents will exit by Miracle Ford. Mr. Parish explained, again, the left-turn storage lane for people entering the site.

Mr. Kirchhoff explained that there is a little bit of two-way because of the sales office and the gas station. This was provided so that people would not have to go all the way up and around the site to exit. Also, he pointed out that the gas station has a legal right-of-way on the sub-road.

Mr. Setaro asked about people using the pool and if they will have to come back onto Route 44. Mr. Kirchhoff stated that they hope that they will walk.

Mrs. Mort asked if it will be a public pool. Mr. Labriola explained that it is not public. Mrs. Mort pointed out that the residents will know the traffic rules. Mr. Labriola also explained that there will be traffic signs and that roads will be necked down and that there will be striping to control the flow. He stated that hopefully the majority of the people will follow the legal traffic flow and obey the signs.

Mr. John Mort offered his compliments to the Planning Board and stated that it is a professional group of people. He also offered his compliments to Mr. Kirchhoff for his cooperation and for Mr. Kirchhoff's interest in interacting with Mr. Mort and his family. Mr. Mort stated that he's pretty happy. He stated that, as his wife said, they would rather not have the housing plan but given that Mr. Kirchhoff owns the property, he has been very cooperative and came out to their house with his engineer and one of his staff members, that they walked the property line and that Mr. Kirchhoff listened to his concerns and discussed options. Mr. Mort recalled how Mr. Kirchhoff and he discussed how to manage the downed trees on the property, the Mr. Kirchhoff listened carefully to his wishes with regard to removing the portion of the tree that is blocking the trail but to let the rest of the tree lie where it fell and not disturb the forest floor. Mr. Mort stated that he appreciated their discussions and their negotiations and stated that at this point he's looking forward to final environmental review.

Mr. Mort asked about the plans for a ball field. Mr. Kirchhoff pointed out where the field has been moved to.

Mr. Kirchhoff stated that Mr. and Mrs. Mort have been very cooperative and understanding and that is what makes these projects work the best that they can. He

stated that he fully understands that the Morts would rather not have this development and would rather have the land be forever open. He expressed his appreciation to the Morts and stated that they are good neighbors.

Mrs. Vogt asked how much the units will cost. Mr. Kirchhoff and Ms. Krautheim agreed that it is not possible at this time to estimate the unit cost. Mrs. Vogt expressed her concern that the units will be built and then won't sell. Ms. Krautheim stated that this is the reason for the phased construction plan – to build as they sell – also this reduces the environmental impact. Mr. Kirchhoff stated that it is just too early to answer that question.

Mr. Ron Vogt asked about the total number of units planned and whether the addition of the affordable housing units will change that number. Mr. Kirchhoff stated that it is still the same count, 252 total units. He explained that there is more density in the affordable units, which enabled them to provide a much wider buffer along the Rockefeller property line. Mr. Karis asked if the affordable units are condominium-style and not town houses. Mr. Kirchhoff stated that they are two stories, two units, known as stacked flats and that the town homes are two or three levels.

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

Mr. Labriola expressed the Board's thanks to everybody who came to the meeting this evening to listen and to everyone who spoke. He noted that there are some people here this evening who have come to every meeting when this project has been on the agenda and that they can attest to the fact that the input the Board gets from the public results in changes to the plan. He expressed the Board's appreciation for their participation in the process, noting that often the public is silent on projects in the Town. He stated that whenever the Board gets input from the public the Board learns something that it didn't know before and that the input is very much appreciated. Further, Mr. Labriola asked for the members of the public to stay involved as the project continues to move through the review process.

With regard to the Dutchess County Department of Planning's comment to move the commercial building forward and put the parking behind: Mr. Labriola noted that it is a commercial property on a commercial strip and that he thinks that the visibility issues from Route 44 can be managed with landscaping, berms, stone walls, something that will shield it as much as possible. He stated that there are ways to put treatments in place that will soften the effects.

However, Mr. Labriola stated that the County's concerns regarding visibility from the Taconic Parkway still remain. He noted that Mr. Kirchhoff has moved the affordable units as far away from the Rockefeller University property as possible to the south, but that they are still fairly close to the western property line and fairly close to the Taconic ramp and to the Parkway itself. He stated that he would like to walk the site with the Board and understand where the affordable units will be and asked that Mr. Kirchhoff

stake some of the corners. He stated that they will be able to see what kind of natural screening the trees will provide in the summer and that they can walk from the units, through the property, to the Taconic and get a different perspective. Mr. Kirchhoff agreed with this plan to do a site visit.

With regard to the location of the parking lot for the affordable units, Mr. Labriola also expressed concern for the lighting implications and the potential for light wash onto the Taconic. Mr. Kirchhoff assured the Board that during the site plan review process, they will make sure that they have the proper shielding and cut offs, that they will pick all of that up during that process. Mr. Setaro stated that the visual impact from this site will also be addressed in the Final Environmental Impact Statement. He stated that the Board needs to have some understanding of what will be on the site before getting to the site plan review process.

Mr. Kirchhoff and Mr. Labriola discussed which points on the plan to stake in preparation for the site visit. Mr. Karis asked that the property line also be staked.

Dr. Fischer asked if thought has been given to any kind of a structure or gate house at the entrance, something that makes a nice looking entrance and will screen the parking lot. Mr. Kirchhoff and Mr. Nadler agreed with this suggestion. Mr. Karis suggested a faux guard house. Mr. Kirchhoff stated that they will make the entrance as beautiful and clean as they can.

Dr. Fischer stated that he agrees with the parking in the front and noted that the pool is not used all the time and should be in the back.

Mr. Karis stated that the Board will look at all those details during the site plan review process.

Mr. Labriola reviewed next steps:

- stake the property as discussed
- do a site visit
- have a conversation of whether the Board thinks that the changes that have been proposed constitute a potential significant environmental impact – depending upon the answer the process will proceed down the appropriate path

Mr. Gordon and Dr. Fischer both expressed their views that these changes do not create a significant environmental impact. Mr. Labriola stated that the Board will first do the site visit and address the question and make that determination of environmental impact.

Dr. Fischer asked what the regulations are with regard to visibility from the Taconic Parkway. He noted that, in Fishkill, houses are clearly visible from the Taconic. Mr. Labriola agreed. Mr. Setaro stated that he does know of the regulations. Mr. Kirchhoff stated that they will do the best that they can to preserve the beauty of the Parkway.

Mr. Mort asked about adequate sight distance at the exit from the site. Mr. Labriola explained that those details will be closely addressed during the site plan review phase.

2. CHEFALO WETLAND DEVELOPMENT PERMIT

No applicants were present.

3. LA PUERTA AZUL – REVISED SITE PLAN

Ms. Kyleigh Hernandez, manager, was present. Mr. Labriola noted that this application was before the Board last month and asked Ms. Hernandez to report on any changes to the plan.

Ms. Hernandez stated that the first change was to allow for adequate room on the sidewalk for the wheelchair ramp, which they have provided by moving the temporary fence. She reported that they have estimated that maximum number of seats that they will be able to fit for purposes of the Health Department. She stated that they have received a letter of approval from the Health Department and a letter of approval from the landlord. She provided updated drawings.

Mr. Karis asked about the parking calculation. Ms. Hernandez stated that she inquired at the office and understood that that was taken care of. Mr. Labriola asked how many additional square feet the outdoor seating will be. Ms. Hernandez stated that it will be 600 sq. ft. Mr. Karis and Mr. Setaro consulted the code and determined that the requirement is 1 parking spot for every 50 sq. ft.; therefore, the additional 600 sq. ft. will require 12 parking spaces.

Mr. Setaro reminded the Board of the previous discussions regarding the fact that the restaurant will be operating during hours when other plaza tenants will be closed. Ms. Seaman stated her understanding that the Board's intention is to provide a formal waiver, if appropriate, for these additional parking spaces.

Mr. Labriola noted for the record that the Board received a letter from the DC Department of Planning that says that this application is a matter of local concern. He also read into the record a letter dated 6/4/08 (ORIGINAL ON FILE) from the Fire Advisory Board that states that they take no position with regard to this application as it does not appear to involve any fire or safety concerns.

Mr. Setaro stated that it was hard for Morris Associates to comment on this application. He stated that it will be up to the Board as to how to proceed and noted that this is a temporary thing that they are trying to do on their own without the engineering assistance. He stated that the Board had talked about getting the original site plan, showing the seating on it with the correct dimensions, and a signature block signed by the chairman with formal parking waivers in place. He also noted that the EAF was only partially filled out. He stated that the applicant is trying to do the best that they can on their own.

Board members discussed options for providing conditional approval. Mr. Setaro offered to have Mr. Takacs, from Morris Associates, meet with Ms. Hernandez to review the original maps and help walk her through the process. Mr. Labriola recommended that the site plan have this change superimposed on it with some basic dimensions and details regarding materials and colors of the temporary fencing. Mr. Fracchia asked about lighting. Ms. Hernandez stated that the lighting is already in place and that she provided documentation with her application on the materials and color (black) of the fence.

Mr. Labriola asked Mr. Setaro whether the EAF is in a form that the Board can act on. Mr. Setaro responded that it is not. Mr. Karis asked if a short EAF could be used. Mr. Setaro stated that technically this application will affect the original site plan. Mr. Karis asked if this can be identified as a Type II action. Mr. Setaro asked if there are any environmental issues. Mr. Nelson read from the Code regarding an expansion of less than 4,000 sq. ft. of a non-residential structure or facility qualifies as a Type II and does not require SEQRA. Mr. Labriola stated that he does not view this as an expansion because the footprint of the plaza is not changing. Mr. Karis proposed that this be treated as a Type II action. Board concurred.

Dr. Fischer pointed out that this change stays with the site, that if this restaurant goes out of business, the next tenant will have the same right. He asked if there is a mechanism in the Town for a permit that is exclusive with this owner and this use. Mr. Nelson stated his belief that the permit goes with the site. Mr. Gordon stated that the Town of Poughkeepsie has a temporary permitting process and suggested that this application would fall into that category. Mr. Nelson suggested that perhaps the applicant would acknowledge that this use is personal to this operator and to this restaurant. Mr. Setaro stated that this should be noted on the site plan.

Mr. Fracchia pointed out that someone else could take over the site and open at lunch time business. Dr. Fischer concurred and mentioned that it could also change from a restaurant to a bar. Mr. Setaro stated that this is a good point and asked if the use should be restricted to dining only. Mr. Labriola recalled that Ms. Hernandez had planned to use the space for overflow and to serve adult beverages. Ms. Hernandez stated that once they have received approval from the NYS Liquor Authority they plan to serve alcohol in the outside dining area.

Mr. Labriola stated that the applicant needs to be very specific about the hours of operation. He noted that if they were to have a busy lunch crowd there, then parking would be an issue. Dr. Fischer asked the applicant if that is a problem. Ms. Hernandez stated that they are open all day, seven days a week, so that she was planning on using the area all day, seven days a week.

Mr. Gordon asked Mr. Nelson about the Town's permitting process for something like this. Mr. Nelson stated that they might need a special permit, but noted that this is a site plan revision. Mr. Gordon asked why this would be a site plan revision rather than a permit for a temporary use. Mr. Nelson stated that what they are proposing to do is to change the site plan. Mr. Gordon stated that if this is a revision to the site plan then there

is the concern about what happens in the future with subsequent tenants. Ms. Seaman suggested that this use be made conditional to this business and to this operator of this restaurant. Dr. Fischer asked if this is legal and if the next tenant would have to come back to the Board for approval. Mr. Nelson stated that, normally, these things run with the property. Mr. Labriola concurred. Mr. Karis noted that it would be specific to a restaurant use. Mr. Nelson stated that, if the applicant is proposing that this use is personal to this operator of this restaurant, this might increase the protection.

Mr. Fracchia asked what time the restaurant opens. Ms. Hernandez responded 11:30 a.m. Mr. Fracchia asked if they do lunch. She responded yes. Ms. Seaman stated that it is not as crowded at lunch. Mr. Labriola stated that this comes as a surprise, that his understanding was that the outdoor dining was for evening use. Ms. Hernandez stated that they do about 10 times the amount of business at night as they do during the day. She stated that their focus is definitely dinner, but that they are open for lunch. Mr. Setaro stated that the parking waivers have always been linked to the concept of the evening hours for the restaurant. Mr. Labriola stated that even if they do significantly less business during the day, there are significantly more cars dealing with the other businesses, so parking may now suddenly be an issue. Ms. Seaman pointed out that this is the problem with there not being a permitting process for this use. She noted that a permit is more flexible. Mr. Labriola stated that the Board does not have that option available.

Mr. Labriola stated that he's OK with moving forward if there is confirmation that this application and this approval stays tied, explicitly, to this business and that there is an agreement from the applicant that the outdoor seating will not be used during daytime – otherwise the whole parking issue will have to be revisited. Ms. Hernandez asked to review the parking issue because daytime use is important and it would be so hard to prevent people from sitting out there. Mr. Labriola pointed out that their current approval has an excess level of parking rationalized on the basis of their evening hours of business, when other businesses are closed. He stated that if Ms. Hernandez is pushing for a lunch crowd, then they will have to go to the Zoning Board of Appeals for a variance for not having enough parking spaces. Ms. Hernandez asked how many additional spaces would be needed. Mr. Karis stated that she needs to run the parking calculations for the whole site with the extra 600 sq. ft. Dr. Fischer noted that the restaurant is doing well and wants to provide lunch. Ms. Seaman noted that they have been open for lunch.

Mr. Labriola stated that the Board cannot rely on the statement that because they are operating after normal business hours they are not competing for the same parking spaces. He stated that the 600 sq. ft. now requires 12 additional parking spaces on top of the additional parking spaces that were already in competition. He explained that that is what would need to go to the ZBA for a variance. Further, he explained that the Planning Board does not have the authority to approve this. Again, Mr. Karis stated that they have to run the parking calculations to determine how many parking spaces would be required.

Mr. Gordon stated that the applicant is hoping that this would build their daytime business. He noted that they have enough business at night, and that they don't need the

outdoor seating for night. Ms. Hernandez concurred. Mr. Gordon stated that this is like “shooting flies with cannons” and again stated that the applicant should be able to go to the Town for a temporary permit and not have to make a formal change to the site plan. He stated that it seems too complicated. Mr. Labriola pointed out that it is a change in the use of the site.

Ms. Hernandez asked how to find out about the parking requirement. Mr. Karis referred her to Mr. Setaro’s offer to have Mr. Takacs meet with her to explain the process. Mr. Labriola stated that the Planning Board is not in a position to approve this application. Mr. Labriola explained the time line for applying to the ZBA for a variance.

4. LIBERATORE/WHITNEY LOT LINE RE-ALIGNMENT

Howard and Kim Whitney were present.

Mr. Labriola stated that sketch plan approval was granted in April 2008 and asked the Whitneys to update the Board on the plan.

Mrs. Whitney stated that the question about the property line has been resolved, that Mr. Takacs reviewed this with their surveyor. Mr. Whitney stated that the big issue was the driveway and reported that his surveyor had missed a stake but that it has been corrected and that the entire driveway is on his property. Mr. Setaro asked whether the driveway is entirely on the Whitney property. The Whitneys responded yes.

Mr. Setaro stated that all of Morris Associates questions have been answered. He asked if Mr. Nelson needs to review the common driveway maintenance agreement.

Mr. Labriola read into the record a letter from the Fire Advisory Board dated 6/4/08: no position with regard to this application as it does not appear to involve any fire or safety issues.

Mr. Labriola polled Board members for comments or questions – there were none.

Mr. Labriola advised the applicants that it is OK for them to advertise for a Public Hearing. Mrs. Whitney confirmed that they must notify the adjacent property owners and asked about Board of Health approval. Mr. Labriola explained the process.

5. BRANCH HEALTH FOOD – SIGN PERMIT

6. VALLEY HARDWARE – SIGN PERMIT

7. THE PUBLIK HOUSE – SIGN PERMIT

Mr. Labriola recused himself; Mr. Karis chaired this portion of the meeting. These three applications are for sign permits for the Pleasant Valley Shopping Center. Ms. Kelly Redl-Hardisty was present.

Ms. Redl-Hardisty stated that the allowed signage on both the Branch Health Food and The Publik House are each 45 sq. ft. and that both signs are, individually, 36 sq. ft.

Mr. Karis recalled a previous discussion regarding establishing a sign program for the Shopping Center – that the signs for Key Foods and for the liquor store would remain the same and that all the other signs on the main building would be similar and be simple black box signs with plastic front and illuminated from behind. Ms. Redl-Hardisty stated that they have looked at a lot of signs and mentioned a problem of getting the tenants to maintain them.

Mr. Gordon stated that he likes the coordination of the signs and that they fit with the architecture.

Mr. Karis stated that the Board is being asked to approve signs with a black enclosure with yellow and black lettering. Ms. Redl-Hardisty stated that she does not think the tenants will want to do anything different but if they do they will apply for any changes.

Ms. Redl-Hardisty stated that the allowable size for signage for the hardware store is 57 sq. ft. and that the sign is 54' 5" sq. ft.

Mr. Karis asked if these signs will be lit all night. Ms. Redl-Hardisty stated that the lights are on timers and will shut off around 9 p.m. and come on around 7 a.m. Dr. Fischer asked if the signs will be on during the day. Ms. Redl-Hardisty stated that they will go off during the day.

Branch Health Food

Mr. Karis: **SEQRA DETERMINATION AND SIGN PERMIT APPROVAL**

Whereas the Pleasant Valley Planning Board has received an application for Branch Health Food for the approval of one sign dated 6/27/08; 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 2 action and will not have a significant impact on the environment

SECONDED BY R. FRACCHIA

VOTE TAKEN AND APPROVED 5-0-0

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

Discussion: Mr. Karis stated that the condition will be that the signs will be on timers and that they will be turned off when the businesses are not in operation. Ms. Redl-Hardisty stated that she does not know when they will be closed and that she's particularly worried about the restaurant, The Publik House. She and Board members settled on 11 p.m. for the signs to be turned off.

- The lights in the sign will be on a timer and will be turned off no later than 11 p.m.

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 5-0-0

Valley Hardware

Mr. Karis: **SEQRA DETERMINATION AND SIGN PERMIT APPROVAL**

Whereas the Pleasant Valley Planning Board has received an application for Valley Hardware for the approval of one sign dated 6/27/08; 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 2 action and will not have a significant impact on the environment

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 5-0-0

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

- The lights in the sign will be on a timer and will be turned off no later than 11 p.m.

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 5-0-0

The Publik House

Mr. Karis: **SEQRA DETERMINATION AND SIGN PERMIT APPROVAL**

Whereas the Pleasant Valley Planning Board has received an application for The Publik House for the approval of one sign dated 6/27/08; 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 2 action and will not have a significant impact on the environment

SECONDED BY R. FRACCHIA

VOTE TAKEN AND APPROVED 5-0-0

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

- **The lights in the sign will be on a timer and will be turned off no later than 11 p.m.**

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 5-0-0

8. APPEAL #920 – RIDGES AT PLEASANT POINTE – AREA VARIANCE

Mr. Labriola stated that this application is for the replacement of a mobile home with a newer mobile home. He stated that because of the logistics of the property, they cannot meet the setbacks. He stated that it appears from the documents submitted that there is plenty of room between this mobile home and the adjacent mobile home, but that he did not visit the site.

Mr. Labriola: **MOTION TO PASS THIS APPLICATION ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION AS IT APPEARS THAT THE APPLICANT HAS PROVIDED ADEQUATE DISTANCES BETWEEN THE PROPOSED NEW HOME AND ADJACENT PROPERTIES; SECONDED BY M. GORDON; VOTE TAKEN AND APPROVED 6-0-0**

No mention was made of a comment letter or a recommendation on this application from the Fire Advisory Board.

9. PLEASANT VALLEY FREE LIBRARY

Mr. Bryan Bunch, chair of the fundraising committee for the library, stated that in 2000 when he was president of the Library Board they began the process of working with a succession of architects trying to design a plan to expand the library. He stated that they definitely need more space, that they must now discard a book when they acquire a new one. He stated that during the 8 years that they have been looking into this early on they had a plan that was never submitted to the Planning Board because funding was clearly an issue. He stated that funding continues to be a big issue today. He stated that the original plan that was going to cost \$2.5 million, over this period of time, is no longer feasible and will now cost much more. He stated that their architect suggested that they revise the plan to something less extensive to lower the cost. Also, he stated that they continue the effort to raise money and are asking the public to support the Library's plan to expand.

Mr. Bunch stated that they had been advised that the Planning Board would never have approved the original plan, in any case, although he does not know the reasons for this.

Also, he stated that the architect suggested that they start an informal discussion with the Planning Board about the kinds of things they have in mind and the kind of criteria the Planning Board will be worried about. He stated that they will probably come up with a revised and, perhaps, incremental plan that would enable them to do something that they can afford and then a few years later add to it. He stated that they don't want to come up with a plan that they spend a lot of time and money on that then is not implemented. In fact, he stated that the Library spent between \$20,000 to \$25,000 on the original plan that the Board has never seen.

Mr. Bunch introduced the other interested parties in the audience:

- Maryellen Brown, Library Board member
- Jim Donick, former Board member, currently on the building committee
- Karen _____, community representative
- Carol Donick, interested community member
- Steve McNish, Library Board president
- Elma Carlson, community representative
- Joe Lukaitis, community representative
- Ardis Orr, Library Board member and new chair of the building committee

Mr. Bunch stated that he is the chair of the fundraising portion of the building committee, which was set up separately to generate specific focus on that essential effort. He stated that they have made some progress with the fundraising efforts and reported that recently they have reconstructed the 2nd floor which has reopened with a much larger children's library, a somewhat nicer meeting room, and new windows in the library. He stated that they are looking for small improvements in the existing building and to expand.

Mr. Bunch stated that the biggest concern with any plan that they have is that they want the Library to stay where it is in the center of the hamlet. He stated that he attended the meeting regarding the long-range plans for Pleasant Valley and that it is clear that this hamlet will be the largest population center on a main transportation route. Therefore, he explained that the Library wants to stay where it is.

Mr. Bunch explained that they own the building that the Library is in and that they lease the land from the Presbyterian Church. He stated that one of the possibilities for staying on this piece of land is to build out towards Route 44. He stated that the extension where the stacks of the Library are was built in the 1970's largely with volunteer work, that they would either have to build in front of that, that the current plan was to tear that down and replace it with a 2-story structure. He stated that they do not have enough space behind the building to do anything.

Mr. Bunch discussed other options that would enable the Library to add another 14 parking spaces, which he stated they recognize is a concern of the Planning Board. He pointed out that when you double the size of the Library, it does not mean that you double the number of patrons. He stated that they might get a few more patrons if they have a larger, more effective meeting room, which he stated that they desperately need.

He stated that they know that the Planning Board will want the Library to add more parking spaces.

Ms. Maryellen Brown stated that they have done some research and discovered that in Pleasant Valley more residents come to the Library than to any other establishment with the exception of the A&P Food Market.

Mr. Donick stated that the Pleasant Valley Free Library is chartered through NYS Education Commission and that there are certain rules that govern the Library such as handicapped access. He stated that The Manse, which is the main part of the building, is 150 years old and the addition to it, the stacks, was built in 1970-73. He stated that at that time the building code was very different – there was no Americans With Disabilities Act and therefore no handicapped access requirement. He stated that the fire escapes on the building were legal. Since that time, he noted that the rules have changed considerably. He stated that the Library building is currently grandfathered, therefore they do not have to bring the building into compliance with the current NYS regulations. However, he stated that they have been told by their architect that they are constrained in how much improvement they can do to the build before they have to bring it into compliance, and he stated that this is a relatively low number. He stated that one of the things that drives them is to make sure that the children's room has more than one exit, which it only has at this time via a grandfathered fire escape. He stated that they also have to find a way to make it handicapped accessible. He explained that, currently, for a child who cannot climb the stairs, either a librarian must get a book for them or a parent carries them up the stairs. He stated that there is a lot of pressure on the Library to do something.

Mr. Donick stated that the previous plan for Library expansion and improvement has gone by the boards due to lack of funds. He stated that the Library board is committed to making the outside of the building fit into the architectural style of the hamlet, and that all of the visual cues are taken from The Manse.

Mr. Labriola expressed the Planning Board's appreciation for the Library's board members and interested parties coming in and having a discussion. He explained that often applicants will come before the Planning Board after much work and money has been done and spent on planning which ultimately must be changed to comply with Town regulations.

Mr. Labriola noted that they have touched on a number of the Planning Board's concerns:

- Parking
- Septic and water capacities to manage any increase in usage
- Setbacks from Route 44 and from side property lines

Mr. Labriola noted that this is in the center of hamlet and is an opportunity for the Town to rehabilitate a site and make it a centerpiece of the hamlet. He noted that if it ends up requiring an appeal to the ZBA for a variance from the required setbacks, the Planning Board would be willing to work with them in this regard. He stated that sometimes a

variance is legitimate and appropriate and that, in that instance, the Planning Board would possibly provide a positive recommendation to the ZBA. He stated that, since they are in a hamlet, there is an advantage to having the building closer to the sidewalk – this gives more of feel of being in the hamlet.

Mr. Bunch also noted that he listened to the discussions of the comprehensive Town plan which supports having the buildings close to the sidewalk. Mr. Gordon stated that there be no black top in front of the building. Ms. Brown mentioned flowers and grass between the building and the sidewalk. Mr. Bunch stated that they hope to reconstruct one of the arches from the old mill as an entrance to a little garden area.

Mr. Labriola noted the other issues to be considered:

- Handicapped access
- Fire codes
- Landscaping
- Rehabilitation on the site such as other landscaping, other visual effects, upgrading the exterior of the other buildings

Mr. Steve MacNish, the current Library president, stated that they are looking into replacing the siding so that all the buildings match – so that the new and the old sections match. He stated that there are new windows and everything that they have done so far has been done so that everything will match.

Mr. Labriola stated that, done right, this can be a model for subsequent developers – “the poster child” for how things should be done, including starting with discussions with the Planning Board. He stated that the Planning Board will work with them and that the Board shares their interest in creating the best result and wants to be part of the process with the Library as this goes forward.

Mr. Bunch explained that the financing for the daily operation of the Library comes via a tax that is part of the Town tax. He stated that under the current law every few years as inflation creeps up they may have to come back to the voters and ask the Town to provide more money for the Library’s operating cost. He stated that these taxes cover most of their operating costs and that the Library gets some money from NYS, from Dutchess County, and more from fines than anyone would believe. He explained that they currently lease the land (\$1/year) from the Presbyterian Church.

Ms. Elma Carlson was present and explained some other options for the Library’s expansion. Mr. Bunch explained that originally when The Manse became vacant it was Ms. Carlson that suggested that it could be used for the Library, which had outgrown its space elsewhere in the hamlet. He stated that the agreement that was made at that time was drawn up by the church’s attorneys and is a 99 year lease with a 99 year extension on the land. He stated that they bought the building for not very much money and then spent about \$50,000 in the early 70’s to improve it.

Ms. Brown explained that leasehold is very common in other counties.

Mr. Karis reiterated Mr. Labriola's statements that he and the Planning Board will work with the Library Board and interested parties every step of the way. He stated that his two small children love being involved with the Library. He also noted that from a planning perspective he sees that there is a bigger solution, for instance for church parking and library parking and perhaps having a shared parking to include the Catholic Church. Mr. Labriola agreed that if they do something with that parcel in the back it becomes the connector. Ms. Brown noted that the Library is not open on Sunday. Mr. Donick stated that there's an agreement with the churches to share parking. Mr. Labriola stated that it's an opportunity for shared parking, sidewalks, and more efficient connections achieved by looking at it from a bigger perspective. He suggested that as they make decisions about which direction the expansion will take, to come back to the Planning Board for further discussions and especially before any major monetary expenditures. He stated that the Planning Board would be willing to do a workshop with the Library representatives.

Mr. Gordon asked whether they have spoken with St. Stanislaus and the office building. Mr. Donick stated that they have had discussions and that the building is beyond the point of rehabilitation. However, he noted that St. Stanislaus cannot make any changes to their property without permission and that at this point the process is delayed. He also stated that the building is abandoned.

Ms. Carlson noted that she was chair of the Planning Board many years ago and asked what the fees are to proceed with the application with the Town. Mr. Karis suggested that at the appropriate time they have a discussion with the Town Board and request that the fees be waived. Mr. Labriola explained that the Board has to pay for its engineer's time and its attorney's time. He also explained that this will go through a full environmental review to determine whether the Board thinks there will be significant environmental impacts or not. Mr. Gordon suggested that before the Library spends any money with an architect and an engineer, they need to talk to the Planning Board to get a clear vision about what this Board requires, what the Board of Health requires, etc.

Mr. Joe Lukaitis stated that the Library Board has asked him to look at the piece of the project that involves the septic system. He asked if there are any records in the Town of the existing system. Mr. Karis referred Mr. Lukaitis to the Building Department and the Dutchess County Health Department. However, because of the building's age the records may not exist. He also suggested that Mr. Lukaitis talk with people who have provided service on the septic system. Mr. Lukaitis asked whether the requirements are through the Town. Mr. Karis stated that it is the Board of Health that stipulates those requirements. Mr. Labriola advised him to inform the Board of Health on the scale of the project, the number of bathrooms, and number of patrons. Mr. Karis advised that their engineer work with the Health Department on the design.

Mr. Labriola noted that the site is in a flood plain and that a permit will be required. Mr. Bunch stated that one of the first things that their architect did was to have a surveyor

determine whether the Library is on the flood plain. He stated that they are just off of the flood plain, however, that if they expand the additional land will be in the flood plain.

Dr. Fischer stated that he thinks the idea is great and the notion of expanding a little now and then doing a little more in a couple of years is fraught with danger because it won't happen because it will be three times more expansive in the future. He stated that somehow or other they'll have to bite the bullet and decide that this is the most important part of the Town, as far as he's concerned, and motivate a lot of people to pitch in and get this project moving. He suggested that it might not be worthwhile to save the old building and that all new construction might be warranted. He stated that it may cost more to bring the old building up to Code than it would to build new. Mr. Bunch stated that however they proceed they will have to rent space locally to house the Library during the construction. Ms. Brown emphasized the need for fundraising. Dr. Fischer noted that the idea is great and the need exists, but that there's no money and there's no land.

Mr. Labriola stated that the Planning Board welcomes subsequent discussions as they move forward and finalize the direction and, again, offered to schedule a workshop. Mr. Bunch stated that they will talk with the Board of Health about the septic requirements, which seems to be the gatekeeper for development.

Ms. Seaman stated that their plan and their direction are beautiful and that the Library can be the centerpiece of the Town with the architectural integrity.

10. 1164 NETHERWOOD ROAD – DISCUSSION

Ms. Patty Hogan was present, representing property owner Audrey Holder. Ms. Hogan and Board members reviewed maps of the property. She pointed out a driveway that is on Sam Valenti's property which Ms. Holder is now using with his permission. She pointed out on the map the area where they would like to construct a driveway to access Ms. Holder's property.

Mr. Labriola asked if Ms. Hogan is asking whether it is feasible to construct the driveway in the area she identified. He also asked where the existing home is located. Ms. Hogan pointed out these features. He asked if they are planning to put additional homes on the property or if they just want to have access off a different road.

Ms. Seaman asked whether the property is for sale. Ms. Hogan stated that it is for sale. Ms. Seaman asked if they are putting in a driveway in anticipation of a sale. Ms. Hogan responded no, that Ms. Holder just wants to know if it is possible to put in a driveway.

Mr. Labriola stated that if there is no subdivision going on, this is something that Mr. Gardner, the highway superintendent, would determine the feasibility of – is there adequate sight distance, are proper driveway cuts possible, is the grade appropriate to meet the Code, etc. He stated that if there are wetland buffers, there would have to be a permit for regulated activities in a wetland buffer, which would come before this Planning Board.

Mr. Gordon stated that there is more, here, to this story. He stated his belief that this is going to become a shared driveway and that the next shoe will drop with a subdivision application. Ms. Hogan stated that she does not know what the people who buy the property would want to do with it, whether they will want to subdivide, and that Ms. Holder would like to be able to inform prospective buyers about what is possible. Mr. Gordon stated that putting a driveway in makes the contiguous parcels more easily subdivided. Mr. Karis stated that this is circumventing the Planning process and that he does not like it. Mr. Gordon concurred.

Mr. Labriola pointed out that if the Planning Board and the highway superintendent reviewed all salient factors (sight distance, grade, wetlands, etc.) and approved a driveway plan, and then someone applied to subdivide into 7-8 lots on the property, there is only so many lots that can be serviced off of a common driveway. He pointed out that anyone wanting to subdivide would have to come back to the Planning Board which opens the entire process back up again.

Mr. Nelson stated that the Planning Board usually deals with a shared driveway in the context of a subdivision. He stated that he does not recall that this Board has ever dealt with an application where someone just wanted a driveway permit. He pointed out that the Planning Board does not provide such a permit. Mr. Labriola stated that in the 14 years he has been on the Board, there has never been a situation like this. He stated that this would have to be coordinated between Mr. Gardner and the Planning Board.

Dr. Fischer agreed with Mr. Gordon's observation that this is the first step in a plan to develop the property. Mr. Gordon stated that if, in fact, this is the first step in Ms. Holder's plan, then she will be wasting money putting in a driveway because, eventually, when she or the next owners want to develop the land, the driveway will probably have to be redesigned. Ms. Hogan stated that Ms. Holder has no future plans for herself to develop this property.

Mr. Labriola pointed out that Ms. Holder has it on the market for sale to someone who would be interested in developing it. He underscored Dr. Fischer's and Mr. Gordon's point that if she proceeds with this application and there is an approval of a new driveway with the necessary approvals of the wetland buffer encroachment, it would be to service a single home on the property. He stated that if someone came in later with an application to subdivide and add additional lots, that driveway was not designed or approved to handle that change and the application will have to come back before the Planning Board at which time the driveway may have to be torn up and completely rebuilt and/or abandoned. He stated that the Planning Board does not want anyone thinking that if the driveway is, in fact, approved that it now becomes a gateway to a potential subdivision. Dr. Fischer stated that it is, in fact, a gateway.

Mr. Karis stated that this is a proposal to put a driveway through a piece of property to a house on another piece of property. Ms. Hogan stated that there is no house. Again, Ms. Hogan pointed out on the features on the map, including wetlands. Mr. Labriola reviewed the map, pointed out the potential lot sites, and stated that this is what the

Planning Board would be setting itself up for. Ms. Hogan responded that this is true depending on the future buyers' plans.

Ms. Hogan asked whether these future buyers would be able to put a few houses there with a shared driveway. Mr. Labriola stated that the answer to that is maybe, that the Planning Board cannot say yes or no based on the current submission and the current application. He stated that she would have to start the subdivision process. He advised Ms. Hogan that if this is where Ms. Holder is thinking of going, then that is where she needs to begin the conversation with the Planning Board. But if the applicant starts the conversation from the position that it's just a driveway and all she wants to know is whether access is possible, followed a year or so later with a subdivision application for 7 lots, this is not the appropriate or best use of the Planning process. Again, Ms. Hogan asserted that Ms. Holder does not intend to subdivide. Mr. Gordon suggested that someone has told Ms. Holder that putting in this driveway will make this property a lot more saleable. Ms. Hogan agreed that having access would make it more valuable. Mr. Labriola pointed out that they currently have access with permission over Mr. Valenti's property.

Mr. Labriola advised Ms. Hogan that if Ms. Holder wants to pursue a driveway on the property, she needs to submit a permit request to the highway superintendent and then submit a wetland permit application to the Planning Board. However, he stated that he would strongly urge Ms. Holder to understand that if there is any thought of subsequent subdivision activity, there is no guarantee that that driveway can be used to service the other lots. He stated that the Planning Board does not want anyone led astray by thinking that as soon as there is access to the property, the sky is the limit. He stated that the Planning Board does not want to mislead anyone or have anyone else mislead others on what an approval of a driveway might mean.

Ms. Hogan again stated that Ms. Holder's intention is not to subdivide but is to sell the property. Mr. Gordon stated that there are so many issues on the site that may prevent the driveway from being built. Mr. Labriola concurred that some engineering dollars need to be spent to look at the elevations, the grade, the impact on the wetlands and the buffer. Dr. Fischer stated that the next owners would have those discussions as part of the subdivision process. Mr. Labriola pointed out that it would be a very different discussion if it were for a single home on a single lot with a private driveway. He stated that the amount of engineering dollars spent on a driveway for a single home is significantly different from the amount spent on a common drive to service two or three homes.

Ms. Seaman stated that the impact on the wetland buffer is much less for a private driveway accessing a single home and that you try to never, ever impact the buffer.

Mr. Gordon asked how long Ms. Holder has owned the property. Ms. Hogan responded 14 months.

Mr. Nelson pointed out that this Planning Board is very diligent with compliance with the wetlands law. Also, he stated that although there is no subdivision application, if what she is doing is creating access to a piece of property over someone else's property, it is possible that the Town will ask them to apply to the Town Board for permission to do that. He stated that he does not know if this is required, but that it is a possibility under Section 280A of the Town Law that talks about access to lots. Mr. Karis stated that regardless of ownership of the lots, if you are accessing property over another piece of property, that requires Town Board approval. He stated that if you are accessing a parcel via an easement over another parcel, it may require Town Board approval. Mr. Nelson concurred with this assessment.

Ms. Hogan pointed out a lot across the street (.56 acre) and asked if a house can be built on that lot. Ms. Seaman asked if it is currently in common ownership with this property. Ms. Hogan responded yes. Ms. Seaman stated that it cannot be subdivided off. Mr. Valenti stated that it is a separate deed. Mr. Fracchia stated that it is a separate parcel under the same ownership. Mr. Labriola asked what the zoning is. Ms. Hogan stated that it is 2 acre zoning. Mr. Labriola advised her that if someone wanted to build on a ½ acre parcel in a 2 acre zone, they would have to apply to the Zoning Board of Appeals for an area variance. Mr. Nelson concurred that they may need to apply for a variance because it is an undersized lot but it may be pre-existing if it is owned by the same person. He stated that it may need an area variance. And, Mr. Gordon pointed out that there may be other mitigating factors, i.e. topography, setbacks, septic, physical constraints, and other planning issues, that would prevent development. Ms. Seaman pointed out that the lot is again partially in the wetland buffer. Mr. Labriola stated that it is not possible to tell from the map that Ms. Hogan has provided which does not have contours on it and that the answer to her question is maybe.

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Mr. Labriola: **MOTION TO GO INTO EXECUTIVE SESSION; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 6-0-0**

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11. MISCELLANEOUS

Procedural Discussion: Mr. Labriola initiated a discussion among the Board members regarding the question of whether the Board should have a practice that if an applicant is not present for certain types of applications the Board will pass on that application that month. Mr. Gordon agreed with this plan. Ms. Seaman suggested that this is a good plan for applications other than ZBA referrals. Mr. Karis concurred with Ms. Seaman's statement and stated that, with the exception of ZBA referrals, if the applicants are not present then the Board simply moves on and they can come next month,.

Mr. Labriola reported that, as he prepares the Planning Board agenda with the office staff, if he notices complications and confusions in a ZBA referral he, then, asks staff to reach out to the applicant to request that they attend the Planning Board meeting. Further, he stated that for ZBA referrals that appears to be more complex, the Planning Board may put it off for another month. Dr. Fischer noted that the Planning Board cannot

put it off for another month because it will be on the ZBA agenda. Mr. Karis asked if the ZBA can move forward without a recommendation from the Planning Board. Mr. Labriola stated that he does not believe it can.

Board members discussed options for recommendations to the ZBA. Mr. Nelson read from the Code which states that "failure by the Planning Board to submit a report, the Planning Board shall be deemed to have approved the application." Mr. Labriola asked whether this pertains to the first time the Planning Board sees an application or whether the Planning Board can hold a ZBA referral over to another month in order to get more information to complete the report. Mr. Karis stated that he's been involved with ZBA applications where it took several months for the Planning Board to get a referral back to the ZBA. Mr. Labriola noted that the perfect example is the Tinkertown Central Hudson application, which was before the ZBA for months awaiting the Planning Board's determination.

Ms. Seaman suggested that this be discussed with the chair of the ZBA and that the ZBA be informed that the Planning Board is awaiting additional information. Mr. Labriola stated that he will call Mr. John Dunn, chair of the ZBA, and have that discussion with him. Mr. Karis noted that the Planning Board should be working hand in hand with the ZBA. Mr. Labriola stated that he and Mr. Dunn have a gentleman's agreement, as he does with the chair of the FAB, whereby it is understood that if the Planning Board needs more time with an application, he notifies the chair of the other Board of that situation. Further, he stated that if the ZBA chooses to ignore a negative recommendation from the Planning Board, the agreement is in place that Mr. Dunn will notify Mr. Labriola of such a situation.

Mr. Labriola will speak with Mr. Dunn and notify him of the outcome of this discussion with regard to ZBA referrals. Mr. Nelson suggested that a note be added to the application form that informs the applicant that he/she needs to show up at the Planning Board meeting. Mr. Labriola will talk with the Zoning secretary about this.

Meeting adjourned at 9:30 p.m.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the July 8, 2008, 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 12, 2008

A regular meeting of the Pleasant Valley Planning Board took place on August 12, 2008, 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
 Henry Fischer
 Peter Karis
 Rob Fracchia
 Michael Gordon
 Rebecca Seaman

Members absent: Kay Bramson

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

1. WHITNEY/LIBERATORE LOT LINE REALIGNMENT

Mr. Labriola noted that this application was last before the Planning Board in July 2008 at which time the applicants had provided updated plans that addressed all of Morris Associates' comments. Also, at that time the Board authorized the applicants to advertise for a public hearing.

Kim and Howard Whitney were present.

Mr. Labriola asked for any updates to the plans.

Mrs. Whitney stated that they covered everything that they needed to, that there are no changes to the plans, and that they sent out the public notices for the hearing tonight. She stated that they need to get approval from the Health Department.

Mr. Labriola asked for questions or comments from the Planning Board members. No one spoke.

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. FRACCHIA; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Setaro stated that Health Department approval is needed prior to the chairman signing the map.

Mr. Labriola: **SEQRA DETERMINATION**

I move that the Planning Board determine as set forth in the attached declaration dated 8/12/08 prepared by the Board's engineer that the Liberatore/Whitney lot line realignment 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, and

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. it is a simple lot line realignment**
- 2. there is no planned new construction**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola: **PRELIMINARY APPROVAL**

I move that the Planning Board grant preliminary approval to the Liberatore/Whitney lot line realignment subdivision in the form of the following resolution dated 8/12/08 prepared by the Board's engineer and now before the Board subject to the following conditions: NONE

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 6-0-0

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

Mr. Labriola: **FINAL APPROVAL**

I move that the Planning Board grant final approval to the Liberatore/Whitney lot line realignment in the form of the attached resolution dated 8/12/08 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**

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 6-0-0

Mr. Nelson brought up the review of the driveway maintenance agreement. Mr. Labriola concurred that review of the maintenance agreement should be added as a condition of final approval. Mr. Nelson stated that the Whitney's provided a copy of the driveway agreement and explained that this is a rear lot that is served by a common driveway. He

stated that the owner needs to make sure that he or she has the right to cross over the other lot. Mr. Nelson stated that the maintenance agreement that the applicants provided refers to other documents and that he was not able to reconcile the documents. He stated that normally the Planning Board makes sure that where there is a common driveway that the lot over which the drive runs has given an easement to the people who need it and that there are no mortgages or other liens over that driveway. He explained that in the odd event that there were a foreclosure, the parties would not want to be blocked from use of the drive. He asked the applicants to provide the necessary documents so that he can provide the review required to assure that the accurate easement is in place.

Mr. Whitney asked what documents are required. Mr. Nelson referred them to their abstract of title.

Mr. Labriola: **AMENDMENT TO FINAL APPROVAL**

I move that the final approval include the following additional condition:

- 3. A common driveway maintenance agreement in acceptable form as reviewed by the Planning Board attorney.**

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 6-0-0

- 2. CHEFALO WETLAND PERMIT – SHED**
- 3. CHEFALO WETLAND PERMIT – DECK**

Mr. Evan Chefalo was present.

Mr. Labriola asked Mr. Chefalo to describe the project.

Deck: Mr. Labriola noted that no variances are being requested but that all construction is within the buffer and, in fact, is on the bank of the stream. He asked if the porch is cantilevered. Mr. Chefalo explained that on the back side it is going to be cantilevered and that it is only 4' off the back and will be cantilevered 8' in and tied to the joists. He explained that the foundation exists for the addition and that he is getting ready to do the framing. Dr. Fischer asked for explanation of the addition. Mr. Chefalo explained that the addition is to the existing house and that the deck will be cantilevered onto the floor joists that will be put into the addition. Dr. Fischer asked if the addition is in the buffer. Mr. Chefalo explained that it is not, and that there already was living space – a deck attached to the house – and that he has the permit for that construction. Mr. Labriola asked if the addition stays within the existing footprint. Mr. Chefalo responded yes and explained that the old deck that was attached to the house was already considered living space that he was paying taxes on.

Mr. Labriola asked what construction he needs to do in the buffer to put the deck up. Mr. Chefalo stated that there will be no footings dug past the line of the old deck. He explained that the new ones will be on the same plane as what already exists. He stated that he is so close to the creek that anything that he does will be within the 100' setback

from the creek. Mr. Labriola and Mr. Chefalo reviewed the drawings to identify where the new footings will be placed. Mr. Labriola asked if this will be on level ground. Mr. Chefalo pointed out where the bank starts sloping down – about 3' off the deck. He stated that his entire yard is a very gradual slope.

Mr. Karis suggested that the Board needs a plan that shows the property and the structures on it. He asked for a survey. Mr. Chefalo stated that he does not have a survey.

Mr. Gordon asked where the property is in relation to the 100 year flood plain. Mr. Chefalo stated that he does not have a survey and does not know.

Mr. Labriola asked what the grade change is from the top of the bank to the creek. Mr. Chefalo estimated that it is at least 20' and may be 30'. Board members reviewed an aerial photo provided by the CAC. Mr. Karis asked how deep the lot is from the road frontage. Mr. Chefalo stated that the whole property is pretty much in the buffer and is very elevated from the stream.

Mr. Labriola noted where the bank starts dropping off and where the footings are located and that the deck will be cantilevered. He stated that Mr. Chefalo is staying as far away as possible and is not going to be doing any disturbance beyond what is already pre-existing. He stated that it appears that he will not be disturbing the creek bank. Mr. Karis stated that with a 30' grade change, the property should be out of the flood plain. Mr. Labriola also noted that the applicant got a permit for the construction of the addition.

Dr. Fischer asked if the footings for the house are in. Mr. Chefalo stated that they are, that the whole concrete foundation and walls are already there.

Ms. Seaman asked about what measures can be done to mitigate erosion during construction. Mr. Labriola stated that this will be included in the conditional approval.

Shed: Mr. Labriola asked Mr. Chefalo if he could place the shed on the already existing asphalt and avoid placing it in the grade down to the bank and avoid possibly creating erosion off the back of the shed. Mr. Chefalo explained that he's pressed for space and that he wanted to preserve the parking area. Mr. Labriola pointed out another location on the site where he could place the shed. Mr. Chefalo stated that he would have to get a variance for the side setback. Mr. Labriola explained the appeal process for a variance and stated that the Planning Board would probably prefer a side lot variance as opposed to trying to do something on the slope. Ms. Seaman agreed with this analysis and pointed out the need for considerable mitigation if he places the shed on the slope.

Mr. Labriola stated that one option is for Mr. Chefalo to put the shed on the asphalt, which the Board would probably approve tonight. Alternatively, he explained that if Mr. Chefalo chose to locate it on the side of his property and appeal for a variance to the ZBA, the Planning Board would probably pass it along to the ZBA with a positive

recommendation. Mr. Chefalo stated that he would prefer to put the shed on the asphalt and open his parking area up in another location. He also stated that his neighbor's septic tank is on his property.

Mr. Gordon asked what Mr. Chefalo will be using the 16' x 12' shed for. Mr. Chefalo explained that he is a carpenter and that right now he's hauling all of his tools in and out of his basement, so he wants to have somewhere he can comfortably store his tools. Mr. Gordon asked if there will be plumbing. Mr. Chefalo stated that there will be no plumbing, but that he would like to have electric in the shed. Dr. Fischer asked if he will be working in the shed. Mr. Chefalo stated that any work that he will do will be outside in the parking area. He stated that the shed will be so filled up with stuff that he won't have any room to work in there. Mr. Labriola asked if he will be using it for commercial purposes, that he will not be running a business out of the shed. Mr. Chefalo stated that it is for storage only and that he will not be running a business out of that shed. He stated that all of his work is done at other people's houses.

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DECK

Mr. Labriola: **SEQRA DETERMINATION**

I move that the Planning Board determine as set forth in the attached declaration dated 8/12/08 that the Chefalo wetland application for the deck 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 required.

The reasons of non-significance are:

- 1. a permit has already been approved for an addition to the existing home**
- 2. the footings will be no further back than the rear line of that addition**
- 3. part of the deck will be cantilevered to avoid further need for footings**
- 4. hay bales will be used to address erosion during construction**

SECONDED FROM R. FRACCHIA

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola: **FINAL APPROVAL**

I move that the Planning Board grant site plan approval to the wetland application of Chefalo with regard to the application for the construction of a deck in the form of the attached resolution dated 8/12/08 subject to the following conditions:

- 1. a permit has already been approved for an addition to the existing home**
- 2. the footings will be no further back than the rear line of that addition**
- 3. part of the deck will be cantilevered to avoid further need for footings**
- 4. hay bales will be used to address erosion during construction**
- 5. payment of all fees**

SECONDED BY R. FRACCHIA

VOTE TAKEN AND APPROVED 6-0-0

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SHED

Mr. Labriola: **SEQRA DETERMINATION**

I move that the Planning Board determine as set forth in the attached declaration dated 8/12/08 that the Chefalo wetland application for the shed 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 required.

The reasons of non-significance are:

- 1. the shed shall be placed on the existing asphalt area**
- 2. the back of the shed will be no further back than the edge of the existing asphalt parking area.**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola: **FINAL APPROVAL**

I move that the Planning Board grant site plan approval for the Chefalo wetland application with regard to the application for the construction of a shed in the form of the attached resolution dated 8/12/08 and now before the Board and subject to the following conditions:

- 1. shed will be placed on an existing asphalt parking area**
- 2. the back of the shed will be no further back than the edge of the existing asphalt area**
- 3. no commercial activity will be conducted using the shed, that it is for storage only**
- 4. payment of all fees**

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 6-0-0

4. MORRISON SUBDIVISION – SITE PLAN

Mr. Labriola stated that this application was granted preliminary site plan approval in January 2008.

Mr. John Nosek, Chazen Companies, was present. Mr. Nosek stated that this is a 3 lot subdivision. He stated that the septic has been approved by the Dutchess County Health

Department. He reported that they did additional soil testing as required by the Board, more perk tests and deep test pits. He stated that the design and location of the septic systems have stayed the same. He stated that there is a replacement system for the existing house. He stated that an expert tested the wells and found them to be satisfactory and that the ground water conditions are acceptable. All else is the same.

Mr. Setaro reviewed Morris Associates' comment letter. He mentioned that some of the fill from the disposal system on Lot #1 appears to be in the Town right-of-way and must be corrected. He mentioned an approval letter from the highway superintendent regarding a connection to the Town's catch basin along David Drive. He also noted that detail is needed on how that pipe will be tied in with a trench. He asked about a common driveway maintenance agreement. Mr. Labriola agreed that the Planning Board attorney must review and approve the agreement and noted that the document has been received by the Board.

Mr. Labriola inquired about their intention to blast or to use mechanical means to remove rock and asked Mr. Setaro whether the blast notes on the map are adequate. Mr. Setaro stated that they are OK and stated a preference that rock be primarily removed by mechanical means.

Mr. Labriola noted that there is a fair number of existing trees that will be preserved and that the documents state that there is a 5' radius from the center line of these trees that will be staked and protected. He stated, however, that these trees need to be protected out to the perimeter of the canopy of the trees or to the drip line, whichever is greater, in order to protect the root systems and preserve the trees. Mr. Nosek agreed to make this change on the documents. Mr. Gordon explained that heavy equipment would compact the ground where the feeder roots are and, thereby, kill the tree.

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

Mr. Labriola: **FINAL APPROVAL**

I move that the Planning Board grant final approval to the Morrison subdivision in the form of the attached resolution dated 8/12/08 prepared by the Board's engineer and now before the Board subject to the following conditions:

- 1. Morris Associates letter dated 8/8/08**
- 2. payment of all fees**
- 3. common driveway maintenance agreement in acceptable form as reviewed by the Planning Board attorney**
- 4. on detail 1-TP1, the applicant will update the protection of existing mature trees to include the protection area to be 5' or the drip line whichever is greater.**

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola: **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 requirement cannot be properly located on the subdivision or site 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 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 Morrison subdivision located at 98 Cary Road for 2 newly created residential building lots.

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

5. SALVAGIO SUBDIVISION – SITE PLAN

Mr. Mike Duval was present. Mr. Labriola noted that preliminary approval was granted for this application in June 2008.

Mr. Duval explained the erosion control plan for silt fencing and/or hay bales around the disturbed areas of the site. He stated that there are notes regarding temporary seeding.

Mr. Setaro reviewed the Morris Associates comment letter and noted that additional grading is needed around the house and the sewage disposal area to make sure that there will be no ponding. He stated that they will work this out with Mr. Duval.

Dr. Fischer asked for more clarification on this situation. Mr. Setaro stated that he and Mr. Takacs looked at it and noted that the way the water flows it will come down toward the house. Therefore, he stated that they may need to look at putting in a dry well and pointed out where more fill will be needed to keep cover over the septic tank. He stated that all efforts will be to prevent water from flowing onto the neighbor's property. Dr. Fischer as if there is a lot of water there. Mr. Setaro stated that he does not think so given the way the road is in that area, but that the concern is for the water falling from the edge of the road coming down towards the septic. Dr. Fischer asked about the size of the driveway. Mr. Setaro stated that they will figure that out and that there will not be a lot of water.

Mr. Gordon noted that the septic field is outside the back door of the house. He asked about the elevation of the house and of the septic field and specifically asked what the elevation of the septic field is 8' from the house. Mr. Setaro noted that that is part of the concern, noting that the house is at 331.5 and the septic pad at 328 approximately with a short distance between the house and the septic field. One option he noted is additional fill and another option is to locate the septic tank in the front. He stated that there are ways to work this out. Mr. Labriola stated that this will be a condition of final approval.

Mr. Labriola asked if there is a note on the map regarding moving or demolishing the shed on Lot #2. Mr. Duval pointed out on the map where the shed is being moved to.

Mr. Labriola asked about the proposed new well on Lot #1 and whether the necessary separation exists. Mr. Duval responded yes, and that he could not get Health Department approval without the necessary separations. He pointed out the proposed location on the map. Mr. Labriola asked about adjacent property owners' septic. Mr. Duval pointed those out.

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

Mr. Labriola: **FINAL APPROVAL**

I move that the Planning Board grant final approval for the Salvagio Subdivision in the form of the attached resolution dated 8/12/08 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. Morris Associates letter dated 8/8/08**

SECONDED BY R. FRACCHIA

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola: **RECREATION FEES**

Whereas the Town 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 that finding includes an evaluation of the present and anticipated future needs for parks and recreational facilities of the Town based on the projected population growth to which this subdivision 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, now

Therefore, be it resolved as per Town Law 277.4 and 8223 (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 Salvagio subdivision located at 89 North Avenue for 1 newly created building lot.

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

6. TACONIC HOMES – DISCUSSION

Mr. Joseph Kirchhoff, Mr. Nat Parish, Ms. Paula Vincitore were present representing the applicant. Mr. and Mrs. Mort, adjacent property owners, were also present.

Mr. Labriola explained the intent of this evening's discussion. He stated that this application was before the Board at the previous month's meeting, at which time there was discussion regarding changes made to the plan and the history of this application was reviewed. He stated that based on this conversation there was a decision made to do a site visit, which was conducted on 7/30/08.

Mr. Labriola laid out this evening's agenda to include some discussion of the findings from this site visit and explained that the next step in the process is to determine, based on the changes to the plan since the last environmental review, whether these changes will pose any potential adverse environmental impact which will determine what the next steps are.

Mr. Labriola read into the record a summary of the 7/30/08 site visit (ORIGINAL IS ON FILE). He listed the Board members who participated: Mr. Gordon, Mr. Fracchia, Mr. Karis, Ms. Bramson, and Mr. Labriola. He listed those representing the applicant who were present: Mr. Kirchhoff, Ms. Hackett, Mara, and Ralph. And he listed those representing the CAC who participated: Mr. Ottoway, Ms. Plotnick, Ms. Southworth, Ms. Grin. He stated that they established a set of ground rules: because it was not a public meeting, no decisions would be made during that visit. He stated that it was a fact finding mission, the intent being to get some visual cues on the site, and explained that he instructed the Planning Board members not to provide any alternate suggestions or ideas on options. He stated that their purpose was to absorb the situation rather than to solve any problems. He explained the walking route that they took to the proposed site for the water treatment plant and its proximity to the parking for the recreational area. He explained that they also walked along the Taconic Parkway to view the site from that perspective. He stated that they had an opportunity to see how far the buildings would be from the Parkway ramp. He stated that Mr. Kirchhoff and his team had staked corners of buildings and parking lots. He commented on the naturally occurring berm between the Parkway ramp and the proposed buildings and the parking lot. He stated that in some areas that berm is 20' high and that there are lots of trees. He stated that they got a very good idea of the location of the affordable housing units, parking, and the visual proximity to the Taconic Parkway. He stated that the site visit lasted about 45 minutes.

Mr. Gordon stated that the natural berm gets higher as the Parkway ramp goes down and that along the Parkway itself it is 10'-12' high.

Mr. Labriola explained that the next step in the process is to determine the significance of any potential environmental impact arising from the changes to the site plan since the SEQRA Positive Declaration was done. These changes are:

- the addition of the affordable housing units;
- the proximity of the affordable house units to the Taconic State Parkway
- the addition of the commercial piece of property at the western entrance of the site
- the addition of a sales office
- the relocation of the recreation center to that commercial property and co-located with the sales office
- the relocation of the recreation fields
- the increase in the buffer to the Rockefeller University property

Mr. Karis expressed his opinion that the project has been improved by these changes and stated that he is pleased with the way the plan has developed, and that no additional environmental impacts have resulted. Mr. Gordon concurred that he's pleased with everything that has been done. Mr. Fracchia agreed with both comments. Ms. Seaman stated that she was not on the site visit and has no comment. Dr. Fischer also stated that he was not on the site visit and that he agrees that the plan has been improved and that there are no new adverse environmental impacts. He asked whether the sales office will become a maintenance office after the sales are complete. Mr. Kirchhoff stated that it will always be sales, because there will be resales, and that he will have a property manager on site.

Mr. Nelson explained the draft SEQRA resolution that he prepared. He stated that the Board must determine whether the changes create a potential for a significant adverse environmental impact. In preparing the draft resolution, Mr. Nelson stated that he reviewed the Board's minutes and had conversations with Mr. Parish, Mr. Setaro, and Mr. Labriola.

Board members discussed the appropriate verbiage to be inserted in the draft resolution regarding the Board's site visit and the members' impressions of potential adverse environmental impact. Mr. Labriola summarized that the wording will be "no potential significant adverse environmental impacts" and stated that the next step is for the applicant to prepare the final environmental impact statement.

Mr. Labriola: **SEQRA RESOLUTION – NEGATIVE DECLARATION**

Mr. Labriola read the full text of the resolution (ORIGINAL ON FILE) into the record.

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola stated that the next step is to proceed to the Final Environmental Impact Statement. He stated that there has been a lot of input on this plan – from the Dutchess

County Department of Planning, lots of public input, Planning Board comments, and comments from the Planning Board's engineer. He proposed that there be a review of a punch list of the key pieces of feedback received from all sources that need to be factored into the FEIS, almost like a mini scoping session. He explained that this is to make sure that when the FEIS is developed all points are covered and noted that this will avoid multiple iterations of the final document.

Mr. Parish stated that they are required by regulation and law to include the total public record of the public hearing. He stated that they have the stenographic record of the hearings. He stated that in the FEIS all of the comments must be responded to in writing. He stated that even though the plan has been changed, every comment must be shown and responded to in the FEIS. He stated that when that document is done, they must present it to the Planning Board for the Board's review.

Mr. Labriola stated that in an effort to get ahead of that process, the Board could provide the applicants with the punch list of items that the Board would like them to address. He stated that he went through the transcripts and tried to pick out the key things that came out of the hearing, but noted that this was one person's view of the contents. Mr. Parish stated that as long as it is in the record, they have no choice but to answer each and every one. Mr. Labriola asked if this is true for only the public hearing commentary or whether it includes comments from the Planning Board when no public hearing was held. Mr. Parish stated that it includes all comments. Mr. Labriola asked for Board members' opinions on his suggestion. He stated that he has his punch list of items that he wants to make sure get covered and that this is an opportunity for everyone to be on the same page before going forward. Mr. Labriola pointed out that there was no stenographer present at the 3rd public hearing. Mr. Nelson pointed out that there is nothing to prevent the Board from providing the applicant with their list of items they would like addressed. Mr. Labriola pointed out that discussions regarding this application have been held for years and that there may be some comments that are not reflected in any great detail. Further, he stated that he's offering this process as an opportunity to avoid multiple iterations of the FEIS. Mr. Kirchhoff asked if this would be done at a regular Planning Board meeting. Mr. Labriola stated that it should not take a great deal of time.

Dr. Fischer asked if Board members should create their own punch list and bring it to the next Board meeting. Mr. Labriola responded yes.

7. JEREMY JOYCE – SITE PLAN REVIEW

Mr. Jeremy Joyce was present.

Mr. Labriola noted that this application was before the Board in June 2008 at which time the applicant supplied some rough sketches of the project and the Board asked him to engage the services of a professional engineer to start taking a look at some of the engineering challenges on this site. Mr. Labriola asked Mr. Joyce to update the Board on what has transpired since that time.

Mr. Joyce explained that they have moved the driveway out of the drainage that comes underneath the road per the highway superintendent's request. He explained that he moved the bridge. He stated that Mike Nowicki has flagged the wetlands on the property. He stated that Barger and Miller double checked to see if it is possible to reduce the grade on the driveway to less than 15%, which is possible with the addition of a retaining wall which will have to go to the road in order to create a landing area. Mr. Setaro reiterated that there needs to be a landing area at the road and at the house site. Mr. Joyce mentioned drainage underneath the driveway, which is not represented on the map. He stated that the bridge is 28' and is not in the stream. He stated that he met with the DEC to discover how close he can be to the stream and whether he has to be all the way out of the buffer. He reported that DEC told him that on this Class B trout stream he does not need to be out of the buffer. Mr. Karis asked if DEC told him that he can be in the water on a Class B stream. Mr. Joyce responded, yes, that is what DEC told him.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that Mr. Joyce will have to work with the DEC on this project. He stated that from an engineering standpoint there are two big issues. First, he noted that the FAB needs to review this project with regard to access for emergency vehicles. Specifically, Mr. Setaro stated that there are certain requirements for width and configuration of the driveway, the bearing capacity of the bridge and culverts, the radius of the turnaround. Mr. Labriola asked about access for emergency vehicles on the long 15% grade on the driveway. Mr. Setaro noted that the 15% grade is over 400' and that the FAB may require a pull off and that this project needs FAB review. Mr. Labriola stated that he will make sure that this application gets routed to the FAB for review.

Mr. Setaro stated that the second major engineering concern is disturbance of the wetlands and noted that there will be more area of disturbance, if the plan is approved, due to the fact that a staging area will have to be built to back a tractor trailer into the site. He also pointed out the difficulty of bringing in such a truck on a 15% grade. He stated that, assuming it can be done, there will be more area disturbed in order to build a pad where the concrete boxes can be offloaded and the crane can be deployed. Therefore, he stated that the wetland disturbance will not just be confined to the grading of the driveway and advised Mr. Joyce that his engineer needs to keep this in mind. Mr. Karis requested a phasing plan for the build out to show the disturbance.

Mr. Setaro stated that the applicant will need to do a substantial storm drainage analysis of the culvert because the site is in a flood plain. He stated that he must make sure that the size culvert being put in does not have a restriction on the flood plain. He stated that the applicant's engineer should understand these requirements and restrictions.

With reference to the 400' steep run along the driveway, Mr. Labriola expressed concern for erosion control, especially post-construction. Mr. Joyce asked if he means a silt fence all the way down. Mr. Labriola asked what will be in place post-construction to mitigate erosion. Mr. Karis stated that it is draining a big pond on the other side of Drake Road, that that is the purpose of the culvert at this time. Mr. Joyce stated that there is no water there whenever he visits the site and asked the Board if they are planning on doing a site

visit. Mr. Setaro suggested that this application should go before the FAB before anything else happens on the application because the plan may change as a result of the FAB's review.

Mr. Gordon raised the issue of the expense involved with this project. Mr. Setaro stated that the culvert itself will cost \$50,000. Mr. Joyce stated that cost is his concern and Board members concurred that it is not the Board's concern.

Mr. Labriola asked if Mr. Joyce has spoken with Mr. Gardner, highway superintendent. Mr. Joyce stated that he talked with Mr. Gardner early on and that Mr. Gardner told him to change the access point. Further, Mr. Joyce stated that Mr. Gardner had no issue with the original plan. He stated that Mr. Gardner told him about guard rails going 30' in.

Mr. Nelson asked about an alternate access point from an adjoining property that would avoid the entire wetland. Mr. Joyce stated that he's not aware of this option. Mr. Karis noted that that property fronts on Rossway Road and that there is a long finger that comes back and adjoins this property. Mr. Labriola noted that there is no information on slopes in that area but that it does avoid the wetlands. Mr. Joyce will talk with the owner of that property.

Member of the public, an adjacent property owner, stated that he has a map that shows the original right-of-way that is supposed to go around the perimeter of the property. Mr. Labriola noted that, at the June meeting, the Board had asked for clarification of the deed restrictions on the property. Mr. Joyce stated that he provided a copy of the deed to the attorney's office. Mr. Karis asked if he provided a copy to the Planning office. Mr. Joyce stated that he has not. Mr. Karis advised him that everything needs to go through the Planning office in order to provide the office with a complete application. He pointed out that the application is not complete and is too conceptual at this time for him to be comfortable to move forward. Mr. Labriola asked Mr. Karis what is missing. Mr. Karis stated that the Board had requested an owner's consent letter and asked if that has been provided. Mr. Joyce stated that it has already been provided. Mr. Labriola reviewed the file and stated that the letter has been received.

Mr. Karis stated that a full Environmental Assessment Form (EAF) will be needed on this project. He asked the applicant to add notes to the plan regarding the work that Mr. Nowicki has done and when it was done. Mr. Joyce pointed out these notes on the plan. Mr. Karis asked whether the wetland up by Drake Road is a regulated wetland. Mr. Setaro suggested that it is Federal wetlands. Mr. Karis stated that it would, therefore, fall under a 100' buffer regulation, or a 25' buffer at a minimum. Mr. Setaro concurred. Mr. Karis asked that this buffer also be shown on the map. He also pointed out a finger that goes to the southwest that goes along the stream corridor that the buffer does not take into account. Therefore, he stated that the buffer actually moves further up the driveway than what is shown on the plan. He stated that the applicant will need all of this to quantify the numbers in the EAF.

Mr. Karis stated that typically someone would do a delineation report in the wetlands to talk about soil, flora, fauna, and all ecological information. Mr. Joyce stated that typically that is done for a subdivision but not for one lot. Ms. Seaman stated that it depends on what the SEQRA determination is, and that if the impact is significant it may warrant such a report.

Mr. Karis asked whether the footprint of the house that is shown as a rectangle is the real footprint of the house that will go in there. Mr. Joyce stated that it is not. Mr. Karis noted that the corner of the house is right on the wetland buffer line and that there is no grading shown for the house. He asked about a front yard, a back yard, and how they impact the buffer, how many trees are coming out. Mr. Joyce asked if that has anything to do with the wetland permit. Mr. Karis responded that anything within 100' of the wetland must be shown. Mr. Setaro explained that anything that would require grading around the house must be shown and explained what is required for a complete application to show the area of disturbance. Mr. Karis stated that the process requires a real site plan rather than a conceptual plan, that anything with 100' of the regulated area must be permitted.

Mr. Karis stated that there's an approved septic with grading into the wetland buffer which needs to be shown on the plan. As a side note, Mr. Karis suggested that the Planning Board should write a note to the Dutchess County Health Department raising issue with them for approving septic with disturbance within the regulated wetlands areas. He noted that the septic was approved in May 2007. Mr. Karis stated that the fill area for the septic pad is within 100' of the wetland and must be shown on the plan and is part of the permit.

Mr. Karis stated that this continues to be an issue with Dutchess County Health Department. Mr. Gordon and Ms. Seaman agreed. Mr. Setaro stated that the Health Department reviews the maps for DEC wetlands and only raises a flag when they find DEC wetlands. Mr. Karis stated that this Board should contact the Health Department and make them aware of this and that this is not the first time this has happened. He pointed out that now there is an approved septic on this property that could have been changed so that it does not have an impact on the wetland buffer.

Mr. Gordon suggested that the Board first look at whatever deed restrictions exist on this property before anything further happens on this application.

Mr. Karis stated that the Board needs to see a Schedule A and B for the property, that is submitted to the Town, which outlines:

- phasing plan
- erosion control plan
- storm water information
- flood plain analysis
- construction sequencing that shows the realities of putting in the bridge

Ms. Seaman stated that the applicant must consider what the SEQRA determination will be with major impact on a wetland.

Mr. Setaro stated that the next step really needs to be review by the FAB with regard to access on the site. Once Mr. Joyce has input from the FAB, if he still wants to go to the next step with site review, then we can talk about all the details.

Mr. Labriola concurred and pointed out the question of being able to actually get a tractor trailer onto the site and whether there is adequate space for a staging area for the crane. He stated that if it turns out that it is physically impossible to get the construction materials onto the site to put the bridge in, the Board and the applicant need to know that sooner rather than later. He asked Mr. Joyce whether he has talked with the manufacturers to find out whether there are site restrictions on what they can and cannot deliver to, for instance the question of the 15% grade. Ms. Seaman stated that it seems that they are accepting the size of the culvert that is being proposed. Mr. Setaro stated that it is an estimate at this point, that there have not been any drainage calculations done so far. Mr. Karis stated that there is a lot of analysis that needs to be done to bring this application to the next level.

Ms. Seaman stated that she would like to know the legal ramifications of any deed restrictions before anything else is done. She stated that if there are deed restrictions that prevent certain activities on this property, then the Board needs to know this.

Mr. Karis summarized that the point of all of his comments is that the application is premature to move forward with anything and asked what the next step is. Mr. Joyce agreed that he does not know that either and that's what he asking the Board for.

Mr. Labriola stated that there are some pressing issues that were raised tonight. First, he noted the need to understand what's going on with the easements and deed restrictions on the site vis-à-vis what can and cannot be done on this site. Second, he noted the question of whether it is possible to back a tractor trailer down a 15% grade to deliver the culvert and construction materials and whether there is adequate staging area down there to do that and the need to understand the buffer implications of just the construction process. He stated that this will tell the Board and the applicant whether this is a go or no-go plan. Mr. Labriola listed a host of other concerns (erosion control, storm water management, showing the buffers completely on the plan, grading around the house, grading around the septic system) that the Board takes into consideration after the two concerns mentioned above are taken care of. He stated that it does not seem that the Board or Mr. Joyce want to spend a lot of time on those concerns now because there may be other things that stop this project or get pointed in another direction, but stated that it is important that Mr. Joyce hear about them now from the Planning Board so that he does not get surprised in the future. Mr. Labriola stated that these are things that Mr. Joyce will have to address but they are not critical for the very next step as there are some fundamental issues about whether this can be constructed as it is proposed.

Mr. Setaro concurred and once again stated that Mr. Joyce meet with the fire department and talk with a pre-test company regarding the box culvert. He also suggested a meeting with Mr. Joyce, his engineer, and Morris Associates to go over a number of the details. Once the plan has been revised, if he decides to go ahead with the plan, and Mr. Joyce can then return to the Planning Board after he has addressed a number of these issues.

Mr. Fracchia asked what the sections of the culvert weigh. Mr. Setaro stated that it depends on the size and that it could be 20 tons. He also mentioned a question of how a tractor trailer would be able to turn on Drake Road in order to back into the site and emphasized that the logistics need to be looked at. Mr. Labriola agreed that it's not just the grade but it's also the access off of Drake Road.

Mr. Fracchia suggested that Mr. Joyce look into alternate access options from adjoining properties.

Mr. Labriola mentioned next step for discussion points:

1. ability to get the culvert on site
2. how much of a staging area would be required for construction and the implications in the buffer
3. understanding of the deed restrictions on what can and cannot be done which may change the design
4. FAB review
5. suggestion that the application look at any adjacent properties for alternate access points and if an easement to cross their land would be possible which may be a lower cost alternative and may avoid the wetlands entirely and may remove any problems with steep grades, erosion control, storm water management.

8. TIME LAPS ANTIQUES – SIGN PERMIT

Applicant was not present.

Mr. Labriola stated that this is the Quattro property for which this Board did a site plan review a couple of years ago.

Board discussed the confusion in the submitted materials about what sign or signs are being requested. Board noted that the materials seem to indicate that there may or may not be lettering on the building now and there may be a sign permit application for an additional sign. Board agreed that more information is needed for clarification on what sign is being applied for.

Mr. Labriola stated that the questions for the applicant are:

1. are they looking for two wall signs
2. what is the height of the pole sign

Mr. Labriola will ask Ms. Scofield to make sure that the applicant is present for the next Planning Board meeting.

Dr. Fischer mentioned a question about the maximum allowable size for the sign on the building. Mr. Labriola provided the calculation protocol.

9. THE PUBLICK HOUSE – SIGN PERMIT

Mr. Labriola recused himself from this application. Mr. Karis chaired this application.

Mr. Kevin Collins was present. Mr. Karis noted that Ms. Kelly Redl-Hardisty was granted a sign permit last month on this application. Mr. Collins stated that the design of the sign has changed and is completely different. He explained that the new design uses a foam core backing with engraved back lettering. Also he described spot lighting that will be installed on the building over the top of the sign with gooseneck and a shade. He estimated 3 or 4 lights and noted that they shine back onto the sign with no glare. He stated that the new sign will be a little smaller than the allowable size.

Dr. Fischer asked for detail about the lights and stated that 4 lights seem excessive. Mr. Collins stated that the sign is about 96” in width and that it may be possible to use 3 lights.

Dr. Fischer asked where the lights will be located. Mr. Collins stated that they will be mounted just above the sign about 1’ above the sign.

Dr. Fischer asked what materials and color will be used. Mr. Collins stated that they will either be copper faux or galvanized silver.

Dr. Fischer asked what circuit the lights will be on – The Publick House circuit or the shopping center circuit. Mr. Collins stated that the shopping center has a line into the socket now and that he is not sure whether it will be on a timer on their circuit or on his own circuit.

Dr. Fischer asked what hours the sign will be lighted. Mr. Karis stated that the agreement was made at the last Planning Board meeting that the lights would be turned off no later than 11 p.m. and asked Mr. Collins how late his business stays open. Mr. Collins stated that he is open till 4 a.m. in the worst case and stated that he can turn his sign off earlier than that. He stated that he usually shuts the lights off around 3:15 a.m.

Mr. Karis asked about the wattage of the bulbs. Mr. Collins stated that the bulbs can be either incandescent or fluorescent and that he does not think he will need more than 150 watts per bulb. He stated that the gooseneck will be only about 20” away from the sign itself and, therefore, he thinks 60-100 watts per bulb will be plenty.

Mr. Karis: **SEQRA DETERMINATION & SIGN PERMIT**

Whereas the Town of Pleasant Valley Planning Board has received an application from The Publick House for approval of one sign dated 8/12/08 and whereas an environmental assessment form has been submitted and reviewed by the Board, now

Therefore, be it resolved that the Board has determined the application to be a Type 2 action

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 5-0-0

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 shown in the application, except as follows:

- **the addition of 3 down lights galvanized or faux copper finish with a maximum of 100 watt bulb for each light**
- **the sign will be on a timer to be turned off no later than 3 a.m.**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 5-0-0

Mr. Collins asked what he needs to do if he finds that he needs 4 lights for the sign. Mr. Labriola advised him to come back to the Planning Board to amend his sign permit.

10. ABD STRATFORD – SIGN PERMIT

Mr. Labriola stated that this application has been taken off the agenda for this evening's meeting.

11. APPEAL #921 – FRANK - AREA VARIANCE

Mr. Labriola noted that this property is on Creek Road and the application is for the construction of a shed. He stated that the appeal is for a side setback variance of 13'.

Mr. Labriola stated that he drove by the site and took note of the fact that there appears to be nothing adjacent to the property and that there seems to be plenty of room on the property to locate the shed so that no variance would be required. He stated that he did not see anything that indicated a hardship that would justify a variance. He stated that it is very steep from the road, but then it levels out where the house is.

Mr. Labriola read a letter into the record (ORIGINAL ON FILE) from the FAB dated 8/6/08: the fire advisory board takes no position as it is uniquely a matter for the ZBA.

Mr. Labriola: **MOTION TO PASS THE APPLICATION ALONG TO THE ZBA WITH A NEGATIVE RECOMMENDATION BECAUSE IT APPEARS THAT THERE IS SUFFICIENT AREA ON THE PROPERTY TO LOCATE THE SHED WITHOUT REQUIRING A VARIANCE**

Discussion: Dr. Fischer noted that the appeal refers to a workshop and stated that it, therefore, should have the maximum distance from the property line possible.

Mr. Labriola: **AMENDMENT TO THE MOTION: THE ZBA SHOULD ALSO UNDERSTAND THE INTENDED USE FOR THIS SHED AS IT IS INDICATED ON THE APPLICATION THAT IT IS A WORKSHOP AND THERE IS THE NEED TO UNDERSTAND WHETHER ELECTRICITY WILL BE RUN OUT TO THE SHED AND WHETHER POWER TOOLS AND NOISE WILL BE GENERATED. FURTHER, THIS REINFORCES THE NEED FOR THERE TO BE AS MUCH SEPARATION FROM THE PROPERTY LINE AS POSSIBLE. FINALLY, THE PLANNING BOARD NOTES THAT THE ZBA SHOULD ASCERTAIN WHETHER THE SHED WILL BE FOR PRIVATE USE OR FOR A COMMERCIAL ENTERPRISE TO BE OPERATED OUT OF THAT SHED.**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 6-0-0

12. APPEAL #922 – WOLFE – AREA VARIANCE

Mr. Labriola stated that this file contains a letter dated 8/12/08 from John A. Wolfe regarding the estate of Donald J. Albert. He explained that this appeal is for the construction of a handicapped access ramp out into the parking lot.

Mr. Labriola reported that Mr. Feldweg, Zoning Administrator, notified him that the Building Inspector has determined that the existing handicapped access ramp, which runs perpendicular to the building, can be rehabilitated. Therefore, this appeal has been withdrawn.

13. APPEAL #923 – WOLFE – USE VARIANCE

The applicant was not present.

Mr. Labriola acknowledged a member of the public who wished to speak about this application.

Mr. Stephen Curley stated that he and his business partner own the two adjacent pieces of property. He stated that at one point he was supposed to buy the antique store on the Wolfe property, which did not happen, but that there is an agreement for him to supply the water to the Wolfe property. He stated that there is no water on the Wolfe property and that he supplies the water to that property and that they are supposed to pay him a 1/3 of the expense.

Mr. Curley stated that his concern is regarding the proposed use of the property as a hair salon. He stated that he agrees that it should be used commercially, but pointed out that a hair salon is very high water usage. He stated that he owns another piece of property that has a hair salon and noted that that salon uses as much water as the entire 4 other apartments in the property. He stated that a hair salon on the Wolfe property will more than double the water usage. And he noted that, twice, there have already been issues with inadequate water supply, and the last time he had to rent a tank truck to supply water to the property. He stated that it could be a huge hardship on him to supply adequate

water under their agreement of one third, one third, and one third. He stated that he has hundreds of documents that show the efforts he's made over the past 6 years to keep the system going – water tests, UV protection. He stated that it is 8 units all together, and that building theoretically has 4 units in it. Therefore, he spent \$1200 for the UV system itself. He stated that anything that they do beyond normal usage will become a problem. He stated that he does not think the hair salon is a practical application for the property.

Mr. Gordon asked if Mr. Curley has a written agreement. Mr. Curley stated that there is a written agreement that was written up 6 years ago with his attorney. He stated that it says that he has to supply water to that property and that it breaks out the expenses as one third, one third, and one third. He stated that he agrees with the commercial use of the property but that you could not put a car wash there and that the idea of putting a hair salon there is not practical.

Dr. Fischer asked if the property has its own septic. Mr. Curley stated that it does and that that is the other issue. He stated that he and his partner do the work themselves and that if they had had to pay someone else to do the work on that property they would have paid close to \$20,000 to treat and repair the septic system. He stated that the ground there is horrible and that the drainage is not that great.

Mr. Labriola appreciated the input from Mr. Curley and explained that the Board will not hear this application this evening because there is no one present to answer the questions. He stated that he will make sure that the Planning Board secretary will find out why they did not come to the meeting tonight. He acknowledged Mr. Curley's point that this is a more intensive use and that the ZBA will have to take a look at the septic system's ability to handle that and review the water issue as described by Mr. Curley. He stated that this application may be on the agenda next month and that Mr. Curley's input will be factored into the discussions with the applicant.

Mr. Labriola noted that there was a special use permit on the site that lapsed after the antiques store closed and that now they want to reinstate the commercial use on the site. Mr. Karis asked if it is currently zoned residential. Mr. Labriola stated that it is zoned R1. Mr. Curley reviewed the history of the commercial use of the site.

Mr. Labriola thanked Mr. Curley for his input.

Mr. Labriola explained that he will speak with the chair of the ZBA, Mr. John Dunn, and explain that the Planning Board is not in a position to make a recommendation on this application and will ask Mr. Dunn to postpone any decisions until they hear from the Planning Board.

Dr. Fischer asked if the property is still owned by the estate of the Alberts. Mr. Curley stated that it is and confirmed that it is for sale.

14. APPEAL #924 – HAMMELL – AREA VARIANCE

Mr. Labriola stated that this appeal is for a variance for a shed to be placed 5' from the property line. He stated that he drove by the property a couple of times and that there is a garage on the adjacent property that looks abandoned, that is in front with uncut grass behind. He stated that this is a fairly narrow lot and that it appears that there is room to place the shed elsewhere on the property. Ms. Seaman agreed that the shed could be moved so that the variance is not required. Mr. Labriola suggested that there may be room behind the house for the shed.

Mr. Labriola stated that the file contains a letter from the Dutchess County Department of Planning: a matter of local concern.

Mr. Labriola read into the record a letter dated 8/6/08 (ORIGINAL ON FILE) from the FAB: inadequate information provided by the applicant and requesting more information regarding adjacent structures in order to determine if there are any safety or fire hazards.

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

- 1. the Fire Advisory Board's comments regarding insufficient information to determine whether there are fire or safety issues**
- 2. it appears that there is adequate room on the property to place the shed without the requested variance**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-0-0

Mr. Gordon also pointed out that the applicant only provided a hand-drawn sketch and that they, therefore, have no idea what is on adjacent properties. Mr. Labriola noted that ZBA appeals vary in the amount of detail that is provided and, therefore, he drove by the property to get a better idea of the site.

15. MISCELLANEOUS

Protocol for hearing applications when applicants do not show up: Mr. Labriola noted that the Board members discussed this topic at the last meeting. He stated that he spoke with John Dunn, chair of the ZBA, and that he and Mr. Dunn have an agreement that if the Planning Board cannot make a recommendation because there is not enough information, the ZBA may decide to hear the appeal but that the ZBA will not act on it until the Planning Board provides a recommendation. He noted that there was a question of whether the absence of a Planning Board recommendation equals a positive recommendation. Now, he stated, there is a procedure in place whereby, in the absence of adequate information, the ZBA will wait for the Planning Board's recommendation prior to the ZBA ruling on an appeal. In addition, he stated that he now has a procedure in place whereby he reviews the appeals prior to the Planning Board meeting to determine whether the applicant needs to attend the meeting and, if so, the Zoning secretary lets the applicant know to come to the meeting.

Moving forward, Mr. Labriola summarized:

- site plan: if no applicant is present, then no discussion at the Planning Board meeting
- lot line realignments and subdivision: if no applicant is present, then the Planning Board will not move forward
- wetland permits: must have someone present at the Board meeting
- sign permits and variances: for the most part, the applications are pretty cut and dry. However, this is not always the case. Therefore, if more information is needed and the applicant is not present, then the application is postponed to the next month.
- Time extensions for subdivisions: for the most part, applicants do not need to be present.

Mr. Labriola stated that for everything other than sign permits and variances, someone must be present at the Planning Board meeting to represent the application and answer questions.

Ms. Seaman stated that she has a request on the wetlands permit applications. She asked that the applicant provide the Board with a GIS aerial view and sketch in where they want to build. She requested that the wetland boundaries and adjacent wetlands be shown on a map. Mr. Labriola stated that he will ask that the applicants work with the CAC to get aerial photos and that he thinks the Board needs an engineered site plan with a survey of the property. Mr. Labriola stated that he will ask Ms. Scofield to make the change to the application process.

16. MINUTES

Mr. Labriola: **MOTION TO ADOPT THE MINUTES, AS CORRECTED, OF THE JULY 2008 PLANNING BOARD MEETING; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 6-0-0**

Mr. Labriola: **MOTION TO GO INTO EXECUTIVE SESSION; SECONDED BY H. FISCHER; VOTE TAKEN AND APPROVED 6-0-0**

Meeting adjourned at 10:15 p.m.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the August 12, 2008, 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 9, 2008

A regular meeting of the Pleasant Valley Planning Board took place on September 9, 2008, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:36 p.m.

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

Also present: Mike Takacs, Morris Associates
 Jim Nelson, Esq., Town attorney
 Lynn Sticker, Alternate Board Member

ANNOUNCEMENT: Mr. Labriola announced that the Taconic Homes application has been removed from the meeting's agenda due to a scheduling conflict. He also announced that the Joshua House application is being added to the agenda for a 90-day extension of final approval.

Mr. Labriola introduced the newest Board member, Ms. Lynn Sticker, and explained that she is the Board's alternate and will help out on a regular basis under situations where a Planning Board member needs to recuse him/herself or where there are not enough members present to form a quorum.

1. SPECIAL DISCUSSION: STORM WATER MANAGEMENT

Mr. Labriola introduced Mr. Walter Artus, Stormwater Management Consultants, Inc., who presented to the Board an update on the new New York State regulations. This presentation fulfills the required quarterly update regarding stormwater permits.

Mr. Artus stated that a new permit came out in May 2008 and the requirements will take effect on September 30, 2008. He explained the changes in the process. He stated that the burden is now on the municipality and the planning board to review the stormwater pollution prevention plan on any application. He stated that the Town must now sign off on the MS4 Stormwater Pollution Prevention Plan Acceptance Form. He provided the Board members with a copy of this form. He stated that this form must be signed and certified by a Town employee and cannot be signed by the Town engineer or consultant. Thus, he explained that the applicant must get the Town's approval prior to acquiring the permit.

Mr. Labriola confirmed that this change will kick in prior to final approval, when the Board is going through the final, fully engineered stormwater management plan. Mr. Artus stated his preference for receiving an acknowledgement letter from the DEC which protects the applicant and avoids any surprises late in the process. Mr. Labriola suggested to Mr. Takacs that this be included in all conditional final resolutions.

Mr. Artus explained the 5-day and the 60-day Notice of Intent process for stormwater plans that are in accordance with the technical guidelines of the permit and plans that are not in accordance with the guidelines. He explained that the Notice of Intent has now been passed down to the Town for approval. He explained that DEC is no longer going to review the stormwater plans and stated that towns will vary in their diligence in reviewing these plans.

Mr. Gordon asked where the Notice of Intent process fits into the Planning Board's preliminary/final approval process. Mr. Artus stated that it has nothing to do with timing. He explained that the Planning Board proceeds as it always has done taking as much time as it takes for the engineer to review and the applicant to submit the plan.

Mr. Labriola summarized that the DEC is giving the Town the authority to make the determination that a stormwater plan, which may or may not be in accordance with the technical guidelines of the permit, meets the intent of what the Town is trying to do. Mr. Artus concurred with this analysis. Mr. Karis asked what the Town's liability is. Mr. Artus stated that he does not know and that there are infinite scenarios and unknowns.

Mr. Labriola noted that Morris Associates will now be responsible to let the Planning Board know whether a stormwater plan is compliant or non-compliant, and that the Board will have to determine its level of comfort with plans that are non-compliant.

Mr. Artus stated that the new permit came out in May and was effective immediately. However, he explained that they were given till September 30 to inform their constituents of these changes.

Mr. Gordon stated that it is now up to the Town's engineer to determine what the stormwater plan will be and how it will be executed. Mr. Artus concurred. Mr. Gordon stated that there is no other oversight provided by any other agency. Mr. Artus concurred and stated that the DEC is still looking at their own permitting process. He stated that he has heard that they will continue to review impacts on wetlands and waterbodies. He stated that he has heard that the DEC will continue to review wetland permits, but that the DEC wants this sign off from the Town first before they even commence that process. He stated that this would be a burden upon the applicants. He stated that he does not know if the DEC will follow through with that policy or not.

2. DARIA – SUBDIVISION

No applicant was present.

3. ROSSWAY PROPERTIES – SUBDIVISION

Mr. Jeff Ringler, Rossway Properties LLC, and Mr. Mike White, Spectra Engineering, were present.

Mr. Labriola stated that this application was last before the Board in the June 2008 at which time there were discussions about the driveway and the need for a preliminary stormwater management plan.

Mr. White noted that there were a number of concerns that the Planning Board wanted them to address. He explained the revised layout of the driveway. He pointed out the full 30' at the entrance with 2 ½ % grade for the staging area. He stated that the grade of the driveway does not start until after that full 30'. Mr. Karis noted that the vertical curve starts 30' back from the entrance. Mr. White stated that they did not do the full driveway profile as they wanted the Board's review of the changes first.

Mr. White stated that the Board had asked for a pull off area at the beginning of the drive so that during a snow situation the residents can park their cars if they cannot make it up the driveway. He noted that the pull off can be made as large or as small as the Board deems necessary. He stated that it is banked by a "knee wall," which is a small retaining wall.

Mr. White noted that the Board was very concerned that on both sides of the driveway they had retaining walls. He explained that they have gotten rid of the canyon effect created by those walls. He stated that the one retaining wall that is left is a downward wall that supports the driveway and explained how the design of the drive now veers to the northwest. He explained that they needed the extra length in order to reduce the grade. Therefore, the retaining wall is now a support wall. Mr. Labriola asked if the wall goes above the height of the drive. Mr. White stated that it is not yet determined how high it will be and stated that it may be 1' and that they will put a guardrail against it.

Mr. Karis asked how high the support wall will be in total. Mr. White stated that it varies from 2' to 6'.

Mr. White stated that the retaining walls from the previous driveway design have been removed. He stated that they did that by grading in accordance with Code. This gets rid of the canyon effect and allows them to put drainage swales on both sides of the driveway to capture runoff down the driveway. Mr. Karis stated that snow clearance can take place off of the driveway. Mr. White concurred and stated that water will be directed into new catch basins and treatment vaults, which was the highway superintendent's major concern – that runoff down the driveway be taken care of before it hits Rossway Road.

Mr. Labriola asked whether the support retaining wall starts right at the edge of the driveway or will there be some level area left at the side of the drive. Mr. White stated that right now they show it at the edge of the driveway and that they can move it out a little bit more. Mr. Labriola stated that more room between the cars and the guardrail creates more safety for drivers. Mr. White stated that they can do that, that there is room to do that.

Mr. White pointed out the planned pull off areas along the driveway.

Mr. White stated that they were able to redesign the driveway to a 13 ½ % grade and explained that they were not able to do 12%.

Mr. Ringler stated that to achieve this redesign they need to get a temporary easement on the neighbor's property. He stated that they have had a preliminary conversation with the neighbor regarding this. Further, he pointed out that there will be a change to the conservation easement along Rossway Road regarding the no-cut. He pointed out the area of additional clearing necessary to put in the driveway. Mr. Labriola asked about replanting in that area. Mr. Ringler confirmed that this will be done.

Mr. Karis asked if they will hit rock and noted that if they hit rock they may be able to engineer a face and have less disturbance overall. Mr. White stated that that is what they are hoping for. Mr. Takacs stated that they may not need the retaining wall if they hit rock. Mr. Karis suggested that they may want to do some test pits.

Mr. Ringler stated that they have submitted a draft driveway maintenance agreement, which will be resubmitted once the driveway design has been finalized. Also, he stated that the conservation easement will be resubmitted.

Mr. Labriola asked if the highway superintendent has seen the redesign. Mr. White stated that he delivered a number of copies to the Town Zoning office. Mr. Labriola stated that he will check with the secretary and noted that the highway superintendent needs to look at the redesign as well as the Fire Advisory Board once again.

Mr. Karis asked about the sight distances for the driveway to the north. Mr. White stated that they will do the required surveys and will provide the profile next time.

Ms. Seaman mentioned the need for a deed restriction to protect the buffer rather than a conservation easement. Mr. Labriola concurred. Mr. Karis asked about the Town's enforcement authority. Ms. Seaman stated that it must be on the plat, and that the restrictions must also be on the plat. Mr. Labriola noted that the Town retains the option to choose whether or not to enforce. Mr. White stated that it will be on the plat with whatever wording the Town attorney recommends.

Mr. Takacs reviewed the Morris Associates comment letter. He stated that the stormwater report is required prior to the SEQRA determination.

Mr. Labriola stated that this plan has come a long way and expressed the Board's appreciation for these changes. He stated that the remaining concern is with regard to how many cars can fit at the bottom of the drive. Mr. White stated that by their measurements at least 4 can fit and noted that the area can be made larger and that the configuration can change. He stated that it is a matter of grading. Mr. Labriola stated

that the area needs to accommodate at least 6 cars. Dr. Fischer stated that there also needs to be space for snow to be plowed off of that parking area as well.

Mr. Karis expressed his appreciation for the improvements to the plan.

Mr. Labriola stated that next steps are:

- Full set of drawings
- Preliminary stormwater management plan

He stated that following the next discussion they should be ready to advertise for a public hearing.

4. JEREMY JOYCE – REGULATED ACTIVITY IN THE WETLAND

Mr. Labriola detailed the issues that came up at the last review of this application:

1. Fire Advisory Board to review the driveway and render an opinion
2. Applicant to talk to the manufacturer of the bridge components: question of whether they can deliver to the site and how much of a staging area they would need to do the pre-construction and construction work
3. Need to understand the existing easements on the property: a 15' no vehicular traffic bridal path
4. Applicant to look at an alternate access point to the property

Mr. Jeremy Joyce was present and reported that he talked to an architect and a mason about building a bridge on site in case it is not possible to bring a box culvert down there. He stated that he met with Royal Crane at the site to take a look at the staging and set up area. He stated that Ed from Royal Crane does not think it's a problem even if they have to bring a 40 ton crane just to lift steel I beams if he were to build the bridge on site. Also, he stated that Royal Crane does not think it would be a problem to bring an 80 ton crane if he has to lift a box culvert. He stated that he did not bring a tractor trailer down to the site, but the man from Royal Crane did not think it would be a problem backing a tractor trailer down there.

Mr. Joyce noted that the Fire Advisory Board met last week and that he has dropped off the deed to Mr. Nelson for his review.

Mr. Joyce stated that he and his engineer met with Mr. Setaro who suggested that Mr. Joyce not go any further until they hear from the Fire Advisory Board. Mr. Joyce stated that Mr. Setaro advised him not to make any changes to the plans or the map until they find out about the radius.

Mr. Labriola asked if Mr. Joyce explored alternate access to the site. Mr. Joyce stated that he did not pursue that yet.

Mr. Labriola read into the record a letter dated 9/3/08 (ORIGINAL ON FILE) from the Fire Advisory Board:

- maintain the driveway to minimum of 20' wide and cleared to a minimum of 15' high
- that the driveway be crowned and cleared to a minimum of 5' on each side of the driveway
- that the bridge be sized to a minimum of 20' wide and of sufficient capacity to withstand the weight of a fire vehicle which is to be determined by coordination between the applicant, his engineer, and the Fire Chief
- A turn-around be constructed to a minimum of 75' wide and located at the elbow of where the driveway turns back towards the house past the bridge.

Mr. Joyce asked if the comment regarding the turn-around refers to locating it on the other side of the stream. Mr. Labriola stated that that is what it sounds like.

Mr. Labriola stated that what the FAB has recommended, the minimum 20' wide will be problematic because of the drainage easement. Mr. Karis stated that 20' width is ridiculous and noted that cleared 5' on each side would mean a 30' wide swath for the driveway. Dr. Fischer recalled that usually the FAB recommends 15' wide and cleared to 15' high. Mr. Labriola concurred.

Mr. Joyce asked if the FAB commented on the radius turn into the bridge. Mr. Labriola stated that there is no comment from the FAB on the radius.

Mr. Labriola stated that the necessary next step is for Mr. Joyce and his engineer to meet with a representative of the FAB and of Morris Associates to review and discuss the FAB's recommendations.

With regard to the bridge, Mr. Karis asked how it is possible to construct the far side of the stream without going through the stream. Mr. Joyce stated that to get the excavator over there to dig the footings for the bulk head on the opposite of the stream, you can pull a pump truck that can pump 125' and, therefore, not need a concrete truck. He stated that you can lay down culverts to get the excavator across or you could use some sort of mafia block bulk head to lay the beams on that. Mr. Karis stated that he will have to drive machines across the stream to build that far side. Mr. Joyce stated that that would not necessarily be required. Mr. Takacs stated that it can be done with cranes that reach across. Mr. Karis stated that there is a 10' slope going down to the stream on the road side of the stream. He stated that where all the staging will need to happen there is a grade. Mr. Joyce explained the method of successively laying pipes so that the tracks would never touch the stream bed. Mr. Karis stated that the pipes would impact the stream bed – that he is in the stream in order to cross the stream. He stated that he is constructing something – even if temporary – in order to cross over the stream. Mr. Karis stated that Mr. Joyce would be building a crossing over the stream. Mr. Joyce stated that he does not know if that gets OK'd by the Town Planning Board or by the DEC but that will be in the permit application that he puts forward to them.

Mr. Karis stated that from a construction standpoint he does not see how the applicant builds the other side of the crossing without crossing the stream and impacting the stream

severely. He stated that there are grade issues and there are distance issues. Mr. Joyce stated that he does not think that is the biggest problem with the project – figuring out how to get an excavator across there. Mr. Karis stated that he agrees that the biggest issue is not the construction of this bridge, but rather the biggest issue is its impact on the wetland, the stream, and the wetland buffer. Mr. Joyce stated “yeah.” Mr. Karis stated that he does not understand how the applicant doesn’t disturb a swath of this stream to build this bridge and how it works.

Mr. Labriola stated that what is needed is explanation of the staging area of a size to be able to do this and an explanation of a phased construction plan that lays out what will be done on a temporary basis during construction which will be removed and reclaimed and rehabilitated afterwards. Mr. Joyce asked if the Board wants that now or after the issues with the FAB are figured out. Mr. Karis suggested that he figure out the alignment of the driveway first with the pull offs, grades, etc. Mr. Labriola stated that the driveway is the biggest issue. Mr. Karis stated that he does not think Mr. Joyce has the bridge in the right spot to begin with.

Mr. Joyce stated that he will address the FAB’s concerns first and then when they’re OK with the design he’ll figure out how he’s going to construct everything. Mr. Labriola concurred and stated that Mr. Joyce first needs to understand where the driveway will go and what the driveway construction requirements. He reiterated the need for the applicant and his engineer to meet with the FAB and Morris Associates.

Mr. Labriola pointed out other issues with the plan including the fact that the house is up against the buffer and that the fill pad is in the buffer. He stated that if there’s an opportunity to move that so that there’s no additional disturbance, it would be good; and if not, then the applicant will have to advise the Board on what he will do to mitigate that disturbance.

Mr. Labriola raised the question about the 15’ no vehicular traffic bridal path around the perimeter of the site and whether that affects the driveway. Board members, Mr. Takacs, Mr. Nelson, and Mr. Joyce reviewed the map and agreed that it is not clear where the path goes. Mr. Joyce asked if the deed stipulates its location. Mr. Nelson stated that there’s a note that says “reserved for private, non-vehicular right-of-way, 30’ wide on all lots except on portions of lot 2 where the width is somewhat larger as shown – no vehicles allowed with the exception of maintenance vehicles.” Mr. Nelson noted that around this subdivision there is this bridal path and that at the driveway there is a 35’ wide flag. He pointed out the culvert and the 20’ of that driveway on the left side that is reserved as a drainage easement which is in the deed and which goes to the Town. He pointed out on the map the area where it is not clear where the bridal path is located and where it ends. Mr. Nelson explained that it is unclear from the documents as filed, therefore, whether easement impacts the planned location of the driveway. Mr. Karis asked whether the bridal path easement goes up the 35’ flag. Mr. Nelson stated that that is the question and that he was not able to review the old Planning Board file on this site. Mr. Labriola stated that this was a subdivision that was originally approved by the Town from 1973 or 1974. All reviewed the original subdivision map and raised the question of

where the perimeter is located. Mr. Gordon suggested that the intent was to provide for a bridal path in perpetuity. Mr. Joyce agreed.

Mr. Nelson stated that the first question was regarding the drainage easement, which shows up in the deed and conveys to the Town. Mr. Joyce stated that the highway superintendent was OK with the first set of plans as long as the driveway did not come in to the left. Mr. Joyce stated that the superintendent did not want the driveway to start off on top of the culvert, but that he had no issues.

Mr. Labriola summarized that it is unclear from the documents provided where the bridal path easement is located. Mr. Joyce asked how he can find out the answer. Mr. Labriola reiterated that he is going with the wording of "perimeter." Mr. Karis asked whether a title report would shed light on this. Mr. Nelson stated that it might and stated that a formal title search might be helpful.

Mr. Fracchia noted a name of the map of Pleasant Valley Riding Club.

Mr. Labriola stated that the next steps are:

- Mr. Joyce and his engineer to meet with the FAB and Morris Associates
- Mr. Nelson to look at whatever title reports Mr. Joyce has provided, will look at other deeds of people who set up the subdivision, and ask the Zoning secretary if she can find the old Planning Board file
- Mr. Joyce to provide a title search document to the Zoning secretary

5. TOWN OF PLEASANT VALLEY – SIGN PERMIT

Mr. Labriola stated that this application is for a sign that will go on the historic mill site. Board members reviewed a drawing that depicts the proposed location of the sign. He stated that the sign will be approximately 2' back from the sidewalk and will be 24" high to the bottom of the sign. The sign, itself, will be 2' x 3' and will have a blue background with gold lettering.

Mr. Karis asked about requesting the Town to mount the sign in a stone base, as is standard in the hamlet. He suggested that this one should be dry laid natural stone to fit in with the park atmosphere. Board members discussed alternate designs for the sign and the stone base.

Mr. Labriola noted that usually the applicant is present at the Board meeting who can agree to the suggested changes but that no one from the Town is present tonight. Therefore, the Board agreed to adjourn this application.

6. FIRST REALTY PLAZA – SIGN PERMIT

Ms. Lisa Milicaj was present and stated that on 8/1/08 she purchased Brian Bovee's building. She stated that there is an existing sign on the building. She stated that she will be moving her office into the office area that is currently approved for office space. She stated that Mr. Bovee is currently leasing out the shop area in the back. She stated that

she needs a sign that identifies the plaza and identifies the businesses that are located there.

Mr. Labriola stated that the site is approved, via a special use permit, for two allowed uses: an office and a showroom/workshop/storage. He stated that a sign showing more than two businesses would, therefore, be problematic.

Mr. Karis asked for confirmation that there will now be an insurance agency and Bovee construction in the building. Ms. Milicaj responded yes. Mr. Karis asked if there can be additional businesses. Ms. Milicaj responded yes. Mr. Labriola corrected that information and explained that Bovee Construction had a special use permit. He stated that when Ms. Milicaj applied to move the insurance company into the site, Mr. Feldweg, Zoning Administrator, determined that it is a similar use – office use – so, therefore, the special use permit stands which allows for two businesses. Mr. Labriola explained that if a third business goes into the site, the special use permit needs to be revisited and the Planning Board would want to look at this from a site plan perspective. He explained that he's not saying that the applicant can never put a third or fourth business on the site, but rather that as approved that site will not allow it. Ms. Milicaj stated that that is why she changed the design of the sign.

Board members discussed the design of the sign with slots for additional business names. Mr. Karis asked if a 7' sign is needed or whether a 5' sign is adequate. Dr. Fischer concurred with making the sign smaller. Ms. Milicaj stated that the sign is still 18 sq. ft. and proposed to leave the sign as large as it is.

Mr. Gordon stated that he has an issue with the word plaza. Ms. Milicaj stated that that's what is on the deed. Mr. Labriola recalled the advice the Board received about freedom of speech and that the Board is not empowered to legislate what is printed on that sign. Mr. Gordon stated that by promoting a piece of property as something and approving a sign in that vein the Town is setting a precedent for future development of that site. Ms. Milicaj explained that she is applying to move her business into that site. Mr. Gordon asked why she is choosing the word plaza. Ms. Milicaj discussed her thinking on the name. Mr. Gordon explained his concern with the word "plaza." Mr. Labriola stated that the Board cannot require a name change.

Mr. Karis explained his disagreement with the current design that leaves a large space for the addition of other business names when the site is only approved for 2 businesses. Therefore, he suggested that the sign can be made smaller. Ms. Milicaj stated that she thinks the sign is small as it is and in the future should she sell her agency and the property the next owner will be stuck with an 8' sign and she loses value. She stated that she thinks the 18 sq. ft. is great. Mr. Labriola asked if Mr. Karis would like to see the sign be reduced to 4'. Mr. Karis suggested that the sign accommodate one open slot under Bovee so that there is room for expansion and reduce the overall height of the sign. Board members concurred.

Ms. Milicaj stated that she does not want to reduce the size of the sign from the 18 sq. ft. She stated that if she only has space for one additional slot. She noted that she has an entire warehouse that is vacant that can be used for storage. She stated that that could never be rented because there could never be an additional name on the sign. Mr. Labriola stated that it would have to be a business that is run out of there. Ms. Milicaj stated that she understands the process and that she does not want the sign to get any smaller.

Mr. Gordon stated that Ms. Milicaj bought a building with restrictions that will not go away. Ms. Bramson stated that the Board looks at the sign for what it represents today, not for what it may represent in the future. Dr. Fischer stated that 5 years from now changes can be made, that the Board has issued new signs that are larger and some that are smaller. Mr. Labriola suggested as a compromise to leave room for two additional potential businesses, which would require a revised special use permit and a site plan approval and gives a little more flexibility and reduces the height somewhat. Mr. Fracchia concurred with this suggestion.

Ms. Milicaj asked that the Board not change the size of the sign. Board members and applicant redesigned the lettering on the sign so that there is no large empty space on the sign – so that the design is balanced in proportion. Board members and Ms. Milicaj agreed on the redesign.

Mr. Labriola: **SIGN PERMIT APPROVAL**

Whereas the Town of Pleasant Valley Planning Board has reviewed an application from First Realty Plaza for the approval of one sign, 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 sign as shown in the application and drawings and consisting of the materials, sizes, and colors shown in the application except as noted:

- **The first slot on the sign will be 1732 Main Street**
- **The third slot on the sign will be First Insurance Agency**
- **The fifth slot on the sign will be Bovee Construction**

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

7. TIME LAPS ANTIQUES – SIGN PERMIT

Mr. Larry Potenza was present and explained that he had submitted photos of his different ideas for signs. He explained that he wants one wall sign and that there is one

existing sign on a sign post. Mr. Potenza asked if he can have both signs and noted that when going east his sign is not visible.

Mr. Labriola stated that the Code allows one ground sign and one sign on the building. Mr. Potenza concurred that he wants a single wall sign and a single ground sign.

Board members discussed the height of the pole sign. Mr. Potenza stated that it is 17' high and is adjustable. Mr. Karis asked if he would be willing to lower that sign on the pole. Mr. Potenza explained that it is not visible from one direction. Mr. Salvatore Quattrociochi discussed the method for adjusting the height of the sign and asked if there is a restriction on the height of the sign. Board members discussed options for the height of the sign. Mr. Labriola suggested that the top of the sign be 17' maximum and then the applicants can determine whether the sign looks better at a lower height. Mr. Potenza and Mr. Quattrociochi concurred with this suggestion.

Mr. Quattrociochi asked about the permitted dimension for the wall sign. Mr. Nelson read from the Code that explains the dimensions.

Mr. Labriola: **SIGN PERMIT APPROVED**

Whereas the Town of Pleasant Valley Planning Board has received an application from Time Laps Antiques for the approval of two signs, 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 it will not have a significant effect on the environment, and

Further, be it resolved that the Planning Board grants approval for two signs as shown in the application and drawings and consisting of the materials, sizes, and colors shown in the application except as noted:

- **That the ground sign will be 17' height maximum**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

8. APPEAL #923 – ALBERT - USE VARIANCE

Mr. John Wolfe, attorney for the executors of the estate of Donald J. Albert. Mr. Wolfe stated that neither executor will be present at this meeting and provided the Board with written authorization to represent them.

Mr. Labriola asked Mr. Wolfe to explain the project to the Board.

Mr. Wolfe stated that this property enjoyed a non-conforming use as a commercial and residential property. He stated that the use lapsed in the fall of 2006. He stated that it is

non-conforming in the sense that it is very close to the road and some other factors. He stated that they are not seeking a reinstatement of the special use permit, but rather a special use permit to, again, have a business on the site. He stated that the estate has a buyer provided that the buyer can put a one chair beauty parlor in the space formerly occupied as an antique shop and a real estate office. He explained that he appeared before the Zoning Board in August, at which time there were several Board members absent and he, therefore, chose to have the appeal adjourned for one month in hopes that a full Board would be present.

Mr. Wolfe stated that if the ZBA grants the appeal, they will need site plan approval, as well. He stated that there is no real new construction planned, but that they may have to reconstruct the handicapped access ramp on the easterly side of the building. He stated that they will close off the center entrance, which will give them another parking space.

Mr. Labriola noted that at the last Board meeting an adjacent property owner spoke about a shared well. Mr. Wolfe stated that that is accurate and the neighbor's name is Curley. He explained that 3 properties share the well: this property and two of Mr. Curley's. He stated that they have an arrangement. He stated that the Alberts owned all the properties originally and as they sold it off they made a deal with Mr. Curley with regard to the well.

Mr. Labriola asked if this property has its own septic system. Mr. Wolfe stated that it does and that he has an engineer scoping that out.

Mr. Labriola asked about the studio apartment on the first floor and the second floor apartment. He asked if the plan is to continue to rent those out. Mr. Wolfe stated that he does not know that but that his feeling is yes. Mr. Karis asked for more information about these apartments. Mr. Wolfe stated that the one big apartment is above the commercial space. He stated that on the east, almost separate from the building because it has its own door, is a one room with lavatory. Mr. Karis noted that there is the commercial space, the studio apartment, and the one-bedroom apartment on the second level. Mr. Wolfe stated that that is correct.

Mr. Fracchia asked if there is also an apartment in the back. Mr. Wolfe stated that that is a separate building. Mr. Karis asked if it is on this property. Mr. Wolfe stated that it is, and that it is a third dwelling on the property. Mr. Karis asked if this third dwelling uses the same septic system. Mr. Wolfe stated that it does and that it is a residential dwelling. Mr. Labriola asked how many bedrooms it is. Mr. Wolfe stated that he believes it is two. Mr. Labriola stated that the Department of Health will need to review this property with regard to septic and water. Mr. Wolfe concurred.

Mr. Gordon noted that there was quite a presentation by Mr. Curley who is concerned about the water usage. Mr. Wolfe stated that he thinks he can show that a one-chair beauty parlor will not cause Mr. Curley to run out of water.

Mr. Labriola read into the record a letter dated 9/3/08 from the Fire Advisory Board which takes no position on this appeal.

Mr. Fracchia noted that part of this property is in the Town of Washington. Mr. Wolfe stated that it is the eastern tip and that the town line might just touch the edge of the building. He stated that he's not sure because he does not have an accurate survey. Mr. Fracchia asked if the Town of Washington needs to be brought into this. Mr. Karis stated that the ZBA will have to notify the Town of Washington. Mr. Labriola concurred and stated that the ZBA is the lead agency on this appeal. Mr. Karis suggested that the Town of Washington will also have input when and if they come back to the Planning Board for site plan approval.

Mr. Labriola stated that, if there are no planned improvements on this building other than reconstructing the handicapped access ramp, there may not be a need to go through a site plan review. Mr. Karis stated that there are 3 dwelling units with 4 bedrooms and a commercial space and asked what the parking requirements are for that. Mr. Labriola and Mr. Gordon mentioned that it is all pre-existing. Mr. Karis stated that there are health, safety, and welfare factors about backing out onto Route 44. Mr. Labriola suggested that the Board cross that bridge when it gets to it.

Dr. Fischer asked if Mr. Curley has to provide as much water as is demanded by the tenants on this property. Mr. Wolfe responded yes and explained that that was part of the deal when Mr. Curley retained the rights to the water.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION AND THAT THE ZBA CONSIDER THE FOLLOWING FACTORS IN THEIR DETERMINATION:**

- 1. this property has a shared water supply with the water being supplied by an adjacent property owner, the ZBA needs to be comfortable that the current well can support the three residential units, total of 4 bedrooms, and the more intensive use of the beauty salon of that well and that the septic system can also handle this more intense use**
- 2. if the ZBA does grant this special use permit, that the Planning Board would like to have the opportunity to do a site plan review**

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 7-0-0

9. APPEAL #926 – ABD STRATFORD – AREA VARIANCE

Mr. Joel Hanig was present. Mr. Labriola asked Mr. Hanig to describe the variance he is requesting.

Mr. Hanig explained the history of this application. He stated that in March '08 there was an application for a sign permit filed by the applicant. He stated that that application came to a halt when the Town said that this application had never paid a recreation fee

for the subdivision. He stated that there were a number of years of litigation with which he was not involved. He stated that the recreation fee was subsequently paid and the sign permit application came before the Planning Board without the applicant notified that it was on the Board's agenda. He stated that the Planning Board made a decision, which the Board was kind enough to hold and the minutes were never approved and, therefore, it never became a firm, binding decision. He stated that he was retained just before that and started working with Mr. Feldweg, Zoning Administrator, to determine the best course of action to go forward on this. He stated that the developer had already put up a sign at the entry to the subdivision, one on each side of the road – a stone sign with an inset that says Stratford Farms. He stated that the old sign permit application will probably have to be amended as it was for a design that was more extensive than what was erected.

Mr. Hanig stated that he decided that the best approach is to go to the ZBA for a variance on the existing stone-based signs that were placed at the entrance of the subdivision because the inset, when both are calculated, exceeded the subdivision sign allowance in the Zoning ordinance. He noted the ordinance that applies to signs for new realty subdivisions. Mr. Hanig read from the specific sections of the ordinance which permits "not more than an aggregate total of 32 square feet." He stated that they calculated that the inset area of both signs totals 41.8 square feet but the placards, themselves, are less than that. He stated that he is not the one to decide what the actual area of the sign is and suggested that the ZBA is the appropriate body to make that decision. Therefore, his application to the ZBA goes through the fact that there are two signs which they agree is a self-imposed hardship because they were put up before an application was made. He stated that that has never disqualified an application from being made to a zoning board. He stated that they are asking for a variance based upon what is there, which is the indent areas of each sign being approximately a little over 20 square feet, and asking for a variance from the 32 square foot total requirement of the ordinance.

Mr. Hanig further stated that they recognize that the placement of these signs and the masonry is within what would be a Town right-of-way after dedication. He stated that they have a stipulation in the agreement that before dedication of these roads to the Town of Pleasant Valley these signs will be removed and will physically be taken away. Therefore, he stated that they are signs to aid in the marketing and identification and directional for the subdivision. Mr. Karis asked if the stone bases will also be removed. Mr. Hanig responded yes, the stone will also be removed.

Mr. Hanig submitted a letter from his client, Dan Gueran, who will not be present for the ZBA meeting. He stated that the letter explains that Mr. Gueran will not be able to attend the ZBA meeting and that this is something that they believe is necessary for the visual enhancement and directional purposes and the marketing of new homes within the subdivision. He stated that this is a very difficult market and any time that there is a new project you need visibility of the entrance for people to find it. He explained that the reason that there are two signs, one on either side of the entrance, is to give visibility from both directions on Bower Road.

Mr. Hanig explained that the application they are making to the ZBA is for consideration of the size of the insets as compared to what the zoning ordinance allows and to talk about their stipulation to remove the signs prior to dedication of the roadway to the municipality. He stated that, currently, there are discussions between the Town of Pleasant Valley and the Town of Poughkeepsie about the Town of Poughkeepsie absorbing the maintenance of that section of the roadway that goes into Pleasant Valley.

Mr. Labriola noted that the information regarding the removal of the signs prior to dedication of the road is new this evening. He stated that this helps to address some issues. Further, he stated that there are other variances that Mr. Hanig needs to apply for. Mr. Labriola stated that Section 9820 (a)(1) Signs in Residential Areas: "in residential districts there may be displayed signs pertaining to the permitted use of the property upon which the sign" – which Mr. Labriola stated that he reads to mean one sign not two – "is located and having an aggregate total face area of not more than 6 square feet with no side greater than 36 inches." Mr. Labriola stated that the fact that there are two signs is a problem and that one of the sides is greater than 36 inches. Therefore, he stated that those are two potential problem areas.

Mr. Labriola noted that Mr. Hanig addressed the fact that these signs are currently in the Town right-of-way, and that the ZBA needs to acknowledge that. Mr. Karis asked for clarification on the issue of the sign or signs being in the right-of-way. Mr. Hanig stated that both signs are within the right-of-way. Mr. Karis stated that the map shows only the left sign to be in the right-of-way and shows the sign on the right to be outside of the right-of-way. Mr. Hanig stated that both signs will be within what will be the dedicated right-of-way and that's why they will both have to be removed. Mr. Karis stated that that is not what they plan shows.

Mr. Karis asked if Mr. Hanig's client controls the property that the sign is constructed upon. Mr. Hanig responded yes.

Mr. Labriola stated that there is one other potential issue, that the ordinance stipulates that when there is a ground sign you cannot add another ground sign any closer than 60' on the same side of the road. Mr. Hanig stated that that stipulation pertains to commercial and industrial park districts. He stated that that is why this needs to be discussed with the ZBA and argued that the subdivision sign provision is more expansive section for this particular application which is for new subdivision marketing. Mr. Labriola suggested that it may be a moot point because he interprets the section of the ordinance regarding Signs in Residential Districts: "permitted use of the property upon which the sign is located." He noted that "sign" is one and they have two, so whether it is 60' or beyond does not matter, and that they need to ask for a variance to that, as well. Mr. Hanig stated that he prefers to defer to the ZBA. Mr. Labriola stated that the Planning Board will give the ZBA a recommendation for them to consider and that it is the ZBA's job to interpret. He stated that the way he reads the ordinance is they are allowed one sign in a residential area and they have more than that. Mr. Hanig stated that the subdivision section talks about multiple signs.

Mr. Karis pointed out the section that talks about signs for subdivisions for marketing and refers to signs, plural, not to exceed 32 square feet total. He suggested that Mr. Hanig is saying that these signs fall under subdivision signs not under residential district signs. Mr. Labriola stated that the area is zoned residential and that they cannot say that it is only a subdivision and not residential. He noted that it is in an R zone. Mr. Karis suggested that they need an interpretation from the ZBA. Mr. Hanig stated that that is why he thinks they need to go to the ZBA first before coming back to the Planning Board. Mr. Karis noted that they are not applying for an interpretation. Mr. Hanig stated that they are applying for a variance. Mr. Karis asked if Mr. Feldweg has made the determination that they fall under subdivision signs. Mr. Hanig stated that he thinks that is correct. Mr. Labriola stated that this is a factor that needs to be included in the ZBA's determination.

Mr. Labriola stated that there are still outstanding issues with the highway superintendent that need to be addressed regardless of the disposition of this variance application. He stated that at some point in the future and before the Planning Board will be able to address a subsequent sign application it has been this Board's practice, and the Code supports, that the Planning Board does not entertain applications for sites that are in non-compliance.

Mr. Hanig referred to a letter that was sent to Mr. Gardner, the highway superintendent, which addresses the issues that the superintendent raised. He stated that this is something that has already been addressed by a previous attorney and is not within his bailiwick because he was not involved in the issues between the Town of Pleasant Valley and the developer. He stated that these issues were addressed in a letter that was sent in July 2008 to Mr. Gardner. He stated that when the time comes if the Planning Board has certain issues with his client he may have to get Mr. Gilchrist down from Albany to talk to this Board regarding those issues. Mr. Labriola stated that Mr. Hanig does not need to convince the Planning Board that they have addressed those issues; rather he needs to convince Mr. Gardner. He stated that he does not believe that Mr. Gardner thinks these issues have been addressed because he has seen a subsequent letter from Mr. Gardner. However, Mr. Labriola stated that this situation does not pertain to tonight's discussion.

Mr. Nelson stated that the letter addressed some of the issues but not all of the issues.

Mr. Karis asked how many people approach the entrance to this subdivision on Bower Road from Van Wagner. He suggested that they don't really need the second sign. Mr. Hanig stated that his client believes that both directions are needed. Mr. Karis suggested that if they removed that one sign now, he would just need an after-the-fact sign permit. Mr. Hanig stated that if the ZBA denies the variance, that may be the best option.

Mr. Labriola asked for comments from the Planning Board. Mr. Karis stated that these signs are going to be removed before the road is dedicated so that it is short-term. Dr. Fischer mentioned, however, that if it is considered a residential district, then the issues are different. Mr. Karis suggested that Mr. Feldweg has already made the determination and the interpretation. Mr. Labriola suggested that the Board could make a positive

recommendation based on the fact that the signs are temporary and ask the ZBA to look at a couple of specific areas in the Code and factor that into their decision. He noted that it is a subdivision in a residential area, so that it is not either or. Dr. Fischer stated that he feels it falls under the residential portion of the code and suggested that usually it goes to the most restrictive rather than the most liberal. Mr. Hanig disagreed and stated that as a matter of zoning law it goes to the most liberal favoring the land owner.

Mr. Nelson stated that if the Board believes that there is a question of whether this is a subdivision sign or a residential sign, the Board can raise that.

Dr. Fischer asked when the road dedication will take place – when the last house is built and sold which may be 10 years from now. Mr. Hanig stated that the general practice is to not top coat the road until the majority of the subdivision has been built in order to reduce the exposure of the road being built and torn up by construction activity. Realistically, Mr. Hanig stated that it is probably going to be there for a couple of years, and that he stated that he would guess probably two to three years. He stated that even if the market turns and becomes good, it's probably going to be 2-3 years. Dr. Fischer asked how many houses are planned. Mr. Hanig stated that he's not sure. Mr. Labriola recalled that it is in the 80's. Dr. Fischer asked how many have been built. Mr. Hanig stated that only about a dozen have been built.

Mr. Labriola also pointed out that according to the subdivision code those temporary signs need to be approved every year. Mr. Hanig stated that after the initial approval the renewal approval is granted by the Zoning Administrator.

Mr. Labriola: **MOTION TO PASS THIS APPEAL TO THE ZBA WITH A POSITIVE RECOMMENDATION BASED ON THE APPLICANT'S INPUT TO PLANNING BOARD THAT THIS IS A TEMPORARY SET OF SIGNS THAT WILL BE REMOVED PRIOR TO THE DEDICATION OF THE ROAD. FURTHER, THE PLANNING BOARD ASKS THAT, IN ADDITION TO THE VARIANCE OF SECTION 9820 (C)(4) THAT IS BEING REQUESTED, THE ZBA ALSO LOOK AT:**

- **SECTION 9820(A)(1) – Signs in Residential Areas – the Planning Board believes that that section allows for a single sign no greater than 6 sq. ft. and no side greater than 36 inches – that the ZBA factor this into its decision-making process**
- **SECTION 9820(C)(3) – the Planning Board also recognizes that these signs do not adhere to this section, being constructed in a Town right-of-way, but the Board thinks this will be mitigated because these are temporary signs that will be removed**
- **SECTION 9820(B)(1) – the Planning Board asks the ZBA to consider this section that talks about ground signs in commercial and industrial zones. The Planning Board takes note that the Code does not talk about ground signs in residential areas; so this is the only Code section that talks about ground signs and it states that no ground sign can be closer than 60' to another ground sign on the same side of the road.**

- **The Planning Board asks the ZBA to consider these factors in their determination.**

SECONDED BY R. FRACCHIA

VOTE TAKEN AND APPROVED 6-1-0

10. APPEAL #927 – AREA VARIANCE

Applicant was not present.

Mr. Labriola stated that he drove by this property; Mr. Fracchia did, too. Mr. Labriola stated that it is a run-in shed for a horse. Mr. Fracchia stated that it has been there for awhile. Mr. Labriola stated that it is 4' closer to the road. Ms. Seaman stated that she's familiar with the property and the shed. Board members did not have a problem with this appeal.

Mr. Karis asked if the shed is anchored. Mr. Labriola stated that it looks permanent. Mr. Fracchia stated that it's been there awhile. Mr. Karis asked why this application is now coming up. Mr. Fracchia stated that the property has just been purchased.

Mr. Labriola read into the record a letter dated 9/3/08 from the Fire Advisory Board that they take no position.

Mr. Labriola: **MOTION TO PASS THIS APPLICATION ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION AS THE BOARD DOES NOT FEEL THAT THE 4' REQUESTED VARIANCE WILL CREATE ANY PLANNING ISSUES OR WILL CREATE ANY HARDSHIPS WITH ADJACENT PROPERTY OWNERS.**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVE 7-0-0

11. DISCUSSION: Mr. Donald Strain

Mr. Labriola stated that this is a pre-application discussion as requested by Mr. Strain.

Mr. Strain provided the Board with a map of the property at 634 Traver Road. He pointed out the piece of property that he wishes to subdivide and stated that he wishes to maintain a common driveway for the future. Mr. Labriola explained that the Code requirement is 100' of road frontage per lot. He stated that there can be a common driveway, but each lot must front onto a Town road. He noted that that is hard to accomplish on a flag lot.

Mr. Strain asked about dedicating the common drive to the road. Mr. Labriola noted that that is a very expensive alternative. Mr. Strain concurred.

Board members and Mr. Strain discussed alternatives for access off of Drake Road. Mr. Strain stated that that would be worse, that it is almost ½ mile long.

Mr. Karis asked how many lots he's planning. Mr. Strain stated that he's trying to separate off the existing house from the rest of the property. Mr. Labriola asked where the house sits in relation to the stream. Mr. Strain pointed out the house and the stream on the map.

Ms. Seaman asked how many additional houses he would be trying to get without crossing the stream. Mr. Strain stated that he has not broken it up. Mr. Labriola asked how large the property is. Mr. Strain stated that the whole property is 21 acres. Mr. Strain pointed out the potential lots on one side of the stream and explained that he may come down with a Town Road all the way through. Mr. Karis asked if he would try to cross the stream and connect back up to Drake Road. Mr. Strain responded correct.

Mr. Gordon suggested that Mr. Strain should look at what he ultimately may want to do rather than start out in little bits and pieces, which would be very difficult. He suggested that Mr. Strain devise a total plan for the properties that he owns. Mr. Gordon pointed out that just because Mr. Strain gets approval it does not mean that he has to build it out. Mr. Labriola agreed that that is a good suggestion. Mr. Strain asked if he could, then, break off the house without putting the whole road in. Mr. Labriola explained some options for achieving the required road frontage and advised Mr. Strain that he will only want to put in a Town road once and not find himself in a position of having to reconstruct it in the future. He advised Mr. Strain to think about what the ultimate build out would look like, which will dictate where he will put that road and how he will construct it. He explained that he may be creating phase one of a multi-build out plan.

Ms. Seaman concurred and stated that when Mr. Strain looks at all his other property, it may be more cost effective to put certain ones together, avoid crossing the wetlands, and gain access from Drake Road. Mr. Labriola agreed that it would be good to avoid crossing the wetlands in the future. He stated that if Mr. Strain owns 100 acres in one area it will require a multi-road system with loops. Ms. Seaman pointed out various options on the map.

Mr. Karis suggested the 280A, an Open Development Approval, with the Town Board. Mr. Labriola agreed but pointed out that Mr. Strain still does not have the road frontage. Ms. Seaman stated that in the new Town Comprehensive Plan, if it passes, there may be provisions for private roads that would allow Mr. Strain to come in with a private road and not have to do a dedicated road. She stated that the committee is still looking at what will be required for a private road vis-à-vis road frontage.

Mr. Gordon mentioned the option of combining a conservation easement or two where it would benefit Mr. Strain in the overall plan. Mr. Strain asked for clarification of such an easement. Dr. Fischer explained that the owner gives the land to an agency and the land is protected from development and there's a tax deduction. Ms. Seaman explained that the tax deduction is for the charitable deduction of the value of the land. Dr. Fischer

noted that Mr. Strain owns a lot of wetland that cannot be built upon, in any case, and could count as acreage towards a tax benefit. Mr. Labriola noted that there are restrictions that go along with a conservation easement. Dr. Fischer explained that conservation easements on lands that could be developed bring full tax benefit from creating the easement. Ms. Seaman stated that it also depends on what type of subdivision Mr. Strain is envisioning; that if he is planning on larger, estate type lots on this beautiful property, then that may work in with his plan. Mr. Labriola stated that Mr. Strain has so much adjacent property and suggested that he needs to look at what the grand plan would look like and how to stage that over time.

Mr. Strain pointed out an area where he could put a cul-de-sac, which in the future could be extended. Mr. Labriola cautioned Mr. Strain that he has a considerable amount of buffer and wetlands to cross and stated that the DEC will have difficulty with that because it is possible for Mr. Strain to access the property from another road without disturbing a wetlands and a buffer. Mr. Strain stated that he has not yet talked with the DEC. Mr. Labriola reiterated that the DEC will ask Mr. Strain why he would disturb a wetland when he has road access from another point. Ms. Seaman also noted that when someone goes through a wetland a lot of environmental studies are required that are not necessary otherwise.

Mr. Strain stated that all he was trying to do is see if he could break off the piece of property with the house on it without having to go through putting a cul-de-sac in. Mr. Labriola mentioned another option of going to the Zoning Board of Appeals and ask for a variance on road frontage for a piece of property. Dr. Fischer pointed out that it is very difficult to get loans on property if it does not have the required road frontage.

Mr. Strain stated that he was trying to avoid having to put in a road. Mr. Labriola stated that, depending on Mr. Strain's time frame, he may be able to wait for the new Comprehensive Plan which may give him more options that he does not have under the current Code.

Mr. Gordon stated that it may be more cost effective to do fewer, larger lots given today's engineering costs.

Mr. Labriola stated that the problem Mr. Strain needs to solve is 100' road frontage per lot. Mr. Fracchia corrected that it is 50' road frontage per lot. Mr. Labriola asked what the zoning on the property is. Mr. Strain stated that it is R-1 to the stream and R-2 on the other side. Mr. Karis read from the Code – "minimum road frontage in all districts shall be 50'."

Mr. Gordon advised Mr. Strain to talk with the Dutchess Land Conservancy. Ms. Seaman stated that it is a viable option for protecting his income.

12. JOSHUA HOUSE – 90-DAY EXTENSION

Mr. Karis stated that there is a sign outside of the Joshua House that says "Dutchess County Historical Site" and asked whether it has any bearing on what you can do with

that property and on the subdivision. Mr. Nelson stated that that is under State and Federal jurisdiction.

Mr. Labriola stated that when the Town of Pleasant Valley designates something as an historic site, the owner has to opt in. If the owner opts in and subsequently wants to do something to the outside of the building, it requires review by the Planning Board. The historic designation applies only to the building, not to the property.

Mr. Labriola explained that the Joshua Ward House subdivision was approved in April 2008 and the 6 month approval will expire prior to the Planning Board's meeting next month. He stated that they have not met all of the conditions of final approval and are asking for a 90-day extension. Mr. Karis asked what conditions are outstanding. Mr. Labriola stated that the file contains a letter from Mr. Brian Franks stating that they have not completed a required step.

Mr. Labriola: MOTION TO GRANT 90-DAY EXTENSION ON FINAL APPROVAL

Whereas an application for approval of a subdivision entitled Joshua Ward House was submitted to the Planning Board in January 2008, and

Whereas a conditional approval of final plat was granted by the Planning Board on April 8, 2008, and

Whereas in accordance with Town Code Section 8215(i) said approval is valid for 180 days beginning April 8, 2008 and ending October 5, 2008, and

Whereas the applicant is requesting an extension of said approval due to not all of the requirements have been completed as stipulated in the final approval letter and more time to do so has become necessary, now

Therefore, be it resolved that the final approval be extended for a period of 90 days to begin October 5, 2008, and end on January 3, 2009.

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 6-0-0

13. MISCELLANEOUS –

Proposed Building Moratorium: Mr. Labriola stated that he and Mr. Nelson reviewed this proposed law and put together a punch list of questions and concerns that they would like the Town Board to consider. He asked Mr. Nelson to review this list and asked the Board members to add anything else that they would like to be passed along to Mr. Volkman and the Town Board.

Mr. Nelson stated that most of the items were questions about interpretations. He stated that the first one is lot lines and that they are not treated separately under the moratorium.

He explained that the question to the Town Board is whether they intended to include lot line changes to be governed by the moratorium.

Mr. Nelson stated that the next question is about exceptions to the moratorium for site plans and subdivisions that have reached a certain stage. For instance, he stated that this Planning Board takes a hard look at SEQRA and the question to the Town Board is whether they want an exemption for ongoing site plan approvals if they have finished the SEQRA process.

Mr. Nelson stated that a third question is how long does the whole process take; there are time limits on a moratorium. Specifically, he posed a question, if the Town adopts the moratorium now, will there be enough time to complete the Town plan, SEQRA, the adoption of the Town plan, the re-codification SEQRA, and then the re-codification.

With regard to wetland permit applications, Mr. Nelson stated that you can read the proposed law to mean that these applications are not directly subject to the moratorium. So a question for the Town Board is whether they mean to have these wetland permit applications exempt from the moratorium and be allowed to go forward.

With regard to sign permits, Mr. Nelson stated that they are treated separately and again asked if the Town intends to include them in the moratorium.

Mr. Nelson stated that it looks like approvals that are ancillary to non-residential site plans and special permits are also subject to the moratorium. He stated that the question is whether the Town means to bar the ancillary applications, or did they mean to just bar the non-residential site plans, or did they mean to bar both.

Mr. Nelson observed that applicants can continue with SEQRA under the law. He stated that following SEQRA very often the plans change. Therefore, it would be possible to have a site plan frozen in time by the moratorium and, therefore, unable to make the changes arising from the SEQRA determination.

Mr. Nelson stated that there is a separate section in the proposed law that permits SEQRA to go ahead and provides for two informal conferences with this Board. He explained that the assumption is that the two informal conferences do not limit the number of meetings an applicant can have with the Board to work their SEQRA. He stated that he thinks the answer to that is no, that they are two different things.

Mr. Nelson stated that his understanding is that there was some request that the Planning Board look at this moratorium but that the request may not have been delivered formally to the Board. Therefore, he stated that Mr. Labriola thought that Board members should look at the terms of the moratorium and provide their thoughts.

Mr. Gordon stated that he has read it several times and have heard from some people who are upset about the plans for a moratorium. He stated that it is a little vague on how you go about a hardship application and designation and how long that might take. He stated

that the Town Board is the governing body that would grant the hardship. Mr. Nelson stated that his recollection is that the hardship exemption refers to a section in State and Town law, which is the variance section, and that it incorporates the use variance standards. Mr. Gordon stated that the concern relates to an application that has been before the Planning Board for a long time and that there is a lot of time and money invested in the project.

Ms. Seaman stated that she spoke with Mr. Frank Suscynski about the impact of the moratorium on the re-codification process and timeline. She stated that it was her recommendation that exemptions should include any projects that have received SEQRA determination. She explained that such projects have reached a certain level, the applicants have invested time and money, and the Town runs the risk of law suits regarding a taking based on the claim that the review process was initiated based on one set of rules that have now been changed. Mr. Labriola stated that he likes the notion of an exemption for SEQRA determination as opposed to projects that have exited the SEQRA process, because those can be years apart. Ms. Seaman pointed out that when a project receives a positive SEQRA declaration, the applicant is required to put in a lot of time and effort. Therefore, she stated that she spoke to Mr. Suscynski directly about one application that needs to be exempt from the moratorium. Mr. Labriola underscored Mr. Nelson's point that this Planning Board has a reputation of taking a very hard look at applications, that when the Board does a negative or positive SEQRA declaration the Board has done its homework. He stated that at that point applications should be permitted to progress.

Mr. Labriola stated that right now there are 4 applications that are exposed: Taconic Homes and 3 subdivisions. He stated that the Planning Board authorized the Craige subdivision for a public hearing in February 2008 and has not heard from them. He stated there is Rossway Road Properties that is progressing along the review process. He stated that there is the Smythe subdivision on which there was a public hearing adjourned in May of 2003. Therefore, he stated that there are not a large number of applications that are exposed but noted that there could be a flurry next month. But for the most part, these are three applications that would be affected. Mr. Labriola stated that anything that comes in before the moratorium is enacted and depending on how far they get in the review process, the Board will tell them whether they are on hold. Ms. Seaman noted that it depends on when the Town enacts the moratorium.

Ms. Seaman stated that the only one that she considers to be a hardship is Rossway because the SEQRA has not yet been done. Mr. Labriola concurred that the SEQRA has not yet been done. He stated that he expects Rossway to come back next month with their updated set of plans, the stormwater management conceptual plan, and at that point and if there are no surprises the Board will authorize them for a public hearing in November which will trigger the SEQRA determination. Ms. Seaman stated that the Town Board is looking to initiate the moratorium before then. Mr. Labriola stated that the Town Board needs to give the Planning Board a heads up on when they are planning on enacting the moratorium because the last thing we want to do is tell the applicant that they missed it by a month. Ms. Seaman pointed out that an application filed in October

2008 is highly unlikely to reach SEQRA by November or even by December. Therefore, she stated that Rossway is the only one that is in this grey area. She stated that Mr. Susczynski stated that he would support that. Mr. Labriola suggested that the language needs to be modified to say something about that either there's been a SEQRA determination or that the Planning Board has authorized the subdivision applications to advertise for a public hearing, which would require a SEQRA to happen. This language would provide the Board with some level of flexibility for a small number of applications that would be affected. Dr. Fischer asked if the public hearing is held before the SEQRA. Mr. Labriola stated that it is the other way around; the SEQRA precedes the public hearing. Board members agreed that that should be changed. Mr. Labriola stated that it would require a change in the law to effect that change.

Ms. Seaman stated that there is another question about the moratorium. She stated that the moratorium would essentially stop commercial development. She stated that a part of the new comprehensive plan and the new regulations is to have architectural review as part of the Planning Board's process. Mr. Labriola asked if this is part of new construction. Ms. Seaman stated that as part of new construction or reconstruction, that there is a governing set of rules that the Board works within to try to establish uniformity in the Town. Mr. Labriola asked whether an application, such as Mongon, to rehabilitate an existing site would be subject to this moratorium. Ms. Seaman stated that the way she reads it, it is. Mr. Labriola concurred, that it is an all or nothing set of rules. Ms. Seaman stated that the way she thinks it should read is: rehabilitations, new commercial development She stated that when you place a moratorium, the purpose is to prevent a rush to the Planning Board to change things that you may not want to change. She gave an example that in areas where you're trying to go to 5 acres, you don't want everybody rushing in to do a 2 acre subdivision in the next 3 months. She stated that the Town is not under a lot of threat of that because of the current economic situation, but that we do not really want to stop commercial development. Mr. Labriola stated that we do not want to stop commercial development of an existing site that someone wants to redo. However, an application for a second MacDonald's may be something we want to put the brakes on. But if someone wants to put a canopy up on a gas station, that should be permitted.

Ms. Seaman stated that something should be put into the plan to allow for rehabilitation of existing sites or reuse of an existing site. Mr. Gordon suggested that if it does not involve zoning issues or a subdivision. Mr. Labriola stated that a perfect example is the shopping center that Herb Redl and Kelly Hardisty Redl just rehabilitated, which the Board and the Town would not want to slow something like that down. Ms. Seaman stated that she does not feel that we are in danger of losing anything if we allow commercial rehabilitation to continue. Mr. Labriola concurred and pointed to other commercial rehabilitation projects – CVS, all of the gas stations that now have canopies – that there is continuity in what the Town is doing. Ms. Seaman referenced rebuilding of a site or some augmentation of a site or some reconstruction of a site. She stated that she does not think we are in danger of losing what the Town is trying to do.

Mr. Gordon stated there are two things in the comprehensive plan that apply to commercial redevelopment/rehabilitation, which are architectural review and the new sign ordinance. Ms. Seaman agreed.

Mr. Labriola stated that businesses need signs and the Town should not shut down those applications. Further, he stated that the Town has lived with the sign ordinance for far too long and suggested that the Town can live with it for another year. Ms. Seaman agreed.

Mr. Labriola suggested that lot line realignments should be allowed to go forward because they will not have a huge planning effect. Ms. Seaman agreed.

Mr. Labriola stated that applications for regulated activities in wetlands should be allowed to go forward. Ms. Seaman agreed. Mr. Labriola noted, however, that an application to put up a commercial building within a wetland buffer would be covered under new site plan moratorium.

Mr. Labriola stated that we don't want to shut down all sorts of investment in the Town. Ms. Seaman agreed. He suggested language allowing rehabilitation of sites to go forward with a footprint that is not increasing by greater than 25%. Ms. Seaman agreed.

Mr. Labriola stated that the Board has not had architectural reviews up until this point.

Ms. Seaman and Mr. Gordon agreed that they don't want to shut down all activity. Ms. Seaman stated that there is great value to the moratorium, but that if you make it too restrictive, you garner resistance. She suggested that if there is a reasonable basis for it and a reasonable limitation it will be more likely to be acceptable. Mr. Labriola agreed that the all or nothing stance means that somebody loses.

Mr. Gordon stated that a lot of people think that the comprehensive plan committee came up with the moratorium, which they did not. He stated that the committee suggested to the Town Board that it would be a good idea. He stated that the Town Board instructed the Town attorney who, then, came up with a very restrictive plan, which was not the committee's intention.

Ms. Seaman suggested that Mr. Labriola, as chair of the Planning Board, provide the Town Board with a list of projects that should be allowed during the moratorium and with explanation and rationale for allowing them. Otherwise, she stated that it will have a stagnating effect on the progress of the Town.

Mr. Labriola summarized, from this discussion, that there are some additional comments that the Planning Board wants to pass along. He stated that it is this Board's recommendation that the following be exempt from the moratorium:

- Sign permits (**new applications only – see discussion below**)
- Lot line realignments
- Regulated Activity in Wetlands

- Commercial rehabilitation of existing sites assuming the expansion is not more than 50%
- Applications for site plan and subdivision that have gone beyond SEQRA determination or subdivisions that the Planning Board has authorized the applicant to advertise for a public hearing

Ms. Seaman brought up the question of ZBA appeals being subject to this moratorium. Mr. Labriola stated he hopes the ZBA will take a hard look at this planned moratorium, as well. He stated that he cannot think of any application before the ZBA that the Planning Board would not want them to look at. He stated that the ZBA should have an opportunity to look at a Special Use Permit application. Mr. Gordon brought up the mobile home applications. Mr. Labriola stated that we are making it way too restrictive. Mr. Karis asked if the ZBA appeals are being restricted. Ms. Seaman stated that they are subject to the moratorium. Mr. Karis stated that the ZBA is a judiciary board and asked how you stop them. Ms. Seaman explained the courts have approved moratoriums on the basis of police powers. She stated that police powers give you a lot of leeway. Mr. Labriola stated that it will be up to the chair of the ZBA.

Ms. Seaman stated that she thinks that the moratorium is a good idea but that it needs to be tweaked a little. Mr. Labriola concurred. Mr. Karis stated that he has been through a moratorium in another town where they allowed applicants to proceed at their own risk, to a certain extent. He stated that the Planning Board was not allowed to grant approval, but that the applicant could basically work to the finish line and take the risk that it would not work out.

Dr. Fischer expressed his reservation about exempting the sign permits – that there may be a run on them when the word goes out that they will be restricted. Mr. Labriola stated that it will be many months before there is a new ordinance – the necessary prior steps are to get the comprehensive plan accepted, through SEQRA, approved, to get the re-codification going. Ms. Seaman stated that the plan is that they will be done at the same time. She stated that SEQRA will be done on the comprehensive plan and Chapter 98 and 82 all at the same time.

Dr. Fischer suggested that some sign applications be permitted. Ms. Bramson suggested that new signs be exempted. Mr. Labriola and Ms. Seaman stated that that is a great idea because it does not restrict new businesses from having a sign. Dr. Fischer agreed.

14. MINUTES

Mr. Labriola: **MOTION TO APPROVE MINUTES OF THE AUGUST 2008
PLANNING BOARD MEETING AS CORRECTED; SECONDED BY R.
SEAMAN; VOTE TAKEN AND APPROVED 6-0-0**

Meeting adjourned at 10:00 p.m.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represent unofficial minutes of the September 9, 2008, 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 14, 2008

A regular meeting of the Pleasant Valley Planning Board took place on October 14, 2008, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:36 p.m.

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

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

ANNOUNCEMENT: Mr. Labriola announced updates to the meeting's agenda. First Realty Plaza is off the agenda; the applicant decided not to go forward with the hair salon. Also, Rossway Properties is also off the agenda; they did not respond in time for the meeting.

1. ANTHONY DARIA – SUBDIVISION

Mr. Anthony Daria was present. Mr. Labriola asked him to describe the proposed project.

Mr. Daria explained that he wants to separate the 3 houses into 3 lots.

Mr. Karis stated that this application was on last month's agenda but that the Board did not review it because the applicant was not present at the meeting. Mr. Labriola noted that the file does not contain a map and asked if these are three existing homes that Mr. Daria is planning on separating into 3 lots. Mr. Daria stated that that is correct.

Mr. Setaro provided the Board with a map. Mr. Daria stated that the first meeting he went to was for a variance. He stated that there were stairs that came off the deck that were too close. He stated that they asked him to change the steps and he removed the steps. He stated that at that meeting they had told his engineer that the planning department had sent a letter to him stating that he did not need to get a variance, that there was enough room to make it jet out and then straight back. But, he stated, that they had gone to the meeting anyway and it was simple enough to take the stairs off anyway, which is what he did.

Mr. Labriola stated that he did not recall this application coming before the Planning Board for a ZBA referral, so this may have been something that went through the Zoning

Office and the Zoning Administrator may have taken care of that without it coming to the Planning Board.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that the biggest points are that two of the lots do not meet the minimum lot width of 100' at the building line. He stated that Lot #2 has approximately 88' and Lot #3 has 60'. He explained that the Code requires 100' minimum width along the building line. He stated that Mr. Daria's engineer should have received a copy of Morris Associates letter. Mr. Daria asked what he would do, that these are all stationary buildings. Mr. Setaro explained that he needs to apply for a variance. Mr. Daria stated that he already went there; he already applied for a variance.

Mr. Labriola explained the procedure. He stated that Mr. Daria has made an application for a subdivision, that he has non-conforming lots, and that the Planning Board cannot approve any lots that do not conform to the Town Code. Mr. Labriola explained that Mr. Daria needs to get a variance from the ZBA, which is the Board that would provide Mr. Daria with that approval. Further, he explained that if the ZBA grants the variance, then the Planning Board can approve a substandard lot, because the current Town Code requires 100' at the building line which he does not have. Therefore, Mr. Labriola explained that the Planning Board cannot go forward on this application. Mr. Daria asked if this was the case even though this is pre-existing. Mr. Labriola stated that even though the houses are pre-existing, the lot lines are proposed.

Mr. Daria stated that he thought they were conforming by changing it to three lots, that there are 3 houses on 26 acres. Mr. Labriola stated that he has a pre-existing non-conforming use because it has been like that for years and prior to Zoning. He stated that there is nothing from the Town forcing Mr. Daria to do this and stated that he does not know why Mr. Daria wants to do this. In order to get a subdivision approved, Mr. Labriola stated that the Planning Board can only approve conforming lots.

Mr. Karis stated that a subdivision will make it more conforming. Mr. Setaro stated that the Planning Board cannot act on the application as it is now. Mr. Daria asked if his engineer has a copy of the Morris Associates letter. Mr. Setaro stated that he does.

Further, Mr. Setaro noted that Lots #1 and #2 do not meet the minimum setback from Route 44, which the Code requires to be 80'. He noted that Lot #1 is 50' and Lot #2 is 60'. He stated that it is a pre-existing condition but that the Code requires a certain setback. Mr. Daria asked for a copy of the Morris Associates letter; Board member provided him with a copy.

Mr. Labriola also pointed out that on Lot #2, the house is 9.8' from the lot line and that the Code requires it to be 15'. Mr. Daria stated that that is what he originally went for and that the only objection was that there was a pair of stairs that went out which made it closer than the 9' and that he took off those stairs. Dr. Fischer wondered how the application went to the ZBA without coming, first, to the Planning Board. Mr. Setaro agreed that the application has to come to the Planning Board before going to the ZBA.

Mr. Labriola pointed out that you cannot ask the ZBA for a variance from a lot line that does not exist. Dr. Fischer stated that the advice that Mr. Daria was given was not correct.

Mr. Daria asked what he is now supposed to do. Mr. Labriola explained that Mr. Daria started in the right place, which is with the subdivision application; and that after reviewing the application, the Planning Board is advising him that he has some items that require a variance. He explained that if Mr. Daria goes to the ZBA for variances for the lot widths, for the setbacks from the center line of the road, and side lot setback on Lot #3, and if the ZBA grants these variances, this will allow Mr. Daria to come back to the Planning Board and proceed with the subdivision application. However, he explained that if the ZBA does not grant the variances, the process stops because the Planning Board cannot legally proceed.

Dr. Fischer suggested that there are alternatives to the current design of the subdivision. Mr. Setaro agreed and asked Mr. Daria whom he spoke with in the Zoning office. Mr. Labriola stated that this was last year and recalled that he received a notice from the ZBA that stated that the ZBA cannot rule on a lot line that does not exist.

Mr. Karis asked if the next step is for the Planning Board to refer Mr. Daria to the ZBA for variances and whether it is clear what all the variances are that will be needed. Mr. Setaro stated that there are three.

Mr. Labriola asked how many wells there are and how many septic systems. Mr. Daria stated that there is one well that supports three homes. He stated that there are 3 septic systems. Mr. Labriola stated that he cannot ever remember a shared water supply that was not a private water supply of an apartment complex. He stated that he cannot think of a single subdivision that the Planning Board has approved with a single well servicing multiple lots.

Mr. Setaro noted that the Morris Associates comment letter also asks for detail on the SDS's. Also, he stated that Mr. Daria needs to go to the Department of Health to see if they would be willing to accept this plan. Mr. Setaro stated that if the Health Department approves this, then Mr. Daria would have to get cross easements for each of the lots, so that whenever the lots are sold in the future, the new owners have legal access to the water supply.

Mr. Daria stated that he knows of situations where there is more than one house on a well. Dr. Fischer explained that Mr. Daria is trying to divide something up that is pre-existing and perfectly OK to be the way it now is; but that he is trying to change it into something else, change it into separate lots, and now he has to abide by the Code regulations. Mr. Karis stated that by putting in the property lot lines, Mr. Daria may be potentially cutting off the right to water by one of the lots from this well.

Mr. Daria asked if that is it, or if there are additional points he needs to address. Mr. Setaro offered to talk with Mr. Daria's engineer. Dr. Fischer suggested that Mr. Daria

check with his surveyor or other people he is paying for advice on what else they think may be necessary. Mr. Daria stated that this is getting very costly. Dr. Fischer stated that the Planning Board is not at fault. Mr. Daria stated that he knows that.

2. JOHNSON SUBDIVISION

Mr. Don Miller, Barger & Miller, was present. Mr. and Mrs. Johnson were present also.

Mr. Miller stated that this is an 8.06 acre parcel of land on Masten Road and the proposal is to subdivide off a little over 2 acre parcel. He stated that the remaining 6 acres will house the existing house.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that everything meets the requirements for Sketch Plan approval. He asked if the applicant has met with the highway superintendent yet. Mr. Miller stated that he mailed documents to the highway department and the fire department today. Mr. Setaro stated that the main issue is to get the approval of the Town Highway Department for the driveway location and sight distance. No other issues with regard to sketch plan.

Mr. Karis asked whether the pond on the property is a regulated water body under the Code. Mr. Miller responded yes. Mr. Karis stated that the 100' buffer should, therefore, be shown on the map. Mr. Miller stated that there's a new map that will be submitted that shows the buffer.

Mr. Karis stated that he noticed on the topography that on Lot A there is a big hole in the middle. Mr. Miller stated that there are wetlands in that area. Mr. Karis asked about the outlet for the whole drainage area. Mr. Johnson stated that there is no outlet for that. Mr. Miller stated that it is just a depression. Mr. Karis asked if it ever holds water. Mr. Johnson stated that it does not hold water for more than a day. He stated that in a good rain it will come up and be about 6". Mr. Karis stated that to him it looks like a vernal pool – a wetland pocket. Mr. Johnson stated that it is in an open area with trees. Mr. Karis also noted that the development is staying away from that area and he just wanted to point it out.

Mr. Labriola asked where the septic system is located on Lot A. Mr. Miller pointed it out on the map. Mr. Labriola asked about the location of the well and the septic on the adjoining property to make sure that there are the necessary separations. Mr. Miller pointed them out on the map, also.

Mr. Labriola stated that based on the aerial maps the site looks to be wooded. Mr. Miller stated that it is pretty wooded up in the back. Mr. Labriola stated that the Board will ask the applicant to show the boundaries of the area that will be cleared and the areas that will be preserved. He stated that the intent is to try to provide as much of a visual barrier to the adjacent property owners as possible.

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

I move that the Planning Board grant Sketch Plan approval to the Donald and Sharon Johnson subdivision 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 10/7/08**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

Mr. Labriola asked Mr. Setaro if the Board would need to see an updated set of drawings prior to authorizing the applicant to advertise for a public hearing. Mr. Setaro expressed his opinion that it would not be required.

Mr. Labriola authorized the applicant to advertise for a public hearing at the next Planning Board meeting. He also advised the applicant to stop by the zoning office to pick up a subdivision sign and a packet with a form letter to notify adjacent property owners of the upcoming public hearing.

3. GREAT SPRING MANAGEMENT – SPRING CREEK APARTMENTS

Mr. Bill Povall, Povall Engineering, and Mr. Burt Maggiacomo, Great Spring Management, were present.

Mr. Povall displayed a subdivision map of Spring Creek Apartments located on the south side of Wigsten Road. He stated that, currently, there are 4 apartment buildings and an accessory office on 27 acres. He pointed out the existing access drive that comes in along the east side of the property towards the back where the 4 existing buildings are located. He stated that the existing buildings have the following housing units:

- Building #1 has 9 units
- Building #2 has 8 units
- Building #3 has 8 units
- Building #4 has 9 units

Mr. Povall stated that they are proposing a 5th building with 9 apartments and he pointed out this proposed building on the map. He stated that they will expand the parking lot to provide the necessary parking for the new building.

Mr. Povall stated that now there is an accessory office building on a one-acre parcel and the balance is 26.8. He stated that they are proposing to combine the two parcels, retain the existing office building, and propose the new apartment building with the 9 units. He stated that by doing this they will connect the new apartment to the existing water system. He stated that there is a central water system that feeds the complex. He pointed out the well and the pump house on the map.

Mr. Povall stated that each building is on its own individual sewage system. He stated that they are proposing to create a new individual septic system for the new apartment building located in the rear of the building.

Mr. Labriola stated that in their application they also mention a potential access to the office building off of Wigsten in the future. Mr. Povall stated that right now there is an existing gravel parking area. He stated that they are proposing to keep that as it is. However, with the various setback requirements for the septic systems and drainage, he stated that that puts the 100% expansion area in the exit of the parking area. Therefore, he stated that if for some reason in the future they have to build out the 100% expansion area, they have shown a redesigned parking area for the office because the existing parking would need to be eliminated at that point. He stated that they are not proposing to do that at this time and that it would only happen if they ever had to use the area that is reserved for the 100% expansion for the sewer.

Mr. Karis asked if they would take care of that problem now with the construction of the new building and parking lot. Mr. Povall stated that it is a small office building now and they don't see the need to make any changes at this time. Therefore, he stated that they are proposing to leave it alone. He stated that it is highly unlikely that the 100% expansion area is going to be used and their intention would not be to build the parking area at this time. Mr. Karis asked if they are looking for approval for the parking lot. Mr. Povall stated that they are looking for approval. Mr. Karis clarified that they are looking for approval that in the future if they need to build a septic system, they could then just build the parking lot.

Mr. Setaro reviewed the Morris Associates comment letter. He stated the concern for how the applicant will take care of the drainage. He pointed out the area on the map where everything slopes down to the adjoining property. Mr. Povall stated that the sketch plan shows a pipe located in the lower area in the back of the adjoining property. He stated that the water drains down through the back of the property and under the access drive and towards the stream. He stated that they are proposing a stormwater basin. Mr. Setaro asked if the pipe goes across the adjoining property now. Mr. Povall stated that it does. Mr. Setaro stated that if they got a lot of water in the proposed basin it would overflow on the adjoining property and surface flow across the property. Mr. Povall stated that there is an open culvert that goes underneath the road. He stated that right now water from the west side of their property funnels down to the adjoining property. He stated that there is a low area on the back of the adjoining property and then that water drains through a culvert that goes underneath the driveway towards the stream. He stated that they are proposing to continue or not interrupt that concept with water flowing down towards that area. He stated that they are proposing a stormwater basin to mitigate the storm water. He stated that the storm water would be released in the same direction that they are being released now. Mr. Setaro stated that this is something that can be discussed and suggested that there may be some way to take care of the roof leaders by some other method – infiltration. But he stated that they will have a problem with setbacks and such.

Mr. Labriola also mentioned the sheet flow off of the proposed parking would also be onto the adjacent property owners. Mr. Povall stated that they would pick up all the drainage from the parking lot and pipe it over to the basin and discharge it into the

stormwater basin. He stated that at some point there would be a spillway. Mr. Labriola summarized that they will direct the sheet flow across the adjacent property owner. Mr. Povall stated that at some point when it reaches a certain volume the water will spill over onto the adjoining property, but that would be done similar to a predevelopment level. Mr. Setaro stated that that will be something they will look at and suggested that they infiltrate as much of it as they can given that the site is gravel.

Mr. Setaro stated that the fire department will have some comments and pointed out the island in the parking lot which might make it difficult for a fire truck to maneuver in there.

Mr. Setaro stated that the Planning Board would be concerned with the visual impact from Wigsten Road looking at the rear of the building.

Mr. Gordon pointed out that the aerial map shows a wetland that is not shown on the applicant's map located to the right of the drive. Mr. Povall stated that right now that is a mowed lawn and he cannot see how that could be a wetland.

Mr. Karis asked if there will be basements. Mr. Povall stated that there will be basements. Mr. Karis asked if they will be walk-out basements. Mr. Povall stated yes. Mr. Karis stated that the end of the building will be three stories plus the roof. Mr. Povall stated that that is something that they can work with, to build it up in the back. Mr. Karis stated that it will attract storm water. Mr. Povall stated that they will build a retaining wall. Mr. Karis stated that even if they build a retaining wall, the building is still going to look 3 ½ stories high on that one end with the walk-out basements. He asked if there is a way to step the building. Mr. Setaro stated that they will have to look at that. Mr. Povall stated that they will comply with zoning regarding the height. Mr. Karis stated that that is visually big and is pointing right at the back of another property so that they will want to be sensitive to that and create screening.

Mr. Gordon asked why they did not configure the proposed building more in line with the existing buildings. Mr. Povall explained that they need additional parking. Board and applicants discussed optional layouts to be more parallel with the contours. Mr. Gordon stated that the way it is drawn does not match the rest of the layout. Mr. Povall explained that when the building is turned parallel with the other buildings, you end up with a dead end parking lot. Mr. Labriola asked why the parking lot needs to be parallel with the building. Mr. Karis agreed and asked about keeping the parking lot where it is and moving the building a little farther away from the parking lot. Mr. Povall stated that that is something they can look into. Mr. Labriola pointed out that this way you don't have the entire backside of the building up against Wigsten Road. Rather, he stated, they would only have the one 3½-story side that can be shielded without going into the storm water pond. Mr. Povall will look into this suggestion.

With regard to the primary SDS and the 100% expansion area for the first SDS on the road coming into the site, Mr. Labriola stated that if they ever had to dig that up, access would be blocked to the site while that construction was going on. Mr. Povall stated that

if that ever needed to happen, they would replace part of it at a time in order to maintain access. Mr. Setaro agreed that it is possible to make the repairs and maintain access.

Mr. Setaro clarified that a lot line realignment is not required; that the combination of the lots is done through the county clerk's office.

Mr. Labriola asked what their plans are for the appearance of the building, whether the new building will be identical with the existing buildings. Mr. Povall provided black and white sketches of the building with layouts. Board member asked about the rear of the building. Mr. Povall stated that it will be similar with decks off the back. Mr. Karis stated that that should be shown on the map.

Mr. Labriola stated that it is a nice looking building. Dr. Fischer stated that the rear of the building should look as nice as the front of the building.

Mr. Setaro stated that Dutchess County Planning Department will need to receive elevations with colors and materials.

Mr. Gordon asked about the number of parking spaces in the new parking lot and stated that it looks big. Mr. Povall stated that there are 28 new parking spaces proposed and that they are eliminating 8, so there is an additional 20 parking spaces. He explained that now there is excess parking within the complex. By Code, he stated that they are required to have 111 spaces and that they are proposing 113. He stated that it is 108 for the apartments and 3 for the office. Mr. Gordon stated that the lot in front of the new building looks huge. Mr. Setaro stated that something may be able to be done with that. Mr. Povall spoke about breaking up the straight lines created by the existing parking lots and adding character to the appearance.

Mr. Karis asked if there is enough parking on the site. Mr. Maggiasco stated that he believes there is. He stated that the Code requires 2 ½ spaces per unit. Mr. Povall stated that it is usually only half full.

Mr. Maggiasco asked about scheduling a site visit. Mr. Labriola mentioned that he had driven out to the site to take a look and suggested that Board members should do so, also. Mr. Povall stated that the more the building is turned, there will be created a parking situation that is not ideal. He stated that they already looked at different layouts which is why he knows that if the building is turned there will be issues with the parking.

Mr. Labriola asked that if they have alternate designs they submit them to the Planning Board for review. Mr. Gordon suggested that they get some comment from the Board of Health with regard to the septic. Mr. Povall stated that they are confident with the septic, given the gravel soils in the area and that he has done quite a bit of work with the Health Department. He stated that he is comfortable that what they have designed will work for the proposed building.

Mr. Setaro stated that the only thing that might come into play is if they try to put some of the drainage into the ground. He stated that the Health Department has certain criteria for offsets between dry well and septic. He suggested that Mr. Povall call him to discuss options.

Dr. Fischer pointed out that sheet water flow will be the biggest issue especially with the addition of the large parking area.

4. JEREMY JOYCE

Mr. Joyce was present.

Mr. Labriola reviewed the goals for this meeting:

- To hear from Mr. Joyce with regard to his discussions with Butch Gardner regarding sight distance at the top of the driveway on Drake and with the Fire Advisory Board regarding their requirements.
- To conclude the discussions regarding the bridle path
- And to create a punch list of things that Mr. Joyce needs to work on for his next submission with an engineered set of drawings

Mr. Joyce reported that he met with the Fire Advisory Board and showed them that he cannot provide the amount of space that they requested. He stated that they wanted a turn around up by the house, they wanted 20' wide and 5' clear on each side of the driveway. He stated that they concluded and agreed to:

- A K-turn can go up by the house instead of a cul-de-sac or a dead end
- Starting from the road down to the bridge, it is OK if that is 12' wide as long as there is a turn-off before the stream that is 12' wide by 50' long, which is shown on the map
- The bridge to hold up the weight of a fire truck
- The driveway after the bridge to be 20' wide so that they can pass each other on the house side of the stream
- Radius turning into the bridge is OK

Mr. Setaro was surprised to hear that the FAB was OK with the 90-degree turn into the bridge. Mr. Joyce stated that they looked at it and were OK with it. Mr. Karis stated that Mr. Joyce can have his engineer do a turning radius study. Mr. Setaro stated that the FAB is good about having information on the turning radius for their fire vehicles. Mr. Labriola concluded that Mr. Joyce needs to verify that the radius will, in fact, handle a normal sized fire truck.

Mr. Setaro asked if the FAB talked about the width of the bridge going over top of the culvert, whether 12' is OK for them. Mr. Joyce stated that it is, that where 12' is all he can give them, it's OK.

Mr. Labriola stated that this addresses the concerns that the Board had regarding the road down to the bridge – having a place where two cars could pass one another. He stated that it looks like 12' wide and another section 12' x 50' satisfies that. He stated that it

seems that the FAB is OK with the radius and the approach to the bridge, which will be verified by an analysis that Mr. Joyce's engineer will do and show on the plan. He stated that widening the driveway to 20' on the other side of the bridge solves passage of vehicles on that side. And, finally, instead of the huge cul-de-sac, the FAB is OK with a K-turn. Mr. Setaro explained what a K-turn looks like. Mr. Setaro stated that the FAB's new requirements are more feasible than the first set of requirements.

Mr. Labriola stated that the Planning Board needs a letter from the FAB documenting these changed requirements.

Mr. Joyce reported that he and Mr. Gardner walked the site with a wheel and that Mr. Gardner thinks he has the appropriate sight distance; 12' back from the road and 44" high. He stated that Mr. Gardner wants Mr. Joyce's engineer to go out there with a transit to verify that. He stated that Mr. Gardner will allow the apron to be moved, if it is close. He stated that initially with the first drawing, Mr. Gardner did not like the apron on top of the culvert. Therefore, Mr. Joyce moved it up against the right hand side. Going out there, Mr. Joyce stated that Mr. Gardner does not think there's a problem toward Halter Lane. He stated that Mr. Gardner thinks the problem might occur going toward the Taconic. He stated that Mr. Gardner thinks it's so close that if he had to move the apron toward Halter Lane a little bit and be on top of the culvert, he would be OK with that. He stated that as long as it is documented in writing that if they have to repair the pipe under the road, Mr. Joyce would be responsible to fix his apron if necessary.

Mr. Labriola noted that this is a subdivision that was approved by a Planning Board 20-25 years ago. He stated that that access point was OK then, and stated that this Board should do whatever it can do to get it as close to 300' as possible. He also stated that it is an approved access point. Mr. Setaro stated that what Mr. Gardner has been doing in the past is even though it is a pre-existing lot, he has been having people get a variance for it to have it on the record. Mr. Karis asked what variance would be requested – sight distance? Mr. Setaro stated yes.

Mr. Labriola summarized that Mr. Joyce's engineer will shoot the site to determine whether it meets the required 300' sight distance. If it is 300' and Mr. Joyce has to move the apron toward Halter Lane, Mr. Labriola noted that it sounds like Mr. Joyce is willing to sign whatever document is required that says that he's willing to repair the apron. And, if the sight distance is not 300', then it sounds like Mr. Gardner will require Mr. Joyce to go to the ZBA for a variance. Mr. Labriola polled the Board members – all were OK with this going forward.

Mr. Joyce reported that he submitted a permit to the DEC to work in the wetlands. He stated that he did not think he should submit that to the Planning Board until he gets some feedback from the DEC. He stated that if he gets the permit, he will submit it to the Planning Board. Mr. Setaro stated that it is a good idea that Mr. Joyce meets with the DEC to show them what he is proposing to do. Mr. Joyce stated that he met with the DEC already. Mr. Setaro asked what the DEC said. Mr. Joyce stated that he has met with the DEC and followed their instructions on other projects.

Mr. Karis asked Mr. Labriola for clarification on how the DEC and their involvement fits into the SEQRA process. He stated that he is of the opinion that he needs to get a wetland permit approval; the DEC needs to give a disturbance of stream permit and possibly some other DEC permit. Mr. Karis suggested that this needs to be a coordinated SEQRA review and that the Planning Board declare its intention as lead agency. Further, he stated that the Planning Board needs to hear directly from the DEC. Mr. Labriola stated that that makes sense. Mr. Setaro stated that the DEC will correspond directly with the Planning Board. Mr. Karis noted that the DEC will be an involved agency.

Mr. Karis stated that part of the more detailed engineering drawings should be a revised completed full EAF Part 1, which will be the responsibility of Mr. Joyce's engineer to fill out. He stated that once Mr. Joyce goes through the more detailed engineering process he will be able to provide some concrete numbers on the EAF that will allow the Planning Board to make an environmental determination.

Mr. Labriola outlined the following punch list for Mr. Joyce:

1. need to understand the pre-construction, construction, and post-construction disturbances in the wetlands or wetland buffers. There will be areas of vegetation that will need to be rehabilitated at the end of construction to return it to pre-construction condition.
2. need to understand the bridge design and the building sequence and how Mr. Joyce plans to construct the bridge, minimizing impacts to the wetlands
3. the SDS and the house are currently sited right up against the wetland buffer – to construct those Mr. Joyce will need to infringe in the buffer. Mr. Joyce can show his plans to mitigate that or he can relocate the SDS and the house out of the buffer
4. need to understand erosion control, storm water management

Mr. Karis stated that the Board also needs to understand phasing – what is the sequence of construction to get the road down to the stream, where all the trucks and materials will be stored, need to know real sizes. He stated that a staging plan is needed.

Mr. Karis mentioned scheduling a site visit before there is snow and ice on the ground – otherwise it will have to wait until spring. Mr. Labriola agreed and stated that he will work on getting something scheduled.

With regard to the bridle path, Mr. Labriola stated that the title documentation that the Board has does not provide any clarity as to where the path goes. He stated that there's a note on the map that says that the path goes around the perimeter of the subdivision. He stated that there is a drawing that indicates that it goes up the flagpole portion of the lot, which is not the perimeter of the property. He stated that when Dutchess Corral got approved in 1973, this was an approved building lot and showed a septic system location and a housing location. He stated that he has to believe that it was approved with this being a lot that one could access from a Town road. He stated that he would be hard pressed to think that that easement is actually part of that flagpole because that would

make this a non-accessible lot. He wondered why the Town would have put road frontage on something that one could not access.

Mr. Karis suggested that the restriction is that you cannot impede others' rights to access through that portion of that lot, not necessarily preclude you from building and access to the Town road. He suggested that you just need to maintain access for whatever is detailed in the easement – maintain the rights of the other property owners to that area if, in fact, it goes up that flag. Mr. Labriola reviewed the stated measurement of the path – 30' – and the drainage easement – 20', which appear to overlap through that flag.

Mr. Nelson stated that the width of that bridle path easement is somewhat undetermined per the documentation – that it is wider on lots 2, 10, and 15. He noted that this is lot 2. Ms. Seaman asked if anyone uses the path. Mr. Joyce stated that he has seen people riding on the path. Ms. Seaman stated that the only impact that she would see is that Mr. Joyce cannot restrict access – that he cannot close it off with a gate. Mr. Karis, however, stated that some of the construction work will make it inaccessible. Ms. Seaman stated that there's no reason people could not ride their horses up his driveway. Mr. Labriola pointed out, however, that that's not the problem. Rather, the deed restriction is that no vehicular traffic is allowed in that easement; and if it is 35', that takes up the entire flagpole portion of the flag lot.

Mr. Gordon asked if any of the people who might be beneficiaries of this easement have been consulted on this proposal. Mr. Karis asked if the rest of the lots in the subdivision have rights to the path. Mr. Labriola responded yes. Mr. Karis stated that Mr. Joyce would need sign off from all the other property owners. Mr. Labriola agreed – to abandon that deed restriction. Ms. Seaman – or to permit it to be concurrent for that portion. She noted that that restriction applies to the entire easement all the way around the property. Mr. Nelson read from the note on the map: "reserved for private, non-vehicular, right-of-way, 30' wide, on all lots shown except on portions of lots 2, 10, and 5 where width is somewhat larger as shown." Mr. Joyce read further: "with the exception of maintenance vehicles for the drainage easement areas."

Mr. Labriola stated that in the deed restriction it talks about that bridle path goes around the perimeter of the subdivision. He stated that he does not view the driveway area as the perimeter. Mr. Karis stated that the easement appears to be shown as going up the flag. Mr. Labriola suggested that if the Board interprets that the driveway is the easement area, then that would say that the Town Planning Board approved a building lot that you could not access. And, he stated, that he cannot imagine that that was the Board's intention.

Mr. Fracchia asked if there would be something in the deed on lot #1. Mr. Nelson stated that Mr. Joyce gave him a copy of a set of common restrictions on the lots and parcels owned by Malin in Dutchess Corral. Mr. Gordon suggested that he talk with the other property owners to find out where they stand on this issue. Mr. Labriola stated that that is a very large number of people who would need to be brought into this. Also, he pointed out that the Board is having difficulty finding multiple documents that say the

same thing. He also suggested that the deed for Lot #1 may have some language that pertains to this question.

Mr. Joyce asked who interprets gray areas such as this. Mr. Nelson stated that the Planning Board has fairly limited interpretive powers. Ms. Seaman stated that the Board can decide whatever it thinks and support it with reasoning and the decision will stand until one of the neighbors challenges it with an Article 78. Mr. Labriola pointed out that it would be very unfortunate if that happened after the house was built.

Mr. Labriola agreed with Mr. Fracchia's suggestion of getting a copy of the title for Lot #1, may not answer the question but it may be in there. Mr. Karis asked whether a licensed land surveyor could research this subdivision and render an opinion. Mr. Nelson stated that the Board has talked about getting title search and noted that Mr. Joyce brought some documents in, but that he does not know the likelihood of coming up with something. Mr. Gordon asked if everything is accessible online through the county. Mr. Nelson stated that he can have someone pull the deeds on Lot #1.

Mr. Gordon cautioned that Mr. Joyce needs to know what it says, that the rest of it is just conjecture, and it can come back to threaten him if he does not know what he is dealing with. Mr. Labriola agreed that this could be a real problem in the future if they don't have the facts now. He stated that the Board needs to look at the title for Lot #1 and asked Mr. Nelson to do that.

Mr. Joyce asked what happens if Lot #1 does not say anything. Ms. Seaman explained that he wants to consider the Article 78 possibility. She suggested that he put up a sign that says "riders welcome here." She stated that he's still taking a chance and needs to be prepared for what happens if someone challenges it.

Mr. Labriola stated that the Board will investigate what the deed says for Lot #1. If that does not answer the question, then the option is to say that the bridle path will continue and cross over the driveway and run up the 20' drainage easement. In this way, he noted that Mr. Joyce is still providing people access even though he's not living up to the letter of the law of the deed restriction.

Mr. Joyce asked what happens if there is nothing in the deed for Lot #1 – would it then just fall on him. Mr. Karis suggested that if there were nothing in the deed for #1 then it would seem that his lot is encumbered by the bridle path. Mr. Joyce asked if the project would not be allowed to go any further. Mr. Gordon stated that Mr. Joyce would face the consequences of these people when they find out what he is doing. Mr. Nelson stated that the core point is that the Planning Board applies the Code but the Planning Board is not the court. He explained that the Planning Board cannot really interpret or enforce a covenant. Therefore, he stated that what the Board is telling Mr. Joyce is that the Board is trying to accommodate his application and letting him know that if there is a problem with these covenants that his neighbors have, then he may be at risk. Mr. Nelson stated that the risk comes back to the applicant and that he would be happy to talk with Mr. Joyce's attorney about this.

Dr. Fischer asked if vehicles are accessing this path now. Mr. Joyce stated that no, there are trees and a guardrail in front of it.

Mr. Gordon reminded Mr. Joyce that all of the adjoining property owners will be notified when the public hearing is scheduled. Mr. Labriola corrected the record that there will be no public hearing for this application as it is not a subdivision, but is a site plan and wetland application. Mr. Gordon stated that, nonetheless, Mr. Joyce should go and talk with the neighbors. Mr. Labriola cautioned that Mr. Joyce could talk with his neighbors who would not have a problem, but when they sell to a new person, that person may have a problem with it. He pointed out that the covenant goes with the property, so it is not only a matter of getting the current adjoining property owners to agree. He stated that Mr. Nelson is correct in saying that Mr. Joyce would be exposed if this Lot #1 restriction does not resolve. He stated that what the Board is talking about is a reasonable alternative but it does not meet the letter of the law in that deed restriction and, therefore, Mr. Joyce would be exposed.

Dr. Fischer suggested that all see what Lot #1 says before continuing. Mr. Labriola suggested that Mr. Joyce may want to hold off on spending engineering dollars until it is known what Lot #1 says. At which point, Mr. Labriola stated that Mr. Joyce will have to figure out how much risk he is willing to assume. Mr. Gordon reiterated that what Mr. Nelson is saying is that Mr. Joyce is the one who is liable for a lawsuit if they want to take him to court. Mr. Nelson stated that nobody is telling Mr. Joyce what is actually intended or whether it is right or it is wrong, but rather that it is something that comes with the covenant and the covenant is not something that this Board can interpret.

Ms. Seaman stated that the covenant is vague and is subject to interpretation that puts Mr. Joyce at risk.

Mr. Joyce asked what the next steps are.

Mr. Labriola stated that there are three alternatives:

1. Option #1: It will be found that there's very clear language in Lot #1's title that says that's where the bridle path goes. Mr. Labriola suggested that this is unlikely to happen, but it is an option.
2. Option #2: It's found that there is nothing in Lot #1's title with regard to the bridle path.
3. Option #3: It's found that there is yet another set of language that adds a third level of confusion into this.

Mr. Nelson stated that he will review the title of Lot #1 within the next couple of days. Mr. Labriola stated that this will provide Mr. Joyce with information about the level of exposure and he will then have to decide whether he is willing to take that risk. If he chooses to take the risk, Mr. Labriola stated that his assumption would be that the bridle path would run concurrent with the drainage easement and running next to the 12'

driveway. Mr. Labriola stated that it would not be an unreasonable way to resolve this, and the risk lies totally with Mr. Joyce should someone challenge it.

5. MILESTONE CLEANERS – SIGN PERMIT

The applicant was not present. Mr. Labriola stated that he did not think the applicant needed to be present because the application looked fairly cut and dried.

Ms. Seaman reported that she and Ms. Bramson decided that it is very frugal because even if someone new buys the business they don't have to change the sign. Mr. Labriola and other Board members agreed that it is a basic, generic sign.

Mr. Gordon and Mr. Karis asked whether this sign will be consistent with signs on the rest of the building. Mr. Labriola read through the description. Mr. Karis stated that it will be a black exterior box with the fluorescent lights behind it. Mr. Labriola stated yes. Mr. Karis asked that it be noted on the application that it is a black outline box.

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

Whereas the Town of Pleasant Valley Planning Board has received an application from Milestone Cleaners for the approval of one sign, and

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

Therefore be it resolved 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 sign as shown in the application and drawing and consisting of the materials, sizes, and colors shown in the application, except as noted:

- 1. it is a black outline box**

SECONDED BY R. SEAMAN

Discussion: Dr. Fischer asked if there is any thought that there be any other language on the sign in addition to the word "CLEANERS." He asked about adding the word "Milestone." Mr. Labriola stated that he did not talk with the applicant but that he's guessing that this is a sign that they are moving from another building. Dr. Fischer suggested that if the sign has not already been built it would be better if they wanted to add more language. Mr. Labriola stated that the Planning Board cannot require them to change the wording. Dr. Fischer agreed and stated that the Board could suggest that for aesthetic purposes something else could be designed, but that they don't have to take the Board's suggestion.

Mr. Labriola stated that most of the other signs are of a consistent appearance, and this one is a big box sign and is different from the other signs that have been approved on the site. Mr. Gordon stated that he does not like approving a sign without seeing it on the

building and seeing it in relation to other signs. Dr. Fischer agreed that the single word "CLEANERS" is not pleasing to his eye.

Mr. Labriola stated that if the Board approves it with a suggestion, he's not sure anybody will act on the suggestion. Dr. Fischer suggested that someone talk with the applicant.

Ms. Bramson suggested that when someone applies for a sign permit, they provide the Board with a photo of the building and the approximate location of where the sign will go. She stated that it is hard to visualize this sign.

Mr. Labriola suggested that the Board ask the applicant for a picture of where the sign will go and a redesign of the sign – an individual box letter design that is consistent with the other signs on the plaza. Mr. Karis agreed and stated that the design style has been established at that plaza.

Mr. Nelson reviewed the code criteria for wall signs. He asked where the sign will be located. Mr. Labriola stated that it will be 13' above the sidewalk.

Mr. Labriola stated that the Board will ask the applicant to come back with an individual letter design sign so that it is consistent, to provide the Board with a photo of the building with the sign superimposed on it, and provide the lineal frontage of the store-front of the building so that the Board can calculate the permitted sign size. Mr. Labriola stated that this sign will not be approved this evening.

6. HELEN ALDRICK PARK – SIGN PERMIT

Mr. Labriola stated that the Town wants to put up a sign attached to the building, 10" x 16" in size, white with black letters, a basic sign.

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

Whereas the Town of Pleasant Valley Planning Board has received an application from the Town Hall Recreation Department for the approval of one sign, 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

Therefore 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 shown in the application except as follows: NONE

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 7-0-0

7. BARTSCH – ZBA REFERRAL

Mr. Labriola stated that the applicant wants to extend the deck to put in a hot tub. Mr. Karis noted that this is an .18-acre parcel, which is small. Mr. Labriola stated that it is the rear deck that the applicant is planning on extending and it looks like he's maintaining the same distance along the property line. Ms. Bramson stated that it was hard to see what the project is. Mr. Labriola concurred that it was hard to see it from the road.

Mr. Labriola stated that it appears that this project will not encroach on the property line any closer than the existing deck and, therefore, he had no problem with the appeal. Mr. Karis agreed.

Mr. Labriola: **MOTION TO PASS THIS APPEAL TO THE ZBA WITH A POSITIVE RECOMMENDATION BECAUSE IT IS AN INCREDIBLY SMALL LOT AND THEY ARE MAINTAINING THE SAME DISTANCE FROM THE SIDE LOT AS THE EXISTING DECK**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

8. DISCUSSION - GASPARRO

Mr. Labriola noted that Mr. Gasparro used to be a member of the Planning Board and that everyone on the Board has known him for a number of years. He stated that that will not affect the Board's ability to hear this application.

Mr. Gasparro stated that he's been working on this application for 7-8 months behind the scenes. He stated that he's met with Ed Feldweg twice in order to determine whether what he was talking about doing on the property conforms to the existing master plan and will fit in with the new comprehensive plan, which it does. He stated that he has met with Ed and that they have done a site visit together and has reviewed his proposed plan.

Mr. Gasparro stated that the property is over 4 acres and encompasses 7 lots that he has acquired and that front onto Bower Road and Route 44. He stated that he can put together any combination of those lots to come up with the configuration to be able to match what he has in the drawings. He noted that the best configuration is to allow the 4 lots in the front to act as the area for a 10,000 sq. ft. professional building, just a little bit bigger than the medical building that is next door. He stated that the remaining piece of property – a little over 2 acres – to encompass 8 units of low profile, one-level senior citizen housing. He stated that both of these proposals are drastically needed in the town. He stated that he gets requests from people in the area for office space and he has run out of office space himself. He stated that he needs to move. He stated that he's looked at other alternatives in the Valley and there's just no place for him to go that makes it sensible for him to expand and have the accessibility of Route 44.

Mr. Gasparro stated that he will be moving his office into the proposed office building. He stated that he will have a couple of other rentals available there, also. He stated that he needs to expand his business, to hire a few more people even in this economy. He stated that 90% of his business is commercial enterprises and that he does not want to move out of the area. He stated that after some consideration he thinks it would be a good mix to propose a professional commercial building with some residential units. He stated that both are allowable uses – that the housing is permitted use and the office building is a special permitted use.

Mr. Gasparro stated that the housing units would be for 55 or older adults, which does not exist in the Town of Pleasant Valley. Mr. Karis asked if they are all flats. Mr. Gasparro stated that they are all one level, low profile and he provided a rough sketch of the housing units. He stated that Brian Franks, surveyor, has located all of the wells and septic systems on all of the surrounding properties so there will be no conflict between the septic systems and the wells. He stated that Mike White, Spectra Engineering, will be doing the engineering on the project. He stated that he's going to the ZBA for the Special Use Permit for the office.

Dr. Fischer asked if the office building will be two stories. Mr. Gasparro stated that it will be one story – everything will be low profile. Dr. Fischer asked why he's planning on one story. Mr. Gasparro stated that he does not want a second story, he does not want to crowd the site, and that he does not need the extra room. Also, he stated that his potential tenants all want office space on the ground floor.

Mr. Gasparro stated that he has more than enough room for all the parking that is required and more than enough room for the septic systems and drainage. He stated that they will keep most of it on site and that the soil tests show that they have all gravel. He stated that they don't anticipate any problems from that standpoint.

Mr. Gasparro stated that the only difficulty they will face is the units, themselves, but he won't know that until the engineering is started. He stated that he has given the Board the maximum size on the buildings that he wants to build and that he might be bringing them down in size a little bit depending upon on the economics of scale and also the ground conditions regarding septic systems and wells. He stated that there are only 8 units.

Mr. Labriola asked how many wells will be required. Mr. Gasparro stated that there will be one. He stated that they will be apartments. Mr. Setaro suggested that Mr. Gasparro should talk with the Health Department on that because they may require two wells. Also, he stated that he will need to have a 200' area of control around those wells and may not be permitted to have buildings within that radius. Mr. Karis pointed out the requirement to own within 100' and control within 200'. Mr. Setaro concurred. Mr. Gasparro stated that they do not know whether they will separate services or might have joint services with easements.

Mr. Labriola asked if he has looked into connecting to the Town of Poughkeepsie. Mr. Gasparro stated that it is too far. He stated that they had talked about the possibility of

going across the road into Stratford Farms, but it is probably also too far. He stated that they believe they will be able to get the water and septic onto the site and that he will cut down the numbers if that is necessary.

Mr. Labriola stated that he likes the idea of the buildings being flats given that it is a residential area and that the architectural treatments and design will be an important consideration. He stated that Dutchess County Department of Planning will insist that the office buildings be located against the road and that the parking be buried behind them. Also, he stated that there might be an opportunity to create a connector between this site and the medical arts building. Mr. Gasparro concurred that they are looking into connectors that tie those sites. Also, he mentioned that they are looking into having two-car garages for the senior housing.

Mr. Gasparro also explained his plans for visual screening on the site. He stated that the property used to be a nursery, which was neglected. Therefore, he stated that every tree has branches that start 30-40' up which has created a canopy. He stated that he has kept a couple of big trees and the perimeter plantings all the way around as a buffer. He stated that that was the best that he could do because the vegetation on the site was diseased.

Mr. Karis asked if he has cleared 4 acres. Mr. Gasparro stated that they have cleared about 3.5 acres.

Ms. Bramson asked if these will be two separate things. Mr. Gasparro stated that they are one application but two separate pieces of property. Ms. Bramson asked if the apartments will be separate. Mr. Gasparro responded yes, that he does not want someone dependent on the plaza owner to provide service. Mr. Karis stated that it will be two site plan applications. Mr. Gasparro agreed that it will be two applications but that they will run concurrently, all the ground septic will be done together.

Mr. Labriola asked if Mr. Gasparro has approached the Department of Transportation about a cut for office space. Mr. Gasparro stated that the cuts are already in place, that he has access to the site from both roads, that came with the property. Mr. Gordon stated that the Board will need documentation of these access points.

Mr. Labriola expressed the Board's appreciation to Mr. Gasparro for coming for this discussion early in the process, that it makes it much easier for all involved.

Mr. Setaro mentioned the storm drainage easement that comes from Stratford Farms. Mr. Gasparro stated that it is underground. Mr. Setaro asked if he has access to that easement. Mr. Gasparro stated that they would have access if they will allow it, that they can do an underground catch basin and an overflow. He also stated that they have drainage out in front – a 4' culvert pipe right in front of their property. Mr. Setaro advised him to check with the Health Department on the wells and septic. Mr. Gasparro stated that he will do that.

Dr. Fischer asked whether the septic and drainage and the topography will negate the possibility of putting the building up towards the road. Mr. Gasparro responded yes, because of the setback requirements of the well on adjacent property. He stated that he will need to put the parking some on the front and some on the side. He stated that he cannot get away from that because he does not have another place to put the septic and the wells. Mr. Labriola asked where he plans to locate the septic for the front property. Mr. Gasparro pointed out the area on the map that will be used for septic and for catch basin and drainage retention. He also mentioned the deed restriction that requires the buildings to be setback 100' from the road. He stated that the buildings cannot be closer than 100' to the road. Ms. Bramson asked if the medical arts building on the adjacent property is similarly restricted to the 100' setback. Mr. Gasparro responded yes.

Mr. Labriola again thanked Mr. Gasparro for coming to the Planning Board for this discussion early in the process.

Mr. Gasparro mentioned an issue he may encounter with regard to the septic for the residential units, in which case he may change his application to be a second professional building.

9. MINUTES

Mr. Labriola: **MOTION TO APPROVE THE MINUTES AS CORRECTED OF THE 9/9/08 PLANNING BOARD MEETING; SECONDED BY K. BRAMSON; VOTE TAKEN AND APPROVED 7-0-0**

10. MISCELLANEOUS

Continuing Education: Mr. Labriola reported that Mr. Gordon, Mr. Fracchia, Mr. Karis, and himself as having completed the required 4-hour annual continuing education. He stated that everybody received 1 hour credit for the stormwater management presentation at the last Planning Board meeting. Dr. Fischer reported that he has completed his required 4 hours. Mr. Labriola apologized that the dog – the puppy – did actually eat his records of everyone's training hours. This year, Mr. Labriola stated, that it will be on everyone's honor to record their completion of the hours; and that next year he will keep track because the puppy will be a year old by then and will have better manners.

New Planning/Zoning Secretary: Mr. Labriola announced that the bad news is that the Board lost its secretary; and the good news is that the Board has a new secretary: Helen. Everyone was delighted!

Building Moratorium: Mr. Labriola announced that he and Ms. Seaman met with the Town Board last Monday to discuss the moratorium. He stated that everything that the Planning Board suggested was accepted by the Town Board with a couple of minor changes. He stated that the Town Board has agreed to exempt from the moratorium the following: lot line realignments, sign applications, and regulated activities in wetlands. For site plan applications, Mr. Labriola reported that the wording will change a little: "if there has been a determination of significance, you can move forward." For subdivisions,

Mr. Labriola stated that previously if there was a determination of significance, you could move forward, which has been changed to 3 lots or less on a Town road that does not require a new Town road to be built. Therefore, he stated that smaller subdivisions will be allowed to continue and that the Town Board is trying to avoid big box development and mega-developments until the comprehensive plan gets accepted.

Mr. Labriola stated that the other thing they agreed to do, which he believes is very positive and sends the right message, is any existing commercial site that someone proposes to renovate or rehabilitate will go forward as long as there is no square footage added. For instance, what Herb Redl did is exactly what the Town would like to see done. But, Mr. Labriola noted, that if they want to add another store, the Town wants to hold off on that until the comprehensive plan.

Mr. Labriola stated that the Planning Board can continue to review applications all the way up to doing a SEQRA determination, but that is at the applicant's risk. Mr. Karis stated that he has had experience with this in the Town of Yorktown, that they were going through a building moratorium and a comprehensive plan update. He stated that they would make applicants sign a form that said that they understood that they were proceeding at their own risk up to a certain point while this was going on. He suggested that that may be something the Town wants to consider adopting. Mr. Labriola stated that this is a good idea. Other Board members concurred. Mr. Gordon pointed out that a problem could arise for a project that is in an area that may be rezoned. Mr. Labriola stated that if a subdivision application of 2-acre lots came in for an area that is being rezoned from R-2 to R-5, the discussion would be about the fact that the area is being rezoned and that the application cannot go forward.

Mr. Labriola suggested that the Board will have to look at every application individually to confirm that it makes sense – is it in an area that is potentially exposed by the comprehensive plan or not. Mr. Fracchia asked if there is a map available. Ms. Seaman stated that the map has been revised. Board discussed revisions to the emerging hamlet area and other areas that are changing.

Ms. Seaman mentioned the “black areas” that are already overburdened in terms of their wells and septic systems due to inadequate water supply. She suggested that the Board be cognizant of these areas and treat them with a little more in-depth attention. Mr. Labriola stated that it makes sense and that the Board has to figure out what that really means. He stated that the Department of Health would have to determine whether the projects meet the required separations. He stated that he's not sure what the Planning Board would be able to do in those instances. Ms. Seaman reported that Russell Ervin Mead suggested that any time there are applications in those areas you expand the well testing required. She stated that he thinks the Board of Health does not require sufficient well testing and that the standards should be more strict. Mr. Labriola asked if it will be part of the re-codification for those “black areas” to be held to a stricter standard. Ms. Seaman responded yes and that any subdivisions will be held to a stricter standard if they are backing up to any other subdivisions – 24-hour well testing on surrounding subdivisions.

Meeting adjourned at 9:10 p.m.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represents unofficial minutes of the October 14, 2008, 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 11, 2008

A regular meeting of the Pleasant Valley Planning Board took place on November 11, 2008, at the Pleasant Valley Town Hall, Route 44, Pleasant Valley, New York. Chairman Joe Labriola called the meeting to order at 6:42 p.m.

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

Members absent: Henry Fischer

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

1. THE BARN – SITE PLAN

2. THE BARN – REGULATED ACTIVITIES IN A WETLAND

Mr. Labriola explained that the applicant is applying to construct a new deck on the existing building and that the footings for that deck will be in the wetland buffer. Therefore, the applicant is before the Planning Board for both a site plan review and a wetlands permit.

Mr. Peter Clark and his mother, Ms. Mary Clark, were present. Mr. Clark explained that the proposed deck will be located off of the parking side of the building. They will also install a privacy fence. He explained that it will be a covered deck. He stated that the purpose of the deck is to create storage for the materials that are currently in front of the building and that the privacy fence will create a visual barrier. He stated that they are trying to clean up the site and create more space for storage at the same time.

Several Board members agreed that the site is messy at this time. Mr. Clark stated that people just dump stuff in front of the Barn and that they are trying to clean it up. Also, he stated that they are renting space at another location where they can put the furniture that people bring to them.

Mr. Setaro asked whether outdoor storage is allowed. Mr. Clark replied that he had not looked into that and didn't know. Ms. Clark emphasized that they are trying to clean up the site.

Mr. Karis asked if the proposed size of the deck will be large enough. Mr. Clark replied yes and mentioned that it will be a covered deck. He also explained how the deck will provide better access into the building.

Mr. Gordon asked about some digging that was done on the west side of the building. Mr. Clark explained that they did some grading to repair a retaining wall.

Mr. Labriola asked about the high water mark. Mr. Clark explained that he showed it on the map to the level he has seen the water rise to.

Mr. Labriola asked about the footings for the deck. Mr. Clark explained that a couple of footings will be located down below, about 4' closer to the creek and that the other 2 footings will be in the same line as the building.

Mr. Karis asked if the grade falls off to the creek. Mr. Clark stated that it falls about 8' to 9' but it levels off before the creek.

Mr. Setaro advised Mr. Clark that he will need a Flood Plain Development Permit for the construction and that he should talk with Mr. Feldweg, the Zoning Administrator.

Mr. Clark stated that the deck will make a big difference for the Barn and for the customers.

Mr. Labriola explained that nothing can be completed at tonight's meeting because the Town is waiting for feedback from DC Department of Planning and Development.

Mr. Fracchia asked if the DOT needs to review the application. Mr. Labriola explained that they do not because no new access is planned.

Mr. Gordon noted that dumping clean fill on the site is not permitted. Mr. Clark acknowledged that the dumping has stopped.

Mr. Karis mentioned that the submitted site plan application is not complete. Mr. Setaro reported that he has not received the plans or the application. Mr. Karis noted that a survey is required. Mr. Labriola asked the zoning secretary to provide Mr. Setaro with the complete application when it is submitted.

Mr. Labriola asked about the possibility of some landscaping on the Route 44 side of the building. Mr. Clark stated that they have a constant problem with people dumping things at the site. He stated that they have considered installing a camera and possibly a chain to prevent this. Mr. Gordon asked if they had considered relocating. Mr. Clark replied that they had thought about it.

Mr. Labriola listed the next steps that would be required for this application to be on the December 9th Planning Board agenda:

1. response from DC Department of Planning

2. Morris Associates review of completed site plan application.

Mr. Setaro advised Mr. Clark that he will need to submit an erosion control plan – silt fence and/or hay bales – and show on the drawings how they will stabilize the site post-construction.

3. SENFT – REVISED SITE PLAN

Mr. Jeffrey Senft, owner, and Mr. Brian Franks, surveyor, were present.

Mr. Labriola announced that Mr. Senft has been a previous chair of the Planning Board and is well known to the current Planning Board members. He stated, however, that this will not impact the Board's ability to hear this application.

Mr. Franks explained that they are expanding the driveway out onto West Road. Mr. Labriola asked if they plan to continue using the other access onto Charles Street. Mr. Franks responded yes.

Mr. Franks stated that they have a meeting on Monday with the DC Department of Public Works and that the plan is for a right in and a right out at the West Road access point – which had previously been approved.

Mr. Setaro stated that erosion control measures will be needed and mentioned catch basins. Mr. Franks asked about the possibility of using culverts with flared ends.

Mr. Karis asked if they will continue to use the Charles Street entrance. Mr. Senft explained that they will use it, that they have current easements and the physical connection will remain. Mr. Karis noted that the Charles Street access will be essential given the restriction on West Road of the right-in and right-out. He asked about the construction of a center island on West Road to prevent the left turns. Mr. Franks stated that they have a planned meeting with Public Works and will discuss the plan at that time. Mr. Senft stated that a center island will restrict the radius of the turn. Mr. Karis asked how the left turns will be controlled without a center island. Mr. Setaro and others stated that it will be controlled with signage. Mr. Karis asked if Mr. Senft owns the front lot at that access point and if he could create more room that way. Mr. Setaro stated that sight distance remains a problem, regardless.

Mr. Nelson commented on the shared easement and accessibility to the adjacent property owners.

Mr. Labriola reported that no response has been received as yet from DC Department of Planning and Development.

Mr. Labriola read into the record a letter dated 11/5/08 from the Pleasant Valley Fire Advisory Board (ORIGINAL ON FILE) that specifically asks the Planning Board to scrutinize the sight distance problems on West Road with regard to this driveway expansion.

Mr. Setaro stated that they will need to get a letter from the DC Public Works Department. Mr. Senft stated that they have such a letter from their original application and that Public Works will now review the design at their upcoming meeting. Mr. Setaro stated that notation of that needs to be on the site plan.

4. ROSSWAY PROPERTIES - SUBDIVISION

Mr. Jeffrey Ringler, of Rossway Properties, and Mr. Michael White, engineer for the project, were present.

Mr. White reviewed changes to the landing area. He stated that they took off the knee wall and brought it back to the next contour, which creates an area large enough to fit 4 cars with a 2' difference in grade. He stated that the other two cars will fit on the upper portion, which rises in proportion to the driveway.

Mr. White pointed out the area where the Board was concerned about a shoulder along the driveway. He explained that they took the retaining wall, which is now a support wall, down. He stated that it has not been decided whether the wall will stay flush or come up 6" or a foot. He stated that they will put the guide rail flush against the inside of that wall – a very strong guardrail – and there will be a 3' shoulder. So, there will be the shoulder for 3', then the guardrail, and then the wall.

Mr. White stated that they have been able to decrease the grade of the landing area and reduce the grade of the driveway from 15% to 13.5%. He stated that the major grading is the common driveway and that there is not a lot of grading on the lots, themselves. He noted a very gentle grade on Lot #3 into the house. He stated that Lot #2 is, basically, level all the way to the house. He pointed out that the septic areas go with the grades.

Mr. White stated that they have refined the stormwater management report and submitted it to the Board and to Morris Associates.

Mr. Labriola asked the zoning secretary to put this revised plan on the Fire Advisory Board's agenda for their next meeting and to submit the revised plan to the highway department for their review.

Mr. Labriola mentioned the need for a temporary construction easement with the adjacent property owner. Mr. Ringler stated that his partner has met with the neighbor to review the plan and there has been no problem with them granting a grading easement. He stated that they have had the attorney draft an agreement, which they have submitted to their neighbor and are awaiting his comment. He stated that on a concept basis there are no issues.

Mr. Labriola stated that it may take time for the attorneys to get comfortable with the language of the easements. He stated that, in order for the Planning Board to move forward with SEQRA, the easement does not need to be completed and signed but the Board will need a letter from the neighbor that states that they have reviewed the plan and

that conceptually there are no problems. Mr. Setaro stated that that is something that would be needed for the Public Hearing. Mr. Ringler asked if it is possible to schedule a public hearing. Mr. Labriola stated that as long as the letter shows up prior to the cut off for the next public meeting, they can have a public hearing.

Mr. Setaro reviewed the Morris Associates comment letter. He stated that he spoke with Greg Bolner who mentioned a 9/19/08 letter that Mr. Setaro never received and that was in reference to the earlier set of plans. Mr. White noted that they have made a lot of changes since that time. Mr. Setaro noted that Mr. Bolner wanted to meet with the applicants with regard to a possible sight distance issue looking right. He stated that prior to the Public Hearing the Board needs to receive something in writing from the highway department stating that they have looked at it and will grant access and that some details will need to be worked out. Mr. White stated that there are bushes that are less than a 1' in height, that it is not a major issue. Mr. Setaro stated that the highway will look at it from 10' to 12' back. Mr. White stated that this has been done. Mr. Setaro advised him to call the highway superintendent.

Mr. Labriola asked the zoning secretary to provide a copy of the updated plans to Butch Gardner, highway superintendent, and ask for him to provide written feedback in time for the next Planning Board meeting. Mr. White mentioned that they need similar feedback from Mr. Bolner. Zoning secretary will provide a copy of the updated plans to both the highway superintendent and Mr. Bolner.

Mr. Setaro noted that on a conceptual basis the stormwater management report is OK. He stated that they will review it in more depth as the process moves forward. Mr. Setaro noted that they need the FAB to comment on the revised plan and that a letter is needed from the adjacent neighbor consenting to the grading.

Mr. Karis asked if the applicants have thought about actual disturbance and limits of clearing for the home sites. He stated that there should be something on the map so that the Board can understand how much area will be lawn, etc. Mr. White stated that that is something that they will put onto the later plans. Mr. Karis stated that along with that the Board needs to understand the grading for everything, including the driveways and all the lots. He pointed out an area of 10' grade change on one of the lots.

Mr. Karis asked if the driveways are using side swales to drain. He pointed out a portion of the common driveway between station 500 and 800 that, again, is like a toboggan run and that the swales are acting as the edge of the driveway. He asked if they will cross stitch to the uphill side and then grade a swale in, which will push the disturbance a little bit further in. Mr. White stated that they could do that.

Mr. Karis stated that on the lower part of the common driveway it looks like the road is crowned. Mr. White stated that there's a swale all the way through that area. Mr. Setaro stated that they will need to have a cross section of the common driveway showing the swales. Mr. Karis stated that he does not think the common driveway should drain to that retaining wall, that it should all be pitched to the inside of the driveway. He stated that

that way they would only have the swale on the inside line and it would cross where you need it to cross. He stated that that way they would not be loading water on top of that wall – to create more of a super elevation. Mr. White asked if they would want a super elevation along the flats. Mr. Karis responded no, not along the flats, but that it would be particularly important around the corner to prevent high velocity concentrated water over the retaining wall.

Mr. Labriola noted the next steps for the plan:

- the applicants will meet with Mr. Bolner and Mr. Gardner
- the applicants will get a letter from the adjacent property owner
- the applicants will provide an updated set of plans based on the feedback received from Mr. Bolner and Mr. Gardner
- OK to advertise for a public hearing at the Dec. 9th Planning Board meeting.

5. JOYCE – WETLANDS PERMIT

Mr. Joyce was present.

Mr. Labriola noted that there are no updated plans for this meeting and stated that he will give a brief summary of the site visit conducted on Sat. 11/8/08 and then have a discussion of the key next steps.

Mr. Labriola stated that Mr. Karis, Ms. Bramson, Ms. Sticker, and he attended the site visit along with Mr. Setaro, Ms. Plotnick, and Ms. Southworth. He expressed the Board's appreciation to Mr. Joyce for the fairly extensive staking he had done. He stated that they could see where the driveway was going and were able to determine where the bridge was going to be placed. He also pointed out that the visit was not a public meeting and, therefore, no decisions were made at that time. Rather, he noted it was a fact-finding mission and that their main goal was to understand the areas along the sides of the proposed driveway with regards to drainage. Also he stated the desire to understand temporary construction easements on either side to construct the driveway, the retaining walls, and to change the layout of the guide rails.

Mr. Labriola stated that they walked down to the creek and got a pretty good idea of where the bridge will go and its span. He stated that he was, personally, surprised at the distance that the bridge was going to go across. He noted that the stream bank on the Drake Road side is about 12' above the stream. Mr. Joyce provided photos for the Board of the location of the bridge. Ms. Seaman reported that she visited the site with Mr. Feldweg on Friday.

Mr. Labriola asked what Mr. Joyce measured the span of the bridge to be. Mr. Joyce pointed to the area where the span will be 28'. Mr. Setaro stated that they estimated the span to be between 50' to 60' and that the bridge will cross the island in the stream. Mr. Joyce concurred.

Mr. Labriola stated that the site visit also helped them envision the staging area for the construction.

Mr. Setaro reviewed the Morris Associates comments. He stated that Mr. Joyce must provide a construction plan that will show how the construction will be done, how staged, how the equipment will get to the other side of the creek to do the work. He stated that everyone is concerned about the 35' wide strip that comes down into the back that will have to be cleared in order to do the driveway and the swale work. He stated that once Mr. Joyce opens that area on a fairly steep grade, he will have to have an evolved erosion control plan. He also commented on the intersection with Drake, being able to get in there given the radius and the guide rails. He stated that Mr. Joyce may need some temporary easements from the neighbors.

Mr. Joyce stated that he will come back with a full set of plans that address all these comments. Mr. Labriola stated that the next step is a set plans that the Board can move forward with to do SEQRA determination. Mr. Joyce stated that his engineer suggested that they wait to hear from the DEC before proceeding with the next set of plans to see the DEC's response to his permit application. He suggested that once he receives the feedback from the DEC he would address the Planning Board's concerns.

Mr. Karis explained a procedure matter. He explained that the Planning Board has not yet initiated SEQRA. Mr. Labriola concurred. Mr. Karis explained that, typically, the town assumes lead agency status especially on environmentally sensitive projects, such as this one. He asked Mr. Joyce whether he has already made application to the DEC. Mr. Joyce responded yes. Mr. Setaro explained that the DEC will not be able to act on anything, that they will wait till the town completes its SEQRA determination. Mr. Karis asked if the DEC will provide comments prior to SEQRA determination. Mr. Setaro stated that they will not be able to act prior to SEQRA. Mr. Karis asked if the DEC will conduct their own SEQRA. Mr. Setaro stated that that is a good point, because the DEC may not know. Mr. Joyce stated that he will send whatever he receives from the DEC to the Planning Board. He also stated that he did not think it was necessary to show the Planning Board his application to the DEC prior to receiving a response from them.

Mr. Karis stated that the environmental review of this project needs to be reviewed under an umbrella with this Planning Board controlling the project. He explained that this Planning Board needs to be the initiating agency and there would be a disconnect if the DEC were to provide comments outside of that environmental review. He stated that the environmental review needs to come through the Planning Board and that the DEC needs to respond to the town's Planning Board not to the applicant.

Mr. Setaro asked if Mr. Joyce filled out an environmental assessment form. Mr. Labriola looked through the file and did not find one. Mr. Setaro stated that Mr. Joyce needs to draft the EAF based on the updated plans.

Mr. Labriola stated that with a revised set of drawings and a draft EAF, the Planning Board can then circulate and move forward. Mr. Joyce asked if he should draw up the final set of plans and whether the Planning Board will fill out the EAF and send the final

set of plans and the EAF to the DEC. Mr. Labriola explained that the EAF comes from the applicant.

Mr. Setaro stated that Mr. Joyce's plans have not been brought to a level of detail required for the DEC to be able to move the process along. Mr. Karis agreed that there's not enough detail for the DEC to understand the project.

Mr. Setaro also stated that depending on the type of bridge that Mr. Joyce is proposing and the construction method – a 50' deck – he questioned how a tractor-trailer would gain access to the site. Mr. Karis also noted that it would be sitting next to a 15-ton crane and a bunch of excavators. Mr. Setaro also pointed out the concern about the tractor-trailer being able to stop on Drake Road, back up, and make the turn into the site. He stated that when Mr. Joyce is planning the entrance to the site, he needs to take into account how to get the tractor-trailer into the site and whether there will be any temporary easements required from the adjacent property owners.

Mr. Labriola asked whether Mr. Joyce was planning to have the staging area extend beyond the proposed property lines. Mr. Joyce stated that he will contain it all within the lot.

Mr. Karis stated that they saw a high voltage Central Hudson manhole that is shown on the map. He asked if Mr. Joyce knows where this underground line goes. Mr. Joyce stated that he thinks it provides service for the future homes. Mr. Karis stated that he is curious how those power lines will interact with proposed disturbance and if there are any issues there. Mr. Setaro stated that Mr. Joyce will have to work around it. Mr. Karis stated that they will have to find out where the line is.

Mr. Labriola stated that Mr. Joyce's plans for post-construction rehabilitation of the disturbed areas need to be shown on the plans. Also, he stated that the current plan shows the corner of the house and a corner of the septic system going right up against the buffer, which will require Mr. Joyce to disturb into the buffer to construct. Therefore, he explained that the applicant will need to either move the house and the septic or show what's going to happen there.

Mr. Labriola announced that Mr. Nelson did some research looking into documentation on where the horse trail goes and asked Mr. Nelson to report on what he found out.

Mr. Nelson distributed copies of a memo dated 11/11/08 (ORIGINAL ON FILE) to Board members regarding the Joyce "bridle path." He stated that Mr. Joyce brought additional documents to his office and he reviewed the Planning Board's scope of authority with regard to interpreting conditions that are recorded with deeds. He stated that Planning Boards cannot enforce conditions that are in deeds and that Planning Boards cannot make binding interpretations about them because that is the role of the court. He noted, on the other hand, that certain assumptions must be made when going through the planning process about what the available buildable and usable area is.

Mr. Nelson reviewed his points in the memo (ORIGINAL ON FILE) that cover the facts as documented on deeds and maps, the questions that are raised with regard to the actual location of the bridle path, and the assumptions or decisions the Planning Board may make with regard to this path and, therefore, the accessibility of this lot. He pointed out in the memo that if an earlier Planning Board, in the process of approving this subdivision, had wanted this lot not to be developed and had wanted to block access to the lot via driveway, the Board might, by various means, not have allowed the creation of this lot. However, Mr. Nelson noted that the presence of a separate lot, with the house notations as well as the driveway notation and the presence of the bridle path seeming to feed into it suggest that the Board saw the use of the neck portion of the lot as a driveway and a bridle path as compatible. Mr. Nelson reviewed the Planning Board's choices with regard to assumptions about the location of the driveway and the right-of-way. He noted that, technically, accessibility of the lot is not before the Planning Board at this time – that the Board is doing a wetlands permit. However, he stated that the effect of not allowing it to be used as a driveway would be inaccessibility onto the lot.

Mr. Gordon asked if there is any speculation as to why this lot was not developed when the others were. Mr. Joyce stated that the people he is buying the lot from are the original owners, who live in Pennsylvania, and that they did anticipate building on the lot. However, he explained that things came up in their life, children, other events, and they never got around to it. He stated that in hindsight they wish that they had built on it 15-20 years ago before all these regulations were instituted.

Mr. Labriola reviewed the maps attached to Mr. Nelson's memo and pointed out his interpretation of where the bridge path goes. He stated that his interpretation is that the bridle path goes up that neck. He also concurred with Mr. Nelson's point that when this original subdivision was approved, it was approved with a lot that was going to have a home and well and a septic system and a driveway on it. He stated that he has to believe that their intent was that the driveway and the bridle path would co-exist on that neck. After all the analysis that Mr. Nelson has done, Mr. Labriola stated that that is his interpretation of what happened 30+ years ago. He invited other Board members to comment and asked if that is the interpretation the Board should use moving forward.

Mr. Gordon noted that it was deemed to be a buildable lot at that point, which would last into perpetuity.

Ms. Seaman agreed that the analysis has been extensive and that it is not within the Board's purview to make a decision about interpretation and, therefore, suggested that the Board continue with it as a buildable lot. However, she stated that she is worried that if the Board makes a decision and says on the record that we see this as a bridle trail, it would set a precedent and create problems for Mr. Joyce. She stated that the Board does not wish to create such problems because that is between him and his neighbors.

Mr. Nelson stated that he and Mr. Joyce discussed the fact that simply because the Board views the bridle path as going one way or the other does not mean that someone who owns property in that subdivision would be prevented from contesting that determination.

He suggested that Mr. Joyce understands that the Planning Board's assumptions do not amount to something that would prevent someone who wants to contest it. Mr. Joyce concurred that he understands this. Ms. Seaman clarified that she would like the Board to be clear that these are assumptions and not something that provide evidence of it as fact.

Mr. Labriola agreed and suggested that the next set of plans will show the actual design of the 20' drainage easement, which he suggested is where horses would go up and down the driveway. He stated that depending on how that gets built out will determine whether it can be used as a bridle path.

Mr. Labriola stated that this Planning Board is making some assumptions about what the original Planning Board's determination was. He stated that it seems with all of the information in front of the Board, it was a lot with access on Drake Road where the bridle path and the driveway need to co-exist. He stated that this Board will move forward with that being the assumption.

Mr. Fracchia noted that the deed to Lot #1 it says subject to the rights of the public over and across Drake Road, which seems to indicate access to and the location of the path. Mr. Karis pointed out that that part is referring to Drake Road and that there is no right-of-way along Drake Road. He stated that the Town does not own land where Drake Road is, that it is a user road, so the public has a right across the width of the pavement, which is for all the properties along the road. He explained that the language of the deed refers to the public's right of access across lot #1 as it uses Drake Road. Mr. Labriola agreed and further noted that the deed restrictions for access to the bridle path over all of these properties in the subdivision are restricted just to the people who own those properties and is not available to the public. Mr. Karis agreed that only the subdivision owners have the right to use the bridle path, but that the public has the right to use Drake Road.

6. JOHNSON SUBDIVISION – PUBLIC HEARING

Mr. Steve Burns, of Barger & Miller, and Mr. Don Johnson, applicant, were present.

Mr. Labriola asked whether updated drawings were submitted for this Public Hearing. Mr. Burns thought they had been submitted. Mr. Labriola stated that the only copy on file is dated 8/7/08. Mr. Burns stated that his copy is dated 10/13/08. Mr. Labriola explained that nothing was submitted other than the updated EAF. Therefore, the public hearing cannot happen until SEQRA has been done, and SEQRA cannot be done until everyone has had an opportunity to review the updated plans. Mr. Setaro suggested that the public hearing be kept open.

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

Mr. Labriola: **MOTION TO ADJOURN THE PUBLIC HEARING UNTIL THE DECEMBER 2008 PLANNING BOARD MEETING; SECONDED BY P. KARIS; VOTE TAKEN AND APPROVED 7-0-0**

Mr. Labriola asked the applicant to submit 12 copies of the updated plans in time to circulate them to the Board members and the Board's engineer. Mr. Burns stated that they would be delivered the next day.

Mr. Setaro asked if the applicant has to re-advertise for the public hearing and wondered if anyone was present in the audience who came to speak on this project. Mr. Labriola stated that the applicant does not need to re-advertise and asked the public if there was anyone who wanted to speak with regards to this application. No member of the public spoke.

Mr. Setaro stated that the EAF is fine.

7. GREAT SPRING MANAGEMENT - DISCUSSION

No applicant was present. Mr. Setaro stated that he met with the engineer on the preceding Friday and that the new plan looked pretty good. He stated that he suggested that the applicant come to this meeting to show the Board the revised layout. However, Mr. Setaro realized that he may have needed to confirm with the applicant about this evening's meeting.

Mr. Labriola stated that they are welcome to come in next month.

8. PLEASANT VALLEY CAR WASH – SIGN PERMIT

Mr. John Burweger, owner, was present. He explained that he is proposing the addition of two signs on the side of the building specifying car wash. He described the signs as black letters with white background that will go on the side of the building. He also stated that he would like to have permission to have two "Open" banners. He stated that he's trying to stimulate some business.

Mr. Labriola explained that the car wash signs that he wants to put on the building seem to be fine and fit within the Town's code. However, he explained that the temporary "Open" signs are not permitted under the current Zoning laws. Therefore, the Planning Board does not have the authority to approve signs that the code does not allow. He mentioned that the town is going through a comprehensive plan update, and that there will be new zoning laws and that the sign laws are also going through reviews and refinement. He stated that there may be a provision in the new sign ordinance for temporary type signs, but until that point the Planning Board does not have the authority to approve essentially illegal signs.

Mr. Labriola stated that, in the interest of moving forward, the temporary signs can be removed from this application and the Board would then go ahead and approve the ones that will go on the building. He also explained that the applicant can apply to the ZBA for a variance for those temporary signs. If the ZBA grants the variance, Mr. Labriola explained that the Planning Board can then approve the signs.

Mr. Burweger decided to remove the 2 temporary signs from this application and to proceed with only the 2 building signs.

Ms. Seaman asked if there will be any lighting on the building signs. Mr. Burweger stated that there will be no lighting, that there is ambient light from the street lights and the parking lot lights, but that the signs, themselves, will not be lit.

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

Whereas the Town of Pleasant Valley Planning Board has received an application from the Pleasant Valley Car Wash for the approval of 4 signs dated 9/30/08, 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 that it will not have a significant effect on the environment, and

Further be it resolved that the Planning Board grants approval for 2 signs as shown in the application and drawings and consisting of the materials, sizes, and colors shown in the application except as noted:

- **The two temporary “Open” signs have been removed from this application**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

9. FELDWEG & FREEMAN – SIGN PERMIT

Mr. Louis Ghiotti, owner, was present. He stated that he would like to replace the existing sign and that the new sign is a little smaller than the original sign. He stated that there are no other changes and no lighting, that it is a two-faced sign of wood construction and that it will be painted. He stated that the sign will be in the same location as the original. Board members agreed that it is a great looking sign.

Mr. Labriola noted that the Planning Board has been asking all sign applicants to create a stone base for the free standing signs that can be filled in with seasonal plants. Mr. Ghiotti agreed to do that. Mr. Labriola estimated the size of the stone base to be 2' high. Mr. Karis further described the dimensions and suggested that if there are any stone walls near his shop that he match the materials to those walls.

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

Whereas the Town of Pleasant Valley Planning Board has received an application from Feldweg and Freeman Woodworking for the approval of one sign dated 10/20/08, 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 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 material, sizes, and colors shown in the application except as follows:

- **Addition of an 18" to 24" high and 4' long natural stone planter base with plantings**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

10. MILESTONE CLEANERS – SIGN PERMIT

Mr. Christopher Palazzo, applicant, was present.

Mr. Labriola observed that the sign design has been revised, now with channeled letters, to be consistent with the rest of the plaza. Also, he noted that the applicant has included the lineal frontage of the storefront – 18'. Mr. Palazzo stated that the sign is 18" x 12". Mr. Labriola noted that it is well within the size limits. Board members concurred that the redesign is consistent with the Planning Board's comments from the last meeting.

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

Whereas the Town of Pleasant Valley Planning Board has received an application from Milestone Cleaners for the approval of one sign dated 9/17/08, 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 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 R. FRACCHIA

VOTE TAKEN AND APPROVED 7-0-0

11. TOWN OF PLEASANT VALLEY – MILL SITE

Ms. Jean Curlee was present representing the Town. Mr. Labriola stated that this application was previously before the Board and that the Board provided some guidance

about a planter base. Ms. Curlee pointed out the photos that were submitted to the Board and mentioned that this sign is being requested by the Town's historical society.

Ms. Curlee described the planter base as 16" to 20" high and about 1' wider than the sign. She stated that the sign will be blue and possibly will match the color of the Mill House. She stated that they found stone for the base that matches the stone of the Mill House. She stated that the letters will be gold. Board members agreed that the sign will be a great addition to the site. Ms. Curlee stated that the plantings will be low maintenance.

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

Whereas the Town of Pleasant Valley Planning Board has received an application from the Town of Pleasant Valley for the approval of one sign dated 8/25/08, and

Whereas an environmental assessment form was submitted and reviewed by the Board, now

Therefore, be it resolved that the Planning Board determines the application 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 material, sizes, and colors shown in the application except as follows: NONE

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED 7-0-0

12. HOMELAND TOWER, LLC

Mr. Labriola reported that he received a letter from EBI Consulting about a proposed cell tower on the Boy Scout property on Creek Road. He stated that they are looking for comments regarding any adjacent properties or sites with historic significance. He stated that no application has formally been submitted up to this point. He stated that the zoning secretary reached out to the Town's historical society and that he spoke with the Town's historian, Fred Schaeffer.

Mr. Art Sirois, president, Pleasant Valley Historical Society, was present. Mr. Sirois stated that he contacted a number of people on the Historical Society with regard to this request. He spoke with Mr. Dieter Friedrichsen, the secretary of the Society, who reported that he is not aware of any historical sites adjacent to it. Further, Mr. Sirois stated that he spoke with Ms. Olive Doty, who has been the historian for many years, and that she was not aware of any significant historical sites though there are older buildings in the area. He reported that he also spoke with his wife, Beverly, who is a trustee of the Society. Also, he stated that Judy Moran, the Society's previous president, looked into this and viewed some of the maps at the Town Hall. He stated that it seems that there are

no buildings that are really historical. He stated that he spoke with Fred Schaeffer, the current historian, and that he was able to come up with a map of 2 or 3 possible houses that are a bit older and may or may not be considered significantly historical.

Mr. Sirois stated that his research is only preliminary and that the Society will look into it further. Mr. Labriola thanked Mr. Sirois for his research and for his efforts.

Mr. Labriola stated that he and the zoning secretary will respond via letter to EBI Consulting reporting that:

- the preliminary investigation has been done,
- it appears that there may be a couple of homes that may have some significance and historic value to them
- however, when EBI formally submits an application, the Planning Board will do a much more in-depth investigation.

Mr. Labriola stated that the letter to EBI will also mention the need to address the visual implications of the proposed location of the cell tower, which will be factored into the site plan review should they file a formal application.

Mr. Sirois corrected the record that the camp is not on Creek Road but is, rather, on Nooteeming Road – just off Scout and Davis.

13. APPEAL #929 – DARIA - AREA VARIANCE

14. APPEAL #930 – DARIA – AREA VARIANCE

Mr. Anthony Daria, applicant, was present.

Mr. Labriola noted that Mr. Daria was on the Planning Board's agenda in October 2008 for a subdivision application, at which time the Board advised Mr. Daria to appeal for these area variances.

Mr. Labriola reported that minimum lot widths at the building line, per Code, is 100' and that two of lots do not meet that requirement. He reported that Lot #2 needs a 12.5' variance and Lot #3 needs a 39.5 variance. Further, he reported that Lot #1 does not need any variance as it meets the minimum required lot width.

Mr. Labriola asked about a possible side setback variance. The zoning secretary explained that Mr. Daria had resolved that issue by removing the steps on one of the houses. Mr. Daria concurred with the information. Mr. Labriola stated that the map still shows the steps and is incorrect. He advised Mr. Daria to update the map so that it shows the correct information and distance from the property lines. Mr. Daria will submit two updated maps to the zoning office.

Mr. Labriola explained that if these variances are approved by the ZBA, the project will come back to the Planning Board for the subdivision application. Ms. Seaman suggested that the Planning Board refer these appeals to the ZBA with a positive recommendation based on the fact that this will make the site more conforming to the code.

Mr. Karis asked if the septic and well issue have been resolved. Mr. Daria stated that the houses are on separate septic. Mr. Karis asked about the wells. Mr. Daria stated that it is a shared well. Mr. Karis noted that the Planning Board will deal with that issue if the ZBA grants the variances and when the application comes back to the Planning Board.

Mr. Labriola: **MOTION TO PASS THESE APPEALS ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION BASED ON THE FACT THAT THIS IS TAKING A NON-CONFORMING SITUATION AND MAKING IT MORE CONFORMING AND THAT THE PLANNING BOARD WILL ADDRESS THE CONCERN REGARDING A SHARED WELL IF AND WHEN THIS APPLICATION COMES BACK TO THE PLANNING BOARD FOR SUBDIVISION REVIEW**

SECONDED BY K. BRAMSON

VOTE TAKEN AND APPROVED

Mr. Labriola explained to Mr. Daria that this positive recommendation will be forwarded to the ZBA; that if the ZBA grants the variance, it will allow the Planning Board to move forward with the subdivision application. However, if for some reason the ZBA does not grant the variances, he advised Mr. Daria that the subdivision application stops at that point. Further, Mr. Labriola advised Mr. Daria to submit updated maps that show that the side setback has been resolved.

15. APPEAL #932 – LEO – SPECIAL USE PERMIT

Mr. Anthony Leo and Ms. Foley Leo, applicants, were present. Mr. Leo stated that they want a combined business usage – Ms. Leo wants a hair salon and Ms. Leo wants an office for a small driving school. Mr. Leo stated that it is mandated that the school, itself, must be in a building or a portion of a building that isn't used for any other purpose so, therefore, it cannot be run out of their home.

Mr. Labriola asked if there would be any classes or clients for the driving school at the home site. Mr. Leo stated that only very rarely would there be clients at the home. Ms. Bramson asked if there would be classes on the home site. Mr. Leo responded no.

Mr. Labriola asked how many chairs for the salon. Ms. Leo responded one chair.

Mr. Labriola stated that if the ZBA grants the permit, the application will come back to the Planning Board for a site plan review at which time the Board will review water quantity and septic capacity.

Mr. Labriola stated that he spoke with Mr. Feldweg, zoning administrator, regarding the number of permitted occupations within a home. He reported that the Town's attorney did some analysis on this question. Basically, because there are two different family members with two different home occupations, it would seem to be OK. Mr. Labriola

stated that this is something that can be revisited at SEQRA with consideration for the types of businesses and the impacts on the adjacent property owners. He stated that this seems like a fairly minimal use and impact on the adjacent property owners.

Mr. Karis asked if this access is out to Route 44. Mr. Leo responded yes. Mr. Karis asked if they will have a sign. Mr. Leo stated that there is a sign on the building now. Mr. Gordon asked where this property is. Mr. Leo explained that they are across the street from Copperfields.

Mr. Labriola and Board members discussed a previous application on this site and noted that this is 3 properties on one well with retail and multiple apartments. They recalled that the issue on this site was additional water consumption with even a one-chair salon.

Mr. Gordon asked if the applicants are going to buy this property. Mr. Leo stated that they intend to buy it and hope to. He stated that they will stipulate drilling another well, pending Department of Health approval. Mr. Labriola stated that that would be great as it would resolve many problems.

Mr. Labriola read into the record a letter from the Fire Advisory Board dated 11/5/08: no position as it involves a matter solely for the ZBA.

Mr. Labriola: **MOTION TO PASS THIS SPECIAL USE PERMIT ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION AND A NOTE THAT IF THE ZBA GRANTS THE PERMIT IT IS MANDATORY THAT THE APPLICANT COME BACK TO THE PLANNING BOARD FOR A FULL SITE PLAN REVIEW WHERE ISSUES REGARDING PARKING, LIGHTING, SEPTIC CAPABILITIES, AND WATER CAPABILITIES ON THE SITE WILL BE ADDRESSED.**

SECONDED BY R. SEAMAN

VOTE TAKEN AND APPROVED 7-0-0

16. APPEAL #933 – GASPARRO – SPECIAL USE PERMIT

Mr. Ron Gasparro, applicant, was present. Following the previous discussion with the Planning Board, Mr. Gasparro reported that he reformulated the map. Mr. Gasparro submitted photos of a building that he completed a few months ago on 376 in the Town of East Fishkill, which is the design he intends to use on this Pleasant Valley site.

Mr. Labriola read into the record a letter from the Fire Advisory Board dated 11/5/08: no position as it involves a matter for the ZBA.

Mr. Labriola: **MOTION TO PASS THIS APPLICATION ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION WITH THE STIPULATION THAT IF THE SPECIAL USE PERMIT IS GRANTED THE APPLICANT WILL BE**

DIRECTED TO COME BACK TO THE PLANNING BOARD FOR A FULL SITE PLAN REVIEW.

SECONDED BY R. FRACCHIA

VOTE TAKEN AND APPROVED 7-0-0

16. MINUTES

Mr. Labriola: **MOTION TO APPROVE THE MINUTES, AS CORRECTED, OF THE OCTOBER 2008 PLANNING BOARD MEETING; SECONDED BY K. BRAMSON; VOTE TAKEN AND APPROVED 7-0-0**

Meeting adjourned at 8:55 p.m.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represents unofficial minutes of the November 11, 2008, 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 9, 2008

A regular meeting of the Pleasant Valley Planning Board took place on December 9, 2008, 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
 Peter Karis
 Rob Fracchia
 Michael Gordon
 Henry Fischer
 Kay Bramson
 Lynn Sticker, Alternate

Members absent: Rebecca Seaman

Also present: Mike Takacs, Morris Associates
 Jim Nelson, Esq., Town attorney

1. COOKINHAM - SUBDIVISION

Dr. Fischer recused himself from this application because he is an adjacent property owner. Mr. Labriola announced that Ms. Seaman, who is not present at this evening's meeting, will also recuse herself from this application because she is also an adjacent property owner.

Mr. Bruce Cookinham was present and reported that he is applying for a 2-lot subdivision. He stated that he has approximately 4 ½ acres in an R-2 district that he is looking to divide into two 2-acre lots – one where his residence is and a second lot that is the new lot.

Mr. Takacs reviewed the Morris Associates comment letter. He stated that there were many questions on the EAF that were either not answered or were answered incorrectly that need to be corrected. He noted that this is on for Sketch Plan approval.

Mr. Takacs stated that Mr. Cookinham had stated in a letter that he would wait to get Health Department approval till he was ready to build. Mr. Takacs stated that the Health Department will not allow him to do that, that Health Department approval is required in order to file this map.

Mr. Takacs stated that he will need to provide a topography diagram because it is rather steep off the road and will be hard to get a driveway in where it is shown. Mr. Cookinham stated that his uncle did the original driveway and that fill was brought in to make it more level. He stated that they will do the same for the new driveway. Mr. Takacs stated that it is a steep slope that will require a lot of cutting.

With regard to line of sight, Mr. Cookinham stated that he already talked with the highway superintendent who has been on the site before and has said that it is no problem at all. He stated that there is plenty of line of sight. Mr. Takacs asked if he has a letter from Mr. Gardner. Mr. Cookinham stated that he does not have a letter. Mr. Takacs asked Mr. Cookinham to provide a letter from Mr. Gardner.

Mr. Takacs stated that the Fire Advisory Board will have to review this application. Mr. Labriola advised that when the project has a set of drawings for preliminary review there will be enough details for Mr. Gardner and for the Fire Advisory Board to look at. He stated that it is too soon for them to review the application at this time. Mr. Takacs agreed with this and stated that the submissions are adequate to meet Sketch Plan approval.

Mr. Takacs stated that there is a sensitive area that will need to be investigated. He stated that in looking at NYS Office of Parks and Historic Preservation he identified something that is archeologically sensitive in the area. He stated that the applicant will need a letter from that office with regard to this. He stated that he does not know what it is and pointed out a cemetery that is near the site.

Mr. Karis commented on a number of accessory structures on the site. Mr. Cookinham stated that there are two storage sheds, a large boat, and a car canopy. Mr. Karis stated that those will have to be shown on the map and that there may be issues with setbacks from the new property line. He stated that some of those structures may be in the setbacks, so either the property line needs to be moved or the applicant will have to apply for a variance from the ZBA. Mr. Karis stated that more detail is needed for the next set of drawings in order to consider everything on the site.

Mr. Gordon commented on the letter from the neighbors concerning the proposed new driveway and the steep slope and the provision for an off-road parking area for cars that cannot make it up the driveway. He stated that there are similar situations on two other applications that are before the Board at this time.

Mr. Gordon also commented on an option to create a shared driveway. Mr. Cookinham expressed his preference for separate driveways in order to avoid disagreements about maintenance and other issues. Mr. Gordon stated that there are easements and maintenance agreements that are put in place to address such concerns. Mr. Labriola stated that as Mr. Cookinham's engineer starts to deal with driveway grades and the cuts that are required, and possibly switch backs, etc., this will lead the design in a specific direction. Mr. Labriola agreed with Mr. Gordon's comments and stated that a lot more information is needed on the driveway grades to ensure that people can get up and down the driveway safely. He suggested that Mr. Cookinham's engineer should look at the feasibility of both alternatives – shared drive and separate drives – to see which one makes the most sense. And that there is not enough information on the map – there are no contours – to indicate which would be better. Mr. Cookinham agreed.

Mr. Labriola stated that with a steep driveway there will be water coming down it and, therefore, it will need to be designed in such a way that the water will be captured and controlled – that the flow of the water will be managed so that it does not wash across the road and create other problems.

Mr. Cookinham stated that he has not thought about having a shared driveway and asked about the written documents that would manage any issues. The Board members explained that maintenance agreements for shared driveways are required now.

Mr. Fracchia asked if Mr. Cookinham has done any deep tests or soil tests. Mr. Cookinham stated that he has not done any tests yet and stated that the soils in the area are loam-type and that there are no rocks or outcroppings. He stated that his house is 47' to the bedrock.

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

I move that the Planning Board grant Sketch Plan approval for the Cookinham subdivision in the form of the resolution prepared by the Board's engineer and now before the Board subject to the following conditions:

- **Address the comments from Morris Associates letter dated 12/5/08**
- **Address the Planning Board's comments from 12/9/08 Planning Board meeting**

SECONDED BY L. STICKER

VOTE TAKEN AND APPROVED 6-0-0

Mr. Labriola advised Mr. Cookinham to pick up a subdivision sign from the Planning Office and to post it on the property.

Mr. Labriola listed the next steps based on the comments in Morris Associates letter and the Planning Board's comments tonight:

- Updated drawings that can be distributed to the Fire Advisory Board and to the Highway superintendent for their comments

Following receipt of those drawings, Mr. Labriola stated that the next steps will SEQRA determination and Public Hearing, etc.

Mr. Labriola stated that the Board will need to see a well-engineered set of drawings before these next steps can be taken.

Ms. Dickerson advised Mr. Cookinham that the submission date for the January 2009 Planning Board meeting is 12/29/08. Mr. Cookinham stated that he probably will not make that deadline.

Mr. Takacs offered to meet with Mr. Cookinham and go over the Morris Associates comment letter.

2. ROSSWAY PROPERTIES – DISCUSSION & PUBLIC HEARING

Mr. Michael White, engineering and project manager for the project from Spectra Engineering, and Mr. Jeffrey Ringler, Rossway Properties LLC, were present.

Mr. White stated that in November they provided plans that responded to: Morris Associate's comments; Greg Bolner's comments, the Town Board engineer's, comments, Planning Board members' comments, and the Highway Superintendent's comments. He stated that they have already responded to several of the comments in Morris Associates 12/5/08 letter. He also noted that they are in the process of responding to the stormwater management comments where they go into detail.

Mr. White explained the project and stated that it is a 13-acre parcel that is located west of the Taconic Parkway on Rossway Road immediately north of the Town of LaGrange. He stated that the proposal is for 3 lots served by a common driveway with access to the north of the property. He noted that the common portion of the driveway will end about midway, at which point the individual driveways take off from the common portion. He stated that the common portion of the driveway will be 16' wide and will contain provisions for stormwater management, which is very important for the site to protect Rossway Road. He stated that they have been in contact with the Highway Superintendent and the Town engineer and that they know the type of mitigation they are looking for which is shown on the plan in preliminary form. He stated that the actual design will occur during the final phases.

Mr. White stated that they are trying to be particularly sensitive of their neighbors to the north, the Wilsons. He stated that the Wilsons walked the property with him and that he explained the grading areas, the drainage, the landscaping plan, and the screening. He pointed out the Wilsons' house and stated that they will provide screening for them.

Mr. White stated that there is a slight sight distance issue in terms of access from the driveway. He stated that there is no issue looking left (north) but there is a sight issue looking right (south) and that they plan to cut back two areas of the existing side bank to achieve at least a 400' sight distance in accordance with the posted speed limit.

Mr. White stated that there will be 3 houses and that each house will contain its own subsurface sewage disposal system and well as well as landscaping and grading.

Mr. Takacs reviewed the Morris Associates comment letter. He stated that Health Department approval will be required on this project. He mentioned maintenance agreements will be prepared and reviewed by the Planning Board attorney and the Town Board engineer. He stated that a letter from Greg Bolner, Town Board engineer, was received with the Highway Superintendent's comments regarding drainage to the north. He stated that an easement will be needed. Mr. White stated that drainage after treatments and after management down both sides of the driveway will be channeled into two catch basin treatment vaults. He stated that they will install a new culvert on the west side of the road to an area approximately where the Wilsons' existing driveway is. He stated that they will install another catch basin and intercept the culverts that are

coming across the road. He pointed out the final discharge point and the areas where there will be treatments upstream from that final point. He stated that they have it designed in concept and preliminary form.

Mr. White explained that the Wilsons' pond is heavily silted in over the years and that they will excavate the silt and the Wilsons will use the fill elsewhere on their property. Mr. Takacs asked if a permit is required from DEC. Mr. White responded no.

Mr. Takacs pointed out contour lines that were not represented on the plan. Mr. White stated that they looked at that and that it has been taken care of.

Mr. Takacs stated that details of retaining walls are needed. Mr. White stated that they have not designed them yet and pointed out that there are walls that are retaining walls and walls that are supporting walls.

Mr. Takacs advised the applicants to contact Steve MacKay at Morris Associates regarding review of the stormwater plan.

Mr. Takacs mentioned the one issue that is of concern to the Highway Superintendent – the pull off at the bottom of the hill. He noted that Mr. Gardner does not want that pull off. Mr. Labriola stated his interpretation of the comment in Mr. Bolner's letter – that Mr. Gardner is concerned that if you keep plowing the snow up against the rock ledge, then the cars will be pushed farther and farther out and he is worried about potentially cars sticking out into Rossway Road. Mr. Labriola stated that he thinks it is unlikely but is a valid point, nonetheless. He suggested that it would make sense for Mr. Takacs, Mr. White, Mr. Gardner, and himself to have a conference call and have a conversation to figure out what to do to make it work. Mr. Labriola read into the record a portion of a letter (ORIGINAL ON FILE) from the Fire Advisory Board that supports the design of the pull-off area:

“The Board members specifically approve this pull-off area at the driveway entrance because cars would be parked off of the driveway and would not be stuck in the snow or blocking the driveway and, therefore, emergency vehicles with 4-wheel drive capacity and chains would be able to access the residence.”

Mr. Labriola stated that this was one of the Planning Board's key SEQRA considerations. He read the FAB's unanimous vote to:

“pass this along to the Planning Board with the following conditions of approval:

- That the pull-off area off of Rossway Road be maintained as an appropriate area to park vehicles in the event of inclement weather, and
- That the driveway and roadway areas be maintained free of vehicles in the event of inclement weather.

Mr. Labriola stated that this was the endorsement that the Planning Board was looking for from the Fire Advisory Board along with the comments that the applicants have

already built into the design with pull-off areas along the common drive. He stated that all involved need to have a discussion with Greg Bolner or Butch Gardner to work through this because it is the Board's opinion that the pull-off area at the bottom of the drive must be maintained. He stated that if it cannot be maintained, then there are some other significant issues that arise and that he is unsure whether there is a work-around other than the pull-off area.

Mr. Ringler stated, for the record, that they would be fine with putting something in the driveway maintenance agreement specific to that area to give assurance that it will be properly maintained. Mr. Labriola stated that that would be a good thing to do. Mr. Ringler stated that it sounds like it is a maintenance issue, where 24 hours following a snow storm the snow bank should be removed from up against the retaining wall. Mr. White agreed and stated that it will be a matter of how the pull-off area is plowed. He agreed that if it is plowed up against the wall, then the cars will eventually encroach. He stated that if they can plow along the retaining wall, it should address that problem.

Mr. Labriola reiterated that a discussion needs to happen with Mr. Bolner to work through this and that it is not an insurmountable issue. He stated that the Board cannot do SEQRA until this is resolved. Mr. Takacs also mentioned that the issues with the stormwater plan need to be resolved prior to SEQRA. Mr. Labriola agreed.

Mr. Labriola proposed that, although there are issues that remain to be solved, he open the Public Hearing tonight, take the comments from the public, and then adjourned the Public Hearing so that it can be re-opened at a subsequent meeting of the Board.

Dr. Fischer asked for clarification of how the snow would be removed. Mr. Ringler explained the area on the map and how snow removal can be managed. Mr. Karis asked who determines how and when the snow is dealt with and how it is enforced. Mr. Ringler stated that it would be covered in the maintenance agreement. Mr. Karis stated that it would be left to the homeowners to bring in a front-end loader to remove the snow. Dr. Fischer pointed out that that wouldn't happen. Mr. Karis agreed. Mr. Labriola suggested, then, that an area may need to be designed to contain the snow out of the parking area. Mr. Karis stated that the whole point is that the pull-off area has to remain clear. Mr. Ringler asked about the square footage of the pull-off area and stated that they have overbuilt it. Mr. White stated that he does not know off hand the size of the area but that they designed it for 6 cars, per the Board's request, and that it is a large area and can hold some snow.

Mr. Labriola echoed the concerns about someone having to bring in a front-end loader on a regular basis and asked that the applicants provide a blow up of the pull-off area showing where the cars would be parked and where the snow would be removed to. He stated that Mr. Gardner would have an opportunity to see if he is comfortable with that design. He stated that this needs to be designed so that it works, and if it needs to be bigger to do that, then it will have to be bigger.

Mr. White stated that they are dealing with rock and there is only so much that can be done – that the rock limits expansion. Mr. Labriola acknowledged that and noted that Mr. White needs to keep the Board informed on what can be accomplished and what is practical. He stated that Mr. White needs to show the Board what is practical and then the Board and Mr. Gardner can determine whether all can live with this and that there are no problems with sight distances or encroachment.

Mr. White pointed out that the pull-off area starts at the edge of the shoulder, and the shoulder there is at least 12' back. He stated that there is quite a wide area that Mr. Gardner could have control of in terms of his own snow removal. He stated that the pull-off area is a large area, but that they did not design it as a snow storage area as well. He stated that he's not sure that they could accomplish that and that he is already concerned with their ability to cut into the rock.

Ms. Bramson asked where the plowed snow from the driveway will go, whether there is room on the sides of the driveway for the snow. Mr. Ringler explained the area where the snow can be removed to. He stated that it is almost a private road and that major equipment will be required to remove the snow anyway. He stated that chances are a bobcat would be needed anyway. Mr. Labriola stated that this is noted and that Mr. Gardner must be comfortable with the design.

Mr. Karis stated that there is no question that it can be done, but the question is what is the reality that it will be done and the possibility that Mr. Gardner will end up having to deal with. Mr. Karis stated that he could see that it would be Mr. Gardner who would have to tell the residents that they have to remove the snow and asked if that can be worked into the maintenance agreement. He asked if Mr. Gardner even wants that responsibility. Ms. Bramson stated that that is what Mr. Gardner is trying to avoid. Mr. Labriola agreed that Mr. Gardner does not want to have to enforce that on this site. Mr. Karis asked who, then, makes that determination – do the fire people make those inspections. Dr. Fischer suggested that it would not be anybody – that it would not happen. Mr. Labriola suggested that it might end up being one of the Highway employees when they are plowing noticing that every time they go by the site there is a problem and bring it to Mr. Gardner's attention that cars are now parked on the road – exactly what Mr. Gardner is trying to avoid. He stated that, ultimately, Mr. Gardner will be the person who will have to police this, and that the Board is trying to avoid that happening unless it is extraordinary circumstances. Mr. Labriola asked Mr. Takacs to make the arrangements for a conference call between all involved parties before the next time this project is on the Planning Board agenda. Mr. White asked if it would be preferable to meet at the site. Mr. Labriola stated that he would be OK with a site visit. Mr. Takacs will arrange this.

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

Mr. Bill Cargain, 9 Trillium Road, Pleasant Valley. He stated that most of their concerns have been addressed. He mentioned drainage on that corner, which is an S turn and is a

particularly contentious problem in the wintertime. He stated that that intersection floods from time to time on extreme rainfalls, that it has been under water and that the neighbors across the street have lost their driveway on more than one occasion. He stated that there is quite a flow through there, which he thinks the applicants are addressing with their drainage plan. Also, he stated that the planned excavation of the pond will be helpful. He stated that up the street from them in the Town of LaGrange they have done a poor job of controlling the runoff. He stated that the little pond on the corner of Rossway and Trillium has pretty well silted up since they moved there, which now overflows and runs down the stream that goes through their property and deposits its silt in the lower pond. He stated that the pond is now becoming more and more shallow and the wetland beyond that is starting to suffer from that. He stated that addressing this would be an issue for him.

Mr. Cargain stated that the snow removal would be a very important issue. Also, he stated that he and his wife are particularly sensitive to the sound of the Taconic Parkway. He stated that trees have a deadening effect on sound, especially in the summer time with the leaves. He stated that now with the leaves off the trees they hear the Taconic more. He stated that he understands there will be a restriction on what can be cut on that property so that most of the trees can be retained for the natural look and the natural sound barrier. He stated that he and his wife live in that little valley and when there's a storm through there it echoes in that area like a chamber or a drum. He stated that it would be to everybody's advantage to control the sound as much as possible and to keep the trees. Mr. Labriola expressed the Board's appreciation to Mr. Cargain for coming and speaking to the Board and invited him to stay engaged as the review process proceeds.

No one else from the public spoke.

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

Mr. White responded to Mr. Cargain's comments and stated that he is very familiar with Trillium gardens – that they were the Town engineers when that went in. He stated that it is a 240-acre contributing area that contributes drainage to that stream and ultimately onto the culverts under the road. He stated that he has also seen it silt up over the years and wonders if it is the result of poor maintenance. He stated that, unfortunately, he thinks that will continue to happen and that is why dredging this pond is so important because that pond is the repository of the silt from upstream. He stated that the pipes need to be cleaned out a little bit also, which is hard for him to accomplish. He stated that the fact that they are taking care of the drainage on the westerly side is not going to add to their woes on the easterly side.

Mr. Cargain stated that the pond on the corner of Trillium, by filling up, is now causing the flow on the upper pipes to accelerate and has cut that little stream down along his house. He stated that when they came there in 1997 it was to a depth of 18"-24" and is now almost 4' in some places. He stated that the acceleration of water through there is

cutting it deeper through there and brought more siltation in the wetland areas in the northern end of the property.

Mr. White pointed out on the map the dark shade of green that indicates the trees that will be preserved and the lighter shade of green that indicates the disturbance area, which will eventually be returned to grass.

Mr. Ringler asked what needs to be done with regard to the comments on the stormwater management plan. Mr. White stated that he needs to respond to all of them.

3. JOHNSON – SUBDIVISION – PUBLIC HEARING

Mr. Steve Burns, engineer with Barger & Miller, was present.

Mr. Takacs reviewed the Morris Associates comment letter. He stated that the only outstanding comments include Health Department approval and a question about the driveway access point. He stated that the grading on the driveway is in question and that the Highway superintendent would have the final say on that issue. Mr. Labriola asked about the actual grade on this driveway. Mr. Karis pointed out that there is no grading profile on the map. Mr. Burns stated that it is greater than 6% but that he is not sure what the actual grade is. Mr. Labriola stated that the Board needs to know precisely.

Mr. Karis outlined the details that the map must contain with regard to the driveway. He stated that these details include:

- A platform at the road.
- Pick the middle up – right now they are continuing the drainage over the top of the driveway, which has to go through underneath the driveway.
- A platform at the house – Mr. Takacs stated that the alternative is to drop the house down.

Mr. Labriola read into the record the recommendation dated 10/1/08 from the Fire Advisory Board (ORIGINAL ON FILE): “as a condition of approval that the driveway on the new lot be maintained to a minimum width of 15’ and cleared to a minimum height of 15’.” Mr. Burns asked if that is 15’ paved. Mr. Labriola stated that it says, “maintained.” Mr. Burns asked if it could be 12’ of pavement and 1 ½’ shoulder on each side. Mr. Labriola stated that that would be OK. Mr. Burns stated that the entire driveway will be paved.

Mr. Labriola stated that next steps include:

- get resolution on Mr. Bolner’s letter with regard to what the platform needs to be
- get the driveway grades represented on the map so that the Board understands if there are any non-conformance issues
- design a platform up at the house that can be addressed in a number of ways

Mr. Labriola asked about any stormwater management issues – swales and potentially a culvert. He asked Mr. Takacs whether the preliminary design of the stormwater management plan will allow the project to move forward or is there more that needs to be

done before SEQRA determination. Mr. Takacs stated that the main issue is the driveway at Masten Road. Mr. Karis stated that from the map that has been submitted it is hard to tell. Mr. Burns explained where the property falls away. Mr. Takacs stated that he does not believe that the wetland is all that large.

Mr. Labriola stated that it is not possible to do a SEQRA determination, but can open the Public Hearing and adjourn it until the driveway issues get resolved. Mr. Burns stated that he does not see the driveway issues as really that big of a deal, that it is only a simple issue of grading. Mr. Labriola stated that the Board does not know what the grades of the driveway are and, therefore, it would be hard for the Board to do the SEQRA determination with a missing component.

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

No member of the public spoke.

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

Mr. Burns stated that he will have the driveway revised and will get it back to the Board.

With regard to erosion and sediment control, Mr. Karis pointed out that the erosion control plan also needs to be shown on the plan prior to SEQRA determination.

4. THE BARN – SITE PLAN

5. THE BARN – REGULATED ACTIVITY IN WETLANDS

Mr. Peter Clark was present. He mentioned that he put a note on one of the site sketches that details the erosion control measures – a silt fence and hay bales during construction and grass seed and hay following construction.

Mr. Takacs reviewed the Morris Associates comment letter. He stated that Mr. Clark needs to provide a better map that provides area for the Planning Board chair to sign – that there are certain requirements that the map must include.

Mr. Takacs stated that this is a relatively minor project and, therefore, Morris Associates is suggesting that there are several items from the site plan regulations that can be waived, which were included in their comment letter. Mr. Takacs stated that he spoke with Mr. Feldweg and that they have determined that The Barn is not within 500' of an agricultural district. Therefore, he stated that Mr. Clark does not need to complete the agricultural data form. However, he noted that Mr. Clark will need to fill out the flood plain form. Mr. Labriola stated that the file already contains that form.

Mr. Labriola stated that he reviewed the waivers suggested by Morris Associates and all are OK with one exception. He stated that the one that needs to be included is in Section 98-41 (B) (12), the proposed fencing, screening, and landscaping. He stated that the

Board talked last month about some sort of plantings to prevent people from dumping stuff. Mr. Karis stated that they had talked about a post and rail fence and some landscaping against the building to cordon off that area from people dumping their stuff there. Mr. Clark asked if that is along Route 44. Mr. Karis described a suggested design. Mr. Labriola stated that the purpose is to let folks know that this is a no-dump zone. Mr. Karis stated that The Barn is a gateway building for Pleasant Valley – it is the public face once you come over the hill into Pleasant Valley – and is an opportunity to have a positive impact.

Mr. Karis asked about the refuse enclosure and stated that Mr. Clark needs to provide details on that – what kind of fence, what screening will be provided. Mr. Clark pointed out the details on the submitted maps. Mr. Takacs suggested that he make it more substantial on the corner with bollards for protection. Mr. Karis asked if they will paint it to match the building. Mr. Clark stated that it will match. Mr. Karis asked Mr. Clark to add that note to the plan and explained that all details need to be on the map so that there are no questions.

Mr. Gordon asked if the parking area is adequate and accurate on the map. Mr. Clark pointed out the note on the map that states that it is not to scale. Mr. Karis asked how many spaces they have. Mr. Clark stated that they have 13 spaces, provided that people park correctly and pull all the way in and leave the correct space between the cars. Mr. Gordon stated that there are 16 parking spaces on the map.

Mr. Labriola asked Mr. Clark to provide updated set of drawings. Mr. Clark responded yes.

Mr. Labriola asked if Mr. Clark is operating under any time constraints. Mr. Clark stated that they would like to be able to start digging for the footings right away. He stated that the footings are the biggest thing and asked if he could go ahead with that because it would be a big deal to get that done before it starts freezing up too much. Mr. Labriola stated that it cannot be done without final approval and a building permit. He suggested that the goal would be to return to the Planning Board in January. Ms. Dickerson reminded Mr. Clark that submission date is 12/29/08.

Mr. Labriola read into the record a letter from Dutchess County Department of Planning (ORIGINAL ON FILE) that states it is “a matter of local concern.”

Mr. Clark reviewed the Board’s suggestions:

- bollards around the dumpster fence
- detail of dumpster area and the fence

Mr. Takacs offered to meet with Mr. Clark. Mr. Labriola encouraged Mr. Clark to meet with Mr. Takacs because there is a fair number of items in the Morris Associates comment letter that need to be included on the plat.

Mr. Labriola: **MOTION TO ACCEPT THE REQUEST FOR WAIVERS AS DETAILED IN MORRIS ASSOCIATES COMMENT LETTER, WITH THE EXCEPTION OF SECTION 98-41 (B) (12) WHERE THE BOARD IS GOING TO ASK THE APPLICANT TO INCLUDE PROPOSED FENCING, SCREENING, AND LANDSCAPING**

SECONDED BY M. GORDON

VOTE TAKEN AND APPROVED 7-0-0

Mr. Clark asked if the Wetlands Permit is being handled separately. Mr. Labriola explained that it is being handled in conjunction with the Site Plan application.

5. TACONIC HOMES – SITE PLAN

Applicants present were:

- Mr. Nat Parish
- Mr. Ken Nadler
- Mr. Ralph Mastromonico
- Ms. Karen Krautheim
- Mr. Paula Vincitore

Mr. Parish announced that Mr. Kirchhoff could not be present at this meeting. He stated that the purpose of this meeting is to hear from Board members on their checklist of what should be included in the Final Environmental Impact Statement. He stated that they are now in the process of preparing the FEIS and going through the record of the public hearings – the stenographic records – and the correspondence that came in during the hearings including the County's letter. He stated that they are including in the FEIS the revised plan that the Planning Board has seen and discussed in a number of meetings with a table that explains the differences in the environmental impact and a description of the revised plan. He stated that the FEIS will include a section where there is supplementary information.

Mr. Parish stated that his purpose for this meeting is to hear from the Planning Board members any subject items that they are particularly concerned about and want to make sure are covered in the FEIS. Mr. Labriola concurred that this is the purpose of this meeting and invited Board members to comment on any items that they want to make sure are covered in the FEIS.

Dr. Fischer stated that the major items he was concerned about were about drainage, which have been addressed.

Mr. Gordon stated that the concerns of the Morts have been pretty well answered and he noted that they are not present at this meeting. He stated that he supposes that everything with regard to their concerns has been worked out.

Ms. Bramson stated that the applicants were going to do more research with regard to the natural habitat and the animals and wildlife in the area. She stated that she reviewed all the minutes from previous meetings on this project and noted that there were extensive discussions regarding traffic flow in and out of the site from Route 44. She stated that some of the things that were discussed were having one-way in and one-way out as well as a two-way in.

Mr. Labriola stated that there will be a new traffic lane installed on Route 44 – a turning lane. Mr. Parish stated that in response to the NYS DOT request they have prepared a fairly detailed plan in accordance with the NYS specifications to install a left-turn storage lane. He stated that it is accurate that there is a one-way in and one-way out, except for the uses along the frontage that have the right to two-way access in that area. He stated that they are not restricting anyone's access who has it now.

Ms. Bramson mentioned the plan to use stormwater run-off for irrigation.

Ms. Lynn Sticker mentioned the traffic issue, which it seems is being addressed.

Ms. Bramson stated that they also talked about replacing trees – putting trees along the road frontage. Mr. Labriola stated that it looks like there are a fair amount of trees being planned along the common roads and in the open areas between some of the buildings. Mr. Karis stated that once the site plan review process commences there will be a detailed landscaping plan where the Board can get more involved in this issue. Mr. Labriola stated that his experience has been that with Kirchhoff properties landscaping is never a problem.

Ms. Bramson asked about the affordable housing. Mr. Parish pointed them out.

Mr. Fracchia stated that his concern is about the traffic and how it will interrelate with the gas station and whatever will happen between Reardon Briggs and the old Miracle Ford building.

Mr. Karis stated that his first concern relates to the visual impacts. He stated that he drives south on the Taconic from work and pass over Route 44 and look through the trees and he sees the hillside 5 days a week. He stated that he is convinced that drivers will see the development from the Taconic south, in one shape or another, just by changing the land form. He stated that he would like consideration to be given to the colors of these units and how they will blend back into the landscape, so that the visual impact can be minimized traveling on the Taconic Parkway which is a National Scenic resource. He suggested that dark earth tones most of the year will blend best and asked if any consideration has been given to that. He stated that the FEIS should include this detail as part of their visual impact mitigation plan. He stated that if they have a stark color against a dark background the development would be even more visible.

Mr. Karis stated that his second concern relates to the biodiversity analysis that was done on this project. He stated that it was done by two biologists on one day, which in his

view needs to be brought to a higher level. Further, he stated that the analysis needs to understand the Morts' presentation, consideration for the biodiversity that travels through this site, and the local ecology that is happening here. He stated that the DEIS did not do a good enough job in addressing what is actually happening on the site with regard to the biodiversity.

Mr. Karis stated that he has two concerns connected with this issue. He stated that one concern is the units that are proposed along the portion of the property that connects the Mort property up to the Roosevelt University property – on the top of the plan and the units that run along side that. He stated that the grading for those units is shown right up to the wetland limit line. He stated that although there is no wetland buffer because the project predates the Town's wetland ordinance – the grading is right up to the level of that intermittent stream and we know that there is great biodiversity happening there. He stated that on the Morts' end you can imagine that there is a connection to the open spaces that lie to the south. He stated that he is concerned about the practicality of actually building the units in that area without having an impact to the wetlands. He stated that they will have heavy machinery back there grading and building foundations. He stated that the area needs to be closely looked at to protect the hydrology of the site. He stated that now that the Board can get into more detail about the plan, that needs to be carefully considered regarding the practicality of building in the area. Mr. Parish stated that there is a buffer even though they are grandfathered. Mr. Karis stated that he thinks they have done a tremendous job overall, but noted that this is the area where the development comes very, very close to the critical area on the site and attention needs to be paid to that area. He stated that he does not know what needs to be done to actually construct those units and not have an impact, but the applicants need to figure out how to protect that sensitive area. And, he pointed out that they can go up to the wetlands but they cannot have an impact on the wetlands.

Mr. Parish asked Mr. Karis to point out on the map the area that he is talking about. Mr. Karis pointed it out on the map.

Mr. Karis stated that his second concern with regard to the wetlands is that because we know that there is a great amount of biodiversity on the site they will be redoing the culverts or crossing that exist on the site. He asked if it is correct that the applicants will be updating them as part of their road designs. The applicants concurred. Mr. Karis stated that there needs to be some consideration for the connection underneath the road for whatever wildlife traverses the area. He suggested that perhaps there should be some dry culverts above built into the crossings. He stated that he thinks attention should be paid to providing a biological connection under the road so that animals don't have to go up over the road and then have problems. He stated that there will potentially be 300-400 cars daily on the site and that this is a concern that should be considered as part of the culvert crossing.

Mr. Karis stated that his last point involves the clubhouse area and creating a gateway into this community. He suggested that there is a tremendous opportunity with this clubhouse area being close to the perennial stream and right up against Route 44 and the

Taconic exit. He stated that this is an opportunity to do a really innovative, low-impact design development with ecopavers and no asphalt, rain gardens for roof drainage. He suggested that they get innovative and make this a model in the context of a project of this size of what can be done with stormwater management issues close to this protected resource. He encouraged the applicants to get innovative using low-impact development techniques. Speaking for himself, he stated that he would be willing to look into entertaining a wetland permit to go within the 100' buffer around that stream if they are going to employ those kinds of techniques.

Mr. Labriola stated that he would second that – if they can get creative, the long-term benefits would far outweigh the short-term issues. Mr. Karis stated that it is the high visibility area on a project at a scope that probably can support doing that kind of a thing for the community center of the project. Mr. Parish emphasized that in that area there is a 100' buffer that is required. Mr. Karis stated that if they can get creative and employ some of these good, common sense techniques for development, he would consider entertaining a wetland permit so that they can achieve a better layout and function of the community area and not be shoehorned in between the 100' line and the road.

Mr. Labriola listed his items:

- From a visibility perspective, wanting to understand what they will do for lighting to avoid spillage – especially for the affordable house units and in the winter time without the foliage to block the light
- Discussion about this area that floods in heavy rains along Route 44 – make sure that they are addressing that
- Stormwater management system – the maintenance schedule, who is responsible for it
- The substances that are likely to end up in the wetlands – salt from the roads, insecticides – what they will do to mitigate that
- There may be areas on the site – similar to what was done with the apartments on West Road – where some sheet flow was allowed and not everything was curbed. He recommended that the applicants figure out where it makes sense to do that, which may help with some of the other issues.
- The impact of the volume of water that will be introduced into the wetlands that will be in excess of 90,000 gallons a day
- The biological study that was mentioned by Ms. Bramson and Mr. Karis – the completeness of it is an issue, but the other thing that we need to understand is the timing. He stated that there are certain times of the year when certain wildlife will be observed and other times when it will not be observed. Therefore, he emphasized that although they did not observe some wildlife when the study was done, the fact remains that they could not have been observed based on the one-day study that was conducted. He stated that the methodology used for the study needs to be looked at and be able to figure out how to deal with the fact that there are certain things that are not going to occur when they did their study. He stated that the applicants cannot use the rationale that they did not see certain wildlife on the day that the study was conducted to assert that, therefore, they are not on the site.

- The construction sequence – the phasing plan – and what the triggers are – to understand how this will be built out over time.

Dr. Fischer mentioned using the gray water for irrigation.

Ms. Bramson stated that she does not take the Taconic so she does not observe the view that Mr. Karis mentioned. She asked Mr. Karis if he has become more aware of it because there are no leaves on the trees now. Mr. Karis stated that this is absolutely the case. Ms. Bramson asked if in the summer it would not be as bad. Mr. Karis stated that now he knows it is there, he can see the hillside through the trees along the Taconic and it is more prevalent now and it is a consideration. He stated that the applicants should pay attention to softening that visual impact.

Ms. Bramson stated that they talked about there being a berm between the parking lot and the road. She asked if it would be possible to add another 4 ½' to the berm and if that would help. Mr. Labriola stated that to add that berm they would have to clear cut trees, which is not desirable. He mentioned that in some spots the terrain drops off 15'-20', which is where the parking area would be. He suggested that there are already some natural characteristics in that area that are working to our advantage and also noted that now that the leaves are down there is greater visibility. Mr. Karis stated that one will see the upper portion of the development more traveling south on the Taconic than the units that are actually closer to the Taconic.

Mr. Parish asked Mr. Karis to point out the area on the map that he's talking about. Mr. Karis pointed it out on the map and stated that it is from viewpoint #2. He stated that with his trained eye he can see the hillside when he is traveling south on the Taconic so that he can only envision that once they start clearing all the trees and start putting buildings up, that we will see masses of color up on the hillside. He stated that he wants to understand and be conscious of whether there will be a contrasting color and if that will make it pop out more. If so, he stated that we want to avoid that. Mr. Parish stated that there is no question that this is an important point. Mr. Karis stated that the main reason this is important to him is that the Taconic Parkway is a National Historic Scenic Parkway and we need to protect it. He stated that he does not want to see East Fishkill. Mr. Parish stated that you may see glimpses of the development. Mr. Labriola mentioned that it would be good to soften it, nonetheless. Mr. Karis stated that it is viewpoint #2 – roughly that sight line when traveling south on the Taconic as you approach Route 44 overpass.

Mr. Gordon mentioned that some of the landscaping within the project will temper this effect, but that the roofs will be visible and whatever materials are used for the roofs will be important. He stated that the Board has not yet received a color scheme for the project.

Dr. Fischer asked what energy source will be used for the project – oil heat or electric heat. Mr. Karis suggested geothermal. Mr. Labriola suggested solar. Dr. Fischer stated that he's aware that Mr. Kirchhoff is oriented toward green design and noted that energy

is now a prime issue. Mr. Karis stated that he would like to see a green roof on the community building and that they could make their impermeable footprint zero or very close to it. He stated that the site development techniques exist. Mr. Nadler stated that the decision regarding energy has not yet been made and is a marketing consideration. Mr. Karis stated that that is why he sees the community building as an opportunity – that it is small and shared by the whole project and is one of the first things that will probably be constructed. He noted that it is a selling point and can be worked into the marketing approach to represent the type of lifestyle that will be on the site.

Mr. Labriola asked the applicants if they have any questions for the Board. Mr. Parish responded no.

Mr. Labriola expressed the Board's appreciation to the applicants for coming and having this discussion. He stated that the Board wanted to make sure that they expressed to the applicants the things that they are specifically concerned about over and above what was in the transcripts in order to avoid extensive revisions.

6. DARIA - SUBDIVISION

Mr. Michael Dalbo, land surveyor for the project, was present. He stated that the applicant, Mr. Daria, is not able to be at this meeting tonight.

Mr. Labriola stated that Mr. Daria received the variances from the ZBA last month, which was the one thing that was keeping this application from moving forward. He stated that this is on for Sketch Plan discussion this evening.

Mr. Takacs reviewed the Morris Associates comment letter. He stated that there are two issues. He asked about setback requirements from Route 44 and wondered if that was an oversight. Mr. Labriola explained that the way he has been looking at this project is that the houses are existing – it is a pre-existing non-conforming situation. He stated that this application and the addition of these proposed new lot lines are not creating or aggravating an existing condition. He stated that Mr. Daria got the variances that were required for the non-conformities that he is introducing. He stated that the setback from the road is pre-existing non-conforming and, therefore, he does not need to get a variance for that. He explained that Mr. Daria is not creating a non-conformance; it is already there. Mr. Takacs stated that he obtained the variances for what he needed for what he created. Mr. Karis stated that that is consistent with past applications. Mr. Dalbo stated that that was their understanding as well.

Mr. Takacs stated that the only other major item deals with the Health Department, which is a situation of one well serving three houses. Mr. Labriola stated that the Planning Board had asked Mr. Daria when he was on the agenda in October 2008 to contact the Dutchess County Department of Health to get some guidance and direction from them on what he is proposing. He stated that he does not know if Mr. Daria has done that yet and noted that that is a significant issue that is going to need to be addressed sooner rather than later. He stated that, in concert with that, Mr. Dalbo has shown the SDS systems for these three homes. He noted that this is a new subdivision application and we require

100% expansion areas for those septic systems, which need to be represented on the map. He stated that then the Board needs to see if that creates any problems if they are in wetland buffers and whether there are the necessary separations to adjacent property owners and their wells. He stated that this has not been represented on the map and needs to be addressed because this is a new subdivision application and this is required of everybody.

Mr. Dalbo asked if this is the Town's requirement or the Health Department's requirement. Mr. Labriola explained that ultimately the Health Department signs off on those requirements, but the Planning Board drives it through the review process.

Mr. Dalbo stated that this is a pre-existing use and asked what happens in the event that that cannot be accomplished. Mr. Labriola asked for clarification on what cannot be accomplished. Mr. Dalbo stated if the 100% expansion area for each of the three houses cannot be provided. Mr. Labriola stated that his sense is that the Health Department will not sign off on this.

Mr. Dalbo asked what Mr. Labriola means by Health Department approval – does he mean permission to file. Mr. Takacs stated that that is what he will apply for but he does not believe that is what the Health Department will give him because there is only one well serving three houses. He suggested that the Health Department may want to see provisions for two additional wells to be drilled. Dr. Fischer stated that he will need separation for those. Mr. Dalbo acknowledged that it is very tight on those lots and that this is one of the problems they may be up against. Mr. Dalbo stated that Mr. Daria would like to keep the situation as it is with one well serving the three houses as it has been doing sufficiently since possibly the 1940's. He noted that whether or not the Health Department would be in agreement with this is yet to be determined.

Mr. Dalbo stated that he thinks that the pre-existing use on the site and the fact that there are three houses on a single well – their attempt is to bring the situation into more conformity and create a better product for Mr. Daria to have and possibly sell. He stated that, frankly, it will be extremely difficult to find a place, and maybe impossible, where he can put in a septic system. Mr. Labriola stated his understanding of the predicament and noted that he can never remember the Planning Board, during his 14-year tenure on the Board, approving a subdivision that had a shared well. He stated that the only shared wells that have been done were where a transportation corporation has been formed. He explained that this project – with Mr. Daria introducing a subdivision – the Board must following the subdivision regulations that stipulate that certain regulations must be met.

Mr. Dalbo asked whether the subdivision regulations require the 100% expansion area. Mr. Labriola stated that it is a Health Department requirement. Mr. Takacs concurred. Mr. Dalbo stated that in Hyde Park, where he does most of his work, he has done similar projects where there is an extremely tight condition because the buildings and septs and wells were created in the 1940's or 1950's. He stated that, disregarding the well which he acknowledges may be an issue, the Health Department has never required that he

demonstrate 100% expansion area for existing wells – never. Mr. Takacs corrected that statement to mean septics. Mr. Dalbo stated - existing septics and existing wells.

Mr. Karis asked, if the Health Department OK's this project, whether the Planning Board would be OK with that. Mr. Labriola stated that his view is that the Department of Health is the final arbiter with regard to approvals of septic systems and water supply. Therefore, he stated that this is why the Board considers that it is incumbent on Mr. Daria and Mr. Dalbo to reach out to the Health Department regarding the proposed project and ask for guidance. Mr. Labriola stated that the Planning Board will need to understand how the septics and water will work on this project because it is a very tight site even though there are a large number of acres on one lot. He stated that the Health Department's comment and approval on this project is key to the Board being able to move forward on the review process.

Mr. Karis stated that from a planning perspective, having one well servicing three individual lots is not a good situation and he suggested that the applicant would want to rectify that, if possible. Mr. Labriola agreed and stated that they would want to bring this site into a more conforming design. He stated that there are certain situations that they can work around and others that they cannot. He stated that the well is one of those things that they will not be able to work around, but nonetheless the Board and the applicant needs the Health Department to comment with their guidance and direction.

Mr. Takacs pointed out that at this time no one knows what the system will look like. Mr. Dalbo acknowledged that it is not known at this time how it will be designed. Mr. Labriola pointed out the easements and maintenance and cautioned that it really can be a nightmare that the Board would like to avoid. Mr. Dalbo stated that the applicant is aware of that and that he discussed this with Mr. Daria early on that this would probably come up as an issue. He stated that Mr. Daria is hopeful that he could do a common well with cross easements and that he does not know how much the well yields. Dr. Fischer stated that Mr. Daria had reported to the Board that it yields enough.

Dr. Fischer asked whether the Planning Board is held to the Health Department's decision if that department signs off on it, or can the Board require the 100% expansion. Mr. Karis clarified his question – if the Health Department requires 100% then the Planning Board requires 100% - but if the Health Department doesn't then the Board doesn't either. Dr. Fischer stated that he does not agree with that. Mr. Karis stated that that was his question and noted that it is the same issue with the well. He stated that his opinion is that each lot should have its own well and septic, especially when the lots will change ownership. Mr. Labriola concurred and stated that, as the next step, the Planning Board should get the Department of Health to provide their position on this. He stated that based on that, the Planning Board can determine what if anything the Board needs to do over and above or if the Board is happy with the direction the Health Department is providing. Mr. Karis stated that for SEQRA the Board could have a different opinion from the Health Department, and as lead agency the Board could adopt findings that differ from the Health Department.

Dr. Fischer asked what the legality of this is. Mr. Nelson stated that he does not have the black and white answer, but that the Planning Board wants to find out what the Board of Health wants, and then notwithstanding what the Board of Health wants, the Planning Board will have to make a SEQRA finding. Further, he stated that if the Planning Board makes a negative declaration under SEQRA – that there is no potential for any significant adverse environmental impacts – the questions of well locations, spacing and capacity and functionality of existing septic systems and the areas those systems need for their drainage will have to be considered. He stated that once these lots are created, there is no guarantee that the development that is current on these lots will last forever. He stated that the existing homes have aged somewhat and there will probably come a time when they would be subject to a redevelopment. He stated that he cannot say yes or no on the question but noted that the Planning Board will have to make a SEQRA determination with regard to potential impact. Dr. Fischer pointed out that, as the design currently exists, the SEQRA determination cannot be answered.

Mr. Gordon noted that the 100 year flood plain line is within 6'-8' of the buildings and asked how that fits with developing septic systems. Mr. Dalbo stated that the septic system is a pre-existing condition. He asked what would happen if, tomorrow, all three of those septic systems were to fail. He stated that the Health Department would have to work with the applicant and would work with the applicant to allow him to fix them. He stated that the Health Department would not tell Mr. Daria to tear down the houses. He stated that the problem exists whether they do the subdivision or not. Therefore, he stated that he does not see how the impact would be increased by the subdivision – that they are not doing any physical changes to the property. He stated that the septic systems exist and the well issue could be a problem.

Mr. Gordon stated that the Planning Board is given the charge to make sure that, whatever the Planning Board decides with regard to this application, it meets all the requirements. He stated that it can get very complicated with a lot of agencies involved and a lot of laws involved. He stated that the Board is trying to protect the Town of Pleasant Valley and the other residents and businesses.

Mr. Labriola reiterated that the next step is for the applicant to reach out to the Department of Health and get them to provide a position on the application. Based on that, Mr. Labriola stated that the Planning Board can determine what, if anything, needs to be done. He noted that this is something the Planning Board requested of the applicant in October 2008 and that this is a gating issue for the entire project. Dr. Fischer stated that there is no point in this being on future Planning Board agendas until comments from the Department Health have been received. Mr. Labriola agreed and stated that even though they are not making any physical changes on the lots, they are introducing new lot lines. He stated that as we subdivide property in the Town of Pleasant Valley, he cannot think of a single instance where every one of those individual lots did not have their own well, their own septic, with 100% expansion. He explained that the applicant is introducing a new set of problems by subdividing this site. He stated that if they left the site as it currently is, they would not be before the Board and the Board would not have any input into this site. But the fact that they are trying to subdivide the site, he stated

that the Board must look at the local regulations and say that this is what the Board expects from everybody that does a subdivision.

Mr. Dalbo stated that he understands the Board's concerns and that they are valid concerns. He stated that he does not know whether or not the Code actually dictates that or requires 100% expansion. Dr. Fischer stated that it may not be in the Code but is part of the SEQRA determination. Mr. Dalbo stated that they will go to the Health Department and deal with that issue first. He stated that they are not trying to step on anybody's toes. Mr. Labriola stated that the Board understands that he is representing clients and that he is doing his job. And he stated that the Board wants the applicant to understand the Board's hot buttons.

7. DUTCHESS QUARRY – LOT LINE REALIGNMENT

Mr. Robert Surprise, The Dutchess Quarry, and Mr. Mark Williams, engineer, were present.

Mr. Labriola stated that this application was last before the Planning Board one year ago, in December 2007, and asked the applicants to describe to the Board what is being proposed.

Mr. Surprise reviewed the history of this project. He stated that a year and a half ago the CAC contacted the Quarry about access to a parcel that is landlocked within the confines of the Dutchess Quarry property. He explained that the Quarry did not even know that this parcel existed. He stated that in 1963 this portion of property was accidentally left out of the deed transfer and, unbeknownst to the Quarry, the Town had acquired this parcel, which the Quarry has been using since 1963. He stated that the Quarry wants to accommodate the Town so they took a look at it and discovered where it was and started discussing the CAC's request. He stated that it is typical to allow access and maintain safety. He stated that it is in a buffer zone and has nothing to do with the mine, but it is still near enough to it that it would be a safety concern. He stated that after some discussion and being encouraged by Meta and her colleagues they came to an idea. He stated that they consulted their attorneys who said that it was probably adverse possession and suggested that the Quarry trade the Town an equal piece somewhere in that area with actual creek frontage and that is accessible to Bower Park. He stated that the Quarry is offering a bigger parcel. He explained that the landlocked parcel is about 2 ½ acres and the parcel they are looking to trade is about 3 ¾ acres. He stated that it has access to Bower Park and true creek frontage and is a much more desirable piece. He stated that this trade would clear up this nuisance situation of this parcel existing within the confines of the Quarry's owned property. Therefore, they are creating this parcel for transfer to the Town in place of the landlocked parcel.

Mr. Williams stated that when this project was before the Planning Board in December 2007 they provided the Planning Board the information that was requested and that they communicated with Morris Associates and the Town's engineer. He stated that they submitted comments three separate times, the most recent was December 5. He stated

that the packet that they submitted was deemed to be complete with the exception of some authorized signatures and revised site plat to increase the font size of the insets.

Mr. Takacs explained the signature process – Health Department, Owner, and Planning Board chair in that order. Mr. Williams stated that last year they were told that the Health Department is last. Mr. Takacs stated that all other signatures must be in place before the Planning Board chair signs. Mr. Williams suggested that it will not be difficult to get the Health Department's signature because they are not creating any water wells in a flood plain or septic fields or any dwellings or improvements in either parcel. He stated that the one thing they made very clear in their submittal is that this is not some hidden objective by the Quarry to expand their mining permit. He stated that this land transfer is just what Mr. Surprise had described – it is a response to the CAC's intention to create some recreational access opportunities. He stated that it is as simple as that and has nothing to do with any hidden agenda. He submitted the revised subdivision plats with the increased font size.

Mr. Surprise commented that some residents had suggested that it would affect their setbacks or their mining operation. He stated that they have been through that with the DEC. He stated that the transfer of the parcels will not change their ability to mine any closer to the creek for two reasons. First, he stated that they have operated as if they owned this parcel because they always thought they did own it. Therefore, he explained, that all of their mine plan applications and reclamation plans are with that consideration already included. Secondly, he stated that they will offer up language that documents that this land transfer will result in the Quarry mining no closer to the Wappingers Creek. He stated that it is not the Quarry's intention to do so, and it is impossible topographically to do so.

Mr. Williams stated that it is clearly stated as part of the excavation area boundary and part of the mine permit and is not near this landlocked parcel. He stated that it is to the west of that and is intentionally within the existing high wall. He stated that they went through the whole permit modification before and actually moved the excavation area on the northern side of the Quarry and farther to the west to provide greater visual screening. Mr. Surprise stated that they have actually moved farther away from the creek.

Mr. Gordon asked who owns the strip between this parcel and the creek. Mr. Surprise stated that the Dutchess Quarry owns it and stated that the Quarry owns the land on all sides of the landlocked parcel.

Mr. Labriola stated that in the previous discussions one of the things that had been considered was an easement or right-of-way out onto North Avenue. He stated that the submitted plan does not show that and asked if that was a deliberate decision to eliminate that from the project. Mr. Williams confirmed that that is not being proposed.

Mr. Labriola stated that he spoke with Mr. Susczynski in January 2008 who mentioned that he had spoken with Ed Hocksey from DC Soil and water. He stated that Mr. Hocksey had mentioned an existing 10' high by 300' long berm that he believes might

make sense to remove. Mr. Labriola stated that his notes do not indicate where this berm is located. Mr. Surprise explained that this was formerly a mined area – was a gravel mine that was originally excavated by somebody other than Dutchess Quarry. He stated that when Dutchess Quarry purchased the property it was a mess – it was left unreclaimed - and they purchased it with the understanding and agreement with DEC to return the property to a decent, respectable piece of property. He stated that it had been mined well below the creek and that there were areas that were infiltrated between that property and the creek. He explained that after Dutchess Quarry purchased the property and in the effort to rehabilitate it, they created the berm at the behest of the DEC to keep infiltration between that and the Wappingers Creek from happening. He stated that they built up that property as much as 12' during the reclamation process. Mr. Labriola asked if 300' sounds correct. Mr. Surprise responded yes and it was created to keep any stormwater or drainage between that parcel and the creek. Mr. Labriola stated that he does not have any more details other than what Mr. Susczynski relayed to him. Mr. Labriola explained that the Board will want to understand from Mr. Hocksey what problem he is trying to solve there.

Mr. Labriola stated that next steps are:

1. to understand Mr. Hocksey's comment and whether that needs to be factored into this application
2. we're ready to authorize the applicant to advertise for a Public Hearing
3. SEQRA determination

Mr. Labriola asked the applicants to reach out to Mr. Hocksey and get a letter from him. The applicants agreed to do this.

Mr. Fracchia pointed out that on the Dutchess County website the landlocked parcel comes up as an R-1 zone. Mr. Williams stated that on all other documents it is listed as in a Q zone and does not make any sense that it would be R-1.

Mr. Surprise mentioned the desire to provide access for walking on the rail bed and along the creek. He stated that they have been working with the CAC to allow that to happen after this transaction is completed. Mr. Williams stated that from a safety perspective Dutchess Quarry is going to make sure that anybody that uses these facilities won't wander in the wrong direction and go into a dangerous environment.

Mr. Karis asked if there is any delineation of the new proposed boundary line to be marked in the field – by trees or a fence or something. Mr. Surprise stated that there will be, that they intend to create something, and that it will be a cooperative effort between the Quarry and the CAC to decide what is most practical. Mr. Karis stated that if the concern is to prevent people walking into certain areas then there should be something in the field to delineate that line and the park because it is in a big open field. He stated that it is not obvious where the Quarry begins and where the park ends. He asked if there is any consideration being given to plant a row of trees along that line or a fence – something to end the park and suggest to people that they not go beyond that point.

Mr. Williams stated that the plan is two-fold. He stated that, one, is to let the Town decide, because it will be the Town's parcel. And the other is that the Quarry take measures on the up slope towards the Quarry with signage to make sure that no one goes beyond the bounds of where they should be and to stay away.

Mr. Labriola stated that Mr. Karis has an excellent point and if it is the Town that needs to do this as a condition of final approval – a split rail fence or a row of trees – something that very clearly delineates the boundary. He stated that the Board has imposed similar conditions on projects to identify wetland buffers. He stated that it is out in the field and hard to discern the boundary and will be especially important if this is going to be a public park to alert people to the boundary before they end up in the Quarry where they should not be. Mr. Williams suggested that a fence would be better than a line of trees because people can walk between trees.

Mr. Labriola asked Ms. Jean Curlee to take note of this for the Town Board. Ms. Curlee stated that she and Ms. Plotnick from the CAC agree that there is a small portion beyond the property that they would like to be open for walking. She stated that they did not intend to access the entire rail bed.

Mr. Labriola stated that this needs to be represented on the map somehow. He stated that there will be a piece of property for Town use next to a Quarry and that it is incumbent on us to make sure that it is crystal clear where the Town park ends. He suggested that a fence is probably a more permanent solution. He stated that if there will eventually be a walking trail, a fence can be taken down to accommodate that. He stated that as a condition of final approval and as part of the SEQRA determination that is a safety issue that will need to be addressed with a fence or something.

Mr. Labriola stated that the current situation is probably not optimal and this is an opportunity for the Board to improve what may be a safety issue. He stated that someone may be able to continue walking and not know that they are going on the Quarry's property. Therefore, he stated that a fence with signs at least will warn people and that the Planning Board will ask the Town to put up such a fence. Mr. Williams stated that this will be carefully described on the next subdivision plat. Mr. Labriola stated that it does not need to be 8' high with razor wire but just something that clearly delineates that people are leaving the park property. Dr. Fischer stated that there is nothing there now and that a split rail fence would be worse and won't stop people. Mr. Labriola concurred and stated that it will put someone on notice that they are leaving the park and moving into a quarry, which is a dangerous area. He explained that the Town is trying to help people make good decisions when they are out in the field. Mr. Surprise stated that this would be desirable from the Quarry's point of view. Mr. Karis concurred and stated that now is the time to do it.

Mr. Williams stated that they need to know from the Town's perspective what materials would be preferred and roughly where the fence will be located. He stated that they will provide this information at the Public Hearing. Mr. Labriola stated that that is perfect and added that information about the berm will also be needed at that time.

8. GREAT SPRING CREEK APARTMENTS - DISCUSSION

Mr. Bill Povall, engineer, and Mr. Paul Maggiacomo were present.

Mr. Labriola stated that this application was before the Planning Board in October 2008 for conceptual discussion at which time the Board provided some comments. He noted that the applicants had a meeting with Morris Associates and now have a revised concept of the project.

Mr. Povall reported that the Planning Board had asked them to look at an alternative layout for the new building, to move the proposed building in line with the existing buildings on the property. He provided a display of the original design with an overlay of the revised layout. He pointed out that the original design – which is their preferred plan – provides for a circular parking configuration so that if no parking space is available drivers can continue through to the exit and not have to back out. He showed the revised layout with a dead end parking lot.

Mr. Povall stated that he met with Mr. Setaro to discuss the drainage. He stated that they will add dry wells and seepage bed to handle all the roof runoff, which can be accommodated by either design. He stated that in both designs they will have a stormwater management area on the low side to handle drainage in addition to the dry wells before the water is discharged to the east.

Mr. Povall stated that another concern was the visual impact of the proposed building from the county road. He stated that there are evergreen trees in the area and that there is screening in that area from the road.

Mr. Maggiacomo explained why he prefers the original design. He stated residents in the proposed building would be facing into the complex and if the building were turned, they would not feel like they are part of the complex. He stated that if people pull into the parking lot and cannot find a place they can circle their way around. He noted that in the revised design, the parking lot is a dead end and people would have to back out, which is not preferable.

Mr. Gordon asked why they reconfigured the parking area into a dead end rectangle. Mr. Povall stated that they just don't have the room. Mr. Maggiacomo stated that that is what the Board wanted. Mr. Karis stated that at the last meeting the Board and the applicants discussed rotating the building and maintaining the parking and getting a bigger separation from the parking lot to the building, so that the circular access in the parking area is maintained. He noted that rotating the building resolves the problem of having the back of the building facing the county road. Further, Mr. Karis noted that at the lower building in the original design it is a 3 story building arising from the ground at that end because they are going perpendicular to the topo. He stated that by keeping the parking the way it is in the original design and just rotating the building, it creates a bigger green space between the parking and building. Mr. Labriola pointed out that it is a hybrid of the two.

Mr. Povall stated that it won't fit. Mr. Karis asked why it won't fit. Mr. Povall stated that right now they are bound by an easement line that Central Hudson has – he pointed that out on the map. Mr. Karis asked if they rotate the building whether they will encroach on the easement line. Mr. Povall stated that they looked at multiple layouts when they put this together. He stated that he can rotate the building a slight angle and maintain this parking configuration, but that it will still be the same look. He stated that if he rotates the building all the way out, he starts running into parking issues and it creates a large space between the parking area and the front of the unit. Mr. Karis stated that, in that case, they have too many units going in there and they are trying to put too much in too small a space.

Mr. Labriola stated that he still does not understand why they cannot take the upper left hand corner of the building and rotate it. Mr. Povall stated that the corner will be in the easement. Ms. Bramson suggested that they move the whole thing forward a bit. Mr. Povall stated that they will lose parking spots in that case. Mr. Karis again stated that they have too many units planned for this building and they need too many parking spaces.

Ms. Bramson asked how many units are in the other buildings. Mr. Povall stated that two of the buildings have 8 and two of the buildings have 9 and that they are proposing a building with 9 units. Ms. Bramson stated that a building with 8 units would probably fit better.

Mr. Gordon suggested an alternate parking layout. Mr. Karis stated that he sees a hybrid solution and does not understand why rotating the building is such a problem. Board and applicants discussed adequate access for passenger cars as well as delivery trucks and emergency vehicles. Mr. Karis stated that he sees a solution for 9 units as a hybrid of the two layouts that are depicted. He stated that if that isn't going to work, then the original design looking at the back of the building from the road continues to be a problem. He pointed out that they will not be able to get their stormwater basin in that area without the grade falling across the whole building. Mr. Maggiasco asked who cares about the back of the building and pointed out pine trees and a hedge row on the map and stated that it cannot be seen.

Ms. Bramson stated that she walks that road 2-3 times a week and that you can see the buildings. She stated that the ones that are already on the site can be seen. Mr. Maggiasco agreed. Mr. Labriola stated that the proposed building will be 3 stories which is a lot of mass to see from the road. Mr. Maggiasco stated that it will not be a full 3 stories, but will be a 2-story building. Mr. Karis stated that the grades show two stories with a full foundation. Mr. Labriola also pointed out that on the original design the entire length of the back of the building will be visible from the road. He stated that the difference with the revised design is that it only a building width would be visible.

Mr. Gordon asked if the overall design of the new building will match the existing buildings. Mr. Povall stated that it is about the same size and the same type of siding and

roofing will be used. He stated that the front of this proposed building will have some bump outs that the other buildings don't have. He stated that each of the existing buildings are slightly different. Mr. Gordon stated that the new building looks longer and narrower. Mr. Povall stated that it is pretty close to the other ones.

Mr. Labriola summarized that the Board is stating a preference to maintain the building lines as close as possible, so that they are all on the same plane. He stated that he understands that that creates some issues for parking, but that it seems that there is space to do something there. Mr. Povall asked for more information on what the Board is suggesting with regard to a hybrid. Mr. Labriola suggested that they rotate the building a little. Mr. Povall stated that with their original design they tried to work with the park, itself, and have the buildings face the driveways and the existing parking areas consistent with the other buildings. Mr. Labriola asked if they think something in between would work for them and expressed his understanding that the Central Hudson easement gives them some problems at the back edge of the building. Mr. Povall stated that he will have to look at it again and stated that he thinks there will be some issues with the parking lot.

Mr. Gordon pointed out that the back of the building is farther away from the Central Hudson easement on the revised design than it is on their original design. Mr. Povall stated that they left about 30' from the easement line.

Mr. Karis suggested that if they can get away from having the parking parallel to the building, that if they can get past that, there are creative options for the layout. He stated that it's OK to walk 25' to the front door. Mr. Povall stated that he's been doing this a long time and has designed many parking lots and agrees that you can be creative, but that sometimes there are situations that do not allow for other parking lot configurations. He stated that if you keep the buildings in line with the existing buildings, it is physically not possible to make that work. Ms. Bramson stated that the other parking for the other buildings looks farther away from the existing buildings.

Board and applicants continued to discuss other designs for the parking area. Mr. Karis asked how many parking spaces they need for 9 units. Mr. Povall stated that it is 2 ½ spaces per unit so that the 9 units require 24 spaces. Mr. Karis corrected the math – it's 23 spaces. Mr. Povall is showing 23 with some extra spaces. Mr. Karis asked if this is a requirement or a need. Mr. Povall stated that it is a requirement. Mr. Labriola pointed out other areas where they could add additional spaces.

Mr. Povall again stated that they believe the original design is a good because of the way the buildings are configured with the park. He asked whether the Board considers this layout a problem because of the height of the building to the rear or because the Board would like to see this building more in line with the existing buildings and not have the rear facing the county road.

Mr. Labriola stated that his feeling is that it is the height and bulk of that building that can be seen from the county road. He stated that the rationale for suggesting that it be more in line with the existing buildings is a way to avoid that situation because the grade

is not working against them there. Mr. Gordon added that the original design does not fit in with the plan that is on the site. Mr. Povall stated that he respects his opinion but does not agree.

Mr. Labriola listed the suggested next steps

- a hybrid of the two designs – that the new building does not have to be exactly parallel with the others – it can be done on some sort of an angle but recognizing that we're trying to let the grades work for us not against us with the bulk of the building that will be seen from the county road –
- parking lot - work to get a circular design into the parking lot and relocate the 2-3 spots that will be lost some place else on the site.

Mr. Karis mentioned, again, that if you cannot get the parking to work then it is his opinion that there are too many units being proposed. Mr. Maggiasco stated that they would just put up vegetation so that nothing can be seen from the road, if that's the Board's main issue. Mr. Gordon stated that that is not his main issue, rather it is just the fact that the design does not fit on the site. Mr. Karis explained, again, that with the revised design from the road you are looking at the narrow part of the building – the width not the length – and you are parallel to contours and will be able to bury the foundation and will be more in scale with the other buildings.

Mr. Labriola stated, again, that the Board is looking for a hybrid. He explained that, ultimately, the applicants can say to the Board thanks for the input and then submit their original design with the understanding that this is a hot button for the Board and at some point the Board will have to do a SEQRA determination. He stated that the Board is raising concerns around potential visibility issues and advised the applicants that they might want to look at some sort of a hybrid design to rotate the building a little bit and try to get the revised parking to work in a circular fashion. He stated that they might come back and state that they physically cannot engineer it to do that – that they cannot get the turn radius for large vehicles. At that point, he stated that the Board will have a discussion about options at that point – a previous design or reduce the number of units to 8 and reduce the number of parking spaces which solves the problem.

9. ABD STRATFORD – SIGN PERMIT

Mr. Labriola announced that this application was removed from the Planning Board's agenda for tonight's meeting at his request. He stated that the applicant went to the ZBA last month and did not get their variance for the two non-conforming signs that are already installed. He stated that there are some potential issues with that site being in non-conformance. Therefore, he stated that it has been the Planning Board's steadfast policy not to entertain subsequent applications if there is a non-compliance situation. He stated that this is being attended to and this application will move forward when those issues get resolved.

10. APPEAL #934 – FIRST REALTY PLACE – SPECIAL USE PERMIT

Ms. Lisa Milicaj was present. Mr. Labriola asked her to describe what it is that she is proposing.

Ms. Milicaj stated that she has three rooms in her office space and three other rooms. She stated that she would like to rent out one room to Dr. Perl, a psychologist, and the two other rooms to two counselors. She stated that half of her office would be used for psychological and counseling services and the other half as an insurance agency.

Dr. Fischer asked if this would be two separate businesses. Ms. Milicaj responded yes. Mr. Labriola corrected that it would be 3 separate businesses. Ms. Bramson asked if the psychologist would be separate from the counselors. Ms. Milicaj responded that they are separate.

Mr. Labriola stated that it is currently three businesses: insurance, storage, and woodworking shop. So there are three current uses on the site and, he noted, that Ms. Milicaj is proposing going to 5 uses. Ms. Milicaj stated that they may need separate leases but that she does not know that they deviate much from each other as far as psychological and counseling services being very different. Mr. Labriola stated that they are two specific new uses. He pointed out that it is not one business but is two businesses. Ms. Milicaj agreed that it is two businesses. Therefore, Mr. Labriola stated that it is a change from three current businesses to 5 businesses.

Mr. Labriola asked whether with the addition of these two new businesses this maxes out the available office space. Ms. Milicaj stated that there is no more room and that she had wanted to keep one of the room vacant for herself. However, she stated that there was an interest and that the two counselors came as a set so she would like to lease them. She stated that she had them fully furnished with desks and computers.

Mr. Labriola asked how many bathrooms there are in the building. Ms. Milicaj stated that there is one bathroom, one waiting room, and one kitchenette. She stated that she has one employee.

Mr. Labriola asked how many clients would be seen on a daily basis for these two new businesses. Ms. Milicaj estimated 6-7 clients for Dr. Perl and 5 clients for the others. She stated that Dr. Perl's hours are not on rush hour and sometimes he gets a later appointment at 6 p.m. or 7 p.m. when people are out of work. She stated that she does not have a lot of walk-in traffic. She stated that it did not change for her at the other building where she was leasing before or here. She stated that she still gets calls from Westchester and New York City and the Bronx. She stated that she does not get a lot of walk-ins and neither does Bovee. She stated that she thinks she can accommodate the cars being parked there for Dr. Perl and the two counselors.

Mr. Karis asked how many owners and employees will be there during the day for all the businesses, for the whole site. Ms. Milicaj stated that for Bovee there are 3 people, for herself there are 2, Dr. Perl is just himself, and the two counselors are just themselves – for a total of 8 people on site. Dr. Perl explained that one of the counselors has a full-time job and will only be there in the evenings. He stated that neither of the counselors will be there as much as he will.

Mr. Karis stated that, therefore, there are 8 parking spaces that are taken up by owners and employees on site. He questioned how the site will function with all these uses, what are the parking requirements per the Code, that the applicant needs to go through the calculations for parking, how many employees are going to be on-site, how many visitor parking spaces will there be. Mr. Labriola added the question of how many handicapped parking spaces there will be. Mr. Karis asked where those will be located and how does this all work in the paved area to allow for access of an excavator business as well as people getting in and out of the site on any given day.

Ms. Milicaj stated that it is not an excavator business, that Bovee is a builder and that he does not usually park where she parks. She stated that Bovee parks more towards the back and that they don't even know he is there actually.

Mr. Labriola stated that the first step in the process is for the Planning Board to provide a recommendation to the ZBA. He stated that if the ZBA grants the Special Use Permit, the Planning Board will require Ms. Milicaj to come back for a revised site plan that will take into account parking. He stated that this will address where Bovee parks his vehicles, where the employees park, to make sure that there is enough parking including handicapped spaces for Ms. Milicaj's clients, for Dr. Perl's clients, etc. He explained that this is a consideration because this is a more intense use of the site than what is currently there.

Mr. Labriola stated that he, personally, thinks this is a good use for that site. Board members agreed. Mr. Karis stated that generally there is low traffic. Mr. Labriola stated that it is low impact. Mr. Karis stated that from knowing this site and knowing the limited area, they will have issues with deliveries, refuse removal, and general traffic flow. He noted that there is not a lot of space up there. Mr. Labriola stated that the Planning Board just wants to make sure that the site will operate efficiently, which is something that will be addressed if and when Ms. Milicaj gets the Special Use Permit from the ZBA. Again, Mr. Labriola stated that he thinks it is a good use for that site.

Mr. Gordon stated that his concern with this application and with others like it, is when the Board approves a certain number of businesses for a building. He stated that in this case what Ms. Milicaj is proposing is fine but he stated that he has concern with this into perpetuity. Dr. Fischer agreed with this concern and asked what happens in two years when the current occupants move. Ms. Bramson pointed out that there would be more of a problem if an M.D. were to occupy that space. Dr. Fischer stated that in two years when the doctor and the counselors have moved out – now they have the ability to have two other businesses in that building. Mr. Labriola explained that there will be a Special Use Permit for these specific uses. He stated that if someone proposes to put a funeral home in there, they would have to go through that Special Use Permit process again. Mr. Gordon asked if this permit would be specifically for the uses that are being proposed today. Mr. Labriola responded yes and stated that there is a way for the Town to monitor and police this so that somebody does not come in and put in a doctor's office and have

30 patients an hour through there – so there is a way for the Town to regulate that. Dr. Fischer stated that he is not so sure that there is.

Mr. Nelson stated that he thinks that the ZBA, when doing a Special Use Permit, can issue a Special Use Permit for a specific use. Mr. Nelson stated that the issue is that things tend to evolve over time by accretion or by drift. Dr. Fischer asked why it has to be two separate businesses if he has two employees. Dr. Perl explained that it is two separate businesses – that he is on his own and the two social workers are friends and have a joint business between the two of them. Mr. Labriola stated that one of the reasons that makes him think that this process works is that when Ms. Milicaj was planning on buying the building and changing the use, the application went through Mr. Feldweg and a determination of whether this is an allowed use or whether another Special Use was required. He stated that he thinks the process works although he stated that someone could slide something in there. Nonetheless, he stated that he is comfortable with the integrity of the process and that there is not anything terribly unusual about this request. Dr. Fischer stated that it is like a home use situation where the use is granted for the current occupant and then that person moves and the use stays with the property.

Dr. Fischer stated that, if that Ms. Milicaj is granted the ability to have 5 separate businesses in this building, he wonders what are the other businesses that will follow in the future and how much different are they and what will trigger the necessity to file for another Special Use Permit. Mr. Labriola stated that Mr. Feldweg, or whoever is the Zoning Administrator, will be the first line of defense to determine if this is a like use or is this something that triggers a new Special Use Permit application.

Mr. Nelson stated that the Code says that whenever the Board of Appeals grants a Special Use Permit “appropriate conditions and safeguards must be attached so as to guarantee that the use shall not be incompatible with other permitted uses in the vicinity.” He stated that it seems that where the Board is heading is if they think that this particular application is a good use, then the recommendation would be to recommend that the ZBA favorably consider this Special Use Permit in light of it being limited to and fill in the blank. Dr. Fischer suggested that it be limited to a single person psychological practice. Mr. Karis asked if it could be that specific. Dr. Fischer asked why it could not be that specific and noted that it is one room and how many people do you want in that one room.

Mr. Labriola suggested that the Planning Board would address that at site plan. He stated that parking would dictate the number of employees and the number clients. Dr. Fischer suggested that the employees could travel together to the site. Mr. Labriola stated that the septic and the water systems will also dictate the number of people. He stated that Dr. Fischer is right, that if someone wanted to put 5-7 people in a car and have them work in a single office. He stated that the Board has to take what the applicant is saying at face value. Dr. Fischer stated that he’s not worried about the current applicant but about potential future applicants on this site. Mr. Labriola stated that if the ZBA grants a Special Use Permit for a specific use, not a specific business but a specific use, and our site plan is specific on number of employees, how much the water and the septic system

can handle, these are the safeguards that are put in place. He stated that if somebody chooses to ignore that, then there are remedies that the Town can take to say that they are in non-conformance. He stated that there is only so much that can be done through this process and encouraged Board members to make a recommendation.

Dr. Fischer asked how many parking spots there are in the whole facility. Ms. Milicaj stated that there is over 2500 square feet and estimated that parking spots are in the 20's. Mr. Labriola reiterated that this is a consideration that will be addressed in the site plan process. Ms. Milicaj stated that she is still under the number of employees that DeGrout had on the site and still under what Bovee had when he was in full construction mode. She stated that Bovee had 12 and that Degrout had more.

Dr. Fischer stated that he wanted to make it clear that he has nothing against what Ms. Milicaj wants to do on the site. He stated that he is trying to protect what happens in the future on the site because the permitted uses go with the property and then it just seems to expand. He stated that it is difficult to move people out and that he is interested in preserving the character of the building the way Ms. Milicaj describes it today.

Dr. Fischer asked if the Special Use Permit can be granted for a maximum number of employees per room. Mr. Karis suggested that the ZBA would want to know the capacity of the septic system to handle the proposed use because that is an important factor to know when setting limits on the number of people that can be in the building. He stated that one of the main controlling factors is the water use and the calculation can be done per the square footage of the office and warehouse. He stated that part of the process should be some kind of indication from the Health Department that the existing facilities are sized appropriately to handle the proposed use as part of the SEQRA determination.

Mr. Nelson suggested that the Board is talking about defining the specific type of use as a safeguard against incompatibility. Mr. Karis stated that if the ZBA properly words the Special Use Permit then the ZBA could say that if it is anything other than a psychologist's office then they must come back for another Special Use Permit application. Dr. Fischer asked if that is permissible. Mr. Nelson stated that he thinks it is. Mr. Karis stated that this should be recommended.

Mr. Nelson stated that he thinks the ZBA will look independently at this application. He stated that the Planning Board is in a recommendatory role. Further, he stated that, if the Board's recommendation is this particular use – not the general use of a professional office which would cover a broad array of uses – but if it is this particular type of special use that is being proposed, and if the Planning Board thinks it's a good idea, then it can make that recommendation to the ZBA.

Ms. Milicaj stated that the current certificate of occupancy says offices and does not state what kind of offices. Mr. Karis stated that the C.O. is listed as operating as a single entity not 3 entities. Mr. Milicaj stated that it is not specific to kinds of uses, but is just offices.

Mr. Labriola asked the Board if all members are OK with what is being proposed as far as these types of uses on this site. All Board members indicated that they are OK with that. Mr. Labriola stated that the Board can make that one of the factors of its recommendation. He suggested that the things that the Planning Board would want the ZBA to consider to look at in their determination of whether to grant the Special Use Permit is:

1. reach out to the Department of Health to understand what the water and septic capabilities are on that site which may put a cap on the number of people that are allowed to be in there. He stated that this will protect Ms. Milicaj and any of her tenants from encountering a water problem.
2. take into consideration whether there is sufficient parking and sufficient area in the parking lot to handle the traffic flow for deliveries, for clients accessing the site, the Bovee trucks, etc.

Mr. Labriola asked the Board if there are any other considerations that the Planning Board wants the ZBA to think about as they are considering this application. Dr. Fischer stated that the ZBA should consider granting the Special Use Permits for the specific uses as requested by this applicant. Further, he stated that in the future if the uses change, then they must come back to the ZBA – so it is a psychologist now and if another psychologist goes in there it's fine. Also, he stated that if another counselor goes in, that's OK. However, he stated that if a radiologist goes in with 4 other people, that is not fine.

Ms. Milicaj asked about the site plan process. Mr. Labriola explained that if the ZBA approves the Special Use Permit then the next step is a site plan revision.

Mr. Fracchia asked if Ms. Milicaj knows about the septic. Ms. Milicaj stated that she spoke to DeGrout and he said that the amount of people she has on the property is not an issue. She stated that DeGrout said it was a cesspool and that it was built up with rock so that there is no real septic tank. She stated that it was approved in 1967 and that it has never given DeGrout an issue.

Mr. Labriola emphasized that if there will be a more intense use on the site then everybody is best served to make sure that the Department of Health says that the system can handle the use, it can handle the number of employees and the number of clients. He suggested that there will be some walk-ins, Dr. Perl will have patients. He stated that the Planning Board wants to make sure that there are no surprises there. He stated that this is something the Planning Board will ask the ZBA to look at.

Mr. Labriola: **MOTION TO PASS THIS APPEAL ALONG TO THE ZBA WITH A POSITIVE RECOMMENDATION BECAUSE THE PLANNING BOARD THINKS THIS IS A GOOD USE FOR THE SITE. FURTHER THE PLANNING BOARD ASKS THE ZBA TO CONSIDER THE FOLLOWING THINGS BEFORE THEY GRANT APPROVAL FOR THIS SPECIAL USE PERMIT:**

1. **that the ZBA understands that there are sufficient number of parking spaces to handle the employees and other tenants as well as the clients and patients**

- that will be coming on site and that there is a sufficient and an efficient traffic flow on the site**
- 2. that the ZBA should reach out to the Dutchess County Department of Health to understand if the water system and the sewage system can handle the increased load and that it is sized to handle the proposed usage**
 - 3. that if the ZBA decides to grant the Special Use Permit, that it be granted specifically for a psychologist's office and a therapist's office and if any future uses are proposed that are not compatible with these that it would require the applicant to come back through the ZBA for a new Special Use Permit**
 - 4. that if the ZBA grants the Special Use Permit the applicant must come back to the Planning Board for Revised Site Plan approval**

Ms. Milicaj asked whether she should contact the Health Department. Mr. Labriola stated that the ZBA should consider this and advised Mr. Milicaj to reach out to the Dutchess County Department of Health and have them generate a letter that says they have assessed the design for water and septic and this is what they think it can handle – number of employees, number of clients, etc. He stated that if Ms. Milicaj can go to the ZBA armed with that letter, then that is one less question that needs to be asked. He stated that the last thing one would want to do is go to the ZBA and have somebody ask a question and the answer is I don't know. Ms. Milicaj asked if they will have records from 1967. Mr. Labriola suggested that the Department of Health will have to have dealt with problems like this many, many times before. He advised Ms. Milicaj to reach out to them and stated that they will help her. He stated that the better armed she is at the ZBA, the more likely it will be that she will get what she wants. He also advised her to go to the ZBA with a drawing that shows the number parking spaces and where Bovee parks his vehicles, something that demonstrates to the ZBA that she has sufficient parking.

SECONDED BY H. FISCHER

VOTE TAKEN AND APPROVED 7-0-0

11. MINUTES

Mr. Labriola: **MOTION TO APPROVE THE MINUTES, AS WRITTEN, OF THE NOVEMBER 2008 PLANNING BOARD MEETING; SECONDED BY P. KARIS; VOTE TAKEN AND APPROVED 6-0-0**

12. MORRIS ASSOCIATES – 2009 PROPOSED RATE SCHEDULE

Mr. Labriola stated that a letter from Morris Associates was received that encloses a proposed rate schedule for next year that includes a 3% increase with details on the fees per service. He stated that he continues to be very satisfied with the work that Morris Associates provides, so he is OK with this revised fee schedule.

13. THANK YOU'S!

Mr. Labriola stated that it is a pleasure working with everyone on the Board. He noted that everyone comes to the meetings prepared every single month and it shows. He stated

that the quality of the work that this Board produces is wonderful. He noted that applicants may not always agree with the Board's decisions, but they understand why the Board has made its decisions. He stated that this Board's reputation continues to be really good. He expressed his gratitude to every member of the Board for taking time away from their families to do this.

Mr. Labriola specifically thanked Ms. Sticker for signing on as the alternate for the Board – that she will be a wonderful addition.

Mr. Labriola specifically thanked the secretary, Ms. Dickerson, for signing on. He stated that the short time that she has been full-time in the office, there have been significant improvements. He stated that Ms. Dickerson anticipates what he needs before he even gets to it and it is a very nice change.

Mr. Labriola thanked Mr. Takacs and Mr. Setaro and stated that they are wonderful partners. He stated that they help the Board get to where it needs to get to every single month and that they keep the Board out of the ditch.

Mr. Labriola expressed the Board's appreciation to Mr. Nelson, the Board's trusted advisor. He stated that Mr. Nelson's advice and counsel always has the Board prepared and helps them think outside of the box and do the necessary long-range thinking. He thanked Mr. Nelson for the work that he continues to do.

Mr. Labriola stated that without the work that Mr. Nelson, Mr. Setaro, and Mr. Takacs do, this Board would not be as successful as it is.

Meeting adjourned at 9:40 p.m.

Minutes submitted by:

Helen D. Dickerson
Secretary

The foregoing represents unofficial minutes of the December 9, 2008, 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