

October 29, 2008

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TOWN OF NEW WINDSOR

PLANNING BOARD

OCTOBER 29, 2008

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN
NEIL SCHLESINGER
HENRY VAN LEEUWEN
DANIEL GALLAGHER
HENRY SCHEIBLE

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

MICHAEL BABCOCK
BUILDING INSPECTOR

MYRA MASON
PLANNING BOARD SECRETARY

ADAM RODD, ESQ.
PLANNING BOARD ATTORNEY

ABSENT: HOWARD BROWN

REGULAR_MEETING

MR. ARGENIO: I'd like to call to order the October 29,
2008 meeting of the new Windsor Planning Board. Please
stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was
recited.)

APPROVAL_OF_MINUTES_DATED_SEPTMBER_10,_2007_&_

SEPTEMBER_24,_2008

MR. ARGENIO: Approval of the minutes dated September 10 and September 24, 2008.

MR. VAN LEEUWEN: So moved.

MR. ARGENIO: I will accept a motion we accept them as written.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board accept the minutes from September 10 and September 24 as written. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. SCHEIBLE	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: We're going to move right into the annual mobile home park review.

ANNUAL_MOBILE_HOME_PARK_REVIEW:

WINDSOR_HEIGHTS_MOBILE_HOME_PARK

MR. ARGENIO: First item is the Windsor Heights Mobile Home Park. Is somebody here for this? Can you give your name please sir and your address for the stenographer?

MR. SASSER: Joel, J-O-E-L Sasser, S-A-S-S-E-R, 18 Clinton Street, Wappingers Falls.

MR. ARGENIO: Mike, anybody from your office been over there and had a look around?

MR. BABCOCK: Yes, we have, Mr. Chairman, everything's fine.

MR. ARGENIO: Do you have a check made out to the Town for 135?

MR. SASSER: I do.

MR. ARGENIO: I'll accept a motion that we offer them one year extension.

MR. VAN LEEUWEN: So moved.

MR. SCHEIBLE: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board offer one year extension to the Windsor Heights Mobile Home Park. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. SCHEIBLE	AYE
MR. GALLAGHER	AYE

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MR. VAN LEEUWEN AYE
MR. ARGENIO AYE

MR. ARGENIO: Thank you, sir.

HILL_&_DALE_MOBILE_HOME_PARK

_____ - _____ _____ _____ _____

MR. ARGENIO: Hill & Dale Mobile Home Park. Is anybody here to represent this? We're going to table that till later. Mike, if those folks come in to the meeting room, would you please give me a heads up and we'll get them addressed quickly?

MR. BABCOCK: I'll do that.

MR. ARGENIO: We're going to move on to the regular items.

REGULAR_ITEMS:

MALONEY, PETER (07-23)

MR. ARGENIO: Peter Maloney, minor subdivision on Sho Gee Court. This application proposes subdivision of 3.1 acre parcel into two single family residential lots. The plan was previously reviewed at the 12 September, 2007, 25 June, 2008 and 10 September, 2008 planning board meetings. For the benefit of the members, this is the one where there was a view issue with the neighbors and we asked them to reconfigure the home, et cetera. While you guys take a moment to review Mark's comments, I see the engineer here and looks like the attorney.

MR. BRENNAN: Yes.

MR. ARGENIO: Can you tell us probably the engineer what improvements you've made on this subdivision per our recommendation since our last meeting, update the drawings for us verbally?

MR. QUEENAN: John Queenan from Lanc & Tully Engineering representing the applicant. Since our last meeting, what we have done is the lot was originally designed to have a driveway come along here into a house that was situated this way. What we have done based on the comments at the public hearing and the recommendations of the board was to completely rotate the house so that it's parallel to Butler Lane so the rear yard faces the back and not into the neighbor's house which is approximately right here and shift the driveway and turn it so that the headlights would miss the dwelling as well as maintaining the vegetation for about 20 feet at its minimum point along the property lines so that will break up the headlights which I think was the neighbor's main concern. The other item that we added to the plan was a foundation box so that limited where the house can be placed on the lot so

that if somebody applies for a building permit they could move the house back to where we wanted the house to be in the first place so the house would have to stay within that foundation box, anything outside of that would have to come back to this board for additional review and approval. That foundation box will accommodate a house about 6,000 square feet footprint. Those were basically the majority of the changes made since then.

MR. SCHLESINGER: Plans we're looking at don't show that change.

MR. QUEENAN: They should.

MR. EDSALL: September 18 revision on the plans.

MR. QUEENAN: We had submitted those.

MR. ARGENIO: We reviewed this quite a few times. I want to read some of Mark's comments. Comment number 2 based upon review of the plan it would appear that all issues have been addressed. The applicant has made good faith effort to address the concerns of the neighbor as requested by the planning board, notwithstanding the fact that the adjustments are voluntary and would exceed the requirements of the zoning code. So they certainly have gone way out of their way to accommodate the neighbor.

MR. VAN LEEUWEN: They did a nice job.

MR. ARGENIO: I would like to note a couple of procedural things while you folks continue to look at the plan. Mark, what about SEQRA, we have not done SEQRA.

MR. EDSALL: My record wasn't clear and I just wanted to have Myra doublecheck her notes to see if we're, if at this point we have pending a negative dec. I'm not

sure if it was.

MR. ARGENIO: Disapproved by fire, approved by highway.

MR. VAN LEEUWEN: I make a motion that we approve negative dec.

MR. EDSALL: Well, as Mr. Loeb had told me years ago, it's like chicken soup, a little extra wouldn't hurt. I suggest you go through the lead agency negative dec just so the record is clear.

MR. ARGENIO: I will accept a motion that the Town of New Windsor Planning Board declare itself lead agency.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare itself lead agency on the Maloney subdivision.

ROLL CALL

MR. SCHLESINGER	AYE
MR. SCHEIBLE	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: If somebody sees fit, I will accept a motion that we declare a negative dec under the SEQRA process.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion's been made and seconded that the

Town of New Windsor Planning Board declare a negative dec under the SEQRA process for the Maloney minor subdivision. Roll call.

ROLL CALL

MR. SCHLESINGER AYE
MR. SCHEIBLE AYE
MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. ARGENIO AYE

MR. ARGENIO: Henry, Danny or Neil, you guys see anything else here? They've gone way out of their way with this and as you recall, we had quite a lengthy discussion that evening.

MR. SCHEIBLE: Just out of curiosity.

MR. ARGENIO: They've gone quite a ways to try and accommodate the neighbor and the neighbor was pretty boisterous and specific about what he was looking for. Mark, you had something?

MR. EDSALL: Yeah, I just want the record to be clear that the applicant in an effort of memorializing their offer to locate the house in a particular way has added note 10 to the general notes which obligates the positioning of the house and I've had Mike Babcock review the note to see if it appears acceptable to him and he's indicated it's fine.

MR. ARGENIO: That positioning is within the envelope?

MR. EDSALL: They have added it on a map not exactly what he expressed so it gives Mike some authority when there might be a new owner to enforce it.

MR. ARGENIO: What did you have there?

MR. SCHEIBLE: On the, where it says Rozinski is the owner of the one parcel to the side here you've got like a cul-de-sac so is there a maintenance agreement on this section of the road there?

MR. VAN LEEUWEN: Should be because it's been there.

MR. QUEENAN: I will defer to the project's attorney, Mr. Kevin Brennan.

MR. ARGENIO: Counselor?

MR. BRENNAN: I have letters from the other homeowners including the Rozinskis consenting to the use of Sho Gee Court including an additional lot access, this is a letter from Mrs. and Mrs. Rozinski and Mr. and Mrs. Malanan (phonetic) and of course my clients have consented and I will be glad to submit copies to members of the board.

MR. ARGENIO: I don't think we need to see them but they should be part of the file I would imagine, submit them to Myra.

MR. VAN LEEUWEN: Should be checked out.

MR. ARGENIO: Okay.

MR. VAN LEEUWEN: I have no reason to doubt, don't get me wrong, but I think it's something that should be checked out.

MR. ARGENIO: An attorney standing in front of us assuring us that that's the case for the record on the record but we certainly will check it. You'll get those to Myra?

MR. BRENNAN: Yes, sir.

MR. ARGENIO: Great.

MR. BABCOCK: Mr. Chairman, there will be a new maintenance agreement that will include the new lot.

MR. ARGENIO: Correct.

MR. VAN LEEUWEN: Got to be.

MR. BRENNAN: That's in preparation and I will certainly be glad to submit that.

MR. VAN LEEUWEN: If you say that that's good enough for me.

MR. ARGENIO: Danny or Henry, do you have anything else?

MR. GALLAGHER: No, they listened to the applicant, they did everything that we asked them.

MR. ARGENIO: Great job. Somebody want to--have I covered everything?

MR. EDSALL: I would just add my items under number 4 as conditions of approval.

MR. ARGENIO: Understood. Anybody want to take this over the top?

MR. VAN LEEUWEN: I make a motion.

MR. SCHLESINGER: Conditional final approval.

MR. VAN LEEUWEN: Second it.

MR. ARGENIO: Motion has been made and seconded we offer conditional final approval to the Maloney minor subdivision on Sho Gee Court subject to the update of that road maintenance agreement and the attorney supplying Myra with the documents indicating the

consent of the owners there. The final plan including 911 address numbering and payment of the appropriate fees I'll have a roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. SCHEIBLE	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: You guys have been very accommodating, we certainly appreciate that and that's what we strive for because we don't want any neighbors stepping on another neighbor, it's not right and it's not necessary so thank you for your accommodations.

MR. VAN LEEUWEN: We want everybody happy.

MR. BRENNAN: Thank you.

CIMORELLI_AUTO_REPAIR_(08-12)

MR. ARGENIO: Cimorelli Auto Repair.

Mr. Joseph Minuta appeared before the board for this proposal.

MR. ARGENIO: The next item on tonight's agenda is Cimorelli Collision Center site plan amendment. This application proposes addition at the rear of the site. The plan was previously reviewed, no, not previously reviewed, the plan was reviewed on a concept basis only. I see Mr. Minuta here to represent this. Joe, would you please tell me what your client would like to do here?

MR. MINUTA: Certainly. Very simple site plan amendment to the existing. The property's located in a PI district, we used the C zone for the equivalent for the garage.

MR. ARGENIO: This is up near Automotive Brake?

MR. MINUTA: Right next door.

MR. ARGENIO: To the north?

MR. MINUTA: To the north, correct. What we have is New York State Route 300 here, main entrance, this is all existing, the only thing we're doing is adding an addition to the back. The rest of the site remains the same, we have reconfigured some parking back here, this is all shale in the background anyway. We made--

MR. ARGENIO: Is it a paint booth?

MR. MINUTA: Paint booth, yes, what we're doing is replacing the existing paint booth with a new paint booth, paint booth is actually very eco friendly, got water based paint instead of all the other types of

polymers and different chemicals.

MR. ARGENIO: He's going to paint cars with water based paint?

MR. MINUTA: Yes.

MR. ARGENIO: You're sure?

MR. MINUTA: Absolutely, coming from Italy, can't be too bad.

MR. ARGENIO: What do you think about that, Neil? Go ahead, Joe.

MR. MINUTA: Anyway, the reason for the addition is to house the paint booth. That's really the only reason why we're here for this. Like you said, the site remains the same, we meet all the regulations. This site plan was previously approved by special permit of the planning board in 1985 which was the original construction of the main building here, received another approval in 1990 for an addition here and there's two accessory buildings that are on the property that both have C.O.s.

MR. ARGENIO: What's the rest of the accessory building in the rear?

MR. MINUTA: Strictly for storage, this stores basically car parts, non-flammable items.

MR. ARGENIO: What's the line in the parking lot, that line right there that says asphalt shale, are you paving this or are you not paving?

MR. MINUTA: No, this is all going to remain. What this is basically all the employee parking is off to the side, the customer parking is in the front and the back portion of this is storage of cars which is

currently done by the staff so they're maneuvering, the public is not allowed back there so maneuvering the vehicles is not an issue, they do that now.

MR. ARGENIO: So even though they're stippled the same they're different materials?

MR. MINUTA: Correct, this line actually depicts where the asphalt is and then the other area which is shale.

MR. ARGENIO: Let me get a little more clarification on the left side of the building parking 15, 16, 17 and 18?

MR. MINUTA: Paved.

MR. ARGENIO: It is paved currently and they're backing out onto pavement/shale adjacent to the property line?

MR. MINUTA: No, that's an existing swale not shale.

MR. ARGENIO: I read it as shale, I'm sorry. Joe, is there room, can they get out of there? How do they get out if you have parking stall number 14?

MR. MINUTA: This parking stall comes out from behind, again, everything behind this chain link fence here, the building comes around and there's a chain link fence here, there's a gate here and gate here, anything behind this gate is a secured area. This is only accessed by staff.

MR. ARGENIO: So they're storing cars back there, maybe employee parking, things of that nature?

MR. MINUTA: Right, basically the employee parking happens here, some of the cars when they come out once they're completed and ready for pickup maybe bring them out to the front for the client.

MR. ARGENIO: In your mind the addition of the paint booth doesn't impact the parking?

MR. MINUTA: Not at all.

MR. ARGENIO: Other than taking up a stall or couple stalls?

MR. MINUTA: Well, it's not taking up any stalls at this point because what we have done we have two main garage door openings so these are used to access the interior of the existing structure. What we have done is placed this addition here with a garage door and leaving an existing garage door allowing the car to come through the back, be painted, also back here there's a mixing booth as well and it comes through.

MR. ARGENIO: I want to read this note from Mark Edsall and his summary, the prior plans had between 6 and 11 rear parking spaces now 13 are proposed and that's probably a good thing. As a pre-existing non-conforming use the modification to the structure is permitted to expand a maximum of 30 percent as per Sections 300-73 of the Town Code, this particular application that Mr. Minuta is representing proposes an extension of approximately 17 1/2 percent which is certainly less than 30. If any of my contemporaries have any other comments or questions, please jump in at any time. The bulk information shown is based on the C zone which is the nearest zone in which the use is permitted, the use is special permit number 4 of that zone. Based on my review, that's Mark's review, it would appear that a referral to the ZBA may not be needed for this application. Mark, why do you say may not be needed? I don't see where it's needed because when we talk about non-conforming we talk about applicants who do not increase a non-conformance typically are looked upon favorably.

MR. EDSALL: My reason for saying it may not be needed

is because until this board decides it it doesn't happen, I'm suggesting that that's my understanding of how it fits into the code once you deem that the case then it's official.

MR. ARGENIO: Myra, has this gone to county, do you know?

MS. MASON: Yes.

MR. ARGENIO: It has gone to county, Joe, you know that rule, I mean, you've certainly sat on this board and been in front of us enough times where certain things trip that and you're within the 500 feet of the state highway so it's got to go to county.

MR. MINUTA: Yes.

MR. ARGENIO: What thoughts do you guys have here? They're not changing the curb cut.

MR. VAN LEEUWEN: I have no problem.

MR. ARGENIO: Adding a paint booth.

MR. GALLAGHER: Fire doesn't have to be involved does it?

MR. ARGENIO: What do we have from fire if anything?

MS. MASON: Just that it needs to be sprinklered.

MR. ARGENIO: What's that all about?

MR. MINUTA: We have actually been through that and received a variance with some stipulations from the Town of New Windsor Fire Bureau, we met with them at a meeting with regard to the property, the way it exists, Town Law is written that any building over 5,000 square feet requires a sprinkler system if it's been erected

after the code was put into effect which was--

MR. ARGENIO: What's that date?

MR. MINUTA: 8/8 of 1990.

MR. ARGENIO: Okay.

MR. MINUTA: The previous approval for the rest of the building is was 6/18 I believe of 1990, so a few months prior to that, that basically exempts this building from that law.

MR. ARGENIO: Flying under the wire just a bit.

MR. MINUTA: Exactly, which when the property was purchased by Mr. Cimorelli later on after the C.O.s were issued and so forth had that been a requirement obviously that should have been prior to the purchase, happened prior to the purchase but none of it applies according to the code.

MR. ARGENIO: Are they requiring a fire break between the existing and the addition to the building?

MR. MINUTA: No.

MR. ARGENIO: So you have met with them?

MR. MINUTA: We met with them, we received a variance as of last week there was some stipulations which we were more privy to at the meeting we received a letter so we're discussing those stipulations with them and we're going to go with that.

MR. ARGENIO: They'll notify us.

MR. VAN LEEUWEN: We can't okay it until then.

MR. MINUTA: Other than that the existing proposed

addition has its own fire suppression system so--

MR. ARGENIO: I would imagine it does.

MR. MINUTA: One of the key items there is that under the building code actually you're permitted an addition and you don't have to as long as it doesn't exceed 30 percent you can do anything you want to that addition, you don't need to make the existing building comply with any of the codes.

MR. ARGENIO: Is there a dumpster enclosure, what do they do with the empty paint cans?

MR. MINUTA: Currently set in the back.

MR. ARGENIO: We should show it, I'm not going to waste my time enunciating what we typically look for because you've sat here long enough to understand what we're looking for. Can you do that, Joe? Seems to me in the back left-hand corner of the lot there's almost a perfect spot for a facility.

MR. MINUTA: Sure.

MR. ARGENIO: We can take lead agency, Mark, is that right, no other involved agencies?

MR. EDSALL: Yeah, I don't know that there are any other involved agencies, I don't think County Planning.

MR. ARGENIO: Can I have a motion?

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare itself lead agency for the Cimorelli subdivision.

ROLL CALL

MR. SCHLESINGER AYE
MR. SCHEIBLE AYE
MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. ARGENIO AYE

MR. MINUTA: If there are no other items here I think everything's pretty well taken care of, no heavy lifting as you would say. If we could move, I would request we move for approval on this and waive the public hearing if that was appropriate.

MR. ARGENIO: Well, there's two things what I'm going to do is and you know my schtick, I'm going to ask everybody else about the public hearing but what I don't want to do and I won't do and we have not typically done in the past is done an approval subject to the county. It's difficult, it's difficult, I agree with you, your application is really there's not a lot of heavy lifting here but it's a crummy precedent to make so I'm going to, you guys know where this is, Dan, guys know where this is?

MR. GALLAGHER: Yes.

MR. ARGENIO: Do you guys have any thoughts on the public hearing? Anybody have any?

MR. SCHLESINGER: I don't think it's necessary.

MR. SCHEIBLE: No.

MR. GALLAGHER: No.

MR. VAN LEEUWEN: I have no problem.

MR. ARGENIO: I'll accept a motion that we waive the

public hearing per our discussion.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board waive the public hearing for the Cimorelli Econo Collision Center site plan amendment. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. SCHEIBLE	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. EDSALL: Mr. Chairman, just so the record is clear it is a special permit use, the special permit already exists, they're not changing the scope of the special permit or the intensity, therefore, there's no special permit mandated or public hearing needed for the special permit. The one you waived is relative to the site plan application just so we don't get questioned later on.

MR. ARGENIO: Any other comments. Please show the dumpster enclosure on the plan, that will be helpful if you can do that.

MR. MINUTA: Will do.

MR. ARGENIO: You know the routine. Guys have anything else?

MR. MINUTA: Maybe just clarify the dumpster enclosure we're just going to place a dumpster back here, the entire lot in the back is fenced.

MR. ARGENIO: It is fenced?

MR. MINUTA: Yes.

MR. ARGENIO: What do you guys think about that?

MR. SCHLESINGER: Where's your existing one?

MR. MINUTA: There's two, that's it right here.

MR. SCHLESINGER: Exactly this whole area's fenced?

MR. ARGENIO: Is that shown on the plans?

MR. GALLAGHER: You can't see in the back.

MR. MINUTA: It's along the property line.

MR. ARGENIO: Joe, would you note what type of fence it is, just write it on the plan?

MR. MINUTA: Chain link with slats.

MR. ARGENIO: Mark, is there anything else here?

MR. EDSALL: Well, as Joe indicated, it's a simple application for what he's proposing. You should be aware that some things appeared between the last approval and this plan, the accessory buildings weren't on the original plan so you really should.

MR. MINUTA: Which?

MR. EDSALL: You should call out the accessory buildings as proposed even though they might be existing because from an approval standpoint they're new.

MR. MINUTA: I'm caught because there's C.O.s for

those, we can show them now whatever it is that you need.

MR. EDSALL: So there's consistency on the site plans. The other thing--

MR. ARGENIO: Joe, are you sure about that?

MR. MINUTA: Yes, I have them actually.

MR. EDSALL: The other thing that I would be concerned about from the fire inspector's office is they're very concerned about fire access to vehicles that may be ablaze and the access on the right side of the building is extremely limited.

MR. ARGENIO: Mark, I'm not going to get twisted about this and here's why because I want to make it clear to Joe, he's heard this before, get with Barney Bedetti and Ken Schermerhorn and work it out, we're not firemen up here and I'm going to pretend to be.

MR. EDSALL: I was commenting more on the request to approve it because I think we need to hear back from the fire inspectors.

MR. ARGENIO: I thought I said that, no question.

MR. MINUTA: I have a letter.

MR. ARGENIO: Get with them Joe and get squared away with them because--

MR. MINUTA: We are squared away.

MR. ARGENIO: I don't have it approved here but we have to get squared away with the county so you're going to need another meeting between now and then. Mike, can we get with Ken or Barney and see to it that if they're in agreement?

MR. BABCOCK: We'll send the plan over there tomorrow.

MR. ARGENIO: If they're okay with it, let's get the record clear that they're okay.

MR. SCHLESINGER: What is it that they're concerned about because they're not changing anything?

MR. BABCOCK: Well, there's two items, you've got site plan items and you've got building permit items, the sprinkler system is a building permit item but we didn't want them to come here, waste their time and money to get a site plan that they couldn't get a building permit for so they went to the Bureau of Fire Prevention and got a waiver of the sprinkler system, that's it.

MR. ARGENIO: Nothing to do with the site plan.

MR. BABCOCK: Right, nothing to do with that.

MR. EDSALL: My reason for it is because the plan that this board approved previously called for a 20 foot lane on the side of the building.

MR. ARGENIO: That doesn't exist.

MR. EDSALL: This plan shows a 10 foot 3 lane so it's a change so I feel compelled to bring that to your attention.

MR. ARGENIO: I'm okay with that unless somebody feels differently, we need to hear from the firemen and they need to say that the site plan is okay. Joe, you follow what Mark is saying, what he's saying that sprinkler waiver does not constitute site plan approval by the fire?

MR. MINUTA: Right, we have already had that

discussion, it meets the code requirements of Chapter 5, you have 150, you need 150 feet of access, the buildings only 140 feet.

MR. ARGENIO: You're telling me the code and I'm telling you I don't know the code, I have no idea, I truly don't.

MR. MINUTA: And just for clarification, the original one which is this is the stamped plan.

MR. ARGENIO: Let me, you see that that plan is a really, that's a classic, look at the name on there.

MR. VAN LEEUWEN: I remember approving it, Paul Cuomo.

MR. ARGENIO: Okay with all of it but like I said, they have to sign off on the site plan, the firemen, we have this whole thing trying to think of one that we had when you were here.

MR. MINUTA: Just want to let you know that we have already been in front of them, we have already discussed the issue, they have already provided a variance.

MR. ARGENIO: We'll put you on the agenda, you've got some very minor plan changes to make, as soon as we hear back from county we'll get you on the agenda and hopefully we'll hear back from the firemen through Myra and we'll keep you moving. Anybody have any other comments? Thanks, Joe. Mark, I agree with you, you're right, if I wasn't clear I should of made it clear but we don't want to make the issues.

APPLE_RIDGE_SUBDIVISION_(08-16)

MR. ARGENIO: Next regular item is the Apple Ridge subdivision on Shaw Road. Apple Ridge major subdivision, resubdivision of the lands of Minard. This application proposes subdivision of the total 197 acres into 109 clustered single family residential lots. The subdivision plan was previously reviewed at the 28 June, 2006, 25 October, 2006, 28 March, 2007, 12 September, 2007 and 14 November, 2007 planning board meetings. Now the application is for a conventional subdivision and what's your name?

MR. ESPOSITO: My name is Steve Esposito, Esposito & Associates, I'm the planner for the applicant and was involved in the original application.

MR. ARGENIO: Before we get to the application, I want to ask you a question, what are you doing? You guys had approval, now you're coming back for a cluster approval? What's going on here? For the benefit of the board give us a little evolution here.

MR. ESPOSITO: As you may recall in fall of 2007 this board issued a negative declaration and preliminary approval for a 49 lot conventional subdivision on a site that was approximately 200 acres, the Minard apple farm located on Shaw Road.

MR. VAN LEEUWEN: I know where it is.

MR. ESPOSITO: Since 2007 and a lot of things have changed. Since that time, the housing market has changed considerably, there's the need to look towards more sustainable design and more sustainable development. The applicant also acquired an additional 117 acre parcel to the southwest of the original site that you granted preliminary approval on the total site, now this site is 318 acres. So what we're looking to do is we have re-evaluated the conventional

plan which is 49 lot individual wells and septics, 80,000 square foot net lot size and we really feel that that's not the market, that's not the direction that the applicant would like to go in. The applicant feels that the conventional or the conventional plan is outdated and really looking more towards a sustainable development in a cluster plan. With obtaining the additional 118 acres, we prepared a plan which yields 107 lots.

MR. ARGENIO: Mark, what's the current status of the original approval?

MR. EDSALL: Well, it's a preliminary application that you granted preliminary approval to, for convenience what we have done is because they have acquired the additional land and then redesigned the entire subdivision layout for convenience we have created a new project number but we're carrying the application over as an amendment. Clearly the preliminary approval has no standing now cause they're proposing a completely different lot count and a much larger total parcel so in speaking with Dom Cordisco along the way here it's continuing on the same package but they're effectively modifying the application to provide a much increased lot count on a conventional plan to justify the lot count clearly telling us that that's not their intent to build, they want the cluster.

MR. ARGENIO: Your intent is your applicant is abandoning that original plan, they don't want to do that?

MR. ESPOSITO: We're, the applicant is so committed to really pursuing the cluster plan that they're willing to relinquish the approval preliminary approval obtained in 2007.

MR. ARGENIO: Now, you also I'm reading Mark's comments and I understand that you brought here tonight with you

a plan for a cluster and a plan for conventional?

MR. ESPOSITO: Correct.

MR. ARGENIO: As I said in the beginning what are we doing? Are we doing cluster or are we doing conventional?

MR. ESPOSITO: The process for clustering is we have to provide under Town Law and your code we have to provide what's called the yield plan and a yield plan has to conform to the conventional subdivision regulations which is what this plan does.

MR. ARGENIO: So coming through to the cluster finality a step in that procedure is providing the yield plan which is essentially a conventional subdivision design?

MR. ESPOSITO: Correct, so each one of this is similar to any other subdivision plans each one of the lots has been evaluated for gross and net acreage to make sure they have 80,000 square feet, in addition, we have provided growth profiles to make sure that it's conceptually built so it's part of this application. You have, this document has all the breakdown lot by lot, road profile for the yield plan.

MR. ARGENIO: But ultimately the intent is to get to a cluster?

MR. ESPOSITO: Yes, this is really the yield plan which just if there's any questions about this plan and how we got here I can answer those and go to the yield plan.

MR. ARGENIO: I have a question, Mark, I just want to share a couple thoughts for everybody's benefit as far as the yield plan goes, I think Mark that's more your gig, you're going to have to review that and see that that brings us to the point where he can get to a

cluster.

MR. EDSALL: I did and the way I prepared my plans cause this is exactly as indicated a two step process, demonstrate the lot count conventional, the board accepts the lot count, they march off to the Town of New Windsor Town Board to seek Town Board cluster approval, they need Town Board approval and then come back with this approval in hand and say okay, the lot count's verified, the Town Board said okay and then--

MR. ARGENIO: Here's our cluster.

MR. EDSALL: Now, we're going to pursue the cluster, how I did my review if you look under comment 3 those comments are specific to the conventional plan. I did find some areas where I need some further verification to make sure that the lots are in fact legitimate lots and that's how I'll use that term. As an example if 10 lots get deemed not legitimate that they don't work then the lot count goes down 10, once we come to an agreed to legitimate conventional lot count that's the number they move forward with to the Town Board.

MR. ARGENIO: You guys follow this?

MR. VAN LEEUWEN: I just wanted to know what property did they buy, Steve?

MR. ESPOSITO: The Dustin Farm.

MR. VAN LEEUWEN: That's what I figured.

MR. EDSALL: As a second half to the comments, comment number 5 comments solely on the cluster plan, I did that for kind of convenience for both the board and the applicant so I looked at both.

MR. ARGENIO: Well, here's one thing maybe I'm not understanding a little bit as we proceed forward and I

think this is for Adam and Mark and maybe the other members are thinking the same question, the conventional plan seems to me it's going to dictate the quantity of lots, is that correct?

MR. EDSALL: It is.

MR. ARGENIO: If they can demonstrate that they can effectively and lawfully achieve a certain quantity of lots in the conventional plan then that will give them more or less lots in the cluster plan. So where I'm going with this is how much of a review does this board need to be doing at this point in time of the cluster plan in so much as it's going to change?

MR. EDSALL: Well, I think it's important that tonight at minimum the applicant get a feel from the board as to whether or not the general concept of the cluster layout, the one that you would support in a recommendation to the Town Board towards their approval on a cluster so it's a very generic layout review of the cluster plan, obviously, the lot count could go up, lot count could go down, odds are they have maximized it already. They may lose a couple lots. As far as the conventional plan goes, I have raised the issues, if they address all the issues as long as the board feels that the level at which I have required them to submit is adequate and I worked at the level in discussions with Dom and with Steve as to having a plan that legitimately shows wetlands, other encumbrances, shows contours so that we can show that the lots would work and that the roads could really be built, I don't know that there's any need to go beyond that level of design. I think it's a waste of the applicant's money candidly but it's up to the board to decide that so that's really tonight's goal is to discuss whether or there's any more you want on the conventional plan that what Dom Cordisco and I decided would be a reasonable approach and then for the cluster plan whether or not generally you feel the layout is reasonable.

MR. ARGENIO: What's the isolated parcel there? Do you guys see that? Do you see that, Danny?

MR. VAN LEEUWEN: That's where the original owner is.

MR. ARGENIO: There's no driveway.

MR. EDSALL: I commented on that that that needs to have frontage developed on the road, that's one of my comments.

MR. VAN LEEUWEN: It's got a dirt driveway to the parcel.

MR. EDSALL: But it needs frontage even though it may be a problem now we should fix it.

MR. ARGENIO: Let me just say a couple things. Mark, I think there's more to the board members giving a favorable or unfavorable indication on this cluster development just by glancing at this plan and the first two questions that come to my mind is where does the sewer go and where does the water come from in the cluster development? Can somebody answer those questions? Go ahead.

MR. VAN LEEUWEN: I know where the water's coming from.

MR. ESPOSITO: If you look on, well, right now if we can just stay on the conventional plan and go to the cluster what we're proposing is in the center here minimum of two well locations for municipal water, for central water, both plans would require central sewer and central water, water and sewer plan. What we show just again in terms of geometry two well locations because that's the minimum we have to have per State Code, we show the hundred foot ownership and 200 foot around the well for well head protection, we show a circle that will represent a standard pipe or storage

facility of some sort. We also have adjacent to that what we call a sewer treatment plant which is down in the southwest corner, there are two intermittent streams which exit the site, those sites during the process would be evaluated in terms of their capacity to discharge into either one of the two streams, either way we're going to be subject to an intermittent stream standard that the state would impose in terms of design of the plan. So in either case it will be central sewer.

MR. ARGENIO: Are we going to have another Peter Kean situation where when it rains the entire area within a 600 foot radius stinks? I live there. Neil, you live there, you've smelled it before, haven't you?

MR. SCHLESINGER: I'm not saying anything.

MR. ARGENIO: Well, I am.

MR. EDSALL: This is the first time it's been before the board clearly to work towards central water and sewer they need significant approvals, they have proposed that.

MR. ARGENIO: That's DOH, yeah.

MR. EDSALL: Department of Health, DEC, they're proposing and they're willing to discuss town operation of the facilities that would need to go to the Town Board as well, I have suggested that when they reach a level of general layout acceptance from this board and it goes to the Town Board that they ask at that point would you be willing.

MR. ARGENIO: You need a stream for a sewage treatment.

MR. EDSALL: Intermittent stream standards, the point being that the Town Board would have to act on that.

MR. ARGENIO: My second big concern here is and guys if anybody has something to say jump in here, my second big concern is what I don't want to walk into and what I don't want to be party to and I would imagine my contemporaries don't want to be party to is another situation that we have out on the Reserve and Mike, you can speak better to this than anybody here because you sit on the zoning board meetings as well and every time somebody wants to put a deck on their house, every time somebody wants to build a shed, every time somebody wants to put a pool in, an outhouse, a dog house or a doll house they end up in front of the zoning board, that's a waste of town resources in my estimation. Got any thoughts on that?

MR. BABCOCK: No, that's correct.

MR. VAN LEEUWEN: That subdivision was approved, Mr. Chairman, back in the '70s.

MR. ARGENIO: But this is 2008 and I'm not going to walk into the same missile, we shouldn't walk into the same missile, we need to learn from what's behind us.

MR. BABCOCK: What size lot do you propose for a cluster?

MR. ESPOSITO: We're looking at again the concept here in the cluster is really smaller three bedroom houses, possibly smaller four bedroom house and again whole architectural development of those would be part of the site plan and subdivision plan approval process looking at lots 100 by 130, 140.

MR. BABCOCK: 14,000 square feet?

MR. ARGENIO: And what size home?

MR. BABCOCK: He said four bedrooms so that's not a small home but--

MR. ARGENIO: Sir, if you're associated with this application you can come up and speak. Tell me your name.

MR. MUMFORD: My name is Roger Mumford, M-U-M-F-O-R-D.

MR. ARGENIO: What's your association?

MR. MUMFORD: I own the Dustin property. In any event, what's contemplated here is several things, first of all, the focus would be to build homes from 1,700 square feet plus or minus to probably 24, 2,500 square feet, there would not be an emphasis on things like formal living rooms, the first floors would be very open, the homes would have a traditional type of appearance, certainly two car garages, side entry would be possible on many of these lots but the whole idea would be to build a little smaller but to utilize the details, color and textures to create upscale feel at a more moderate price. It's not a secret that median incomes can afford median homes in Orange County, New York and until the big baby boom deal in the last seven years when you look at the resales you see a lot of bi-levels at 325 and huge development homes on two acres lots, I would argue especially a site as beautiful as Robert Minard we analyzed all the slopes, we took the plans, Mike Walker brought the 200 acres from Robert's side and when we looked at it, it was very clear if we could do all the building in a small amount of the area not only would we not be fighting all sorts of grades but we can create a much nicer looking type of housing at a much more moderate price and that's what we were interested in doing.

MR. ARGENIO: There's a ton of research out there that indicates that clustering works. I'm not adverse to that, I hope I didn't give you that impression, I'm only speaking for myself, I'm not speaking for the other members, there's a lot of research out there that

indicates that clustering is a good idea, it works for a whole litany of reasons so I'm certain if I gave the impression that I personally am against it I didn't mean to do that. Go ahead, Henry.

MR. VAN LEEUWEN: Couple questions. I know the terrain I live right near there, Steve knows me very well, the guy behind him knows me very well, cause I do business with that firm also and the original buildings in the Dustin farm are they going to be torn down or maintained?

MR. MUMFORD: They're down now, they were a hazard.

MR. VAN LEEUWEN: Everything's gone?

MR. MUMFORD: Everything's gone.

MR. ARGENIO: Sir, you own that property?

MR. MUMFORD: Yes, and after I purchased it we had a local contractor demolish all of it, there's literally nothing worth saving except for the hand-hewn beans that are still there.

MR. ARGENIO: You didn't bury anything out there did you?

MR. MUMFORD: No, I didn't.

MR. ARGENIO: It wouldn't be the first time.

MR. VAN LEEUWEN: Another question I have the perc out there is very, very difficult. That's why they're going this route and I like that route, I prefer that.

MR. ARGENIO: Leave open space, folks. Give me open space but I do want to know about the buildings, I'm glad they're torn down because otherwise you have to have a road going to them and I was wondering where

that was cause I know the property.

MR. MUMFORD: Big lot homes can be developed in an attractive or unattractive way, the same thing with cluster but with both done well I must tell you I think it would be much more attractive. Look, I know you're not familiar with me and don't know me but I can assure you that this development if built will be enormously attractive and very desirable.

MR. VAN LEEUWEN: There's one other problem they have to cross a railroad track and I don't believe the Dustin farm had any, did they have a right-of-way over the railroad? They might of had it but they didn't own any property up to the railroad.

MR. MUMFORD: You're right.

MR. VAN LEEUWEN: I know the other property did, the Hoky farm.

MR. ARGENIO: Run your finger on that map at the Dustin farm please approximately right there, Neil and Henry, guys are kind of mute, I'd like to hear from you guys.

MR. SCHLESINGER: Neil, I need a little better understanding of cluster versus conventional and in my mind cluster correct me if I'm wrong is you've got a lot of land but we're clustering the houses in a small part of that property.

MR. MUMFORD: That's correct.

MR. SCHLESINGER: Does that give the applicant a different zoning as far as the size of the lots and everything?

MR. EDSALL: That's what goes to the Town Board, the Town Board has to create a cluster zone and they establish the bulk requirements unique to this.

MR. SCHLESINGER: Bulk requirement normally is 80,000 square feet, okay, and they would look under a cluster approval of maybe 20,000 square feet.

MR. EDSALL: They're saying something around 15, the Town Board can say we want 20.

MR. SCHLESINGER: But that's a Town Board decision.

MR. EDSALL: Yes, they're creating a zone.

MR. SCHLESINGER: They have a lot of open space, what happens down the road on the open space?

MR. EDSALL: That's one of my comments that we've had I'll use the word difficulties with the common areas, so one of my comments we need to make sure we deal with that as a very important issue.

MR. VAN LEEUWEN: It's a dumping ground, grass clippings and all that stuff.

MR. SCHLESINGER: Not only talking about that but you know down the road is there like a restriction on that area that no development can occur?

MR. ARGENIO: I'm glad that you stated the concept of clustering is reasonable and I think a great way to go. A lot of municipalities are doing it.

MR. ESPOSITO: In my profession there's a series of clusters that have been very successful throughout Orange County.

MR. ARGENIO: I'd like you to supply us with a name of some of them so we can take a look at it to help guide us.

MR. MUMFORD: I just want to be careful if I haven't

developed them I want to make sure that they're a representative of what we would be doing here.

MR. ARGENIO: Get with him. He's saying that you've developed other cluster areas in the area?

MR. MUMFORD: Not in New York State, sir.

MR. ARGENIO: Mr. Esposito has worked on several and Mr. Mumford wants to make sure if Mr. Esposito says there's a cluster development here you can look at or there you can look at Mr. Mumford wants to make it very clear that that is not his, he didn't do that.

MR. MUMFORD: Sometimes there's an adjective that comes after cluster.

MR. SCHLESINGER: Excluding those, I don't know whether that included you to have some in the area but you said no.

MR. MUMFORD: That's correct and there's another point I'd like to make, clear a lot of critical dimensions in terms of homes being built on 100 feet by 140 feet that does not have septic and well in terms of square footage comfortably you can build a much larger home that I spoke about before and there's nothing to preclude me from doing that. The reason I talked about a smaller range and larger homes what I do is bigger isn't necessarily better and what I am interested in doing wouldn't necessarily lead me to build larger homes so I just, I don't want to give you the feeling that it's going to be tiny homes on tiny lots, 100 foot is still a significant lot.

MR. ARGENIO: Mr. Mumford, I have to tell you this, we're going to review what you come up with and we'll give you our thoughts but 100 and 140 I don't think it's going to happen, I think it's too small for the reasons I stated here, I'm going to talk to Mike, I

want to hear from him, I want to hear from Mark, I want to hear from the professionals, it's tight, let's get passed that.

MR. SCHLESINGER: Doesn't that go to the Town Board though?

MR. ARGENIO: Yes, it does, there's a whole group of regulations.

MR. BABCOCK: With this recommendation from this board.

MR. ARGENIO: Correct, and there is a whole group of a whole section in the Town Code that addresses clustering. Go ahead.

MR. ESPOSITO: I just want to go back to the open space because you were concerned about that, this particular layout right now represents about 100 or 281 acres of open space, that's 89 percent of the site we're proposing to be open.

MR. ARGENIO: Fantastic.

MR. ESPOSITO: It is and now there's a whole series of ways that you can manage that open space, typically, there's a conservation easement placed over it and that's going to restrict any future development in perpetuity, that easement may be given to say a land trust, it may be dedicated to the town.

MR. ARGENIO: County land trust.

MR. ESPOSITO: There's a whole host of county land trusts whether there's just these different vehicles of, and it's not ownership, it's only the conservation easement which gives you the right to regulate it, it still could be owned under private ownership, lot 107 may be the entire farm, we would like to see it as under restrictive covenant which will be protected

forever and really look for some agricultural uses. We're preserving a significant amount of the orchard. There's some great opportunities for vineyards, there's whole host of farmettes in terms of development but all of it will still be protected under conservation easement, again that language will be drafted, the attorney will review it but that's one mechanism to protect it. Dedication to the town, you know, it's another mechanism to protect it but ultimately that will get worked out during the process.

MR. VAN LEEUWEN: Got to be very careful how it's done because you wind up with situations of right here, right now.

MR. ESPOSITO: One of the nice things of keeping it in sort of a safe way of maintaining it and it's not the taxpayers.

MR. MUMFORD: To that point that's one of the things we were contemplating, for example, depending how the clusters ultimately configure whether there's a majority of the lots here or along this area up the ridge that sees very little elevation the other thing to do is do a stub that comes in to an area for the 120 acre farm that we can retain or I would retain.

MR. ARGENIO: I want to give you a chance, do you have any thoughts?

MR. GALLAGHER: No.

MR. ARGENIO: Neil, it's a good point. Hank, do you have anything?

MR. SCHEIBLE: They just brought up exactly my interest was what's going to happen to rest of the land that was my major interest right now as long as there's sidewalks in there.

MR. MUMFORD: There's one other comment I'd like to make about the lot size and that's, and it's relative to the size of the homes and so forth.

MR. ARGENIO: That laugh was not associated with you at all, there's a thing with Mr. Scheible and myself about the inclusion or not of sidewalks in rural areas in the west end of town.

MR. SCHEIBLE: That plan does not exactly look like a rural area to me, Mr. Chairman.

MR. ARGENIO: Let's continue, Mr. Scheible.

MR. MUMFORD: It wasn't your fault, my comment was premature. What I was going to say certainly as part of this process we could be pleased to create a conceptual streetscape, you can even computer render it because with these lots it's all relative to the area in some places 100 foot lots are considered farmettes but obviously in this area they're smaller lots, my point is this you can build a McMansion 70 feet long and cover it with a lot of beige vinyl and it's just a big development home and it will look quite big on a 100 foot lot or you can build a 54 foot wide house with a side car garage and breezeway and some dormers and the right trim details and it can look fabulous. So respectfully what I'd want to do is part of the process is provide the board some type of stuff so you can make that decision.

MR. ARGENIO: That will help you make your sale, I agree.

MR. MUMFORD: Thank you.

MR. ARGENIO: Where are we going?

MR. EDSALL: It's the first appearance, the purpose of my comments was to give them some homework. Under

comment 3 to verify the validity of some of the lots on the conventional plan and some thought of comment on the clustering.

MR. ARGENIO: Do you have Mark's comments?

MR. ESPOSITO: Yes.

MR. EDSALL: The next step would be for the applicant and myself to get together in a workshop. We'll move toward a verified conventional plan so that you've got a lot count that I can tell you I'm comfortable with and I think somewhere along the line you should decide what more information you need before you'd be willing to send this to the Town Board, again, just for either when they grant the okay for cluster, it doesn't mean the process is over, just entitles them to come back to pursue it with your board and also before you send it over you should have reach a conclusion on your lot size that you've spoken quite a bit about.

MR. ARGENIO: Anybody? I'll start with Danny. Anybody dug in against the cluster development, Danny?

MR. GALLAGHER: I'm not against it.

MR. SCHEIBLE: I'm not dug in.

MR. ARGENIO: Sidewalks aside.

MR. SCHEIBLE: Sidewalks aside, it will be a new experience to see this progress.

MR. SCHLESINGER: I'm totally in favor of smaller more economical housing without a doubt. My concern is what I pretty much said is what's going to happen with the rest of the property and I don't, I'm thinking long term and what can be done and what sort of restrictions or covenants or whatever else could be put on that so it can be continued without any sort of the problems

down the road.

MR. ARGENIO: Well said. Henry, dug in for or against?

MR. VAN LEEUWEN: I'm for the cluster.

MR. ARGENIO: In the right way.

MR. VAN LEEUWEN: As long as it's done but I don't like to see the small hundred, hundred foot lots, I'd like to see them bigger.

MR. ARGENIO: You've got some feedback, I think the members have some things to think about, the lot size being a very critical thing we should be thinking about. This disposition of the open space one thing you have visit is how you're going to and what you're going to do with that open space to preserve it for I'm not going to say in perpetuity, I'm going to say for an extended period of time. We're not going to be the ones that are going to craft that, you're going to have to do that so think about that. And what else do you want form us?

MR. MUMFORD: That's very helpful.

MR. ARGENIO: You have feedback, go do what you need to do.

MR. MUMFORD: We'll do that. Thank you.

MR. ARGENIO: Henry, I hate to say this but under these circumstances I may be inclined to go with you, I'm not sure but I might be inclined to go with you.

LEGACY_WOODS_(08-01)

MR. ARGENIO: Last item here is Miss Michele Babcock representing Legacy Woods, the former Knox Village site plan. This application proposes development of the 14.21 acre parcel with 183 senior housing multi-family residential units within eight buildings. Site includes 3,200 square foot clubhouse building and other site improvements. Plan was previously reviewed at the 16 January, 2008, 26 March, 2008, 11 June, 2008 and 13 August, 2008 planning board meetings. Michele, what do you have?

MS. BABCOCK: We're here tonight with a revised plan based on the comments from the public hearing. We have gone ahead and deleted the sidewalks along the northern portion of the property and we have added a 4 foot fence. We have also included two water connections and we have addressed the comments that mark's provided on the storm water plan and SWPPP. We have met with Mark at the work session to review those comments and he has provided a signoff. We're here tonight because we believe we have set aside all the conditions of the board and the consultants as well as the public comments and we ask that the board approve a negative dec.

MR. ARGENIO: So for the benefit of the members once you get the negative dec what happens next?

MS. BABCOCK: We would then proceed to the Town Board and ask that they issue a special use permit for this application.

MR. ARGENIO: What would you do after that?

MS. BABCOCK: Then we would continue to pursue outside agency approvals. Once we receive all our approvals we'd come back to to board and ask for this board to grant site plan approval.

MR. ARGENIO: So we'll have a chance to review this again, take a look at it?

MS. BABCOCK: Yes.

MR. ARGENIO: I don't have a lot to say about this, and I mean that in a sense that I don't have a lot to say. They're here for negative dec, they've worked with Mark. One of the things that we talked about and I'm going to verbalize this, Mark might want to correct me as he typically does when I speak somewhat incorrectly sometimes, one of the issues with the negative dec is the timing of the highway improvements and I had suggested that the highway improvements will be completed before the first C.O. be issued. There was some talk the applicant wanted to build a portion of the units and then pursue the highway work but I have been there, done that fortunately or unfortunately, I've been sitting here too long and I requested that Mark requests of the applicant to instruct the highway improvements before the first C.O. is issued, the applicant agreed to do that, is that correct?

MS. BABCOCK: That's correct.

MR. ARGENIO: With the caveat that the improvements be constructed, we don't restrain them if they don't have their final approval from the state which is paperwork from Poughkeepsie, I don't think that's unreasonable so they need to construct the improvements before they get the first C.O. but if they're hung up with somebody in Poughkeepsie who's not pushed a piece of paper off their desk we're not going to hang them up because they have acted in good faith and that's included in the document. Have I effectively stated that, Mark?

MR. EDSALL: Yeah, I want to add the one correction just so the record is clear, Adam and Dom worked with Michele on the form of the negative dec and the

resolution.

MR. ARGENIO: Tirelessly.

MR. EDSALL: Tirelessly, Dom and I had met together over some of the wording issues, one was exactly as the chairman pointed out the timing of the construction of the improvements out in State Route 32, the document that was prepared in the last sentence of the first paragraph indicated that the construction had to be completed and accepted prior to the first C.O., I will take as much credit for the mistake as anyone, the "and accepted" shouldn't be there because sometimes DOT will contact Mike's office or myself or both and say it's fine, give them their C.O., let them use it but the DOT takes their--

MR. ARGENIO: We still have paperwork.

MR. EDSALL: --takes their time as to when they decide they're going to accept it and release the bonds, so the words "and accepted" we have agreed should be stricken so that deals with the off-site traffic. The other issue which was resolved is one of the investigations they performed is relative to the sewer line that runs through their property which is actually at this point owned by the Town of Cornwall Firthcliff Heights sewer district, we're working under an arrangement where they can tie in, we re-orient the ownership so a portion is a Town of New Windsor, portion is Cornwall, low and behold there's a stretch that has some difficulties, this negative dec acknowledges the need to get that resolved to correct some of the sewer lines. So that will be an ongoing design issue, they have already cooperatively did the studies, identified the problems and again as Michele indicated once they have their special permit from the Town Board and they do have in fact this negative dec they'll move forward for agency approvals and one of the approvals will be town sewer to correct that

section of sewer.

MR. ARGENIO: And your client agrees to this, your improvements and such?

MS. BABCOCK: Yes, we agree to make the--

MR. ARGENIO: To the satisfaction of Mr. Edsall?

MS. BABCOCK: The improvements that will be necessary for this project to connect to that line.

MR. EDSALL: One of the things that they're working on is that the highway improvements and the sewer improvements very much overlap between this project and the adjoining project, Chestnut Woods in the Town of Cornwall which is before Cornwall's Planning Board and is also multi-family, the two applicants as we have suggested should cooperate since they both have the same issues and are exactly overlapping so we're encouraging them to work together and we'll help them out whatever way we can.

MR. ARGENIO: Your client agrees to make the sewer improvements, Michele, to the acceptance of Mr. Edsall or Mr. Edsall's firm?

MS. BABCOCK: Yes.

MR. ARGENIO: Does anybody have any questions on this?

MR. VAN LEEUWEN: I so move.

MR. ARGENIO: I'll accept a motion that we declare negative dec for Legacy Woods.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board offer negative dec to Legacy Woods. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. SCHEIBLE	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Other thing we're going to do is at some point in time we're going to have a discussion about the size of the clubhouse and it may very well be appropriate in size, I don't know that it is or isn't but what I don't want to do is have a substandard situation there. Danny, you know what I'm talking about, a closet of a clubhouse, that just doesn't work, it may be okay but I want to have Mark or somebody look into it and I'd like some supporting information indicating that the size that you selected is driven by something, it has some rationale.

MS. BABCOCK: Based on comments that we had received from Mark we had increased the size to 3,200 square feet and then we have also installed some community space in each building, that way that no one would need to walk necessarily to the clubhouse if they didn't feel like it and could use the space right in their own building.

MR. ARGENIO: Thank you very much. Thank you for your patience and Mr. Rosen thank you for your patience and your cooperation.

DISCUSSION

MICHAEL_LUCAS

MR. EDSALL: Mr. Lucas who was an applicant before this board and received conditional approval for his minor two lot subdivision.

MR. ARGENIO: Mr. Lucas has a guardrail issue, how is that going?

MR. EDSALL: He's asked for two 90 day extensions that he's entitled to. We did not have time to verify if the approval resolution included those but if the board sees fit, if you can just grant that so that if he didn't get it he has it and we can get it out of the way.

MR. ARGENIO: Anybody? I'll accept a motion.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it

MR. ARGENIO: Motion has been made and seconded that we grant Mike Lucas his two 90 day extensions on his subdivision application. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. SCHEIBLE	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Motion to adjourn.

MR. VAN LEEUWEN: So moved.

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MR. SCHLESINGER: Second it.

ROLL CALL

MR. SCHLESINGER	AYE
MR. SCHEIBLE	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

Respectfully Submitted By:

Frances Roth
Stenographer
11/6/08

