

TOWN OF NEW WINDSOR

PLANNING BOARD

March 28, 2012

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN  
DANIEL GALLAGHER  
HENRY VAN LEEUWEN  
HOWARD BROWN  
HARRY FERGUSON

ALSO PRESENT: DOMINIC CORDISCO, ESQ.  
PLANNING BOARD ATTORNEY

MARK EDSALL, P.E.  
PLANNING BOARD ENGINEER

JENNIFER GALLAGHER  
BUILDING INSPECTOR

NICOLE PELESHUCK  
PLANNING BOARD SECRETARY

**REGULAR MEETING:**

MR. ARGENIO: I'd like to call to order the March 28, 2012 meeting of the New Windsor Planning Board to order. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

MR. ARGENIO: Okay, we don't have any mobile home parks to review. We don't have any minutes to approve. Apparently, we're caught up according to Nicole so we're going to go right into the Brittany Terrace site plan amendment.

PUBLIC HEARING CONTINUATION:

BRITTANY TERRACE SITE PLAN AMENDMENT (01-53)

MR. ARGENIO: This is the continuation of the public hearing and their ongoing application. The project was previously received approval for an expansion and is before the board with a record plan for acceptance of the planning board. The plan indicates an additional 96 units. The matter was previously reviewed at the 12 September to 2001, 12 June, 2002, 26 January, 2011, 12 October, 2011 and 9 November, 2011 planning board meetings. As I said, this is the purpose of tonight's meeting is to open and close the public hearing and get an update from the applicant as to their status on a variety of issues that were outstanding. So I see Mr. Torro is here, Mr. Kean, how are you, Mr. Kean? How are you, Donny?

MR. OLSON: Very well, Jerry, how about yourself?

MR. ARGENIO: Tell us where you're at, Larry.

MR. TORRO: Since the last time we've covered quite a few points that were on the checklist, starting with the SPDES permit that the new modified permit has been issued by the DEC.

MR. ARGENIO: What does that mean?

MR. TORRO: They updated the permit to the sewage treatment facility that was proposed and approved the plant approval so now the permit references, the new type of treatment that's going to be proposed and sets the limits that they'll have to meet in their reporting. Also an issue regarding with SWPPP and doing on-site inspections, we have been conducting those inspections and reporting and copying the town on the reports. In addition with the SWPPP, the railroad bed we have ceased doing any work out there, it's been fenced off, just a piece off Toleman Road where O & R Central Hudson still has access to the material they have but the rest of it's been closed off, they have ceased filling it, it's been seeded, mulched and it's closed down for all intents and purposes.

MR. ARGENIO: Mark, I want to get into the count with specificity in a few minutes but Jennifer, correct me if I'm wrong, the instructions were that they need to stabilize that area, that entire area, stop working on

the entire area until they had approval from this board with the exception of the bit of depositing of fill that they were doing on the far west end and they needed to comply with Mark's office in order of an inspection and any other DEC requirements to deposit that fill. Is that about correct?

MRS. GALLAGHER: That's correct.

MR. ARGENIO: Larry, go ahead.

MR. TORRO: There was an issue regarding the AT&T easement in here and the work that was conducted. We received an e-mail from their field representative that was forwarded on to Mark and Nicole as well that they take no exception to the work that was done in that area.

MR. ARGENIO: I believe I have a copy of the letter or e-mail, I forget what it was.

MR. TORRO: There was the issue of Orange County Health Department approval for Phase I of the project. We have received their approval, unfortunately, the gentleman that has to put the signature on it will be in tomorrow morning but I do have a letter that everything that has been satisfactorily addressed and near ready to approve from the Department of Health. That basically outlines I believe most of the major issues that were open. The plant as you may know we have got it up and running for all intents and purposes, right now they're working out the kinks, set the limitations on the effluent and we're moving along with that.

MR. ARGENIO: Is the generator installed?

MR. TORRO: They have a generator on site.

MR. ARGENIO: That's not what I asked.

MR. TORRO: There's a generator on site, there's not one installed specifically at the treatment plant.

MR. ARGENIO: What else do you have? We'll get into that in a couple minutes.

MR. TORRO: I believe that's it.

MR. ARGENIO: I'm not going to read it, notice of the

public hearing, guys, we normally don't keep public hearings open spanning multiple meetings, there's reasons that we did do this. So what I'd like to do unless anybody has a pressing issue, members that is, I'd like to open it up to the public, see if there's any additional commentary and then we'll send it back to the members and we can continue our review. So at some point in time at a prior date notices were appropriately sent out based on a list Nicole received from the assessor and we engaged in a public hearing. The public hearing was held open at a prior meeting and this night is the continuation to have that public hearing. If somebody would like to speak for or against or comment on this application, please raise your hand and be recognized. No? Seeing no hands, I'll accept a motion we close the public hearing.

MR. BROWN: So moved.

MR. VAN LEEUWEN: Second it.

MR. ARGENIO: Motion made and seconded that the Town of New Windsor Planning Board close the public hearing on Brittany Terrace. Roll call.

#### ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: I do want to get into a couple things for the benefit of the planning board, for the benefit of the other members I think I sent an e-mail out light years ago about this, there was a lot of commentary being made from some folks up on Toleman Road at the public hearing about alleged basements being flooded, things of that nature, yards flooded, people who lived there for a long time and suddenly now that Mr. Kean or his daughter or whoever owns the park is doing the work, Donny, I'm not sure who it is since they have been doing the work it's caused problems. So because it was so pressing, I did a site visit out there, I went out myself on two separate occasions, one time immediately after the meeting, one time subsequent to that. I did walk the property, I walked the length of that proposed road, I walked back through the trailer park and on one occasion, I think I did meet with

Donny, Donny, what's your last name?

MR. OLSON: Olson.

MR. ARGENIO: Who's a relative of Mr. Kean's of some sort and he walked me through the property. I also asked Mr. Edsall to go out there and take a look to verify my findings and as brief as I can say it those homes on Toleman Road are probably 10 to 15 to 16 feet higher than anything Mr. Olson is doing there. Mr. Olson being the resident construction expert/general contractor for Brittany Terrace, I don't want to speak for you, Donny, but I see you working there.

MR. OLSON: I was with you.

MR. KEAN: You accurately described him.

MR. ARGENIO: Mark, is that a correct characterization in spite of all the other business those residences are 10 plus feet above Brittany Terrace?

MR. EDSALL: Yeah, I went out obviously John Szarowski from my office has been going out on the issue of the storm water compliance and has been working with Larry on bringing that aspect of what's been happening into compliance with the Town Code. But separately as you indicated you requested I go out myself and take a look at it and I agree with your observations, I saw no way that the work that they were doing on the access road would create a drainage problem or flooding uphill.

MR. VAN LEEUWEN: Don't flow uphill.

MR. EDSALL: Obviously, there was, they've cleaned it up tremendously since my visit because I have been back a couple times and it's even better than it was when I went out.

MR. ARGENIO: Let's expand on that a little bit. There was some things dumped there that shouldn't have been there and Mr. Olson admitted that to me, somebody snuck in and dumped some old culvert pipes, some mattresses, other couches, stuff like that Mr. Olson did clean it up, I went out there right away because there was such a cause for concern at the public hearing it's certainly a pressing issue important for us to know what's going on and I thought firsthand viewing it would have been the best way to do it, that's what I

did and I think I sent all you guys an e-mail, I think I did subsequent.

MR. VAN LEEUWEN: Water goes on my property, I'm right next door to it, it goes on my property.

MR. OLSON: We all share, we're friendly.

MR. VAN LEEUWEN: Yeah, you're very friendly.

MR. ARGENIO: That's the natural course, northerly course.

MR. VAN LEEUWEN: I didn't argue, did I?

MR. ARGENIO: The water's not going to run uphill to the west so having said that, Mark, would you please for the benefit of the members of the board refresh us, refresh our memories about the count? There originally was X units approved, they are now proposing, they now have this many units and they are proposing this many units in this phase and that many units in that phase, please elaborate just a bit if you would?

MR. EDSALL: Again, this is based on my records, the best of my understanding some of this history goes back to I think sometime when I was in probably elementary school so it predates me a bit but originally--

MR. ARGENIO: What's that say about Mr. Kean?

MR. KEAN: Well, I'm almost the senior person in the room.

MR. EDSALL: It did go back to 1968, some of the history in my file that they were authorized up to 275 units.

MR. ARGENIO: Two hundred seventy-five units is what they were authorized for back in 668.

MR. EDSALL: Subject to a plan demonstrating that they can lay it out and make it work, 68 along the way, they currently have 77 units along the way.

MR. ARGENIO: They currently have 77 active pad sites?

MR. EDSALL: Anything that you say, please tell me.

MR. KEAN: We have vested rights for 275.

MR. OLSON: No, the question was 77 units active, correct?

MR. EDSALL: So around 2000, 2001 they came in and asked for an additional 170 whatever units existed back then which would have put it not up to the 275 short of that but--

MR. ARGENIO: Close to it.

MR. EDSALL: Short of it, close to it and when the planning board said fine, give us a plan that shows us that you can meet code for water distribution, storm water, whatever else you need get it in we'll look at it. They have progressed since then and now instead of proposing the 170 they're proposing a total of 96 over three phases.

MR. ARGENIO: Ninety-six total of three phases including a total quantity of 96?

MR. EDSALL: Ninety-six plus the 77 that exist.

MR. VAN LEEUWEN: I was just going to say that.

MR. EDSALL: That's where we're at now. I'm sure there was a lot of iterations in between but that's the thumbnail.

MR. ARGENIO: So Phase I will be 10 unites, Phase II will be 38 units and Phase III will be 48 units totaling 96 units?

MR. EDSALL: That's my latest understanding.

MR. ARGENIO: What do you have to add to that?

MR. TORRO: Correct, that's all.

MR. ARGENIO: So you're working on your sewage treatment plant which is the biggest concern for me as a neighbor and your water. So currently you have, I don't want to speak to you, tell me what approvals you have for your new sewage treatment plant? Was it approved for service Phase I and Mark follow on this please, is it approved to service Phase I only, Phase I and II or all three phases?

MR. TORRO: It's approved to service 10,000 gallons per

day, phased with the existing units and Phase I it covers it.

MR. ARGENIO: So the Department of Health has authorized you under your current sewage treatment plant to operate the 77 units you have plus 10 units which is a total of Phase I, is that correct?

MR. TORRO: Not exactly. Just to clarify it, the DEC does not get into number counts and number of units we're allowed to have and not have, they strictly look at the flow that's being processed and being approved. Any unit count issues is really a planning board decision as opposed to decree that they told us, that's not their jurisdiction to say X number of units.

MR. OLSON: If I can speak, what they said again numbers weren't the issue, they have no fear or no, there's no concerns with the 10 being approved or some more but they will not commit to a decision you make. Ten is a safe, easy number and the number will always be the issue, 10,000.

MR. CORDISCO: Mr. Chairman, if I may, you know, I think I do recall seeing SPDES permit for this but I think that what it does is it just clearly says that it has a daily flow that's being permitted so you're absolutely right, Mr. Torro, is that somebody has to do the calculation to see what the existing flow is from the existing units and what the additional anticipated flow would be from the new units, to say how many of those units, how many new units could be brought on line before you reach.

MR. ARGENIO: What's the flow for 87 units?

MR. KEAN: We meter the water twice, each home has its individual meter exactly the same meter that the town uses, we meter each home, get monthly totals plus we take a daily reading on the, with the master meter for the entire community and we match them up at the end of the month, make sure that we don't have leaks and things like that. The average use in a per home per dwelling unit per day runs around 70 gallons.

MR. ARGENIO: So 70 times 87 is what, somebody do that math?

MR. KEAN: It's 6,300 gallons for--

MR. EDSALL: The 10,000 divided by the 87 proposed total after Phase I is 115 gallons per unit.

MR. ARGENIO: Your number is?

MR. KEAN: Seventy.

MR. ARGENIO: So you have the capacity for Phase I. What are your plans for Phase II and III?

MR. OLSON: Don't overextend the capacity.

MR. ARGENIO: Well, when I say that--

MR. KEAN: We're building another plant, we're expanding a plant.

MR. ARGENIO: I want to ask of Larry cause it's a little bit of an engineering question, so it's your intent now to build out Phase I?

MR. TORRO: Correct.

MR. ARGENIO: And you cannot build out Phase II or you will not build out Phase II until you do an upgrade to your sewage treatment plant?

MR. TORRO: That's correct.

MR. ARGENIO: Go ahead, Mark.

MR. EDSALL: No, we're just talking from a record keeping standpoint so there's something in the file with regard to water usage because you're a private, but a water supply company, I'm assuming you have to send reports in to the Health Department on a regular basis?

MR. KEAN: That's correct.

MR. EDSALL: As part of that is there not reporting on the water usage, the readings?

MR. OLSON: Anything you ask for we can provided.

MR. EDSALL: It might be worthwhile not to question their 70 gallons per day per unit but if they have been turning in records for whatever history of time even if we got the last year's records we would have it documented what they're reporting to the Health

Department as far as water usage for the existing facility.

MR. ARGENIO: Health Department says your proof of this many gallons but we're not going to do the math, somebody else.

MR. EDSALL: DEC.

MR. ARGENIO: Under the SPDES permit.

MR. EDSALL: But we've got a situation here where the Orange County Department of Health monitors their water supply system and their water usage, if they can provide those records it would be something in documentable form to show the board to verify what we're hearing.

MR. CORDISCO: That way you can see what percentage of the 10,000 gallons would be consumed by the existing units that are out there.

MR. ARGENIO: I understand, I don't want to see it, maybe the other members do but I would like you to look at it, Mark, and make it as part of the record, do the math and then we'll know, the town will know that we're, at least pick a number, Howard, 80 percent of capacity, 90 percent of capacity, whatever the case may be?

MR. EDSALL: Larry, can you work on a cover letter that shows the 12 month running history and show that the crosscheck that you do with the individual meters just to show us the fact that you've gone very much forward to monitor water usage and the real numbers. That way, we don't have to presume to use DEC guidelines numbers we can use your real numbers.

MR. ARGENIO: If any guys have anything else, Danny or Henry or Harry or anybody, let me ask you the next question when will the sewer plant be online?

MR. KEAN: It's online now.

MR. ARGENIO: It's online and functional now?

MR. KEAN: We have the--

MR. ARGENIO: New facility?

MR. KEAN: Yes.

MR. OLSON: If I can speak, we have an output disk, we have an input where 2,300 gallons on an average according to metering and according to the hired outside operators and we're way below the threshold but as Mark said, you need to see that. But we're diking and we made some, we have to actually our disk couldn't read because we're such a lower number.

MR. ARGENIO: I'm okay with all that.

MR. OLSON: We have all the calculations and it's up and running and DEC's overseeing it and the paperwork faithfully is done monthly by an outside contractor.

MR. ARGENIO: Look, I don't want to get hung up on things, that's fine. So my next question having said that is to Paul, have you noticed any odor cause I haven't?

MR. BABCOCK: No.

MR. ARGENIO: Cause I haven't noticed anything. Now we've not had a lot of rain, Franny, I'm talking to Paul Babcock in the audience, he's a neighbor, he lives closest in this whole room, he's probably the guy that lives closest to this facility, other than maybe Mr. Kean or Mr. Olson. I have not noticed it. You have not noticed it either?

MR. BABCOCK: Usually it's in August, you know, in the hot months.

MR. ARGENIO: So the facility's online, all approved DEC, et cetera, et cetera to do any expansion to build out Phase II and Phase III, you're going to have to go get approval from DEC to expand the sewer plant, okay, all good.

MR. VAN LEEUWEN: Get approval for it tonight or whatever we're going to do.

MR. ARGENIO: Except the plan, but this is the area for tonight so my question to Mark and Dominic is that after this evening or whenever they do get approval, what other than the building permit requirement, how do we verify that the sewage treatment capacity has been increased for when they want to build their additional units?

MR. EDSALL: If you take any action tonight, it can only be relative to those areas that have all the necessary outside agency approvals which would be Phase I only, they'll have to come back for Phase II and Phase III either together or separately.

MR. CORDISCO: And that actually tracks the original approval from God knows when it was, is that the original approval was for a total number of units but the first phase was only permitting a certain number of units that were based on what the capacity of the sewer plant capacity could handle at that time.

MR. OLSON: That's one hundred percent correct.

MR. ARGENIO: Yes, Mr. Kean, you're dying to say something.

MR. KEAN: Well, I've been and we're asking you to accept the plan, we have already got the approval, we already have approvals for 275 homes.

MR. ARGENIO: You know what you need to do? Tell you what you need to do. You need to back up with that and I'm going to tell you why because you're treading on ground that's behind us. You do not have the benefit of being present at the last four meetings, three meetings that we've had with April and Mr. Torro and other folks.

MR. KEAN: Okay.

MR. ARGENIO: I'm making a suggestion to you.

MR. OLSON: I heard consideration of--

MR. ARGENIO: We're very much aware of the history, that's why I wanted to have Mark refresh everybody's memory, we have discussed it and discussed it and discussed it, the history, the old approval, the plan that couldn't be found neither by you or the town but we can find black and white in the town records where there was 275 units approved at some point in time. What you're proposing now is much less, all that's behind us, Mr. Kean.

MR. KEAN: We're submitting these plans, I want the ability to come back to this board at some future date, not next week, not next year, maybe five years from now

and apply for the full 275 total rebuild, redesign, that's what I want.

MR. ARGENIO: I can't help you with that here tonight.

MR. KEAN: Well, maybe you want to assuage my concerns, what would be the process?

MR. ARGENIO: The process would be to go through the process, the process would be to develop a plan and Mark, go ahead.

MR. EDSALL: The bottom line is unfortunately for Brittany, it's a moving target because the 275 was authorized as what you have the right to develop but didn't have a plan how to develop it.

MR. KEAN: Town was given plans on six different occasions.

MR. ARGENIO: You want to have that fight tonight, we'll have that fight tonight. You know what? We're not going to have, we're not going to have an argument tonight. Listen, listen to me, Donny, listen to me. I'm the chairman, I'm running the meeting. Okay? You'll have your chance to speak, no problem. We're going to exchange information, that's what we're here to do, we need to gather the information to make the best decision that we can. But it's going to be in an organized fashion, I promise you. Let Mark finish, please let Mark finish.

MR. EDSALL: The same as The Reserve, Mount Airy Estates as they had actually stamped plans approved, however, they couldn't build out as they originally planned because laws change, things change, the storm water regulations of the State of New York change and the bottom line is they had to modify their plans and lose units because even if the town gives you the right by zoning to build a certain amount of units that doesn't mean you get a pass from other state laws. So this applicant is being treated no different than other developers that had old authorizations or approvals that were subject to laws that changed because you didn't build when you originally got the okay. If you wait 40 years, 30 years the laws change, that's happened to The Reserve and Mount Airy. And it happened here. The bottom line is right now the overall development of an additional 96 units has been reviewed from a storm water basis and we have written

off on the SWPPP. They can reopen the door again, let's say they get all 96 units built and decide to come back to this board 10 years from now and ask for up to 275, the board will have to consider it again but I can tell you right now the storm water regulations have changed twice since this was originally started, if not more, three times maybe.

MR. CORDISCO: Yes.

MR. EDSALL: More and more regulations from the state make it less and less likely that you're going to get the development you want. So if you reapplied at this moment for what's on the plan right now the regulations are totally different and more restrictive. So the bottom line is we can't predict what laws will be in place 10 years from now.

MR. ARGENIO: What we're trying to do, Mr. Kean, and this thing has moved along based on us the Planning Board's review of this plan on its own merits.

MR. KEAN: Yes.

MR. ARGENIO: I concur.

MR. CORDISCO: It's a bit confusing to me that I might add, Mr. Kean, like what you're suggesting is that you're asking for approval of this plan which--

MR. KEAN: I'm asking for acceptance of the plan.

MR. CORDISCO: Understood. If I may speak now. Yes, I would appreciate it. You're asking for approval of this plan which is replacing a lost plan, a plan that everyone has lost and this plan meets the current requirements for storm water, it's being reviewed for fire safety as well and yet you're also asking to preserve your right to come back with a full plan showing 275 units. Now setting aside the fact that it doesn't seem feasible that 275 units could be shown on this piece of property and still meet storm water requirements and fire safety requirements, it appears to me and this is just my opinion but I'm hired for my opinion is that you're trying to have your cake and eat it too. I mean, because I think you're either going to get an approved plan that's recreating a lost plan that also has the benefit of meeting all the current requirements which you would have had to do in any circumstance because even if, even if you had your 275

unit plan written on a piece of paper but hadn't built those units and you came in, you still would have to comply with storm water, you still would have to comply with fire safety.

MR. ARGENIO: So it's not like, Dominic, you're saying it's not as simple, well, that plan, here it is, I have it, it's grandfathered in, I don't care what's evolved over the past 20 years, I'm allowed to build it cause I have the plan. That's not the case.

MR. CORDISCO: That's correct. And let's say, let's play that out, let's say somebody found that plan, you know, in the corner of Town Hall or somewhere and came out with it, you still would have to comply and the effort that you're undertaking to this point is to show a plan that's feasible, buildable and compliant with today's requirements. So I think at the end of the day when this board acts, you're going to get an approval that reflects that but then, I mean, you can say whatever you want in terms of reserving your rights for 275, but I, my advice to the board would be to, the process has been what we are going through right now to get you to this point.

MR. ARGENIO: Donny, I cut you off.

MR. OLSON: You know what it's really hard for me to be in the middle of a mess but the feasibility and the, actually, just it's so cut and dry that you can't have your cake and eat it too and I want more, all right, I want but I want the best that we can get and I realize that throughout the course of with these new drainage laws and the green laws and such they're taking more property and giving you less but the bottom line is you can't change that and what was written or said or spoken about whether it's lost or even not in anybody's possession, it's only going to happen the way everybody else, we're not, we're not different than anybody else, it's going to be what it's going to be. He has a great argument, he has the right to be, to want that number or what have you but the bottom line it's not going to change if we go and go and go and that's why Larry's hired, that's why this whole family needs to agree on whatever happens in the best interest of--

MR. ARGENIO: Let me share with you, I want you to understand that the planning board is an administrative body. As my predecessor used to say before me, we don't have the ability to tell you if you can or cannot

do it but we can tell you how to mitigate things, how to build it, right, how to follow the law. Donny, we follow the law, we're administrative so it's not like Mr. Kean who I happen to think very highly of, I mean, I've known him since I moved out on Sesame Street, it's not like his argument is good, he gets the approval, if his argument's bad, he doesn't, that's not how it works. The law is the law and you have to comply with the law. Now your attorney or your engineer Mr. Torro has done what I think, I think he's done a fine job, I don't know if the other members agree.

MR. VAN LEEUWEN: I agree.

MR. ARGENIO: But it seems as though he's done a good job on the plans. There is a bit of a mess out there and Donny you did a good job squaring it away and getting the thing up and running, getting the project back on a track as it were, back on track, getting the stop work order lifted and it seems as though you're on track but Mr. Kean, this is directed towards you, to come in tonight and tell this board that you're reserving your right for 275, let me finish, you're reserving your right to develop 275 units, to tell you I have two responses, one is if you want 275 units we'll fold these things up and we'll give you to Nicole and we'll call it a day and you and Mr. Torro can go back to the drawing board and as Dominic said craft a drawing that lawfully is within the parameters of the State and Federal Laws and Local Laws, shows 275 units and we'd be happy to review it and move forward or in the alternative what this board has in front of it is a plan for 96 plus the existing 77 that are there and we'll proceed with the review of that.

MR. KEAN: Let me clarify, I concur with everything that Mark and Dominic said, absolutely, in today's world to put 275 homes on there would be arduous to say the least, okay. What I would like to be able to do is to let's say fine tune this plan and perhaps find room for eight or 10 or 15 or 20 more homes if I'm able to do that, what would be the procedure to bring, to come back to you folks?

MR. ARGENIO: Okay, what you just said to me is different than what you said to me 15 minutes ago. You said you reserve your right for 275 and that's okay. Now, Mark, if I misspeak, I want to be corrected from one of the professionals, if that's the case, if you think somehow this can be reconfigured to have another

unit or two units or 22 units or 42 whatever it is you should do that. But you should also know something else, you should also know something else that there's other background development out in that area that this board has to consider background development, the Orleans development up the road which is not developed yet, the other development in the other direction to the south on the other side of the railroad trestle which is not developed yet but I think they got approval at the last meeting so as time goes by the snapshot of Station Road changes.

MR. KEAN: Okay.

MR. ARGENIO: And it's certainly possible that at some point in time there may be substantial traffic mitigation that may need to be done up there, some safety modifications, I don't know, I don't think we're there yet. But I can tell you that I don't have to tell you, you live out there, it's the development up on the top of Kings Road, there's the Orleans development which is I don't know how many lots, 20 lots or so, so you asked me a question what would I have to do, you'd have to take this plan, get with Mr. Torro and start drawing. Mark, am I misspeaking here?

MR. EDSALL: No, but I have something to add once you're done.

MR. ARGENIO: I'm done.

MR. EDSALL: Just to get back to the fine tuning, add eight more, 15 more, 20 more units, my only difficulty with that is that if Mr. Kean is speaking of adding units to other areas of the site that aren't shown for development now it can be handled as another application, an amendment. What it can't be is an exercise in build it as you want in the field, once the planning board approves a plan, the plan has to be built as per the plan. If you want to change the layout in Phase II and III I would believe that that may open Pandora's Box on the storm water because as we talked earlier--

MR. KEAN: You'd have to re-do the storm water.

MR. EDSALL: Not only redoing it as Larry will explain to you we urged you to get your storm water done I believe it was in 2009, late 2009 cause the regulations were changing the following spring in April, you missed

that deadline so that means you had to now design based on new guidelines. We worked with you to get all three phases reviewed and okayed for storm water based on the regulations in effect at that time. Well, guess what, they changed again. So that means I'm not quite sure that if they want to re-work this site, if they have to redesign based on the current regulations, you might look to get 20 in but lose 20 for storm water.

MR. KEAN: Migrating regulations indicates that the latest 101 I think is the number on it obviously supersedes the previous one but people who have not built yet even though they might be approved all the way around the block by the previous, under the previous storm water the newer one governs so they have to comply with the new one.

MR. EDSALL: Bottom line is I think that in answer to the question how to handle additional units if they're done with Phase III and they want to come back as far as reserving the right to ask for 275, it's the same as any other applicant that wants to come in and ask for anything, they can always ask for it, if it doesn't work they get told no. If that's reserving the right everybody has the right to in this town to make an application to the planning board, doesn't mean you're going to be successful because the law may not allow it.

MR. KEAN: Concur.

MR. ARGENIO: A lot of this discussion over the past 15 minutes should rightfully occur at a workshop meeting with the applicant, the engineer and the attorney.

MR. KEAN: Well, I'm sorry, I wasn't able to come to the last couple workshops.

MR. ARGENIO: Please don't take it the wrong way, I'm making a suggestions that this type of discussion is typically something that occurs at a workshop with not taking up everybody's time for this type of thing.

MR. KEAN: So it's a function of time, not a function of protocol? In other words, nothing wrong with us talking about it except that it's probably boring the heck out of most of the folks in the room.

MR. ARGENIO: Precisely that, Mr. Kean, that's all it is.

MR. OLSON: When we left the whole positive parts of this meeting it was the discussion of the sewer plant and what I heard was that in consideration of that we can have an agenda to move forward and I believe the positive part of the meeting was wonderful, the rest of it was--

MR. ARGENIO: In consideration of what?

MR. OLSON: When we talked about the 10 and the capacity and everything else is whenever happens happens.

MR. ARGENIO: I don't know what everything else is.

MR. OLSON: The concerns with the additional units, Larry, can you help me with what are we looking for the 96 was, we spoke about and was, you listened to that, the 96 and the numbers that were put out there, right?

MR. ARGENIO: What's your question?

MR. OLSON: My question is like you said, it's not wasted time, you know, questions were asked and there were answers and we all know that it's a different meeting that we have to attend to address the issues that are at hand.

MR. ARGENIO: I don't know anything about a different meeting.

MR. TORRO: Can we go to--

MR. KEAN: We're done.

MR. ARGENIO: Larry, you were going to say something?

MR. TORRO: No, I just, the proposal is for the 96 units in three phases.

MR. ARGENIO: That's what we have to look at 96 units in three phases. And I was asking about the getting back to 20 minutes ago I was asking about the sewage treatment plant and I think Mark resolved on the numbers and the quantity of, and gallons, it relates to the quantity in units, Larry's going to supply you with some data so you can--

MR. EDSALL: We have some information to review.

MR. ARGENIO: -- verify that information and I was going to go on to the next thing and I was going to say and again if you guys, I feel like I'm getting a sore throat off this meeting, I was going to ask you the last appearance before the planning board was according to my notes her 9 November, 2011 and I'm positive that either at that October or that November meeting we talked about the backup generator, Larry, and you're telling me that's not hooked up at this point in time and I'm curious why it's not hooked up.

MR. TORRO: Okay, well, originally, at the time I was under the impression we were going to have a permit on, you know, at the sewage treatment facility. We do have a portable one that stays on site that they had to put on because of the water treatment facility. So instead of having what we're looking for not to have two generators on site if it's needed for a power outage it can be kept down by the sewage treatment plant, we have a 50,000-gallon water tank more than adequate for several days supply, we'd rather keep the generator we have on site by the treatment facility.

MR. ARGENIO: By the water or sewage?

MR. TORRO: Sewage treatment facility because that there it will be needed first as opposed to the water, we have adequate water and if we know it's a power outage we're going to need an additional one to run the water, we have three or four days supply of water, we can always get another backup.

MR. ARGENIO: Whenever the power goes out anybody with a well I'm out of water.

MR. TORRO: So we'd like to go with the one on site and kept down by the sewage treatment facility.

MR. ARGENIO: How do we know, Mark, if the generator's adequate to power the sewage treatment plant?

MR. EDSALL: I don't know that.

MR. ARGENIO: I was under the impression from the discussions back in October, November that there was part of the design of the waste water plant was a generator sized and to be installed for that. So I had confidence that when it was designed for those units it would be. Right now I'm hearing it's an existing

generator, I have no idea if it's quick connect. Larry, what you're saying about the water treatment the domestic water makes sense to me.

MR. VAN LEEUWEN: How big is the generator?

MR. TORRO: I'd have to get you that information, we can check with the supplier that it's adequate for the treatment.

MR. ARGENIO: Like a Pen Power, these guys make these package generator systems when the power goes out it automatically switches on and it comes on.

MR. VAN LEEUWEN: It's a mobile generator?

MR. OLSON: It's on a trailer.

MR. ARGENIO: I don't want to have this discussion, not to tell you why but here's what should happen. We have been talking about this for literally months, the information should be supplied to Mark, it should be a fixed unit. And if you need it up top unhook it and bring it up top. But the concern was as you pointed out Larry if you have water in a column in the air you have plenty of water to flush toilets and domestic water, the need is for the sewage treatment plant.

MR. KEAN: I just want to mention the Town of New Windsor does have emergency generators for their sewage treatment plant run by the contractors, none of their generators are permanently installed, if the power outage happens at the main sewer plant for the Town of New Windsor, the people at the plant have to go physically and get the generators and move them, hook them up, just thought you'd like to know. But I concur we want emergency power down there.

MR. ARGENIO: And we talked about at length early on and I'm surprised that it's not been addressed. Mark, you have a comment about the access road up on a Toleman?

MR. EDSALL: No, you mean, well, relative to its current condition, no, like I said, they have done a great job.

MR. ARGENIO: They have done everything we have asked them to do.

MR. EDSALL: Unsuitable material, they now have a chain across the road, they have a do not enter sign there, they have graded it all out, seeded and stabilized, they're in good shape.

MR. ARGENIO: I agree with that and I've been there, not like I'm guessing, I've been there to look and they have done everything we asked them to do. They have done right, Jenn, am I correct?

MRS. GALLAGHER: Yes.

MR. VAN LEEUWEN: Are you still going to create an exit entrance to the park on that easement?

MR. KEAN: Excuse me?

MR. VAN LEEUWEN: Are you still going to have entrance and exit on Toleman Road?

MR. KEAN: Well, depends upon how many people we have, how many people want to go out Toleman and certainly it depends, I mean, that road was, we were busy building the road and we were told to stop, we were getting fill for free from Central Hudson, thanks to Donny.

MR. ARGENIO: I'm not going to go down that road, there's a lot going on around that statement.

MR. VAN LEEUWEN: Peter, do me one favor, get your damn water off my land.

MR. KEAN: I'll send you a sponge.

MR. ARGENIO: At what point in time will you be constructing that link back to Toleman Road? Because one of the discussions we had at a previous meeting was I think everybody up here agreed that that was a very wise move for access splitting, actually, that was one of the keys to the whole package was now that the access can be split between Station Road and Toleman Road that made a difference to the way everybody looked at it. What would be the timing of that?

MR. KEAN: I can't answer the question. We need more fill if we have to purchase fill, it's very expensive so it might be two years from now, I can't tell you, I would like to say next week.

MR. ARGENIO: You don't have it on your schedule as it

stands right now?

MR. KEAN: No, I talked with the DEC and the DEC tells me that even if we put a gravel road in that's considered impervious surface that's going to screw up the SPDES permit.

MR. EDSALL: If it's packed but I believe that Larry's considered the road in his storm water.

MR. TORRO: Yes, and also, I mean, as far as on the plan when we slated it to be part of Phase II.

MR. EDSALL: When you consider approval of Phase II then you just need to make sure that that obligation is part of the same.

MR. ARGENIO: Well, Harry or Howard Brown, do you guys have any other thoughts on this? Howard, I see you have something stewing in your mind.

MR. BROWN: No.

MR. GALLAGHER: No, I'm okay.

MR. ARGENIO: Dominic, you want to say something?

MR. CORDISCO: Just I wanted to comment briefly on procedural where we are at this point because obviously, the board closed the public hearing and we have had a discussion in the past regarding the fact that the project is exempt from SEQRA. In the course of business where we close public hearings no timeframes kick in because SEQRA hasn't been completed yet and timeframes only start once SEQRA's completed. But in this particular instance, if SEQRA doesn't apply then technically timeframes start and the timeframe being 62 days for the board to make a decision. However, it's my opinion that the board is not ready to make a decision because we don't know quite yet that we have the capacity in the treatment plant to serve the 10 homes. I think it just needs to be confirmed that calculation needs to be done. So here's what I'm suggesting is that while that is being corroborated and confirmed that--

MR. ARGENIO: Be careful.

MR. CORDISCO: -- that the board, that we can handle this one of two ways, the board can either deem the

application incomplete pending the receipt of that information or the applicant can extend the board's time to make a decision while that material's being confirmed.

MR. ARGENIO: Well, I think there's two things here, let me comment on what you just said. The applicant is most certainly incomplete, we'd have to go through the formality of that and the reason I say that for the benefit of the members is that those calculations they should be verified by Mark, I think that's important and Mr. Kean, you weren't here early on, April was here, Donny, you were here on and off but one of the big concerns amongst the neighbors was the odor, I mean, it smells. But I think my opinion, only my opinion is I think that I have heard enough information from Larry who's certainly a capable engineer and I don't know, I think Donny may have spoken a few times, I think I'm convinced that the methodology and the size of the new sewage treatment plant I think is going to correct it and at some point in time somebody on the other side standing with you guys might have been April I'm not sure who it was gave assurances that if there's an odor, call, we'll take care of it. I don't know what that means exactly but that's what everybody's focused on.

MR. KEAN: I agree.

MR. ARGENIO: So I think we need to verify that information. The other thing is and this is a little disturbing for me is this generator business. And I don't want to have a debate about it, Donny, with you, I certainly understand how generators work, plug in, plug and play, et cetera. I also just installed a giant I think almost 50 kw generator at the Dutchess County Airport when the power goes off, the switch closes that thing first right up and it, that type of thing, that's probably a little bit more than what we're talking about here. I think the concern of the board and I don't want to speak for everybody but the sense that I got from the other members was that from what we heard from the public everybody wants to be assured that in the event of a power outage you have effluent coming from the park and it continues to get treated and that's why the generator thing came up, that's why it came up. So I think it's most certainly the application most certainly is incomplete because those two components are missing from the application and none of this is, none of this is new stuff, this is

not brand new stuff that we're being obstructionists or we're doing regressive reviews, we're not going back to the traffic issue, we're trying to look forward and move forward. In addition, it was my understanding obviously wrong understanding I think I got this from Mark Edsall.

MR. EDSALL: I always try to mislead you.

MR. ARGENIO: I'm sure you got it from somewhere was that the original discussions and I will give you a moment Mr. Kean, just let me finish on this application, were that this set of plans that I think was started by Mr. Shaw, Greg Shaw the engineer and then it went to Mr. Torro, this was the set of plans when you came tonight and you first off started to say you want to reserve your right to go to 275, you're not waiving that right by us reviewing this plan then you backed up a bit and you said well, if we can reconfigure and get possibly more units and you used the number of eight or 10 is that possible. All of this is a shock to me and I'm sure it's a shock to the rest of the board because this application has been in front of us for months and months and months and at no point in time until tonight when we're very close to finishing this thing up did anybody bring up the possibility of additional 58 units. If you're talking about additional units, they should be on this drawing that's in front of this planning board. I'm sorry, Mark?

MR. EDSALL: No, no.

MR. ARGENIO: Did you not represent to me at one point in time that I thought somebody from Brittany Terrace said this is it, we're all set, this is the plan, this is the unit count we want, we backed up on the unit count.

MR. EDSALL: As it was explained to me the evaluation was made and I think it goes back to the initial plan again with Mr. Shaw which that was back in the days when we were saying hurry up because the storm water regulations are changing that the evaluation is being made to maximize the development that could be done and still meet the storm water regulations in effect as well as meet their fire code fire access requirements. And this is the best we can do but--

MR. ARGENIO: From a quantitative point of view.

MR. EDSALL: Yes, that was my understanding as well.

MR. ARGENIO: I thought it was you that gave me that impression.

MR. EDSALL: That was what I told you as a result of what I was told.

MR. VAN LEEUWEN: I felt the same way that that was forgotten, this is what's on the table, we get this approved, we're satisfied, that's how I believed the situation was.

MR. ARGENIO: Hands down I agree with you, that's the impression that I had. Dominic, Danny, do you have anything else? Did I hit everything?

MR. GALLAGHER: Absolutely.

MR. BROWN: Nothing?

MR. FERGUSON: Nothing.

MR. ARGENIO: Do I need to go around the room on this thing, this incomplete?

MR. CORDISCO: I think you should have the motion, declare the application incomplete, I mean, it's not a question of being able to get them back on the agenda quickly and finalizing this particular issue but I think that legally that my advice would be to take the motion.

MR. VAN LEEUWEN: So moved.

MR. ARGENIO: Mr. Van Leeuwen has made a motion that we declare this application incomplete at this time. Is there a second?

MR. FERGUSON: Second it.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Here's where I think we are with this, here's where I think we are, Mark, correct me if I misspeak, members correct me if I misspeak, I think that this thing has moved forward leaps and bounds over the past six or eight months, 10 months, leaps and bounds. Mr. Torro you have done a fine job, Donny, you have done a fine job out there. You responded to everything we asked. But there's a modicum of self-help on your behalf, in other words, you needed to do what you did and you did a good job, you did what we asked you to do and you brought yourself in compliance that wait, DEC's not going to drop a hammer on you, the town is not going to drop a hammer on you, you did a fine job. I think you're very close, please, I would ask and I will give you a minute, Mr. Kean, I would ask that you complete the last few things that we spoke of, submit the data to Mark, let's get squared away on the generator which should be let's get the counts for the quantity of units and the gallons per day, give Mark the information, Larry, please so he can develop a correlation between those numbers. And Mark, did I forget something?

MR. EDSALL: Third item by the time they return we should have the final approval from the Department of Health.

MR. TORRO: Well, yeah, I mean--

MR. ARGENIO: I have a letter, don't waste your breath.

MR. TORRO: Just two minutes, just to clarify the water issue on Phase I.

MR. ARGENIO: I'm not aware of a water issue.

MR. TORRO: No, no, the gallons per day per unit and I lied, I was under the impression this is as far as we go down the road, just so that you know the engineer's report that went to the DEC.

MR. ARGENIO: I want to let you finish but what you were looking for tonight I think was approval for this site and approval to go ahead with Phase I?

MR. TORRO: Right.

MR. ARGENIO: So it's very germane for tonight's discussion the quantity meaning gallons or quantity of units, it's very germane.

MR. TORRO: No question about it. In their approval of the treatment facility, we told them we had 77 units and 10 in Phase I, 100 gallons, they assigned, we assigned 100 gallons a day per unit, that's 8,700 gallons a day, it's a 10,000 gallon a day plan, we cover the 10 units, the health department asked for the same information to justify the 100 gallons per unit on site, they accepted the information. I'm not saying that Mark isn't entitled to it, I'll get him whatever he needs, the two outside agencies accepted the 77 units, the 10 units for a total of 87 on the treatment facility so in my mind, my concern is incomplete, that's just one that could be checked off Phase I of this.

MR. ARGENIO: Mr. Torro, I have to tell you I'm not in entire disagreement with what you just said but I'm, we also have the generator issue out there that's been spinning for months, okay, and with this application there has been a level of gray and unclarity that's followed this application that existed long before you or I got involved in this thing. We're going to be clear and we're going to be concise, I think there's wisdom in that, you know, what that does it protects you, Mr. Kean as much as it protects the town. We're not talking about five months here, I give you my word Mr. Kean, Mr. Torro get this stuff to Mr. Edsall, get you on the first available agenda that's not six months from now, I will guarantee you.

MR. OLSON: If I can just piggyback on his, the generator was a generator on site compatible and we answered that request, we did, and what we did was what worked for us and yes, we do and I'm not trying to change things.

MR. VAN LEEUWEN: Don't do it, you're going to mess it up.

MR. OLSON: There's a generator and we'll answer, we'll stabilize.

MR. ARGENIO: Mark, so you know what this planning board is looking for and correct me members if I misspeak, we're looking for a generator of sufficient size to power that sewer plant, I don't know if it's a big deal if it's diesel or propane, I don't know that it makes a big darn difference quite frankly but it should be of sufficient size to power that.

MR. EDSALL: Yes.

MR. ARGENIO: I think it should be mounted there.

MR. VAN LEEUWEN: I agree.

MR. OLSON: That's the question I need answered.

MR. GALLAGHER: I was under the assumption that we were getting a standby generator on a pad.

MR. ARGENIO: That's what I think it should be. You guys certainly have to agree that is not an unreasonable request.

MR. EDSALL: I don't believe it's unreasonable, I can check that.

MR. OLSON: Now and it will start up periodically and make noise.

MR. ARGENIO: Yes, it will.

MR. VAN LEEUWEN: Every week it starts up by itself.

MR. ARGENIO: Whatever the manufacturer recommends.

MR. EDSALL: Can I pose one question to Larry? Larry, what is, and I apologize cause I don't remember what the tables say, what's the standard flow for these type units in the DEC tables?

MR. TORRO: I know it's higher than 100 gallons per day per capita.

MR. EDSALL: Probably higher than 115. So the reason I ask that question just to make the record clear DEC has said we're going to permit this amount of flow, Larry posed a scenario where their use is less per unit than what's in the DEC tables and the DEC effectively didn't object, they didn't say you're okay, they didn't object.

MR. ARGENIO: They said here's what you're allowed.

MR. EDSALL: In this particular case because they're asking for the town to accept the lesser flows than what are in the state guidelines, we need to have the same documentation, that's the bottom line, I mean, if

this was a new project, new plant, new everything we would use the tables, we wouldn't have the benefit of the flow history. So to justify using numbers that are different than what's in the state guidelines all we're asking for is the record to be shown and put something in the file to show help they're doing a great job out there conserving water and they're going to continue.

MR. CORDISCO: Just to put things in perspective what the DEC's permitting is what's coming out the end of the pipe, that's what they're concerned with is what the stream can handle, you know, what this board is being asked to approve is how many units can be placed out there.

MR. ARGENIO: What we're asking Mark to do is develop the correlation between those two. Yes, Mr. Kean?

MR. KEAN: I'd like to know what you would like in terms of documentation, I can give you 15 years of monthly water readings.

MR. EDSALL: If you recall my discussion not to belabor the point I asked for one year, Larry knows exactly what we wanted, unless the board thinks that's too short, I think one year is fine.

MR. ARGENIO: Year, 18 months.

MR. KEAN: When would you like to have that, Mark?

MR. ARGENIO: Can you get it this evening?

MR. KEAN: I can.

MR. EDSALL: Please put it through Larry, I want Larry to submit all the information with a cover letter, I want Larry to submit with a cover letter.

MR. ARGENIO: Get the data for the generator.

MR. OLSON: I have it.

MR. ARGENIO: And also get a manual, let me finish please, you're saying yes, you're not letting me finish, I want a shopping bag full of hundreds, oh, yeah, yeah, yeah. Donny, get the data, the manual for the sewage treatment plant in there somewhere, it will tell how much power it needs, get the manual and the generator, get it to Mark, let's do it right, get it

over and done with.

MR. OLSON: No problem.

MR. KEAN: Everything running and the sewer plant takes two, four, six.

MR. OLSON: I have it prepared, I didn't realize I needed it, my understanding propane powered, yes, it is propane powered.

MR. ARGENIO: Just get it done, we'll put you on the agenda, talk to your client about how many units he wants. Guys, thank you, that's enough.

MR. KEAN: One question, we have sold a couple of homes, obviously, everything has been delayed, we anticipated starting work on the sites next week. Since we're extending everything, since you're putting everything off, we can't do that. Is there any way we can get permission to install sewer mains and water mains and things like that?

MR. ARGENIO: How do we do that? Can't do that.

MR. KEAN: Is that possible?

MRS. GALLAGHER: No, we don't do that.

MR. ARGENIO: Mark, you keep looking down.

MR. EDSALL: I don't know how we can authorize him to begin construction on improvements and utilities that are subject to Health Department approval and that approval hasn't been granted. I know it's pending and it's real close but I don't know if we can overstep our power.

MR. KEAN: Thank you.

MR. ARGENIO: Thank you, Mr. Kean. Larry, thank you, let's get it done.

REGULAR ITEMS:

ALIYA-ZAFAR PRODUCE (11-13)

MR. ARGENIO: Next is Aliya-Zafar.

MR. GREEN: Stephen Green, LS, Engineering Properties.

MR. ARGENIO: This application proposes additions to the existing facility for more warehouse cooler expansion and retail area and office expansion. Application was previously discussed at the 14 September, 2011, 9 November, 2011 and 11 January, 2012 planning board meetings.

MR. GREEN: Good evening.

MR. ARGENIO: Where have you been?

MR. GREEN: Hiding.

MR. VAN LEEUWEN: From this board, that's good.

MR. GREEN: Actually, I've been at other planning board meetings, I'm chairman up in Liberty so I had other meetings to attend.

MR. ARGENIO: Okay.

MR. GREEN: Mr. Zafar was here last meeting with the builder, one of the builders.

MR. ARGENIO: Eric, come on up.

MR. GREEN: There was some questions, we had a meeting with Mark Edsall in reference to our drainage and some minor stuff. So Jay Samuelson from Engineering Properties discussed what was necessary with one of the representatives from Mark Edsall's office and hopefully they resolved everything. I haven't heard anything back.

MR. EDSALL: That's good news.

MR. GREEN: So we're good, our signage was added to the maps, block was moved over as requested, we separated the plans so it's a little bit more clear into the drainage sheet and regular layout. Hopefully we're

ready to go if there's no questions.

MR. ARGENIO: Are you Zafar, sir? So you have been, I think the holdup here was the storm water plan, is that correct?

MR. GREEN: We separated it and Jay went over it with Mark's representative.

MR. ARGENIO: But the holdup from then until now has been the storm water?

MR. GREEN: Right, what they did was they added in a storm water retention pond.

MR. ARGENIO: They is who?

MR. GREEN: Well, the engineer had and we located--

MR. ARGENIO: What engineer, Engineering Properties?

MR. GREEN: Engineering Properties, we located storm water retention with a weir dam to control the outflow and I haven't seen this so yes, this is what we corrected, we corrected storm water.

MR. ARGENIO: The plans depict the proper zone lines surrounding the property, however, it is noted that the C zone line just east of the property is still not shown.

MR. EDSALL: Can I jump in?

MR. ARGENIO: Please do.

MR. EDSALL: The couple bullets that need to be addressed are I'll use the word extremely minor. I just want to have them added on the final plans that we stamped just so that like the bulk table number there's a mistake still on that.

MR. ARGENIO: You want the zone line to the east?

MR. EDSALL: And importantly for Mr. Zafar's liability the handicapped parking sign is shown lower than what the code allows so that if somebody whacked their head on it, it could be a great way to start a lawsuit because the sign's lower than the code. It's five to seven foot to the bottom of the sign.

MR. MASON: That's with the assumption that they'd be in a wheelchair.

MR. EDSALL: Which is a great discussion if somebody that's not in a wheelchair rips their head open. So long and short of it you've got three very minor corrections, the storm water was resolved, thank God.

MR. ARGENIO: What was the sign issue, I remember talking about a sign?

MR. EDSALL: Handicapped sign's the only comment I have.

MR. ARGENIO: Is that what it was?

MR. GREEN: It's been put on.

MR. EDSALL: Yeah, it's on there so the details have been added, just need the dimension to be code compliant to save their liability.

MR. EDSALL: In short, I have suggested that they be very careful during construction because it is difficult on the uphill side where they show the swale, they have to make sure they reflect the storm water to get it to where it's currently running so the neighbors don't complain that they're putting the water where it wasn't before. That's my only cautionary comment on the storm water. The rest of it's fine. You do need procedurally to assume lead agency. We have not found a record that you have assumed lead agency and I would suggest that following that you adopt a negative dec.

MR. ARGENIO: I'll accept a motion we assume lead agency.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: If anybody sees fit, I'll accept a motion

we declare negative dec on this site.

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: So I have approval from fire, I have approval from Orange County. We've seen this more times than we need to quite frankly, unless my memory fails me, the storm water issue remained open from meeting after meeting after meeting with no corrections, is that right, Mark?

MR. EDSALL: It was a long term problem but I've seen it more than you have so I'll be happy when it's approved.

MR. ARGENIO: I don't think anybody here had any particular problem with the plan, we talked about the width of the sidewalk, that's now seven feet wide, we talked about the bumper block curb stops near Corporate Drive, that's been taken care of. What's this surface right here?

MR. GREEN: It's all gravel pretty much. Well, actually--

MR. ARGENIO: How do you stripe gravel?

MR. GREEN: This is paved area, this is his paved area and there's a limit of pavement.

MR. ARGENIO: Let's talk about this just for a minute, is this all paved?

MR. GREEN: Yes, this is all paved.

MR. ARGENIO: Is it paved or isn't it?

MR. GREEN: It's paved now, limit of pavement is at the edge of the building, when this gets moved forward this whole thing gets moved forward he's going to repave

that area, that's his main parking area.

MR. ARGENIO: This will be new pavement?

MR. GREEN: Correct.

MR. ARGENIO: So the cash and carry business customers will be walking on new pavement?

MR. GREEN: You got it.

MR. VAN LEEUWEN: What about where the trucks come in?

MR. GREEN: He didn't want that paved but it shows you can get all the parking in there.

MR. ARGENIO: Are you okay with that?

MR. EDSALL: Well, the left side, you're talking about the left side of the site?

MR. VAN LEEUWEN: Yes.

MR. EDSALL: That's really as we saw it the truck parking where the gravel is and in past practice because off the storm water regulations when you have non-required parking that's not customer parking, it's truck parking, you would work with them to cut down on the amount of pavement on a condensed site.

MR. ARGENIO: What's this magic that's working right here? How does that work?

MR. GREEN: Just to show you it can, the way it's going to be parking trucks when the drivers come in probably be stacked so I need, you need a way to get in and out so you have to maintain where your trucks are going to come in and out, you just can't block everybody.

MR. ARGENIO: Does that meet code?

MR. GREEN: You have the back parking and forward parking.

MR. ARGENIO: The back parking is what I'm concerned about, the access to the back parking.

MR. GREEN: They're going to be more like box truck or van.

MR. ARGENIO: Are they Zafar's trucks?

MR. GREEN: All Zafar's trucks. If the guy comes in he's going to park more than likely he's going to bring another one, stack them right in there.

MR. EDSALL: You're talking about that northwest side of the building?

MR. ARGENIO: Yeah, these two little arrows with these two little nine foot wide aisles. But I understand what I'm being told that that's going to be Zafar's parking for his own vehicles and they'll probably be stacked in there. I do the same thing in my office, we'll stack up five pieces of equipment, not on top of each other but in line with each other.

MR. EDSALL: Yeah, I envision that whole left side which would be the uphill side I think it's on the site being their vehicles and not customer or deliveries would ride right around but they'd have their vehicles stored there.

MR. GREEN: Plenty of room to go around the building and get in and out.

MR. EDSALL: Again, we're attempting to work with them to limit the amount of new pavement which would make the storm water even more difficult to deal with.

MR. ARGENIO: They're going to enclose the dumpster with masonry block?

MR. GREEN: Paint it to match--

MR. ARGENIO: Sure, the buildings.

MR. GREEN: -- the building.

MR. ARGENIO: Guys got anything else on this? Howard, you're quiet tonight, man.

MR. BROWN: Wore me out in the first one.

MR. ARGENIO: Trust me, I'm worn out from the first one, too old for this. So we have lead agency, we have negative dec. Anything, Mark, anything else, am I missing anything?

MR. EDSALL: No, it's in good shape now, I'd make it

subject to the corrections and the notes on the comment sheet and let them run.

MR. ARGENIO: What were the corrections? If I just say the comment sheet that covers it, does it not?

MR. EDSALL: Yes.

MR. ARGENIO: I'll accept a motion for final approval for Zafar Inc. site plan subject to Mark's comments, I'm not going to read them, subject to Mark's comments. You're okay with that?

MR. GREEN: I'm good.

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion made and seconded by Mr. Brown. Roll call.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Thank you for straightening the storm water out cause I know your client has been, wants to get going there.

JOHN EVANS ESTATES (12-04)

MR. ARGENIO: Next is John Evans Estates. Application proposes lot line revisions as well as the creation of an additional lot within the existing subdivision. Is this the one over on 94?

MR. SPAE: Yes.

MR. ARGENIO: Okay, tell us about it.

MR. SPADE: Hi, I'm Bill Spade, I'm the architect, Mr. Paul Fornaby is the is the owner of the property.

MR. ARGENIO: Tell us what you want to do. We didn't scare you tonight, did we?

MR. FORNABY: It's interesting.

MR. SPADE: What we're looking for is to reconfigure the lot lines on this previously approved subdivision. The last approval by the planning board was in 2006 and there are four remaining vacant lots that are the particular subject of what we're talking about tonight and we'd like to reconfigure those into five lots. The proposed reconfiguration that we're suggesting would return the configuration to the original subdivision approval from 1972, the original subdivision approval was Cornell Homes, it was I think a total of 15 lots. And over the years, it was done and Cornell Homes came in and requested the lots to become bigger and that was approved in 2006. So two houses were built, there are five remaining open lots, one by itself and these four are contiguous. The reason we're requesting this change is that the market today is really favoring smaller houses, starter homes. Mr. Fornaby has spoken to brokers in the area and they are all suggesting that the size of these homes should be in the range of 1,600 to 2,000 square feet and be more targeted to a starter home quality type of property. So the current lot configuration, the current lot sizes we felt are oversized for that size of home.

MR. ARGENIO: How many lots do you own there?

MR. FORNABY: Right now there's a total of five.

MR. ARGENIO: You own five?

MR. FORNABY: Yes.

MR. ARGENIO: So you would own the lots on the east side of Suburban Court I guess these you own these three?

MR. FORNABY: Yes, there's four, one, two, three, four, five that I currently own.

MR. SPADE: The middle one is also part of what he owns, that one would proceed, we would intend to proceed with the house on that.

MR. ARGENIO: What's the zoning for this, P.O.?

MRS. GALLAGHER: Professional office.

MR. ARGENIO: What size lot?

MRS. GALLAGHER: It falls to an R-4 zone which is one acre.

MR. ARGENIO: So 44,000.

MR. EDSALL: It's 43,560.

MR. ARGENIO: And you're 12? The zoning is 43,000, you currently have lots that are probably 15,000 square feet and you want to bring them to 12,000 square feet and, sir, the market ability of a 15,000 square foot lot as opposed to a 12,000 square foot lot, is that appreciably different?

MR. FORNABY: There's a difference and it would be more in keeping with the market conditions today to have slightly smaller homes than what was currently constructed and it would make a difference.

MR. BROWN: What's the size of the homes there now?

MR. FORNABY: They're 25, 2,600 feet.

MR. ARGENIO: You're trying to build something substantially smaller not half the size but--

MR. SPADE: Yes.

MR. FORNABY: 1,600 to 2000.

MR. SPADE: Because that's the market, the market

really isn't there.

MR. ARGENIO: I understand.

MR. SPADE: Now the fact that the current subdivision has approval by planning board has been approved twice by the planning board for the configuration of these lots, so the point you make in terms of the lot sizes those were already approved, I don't, I'm not aware that this was a zoning variance back in 2006 that was granted for those.

MR. ARGENIO: No, I'm not focusing on that component, I'm focusing on the fact that we're going from and I don't have a scale with me but visually we're going from lots that are probably around 15 to lots that are 12 to 14 and I just don't understand other than from a financial perspective how that makes an appreciable difference but it is what it is.

MR. SPADE: It factors into the cost of the home and therefore the marketability of the home.

MR. ARGENIO: It would seem to me we'd most certainly be having a public hearing.

MR. VAN LEEUWEN: It's got to go to the zoning board.

MR. ARGENIO: You're right. Mark, what do we need to do, refer this or is there anything else we need to do here?

MR. EDSALL: Yes, the bottom line is that when the Sandcastle Homes application came in a number of years ago, 2006 I guess it was, they consolidated to some extent the lots, therefore making lots larger than they were. So even if they still didn't meet zoning back then they didn't need to go to the Zoning Board cause they were decreasing the non-conformity. Once that approval stamp hit that plan that was the approved status. Now, unfortunately, they're going back and the zoning in place requires the 43,560 which means that at this juncture they're increasing the non-conformity even though it very likely could go back to similar to what might of existed.

MR. ARGENIO: You're using your words of earlier this evening from the original subdivision, original, original subdivision what year?

MR. SPADE: '72.

MR. ARGENIO: '72 to 2012 the town has changed, the laws have changed, everything, a lot of things have changed to use your words.

MR. EDSALL: And they clearly have a very good explanation to make to the ZBA but unfortunately, I don't think and Dom can correct me if I'm wrong, this board has the authority to improve something that's increasing a non-conformity.

MR. ARGENIO: No, we don't. If anyone sees fit I'll accept a motion we declare this application incomplete.

MR. VAN LEEUWEN: Motion.

MR. FERGUSON: Second it.

MR. ARGENIO: That the John Evans Estates minor subdivision on Suburban Court is incomplete at this time.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: You have been referred to the zoning board. Good luck to you. If you get your approvals, come back and we'll continue.

MR. FORNABY: Appreciate it, thank you.

HENRY SUBDIVISION (11-18)

MR. ARGENIO: Henry subdivision, 432 Beattie Road.

MR. VAN LEEUWEN: That's not me.

MR. ARGENIO: What's your name, sir?

MR. WEEDEN: Howard Weeden, I'm a surveyor. I was here a few months ago proposing a two lot subdivision on Beattie Road for my client, Mr. Henry. We didn't have enough acreage so the planning board requested we go to the Zoning Board of Appeals. Mr. Henry has gotten his approvals from the Zoning Board of Appeals for the two lot subdivision 3.2 acres. We're back before the planning board, we still have to do the soils test.

MR. ARGENIO: Zoning is two acres and you have one at 80,000, one lot at 61,000?

MR. WEEDEN: Exactly, and we still have to do the soils testing and submit it to the engineer but basically we're ready to get back on the agenda and move forward.

MR. VAN LEEUWEN: You have to do a soil testing first.

MR. WEEDEN: Yes, the original soils on this lot were in this area here when it was a single lot and it was 28 minute perc with gravelly loam topsoil.

MR. ARGENIO: It's a bad area of the town, make sure Mark you need to make sure that when you do those tests somebody from Mark's office is there.

MR. WEEDEN: That's what I was going to ask Mark.

MR. ARGENIO: They need to be there, certainly not that we don't trust you but we've had issues in the west end of the town with other subdivisions and somehow they always ended up becoming our problem and we want to avoid a problem, percs can be pretty tough in that end of town.

MR. WEEDEN: No problem.

MR. ARGENIO: So you went to the plan was previously reviewed at the 11 January, 2012 planning board meeting. So you went to the ZBA, you received relief

from the Zoning Board, is that right?

MR. WEEDEN: Yes.

MR. VAN LEEUWEN: Proposed dwelling, proposed dwelling?

MR. EDSALL: One should be proposed sanitary system, that's just a typo.

MR. ARGENIO: Mark, I don't understand your comment number three, unaware of no further action the board can take at this time.

MR. EDSALL: Other than send him with direction to get the perc test done, the next step is to get the sanitary sewer systems designed and just add on some additional information on the bulk table and I think they can come back in.

MR. ARGENIO: Why do you have the driveways so close?

MR. WEEDEN: I wanted to have the single entrance out onto the town road, I thought it would be better for the town.

MR. ARGENIO: Anthony Fayo likes that.

MR. WEEDEN: The original driveway entrance was in this crosshatched area here, I believe it was supposed to be for a future road to come in but, you know, we'll combine them here.

MR. ARGENIO: Okay, all right, why don't you get yourself squared away and we'll go from there.

MR. VAN LEEUWEN: Beattie Road Associates is in foreclosure.

MR. ARGENIO: You own that?

MR. VAN LEEUWEN: No.

MR. ARGENIO: Thank you for coming in.

MR. WEEDEN: Thank you.

DISCUSSION

FIELD CHANGE - THE GROVE GRADING

MR. ARGENIO: Discussion?

MR. EDSALL: Two quick items. The first more for the record than any other purpose. As the board is aware, the board processed and the Town Board has moved forward on a portion of what is known as The Grove property being taken back as town property. I believe it's called lot two which would be the area up surrounding the water plant. As a result of the town's acquisition of that land and some of the changes that the town has agreed to as part of that acquisition, the development plans for the portion of The Grove that's still being retained by the developer have been somewhat changed for grading and drainage, some of the retaining walls that were needed behind the buildings aren't needed anymore because the additional units are no longer being built, they're no longer part of the developed property, it's part of the town property.

MR. CORDISCO: Additional units, Phase III units?

MR. EDSALL: Yes.

MR. ARGENIO: So the developer does not want to put the walls up because he doesn't need them because he's not building behind?

MR. EDSALL: Exactly because some of the drainage problems that occurred on the lower end they have enhanced the units, behind the units so they want to add drainage which is a good thing, it involves buildings 1 through 6, 10, 11, 17 through 25, 38 through 41 and then there were some erosion control plans that changed for building 17 through 25 and buildings 38 through 41. We have reviewed them and more importantly the town board and Supervisor have agreed to allowing them to encroach as it may be via an easement into the property the town is taking to perform some additional grading to eliminate the need for the walls. I wanted the record to be clear that these things have happened and if the board has no objection we can just note that as a field change.

MR. ARGENIO: Okay.

MR. ARGENIO: Motion made.

MR. EDSALL: I think the Supervisor had a full review of the trades.

MR. ARGENIO: We're all on the same page with this, this is The Grove, they gave us back a piece of property back to the town, it's up near the water and the water tank or whatever it is, water reservoir and as Mark said because they're not developing that lot up here they don't need the walls to hold the earth up so Mark they want to eliminate the walls which makes sense.

MR. EDSALL: So we'll work--

MR. ARGENIO: Any questions or issues?

MR. EDSALL: We'll work with them on the field change and I am glad they're putting in more drainage so we don't have the problems that happened on the lower end.

VEHICLE STORAGE - JARRETT QUICK

MR. EDSALL: The second item is one that comes out of the building inspector's office and the workshop, there was a situation that arose in the building Just Shower Doors, the back part of the building on 207 near the Vails Gate Firehouse annex over in the direction there's a particular person who's leasing property, leasing a portion of the building I should say in the back of that building and is storing his personal collector vehicles in the back.

MR. ARGENIO: Where is this?

MR. EDSALL: The back of Just Shower Doors which is the--

MRS. GALLAGHER: Lease owns the building, it's across from--

MR. EDSALL: Brian Barbera. There was another leasing occupant who I believe generated problems and created complaints and when the fire inspectors went out they not only found the complaints but they found Mr. Quick who is in the back with vehicles and they thought it was an automotive repair shop. But in fact we've had him put on record that it's personal vehicles, family vehicles, he's a collector and he happens to run a funeral home and occasionally he may store some supplies there, caskets. Hopefully, we're hopeful that it's limited to such items, not anything else. But he's gone on record indicating what his use is as the fire inspector said as long as it's your property we have no objection, he's gone on record if he crosses the line and allows any other vehicles in there then he no longer fits.

MR. ARGENIO: He's renting the property from Lease?

MR. EDSALL: Yes.

MR. ARGENIO: As long as he's working on cars on his property and he owns the cars.

MR. EDSALL: That's right. There are some fire code issues internal for separation that he's going to have to deal with, he's taking care of that with the fire inspectors but from a planning board standpoint, I want it on record.

MR. ARGENIO: I'm sure John Lease will take care of that.

MR. EDSALL: But we wanted to have the planning board record clear that as long as he doesn't cross this line of his own cars and his own storage.

MR. ARGENIO: Not-for-profit repair.

MR. EDSALL: We do not believe he needs any planning board action. If he crosses the line, we're gong to send him back.

MR. ARGENIO: Are you guys okay with that? It's yours, Jenn. What else?

MR. EDSALL: That's it, thank you.

MR. ARGENIO: Motion to adjourn?

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

Respectfully Submitted By:

Frances Roth  
Stenographer