

TOWN OF GREENFIELD

PLANNING BOARD

June 10, 2014

REGULAR MEETING

A regular meeting of the Town of Greenfield Planning Board is called to order by Tonya Yasenchak at 7:00 p.m. On roll call, the following members are present: Nathan Duffney, Michael Gyarmathy, Thomas Siragusa, John Streit, Stan Weeks, Tonya Yasenchak and John Bokus, Alternate. Charlie Baker, Town Engineer and Mike Hill, Town Attorney, are present.

MINUTES – May 27, 2014

MOTION: B. Duffney

SECOND: S. Weeks

RESOLVED, that the Planning Board waives the reading of and approves the minutes of May 27, 2014, with minor corrections to verbiage as suggested by the Town Attorney.

VOTE: Ayes: Bokus, Duffney, Gyarmathy, Siragusa, Streit, Weeks, Yasenchak

Noes: None

BALLSTON MOURNINGKILL – Site Plan Review

Maple Avenue

Eric Carlson is present and states that he has made a couple of revisions since the last concept drawing was presented. He states that he originally had a 5000 square foot office building in the front and the 8-unit apartment building in the back. Since then, the lot has actually gotten bigger, 8 feet in width from 125 to 133, through apparently a problem in the surveying over the years. As a result, he was able to reorient the building in the back to get the parking across and make that parking area covered. He states that he has engaged an engineer and will be ready to present site drawings to C. Baker in about 6 weeks, if the Board is ok with the covered parking and a little change in the orientation. T. Yasenchak questions that the applicant had the property resurveyed. E. Carlson states that he did and it took quite a while to resolve. He explains what the issues were and that a boundary line agreement has been completed. E. Carlson explains that to the south the property is owned by G. Slwyka and his wife runs a hair salon in the rear building. To the north, when he bought the property and presented it, it was a single family residence and it is now owned by a corporation who he believes is starting to do a more commercial use of that land. T. Yasenchak asks what it is now. E. Carlson states it is vacant/taking deliveries of windows – he is a remodeler and is starting to use that property lightly. He does not see a lot of traffic there but it is definitely not lived in. T. Yasenchak questions that the property to the rear is owned by Niagara Mohawk or is it a right-of-way. E. Carlson states that he is not sure. T. Yasenchak states that for a formal application for site plan review, there is a list of things that we do require. This is considered a sketch plan, so we can give the applicant some informal ideas about the project. T. Siragusa questions that anything else changed other than the layout. E. Carlson states that he did reduce the size of the office building from 5000 square feet to 3400 square feet to make sure that he met the parking requirements, which he states that he does now. The other change is that the redesign actually increased the green area from 40% of the total space to 50%. With the porous asphalt section that they are proposing, they really only end up with about 8000 feet of the approximately 38,000/39,000 feet of impermeable area. T. Siragusa asks if the porous driveway is something that the applicant wanted to do or was it necessary as part of the engineering. E. Carlson states that there is not a great deal of it and they have not actually gone thru the full calculation to see if it was necessary, but they have used it in the past and been very successful with it. It should eliminate any problems with storm water runoff. T. Siragusa asks

June 10, 2014

if there is the same amount of parking as before. E. Carlson states within a few spaces, but the requirement would go down because he lost 1600 square feet of office space. T. Siragusa states that the apartment building is still 8 units and questions if the square footage is the same. E. Carlson states that it is still the same. He did back up the office building from the 45' setback line to allow for an entry sidewalk to some type of vestibule off the front of the building. He would still like to have a front and rear entrance to the building. S. Weeks asks about the roof on the garage building. E. Carlson states that it will be a pitched roof with gutters that will drain into a subsurface infiltration system. S. Weeks asks the purpose of the drywells. E. Carlson states that they will be for storm water retention, there are details to work out with storm water, but that is how they initially intend to handle it – some type of subsurface infiltration. B. Duffney questions that the leach lines for the apartment building are going into the same as the office building. E. Carlson states that both the apartment building and the office building will have their own septic tanks. They are showing two on the apartment building and one on the office building, that has yet to be calculated. Both buildings will go into a sewer treatment plant that will not fully treat the effluent, but it will treat it well enough that it can be put into a subsurface drainage system that would be smaller than an otherwise typical septic system. E. Carlson states that it will be similar to an underground storm water infiltration system. B. Duffney asks if the well is going to remain the same. E. Carlson states that there is an existing well, it has the casing required, it was tested when the Slywka property was developed and the hair salon was put in. B. Duffney asks if that well will supply the apartment units plus the office building. E. Carlson states that it will. There is not a great deal of water used in apartments. The average is about 50 gallons per bedroom per day, these are single bedroom apartments so that is about 400 gallons per day on average and the office calculation was not very much either. He believes the total was under 700 gallons per day. J. Streit asks if the issues with the survey were handled amicably with the neighbors. E. Carlson states very much so. It was more of a mistake in calculation rather than in actual land. M. Gyarmathy asks about site lighting. E. Carlson states that he has not thought about it yet. T. Yasenchak states that there is a whole list of items that the Board will need when we receive a site plan. She asks if the applicant has addressed any of the buffers and suggests that the applicant confirm the requirements with G. McKenna. The Board will be asking about signage and placement. She questions that the applicant will have a maintenance program in place for the porous asphalt as it requires regular maintenance and that will fall under C. Baker's purview. T. Yasenchak asks if they have located the neighbors' wells and septics, and that will need to be on the map. E. Carlson states that they have located them and they have the proper distances. T. Yasenchak asks about trash, trash areas, trash pickup, etc. E. Carlson states that he is not sure. He prefers not to use dumpsters. T. Yasenchak states that the Board will also be looking at a landscaping plan. She states that she wants to verify that this will be office and not commercial. E. Carlson states that it will not be retail. C. Baker asks if the applicant is talking about garages. E. Carlson states that they will be enclosed and one of the stalls will be used for the water treatment area. He will have 24 parking places. If you do the actual calculations he might be required to have 27, so he might be 3 short and he has read the code and believes that that can be waived by the Board.

GALE & WILLIAM HIKA – Site Plan Review

Lake Desolation Road

Gale Hika is present and states that she is currently the owner of the Middle Grove Post Office building and existing apartment, which will be converted into an eatery, 30 to 40 seats, they will be open 6 days a week from 6:00 a.m. to 2:00 p.m. She is working on a parking area now. She owns a lot next to the post office that she would like to join and that would be 60 x 60 and hold up to 14 cars. She is required to have 10 spaces. It will be leveled, have fabric and recycled concrete. She is working with DOH regarding other codes and requirements. The only interior renovations are to remove one wall and make the bathroom handicap accessible. T. Yasenchak states that this project is also before the Zoning Board for an area variance for the total acreage requirement. The Board can discuss both of those at this time. T. Yasenchak explains that until the applicant has an area variance, the Board cannot give a decision. We will need a little

June 10, 2014

more detail for the site plan for the layout of the parking lot and the building, there may be engineering issues as far as drainage, etc., that will have to be addressed. M. Gyarmathy asks that the applicant is going to be doing breakfast and lunch and will be making sausage, etc. G. Hika states that her brother-in-law owns the former Corner Post and is planning on joining her and they will be planning on selling the sausages, etc., again. It will be like a little country store and the eatery. M. Gyarmathy questions where the entrance is. G. Hika states that the front entrance will be at the top of where the ramp currently comes up for the Post Office and then there is one about 15' down on the south side of the building. M. Gyarmathy asks about outside lighting. G. Hika states that there will be a light over the new door and there is existing lighting on the front porch. S. Weeks states that he would like to see a better drawing with more detail. T. Yasenchak states that the applicant should go to G. McKenna who can show her examples of other projects and what the Board needs to see. It is also in the code book. T. Siragusa questions that the eatery is going to be where the apartment is so the dimensions of the overall building are not going to change at all. G. Hika concurs. T. Siragusa asks about the well. G. Hika states that there is a well, which used to handle 2 mobile homes, the apartment and the post office. The mobile homes are gone. The septic also served all 4. She states that she will be testing with the DOH. C. Baker states that we will need more detail on the septic and well. It looks like the applicant will have what is referred to as a non-community, non-transient water system because they are anticipating serving 40 people per day so that is going to require permitting from the DOH. G. Hika states that there is already a filtration system on the well. She states that she is very familiar with this as she has been in the business for over 40 years, has a long history with working with food service and is very familiar with the DOH, etc. C. Baker states that we will need to see what is there for a septic system and what it is sized for. It might have been good 30 years ago, but a lot of things have changed and you have no idea what kind of condition it is in. T. Yasenchak states that she thinks this is a great idea and location, and will give more of a community feel to that stretch. There are just some engineering and drawing details that the Board would need as the applicant goes thru the process.

ZBA REFERRAL

G. Hika states that the parcel is .64 acre and 2 acres are required. If they join the two parcels together, they will have .96 acre. The Planning Board has no issues.

CASEY CORNELL – Major Subdivision

Humes Road

Casey Cornell and Gary Robinson are present. B. Duffney recuses himself. G. Robinson provides a response letter dated 6/10/14 to C. Baker's review letter dated 6/10/14, and gives a brief history of the project. G. Robinson explains their plan to eliminate the pond on lots 4 & 5. They plan to close the valve; there is a stand pipe and if that is gone, there is no level in the pond. DEC has no issue with removing the pond as it is not jurisdictional to them. He has discussed this with ACOE who does not have an issue with the water being shut off to the pond as it is a manmade thing. It is not surface drainage that is there normally. However, they need a permit in order to fill it in, which the applicant will be doing. T. Siragusa asks if part of the conversation with ACOE includes the artesian well that is being piped past the fill in zone to the stream. G. Robinson states that it is not. He states that if they cannot get a permit for filling in the pond, if it still has water in it, they would not do that, in which case they will prepare an easement for it. M. Gyarmathy questions that when G. Robinson stated that they are going to shut the valve off, he actually means that they are going to disconnect it from the pipe that feeds the pond. G. Robinson states that is correct. He explains where the valve is located. C. Baker's review letter had questioned what the applicant intended to do with the pipe that feeds the pond. G. Robinson states that they will be removing the whole thing. T. Yasenchak states that G. Robinson had stated that the rain gardens on each individual property would be fit to each site as they are graded and developed. She questions that language is included so that when someone is buying the property they realize that that will be part of their requirement that they have

June 10, 2014

to install one. She questions that people will be buying the lots and building on them themselves or is this being contracted out. G. Robinson states that they are not sure exactly how they will be handling the construction; C. Cornell may actually build them himself or maybe sell the whole approved subdivision. T. Yasenchak states that it does not matter to her or to the subdivision, but when it is getting built out that future owners would know that they are required to put in the rain gardens. G. Robinson states that there is a detail of a rain garden in the plans and there is a note on the pages. T. Yasenchak states that she is asking because she is dealing with this experience right now with a client who bought property in a recently developed subdivision and was not privy to the requirements that were part of the subdivision for drainage, grading, etc. C. Baker states that his only comment is regarding the pond as he spelled out in his letter. As far as the rain gardens go, they should probably add that an easement is going to have to be added, when they are finally located, for the Town for maintenance if the homeowners don't do it. He states that there is standard language for that because it is part of the overall storm water management plan. The Board reviews the long form SEQRA for this project. G. Robinson will be providing the Board with a copy of the letter referred to in question #16, page 4. G. Robinson will provide an estimate for the approximate amount of disturbance that will take place for the construction of all structures, addition to the road, etc. The applicant is asked to initial the changes that were made in the Part 1. The Board reviews Part 2 of the SEQRA form. The applicant will be getting additional information for the Board before a decision can be made.

UNITED MOBILE HOMES – Site Plan Review

Brookview Mobile Home Park, NYS Route 9N

Jeff Yorick, Peter Kelleher and Marty Mancini are present for the application. T. Yasenchak states that there has been some question about whether or not the applicant needs to revise the storm water management. The applicant has provided a letter. C. Baker states that what the applicant has submitted is correct, he has talked to and verified with DEC that the plan was developed in 2007 under the storm water regulations at the time, they did proceed and obtain a NOI and that is still in effect. It was never closed out so they are still working under the general permit. C. Baker states that he believes that what they have submitted as proceeding under the old design is accurate and he does not have an issue with that. The applicant is not required to conform to the 2010 design manual. Peter Kelleher explains that Sterling Environmental developed the site plan for the expansion of Brookview Mobile Home Park. He explains that the road construction was done in 2007 and that the road is two lanes in both directions. The applicant has enacted a restrictive covenant on the green space. A public hearing is opened at 9:20 p.m. Hank Mulder, Route 9N, asks if once these units are put in, are there any other plans for expansion or will this be at capacity. He states that there is a small creek that runs on his property, Bell Creek, and it collects at the end of the driveway and his driveway actually crosses it. He is concerned about runoff and the access to his property. He has concerns about the additional traffic going out onto 9N; he feels that 64 units is a significant increase. He asks if there will be common areas, he has not seen the map so he is curious as to how that falls in relation to his property. The other issues he has are that there is currently dumping that goes on of furniture and trash; there are makeshift camps that go on; there is the cutting of trees; discharge of firearms. As this property gets closer to his, he is concerned with some of the things that exist now and are those going to encroach on his property. S. Weeks asks how close to the property line H. Mulder's home is. H. Mulder states that he is unsure, but he is also concerned about being able to see the expansion, if there is going to be lighting, etc. Letter from J. Bulmer was received stating his opposition to the project. T. Yasenchak states that there may have been some miscommunication. The Board had requested that the public hearing notice be distributed to all of the current tenants of the park and it has been brought to the attention of the Planning Board that this was not done. Mr. & Mrs. Fisk are present. Mrs. Fisk states that she only saw the notice posted near the mailboxes. S. Weeks states that since the Board specifically asked that this be done and that the representatives indicated that it would be, he is disappointed. Board concurs. T. Yasenchak adjourns the public hearing at 9:12 p.m. and again asks that the public hearing notice be distributed to all tenants of the park. T. Yasenchak states that this project did receive approval in March of

June 10, 2014

2007 for the 64 units. She asks if there is any other way that this could be expanded in the future. P. Kelleher states that there is not as all of the useable space will be used up. UMH does own property to the north of this parcel, however, J. Yorick states that it cannot be used for a mobile home park. P. Kelleher states that the only community area would be the basketball court and the lawn space that is in the center of this section, which is not intended for common space. J. Yorick explains the existing small open areas in the existing park. P. Kelleher states that if the expansion is developed and people are living there, he doubts that there will be much camping or firing of firearms out there. They are not aware of any dumping taking place. There was an issue years ago in the existing park and that was taken care of and signs posted. P. Kelleher states that there is proposed to be one lamp post at each driveway, lighting on each home above the doorways and then 1 street lamp at each intersection. T. Yasenchak states that those are noted as having cut-offs. She explains that the applicant does have a storm water management plan and there are erosion and control measures, as well as the State and Town require the applicant to mitigate storm water. An applicant cannot increase the rate of flow of water off the property over what exists at this current time. There is a traffic report in the file. P. Kelleher states that many of the driveways will be rebuilt – Manor Court will be extended all the way down to 9N; Birchwood will be improved and straightened out; the two large driveways that surround the mailbox area will be cut off from 9N, as there were sight distance problems in that area; and Parkwood Lane, the southern-most entrance would be right in/right out only. S. Weeks asks how many units are in here now. P. Kelleher states 130. B. Duffney asks the setback from the actual mobile homes to the property line and asks if the property will be cleared right to the line. P. Kelleher states that it is 129.78' and the plan depicts the clearing. He reiterates that the restrictive covenant has already been filed for the remaining lands. B. Duffney asks how far off 9N this phase of the project will be. P. Kelleher states that he does not know, but that the storm water ponds are between 800' and 1000' from 9N. B. Duffney asks how long the build-out would take. P. Kelleher states that they are projecting 24 months. C. Baker states that he had provided a comment letter in February of 2007 and he does not believe there was ever a response to that. P. Kelleher will check into that. He states that he expects to be able to provide a letter from DOH very shortly. We do have a letter from the Fire Department's original review. M. Chandler states that some of the recommendations from their letter from 2007 were resolved by the road work that has been done. P. Kelleher states that he contacted the School District and will be providing a letter regarding the DEC work that has been completed.

PRESTWICK CHASE – PUD Amendment & Country Squire Green Space Amendment
Denton Road

Luigi Palleschi, ABD Engineering, and Dave Pentkowski are present. T. Yasenchak states that the public hearings were adjourned at the last meeting. L. Palleschi states that no changes were made to the site plan since the last meeting. T. Yasenchak states that at the last meeting the Town Attorney had recommended having two separate public hearings and she asks his feelings on that. M. Hill states that it did not seem to work too well as a practical matter, so he thinks that if the Board wishes, we could say that we are simultaneously opening the public hearings. T. Siragusa states that he has been working on this project for a while and wanted to make a disclosure of a personal nature. He states that he has assisted his parents in looking at and filing for an application at Prestwick Chase over the last two weeks. They have since been approved for an apartment there and are in the process of signing a lease, which has not happened yet. During that time he never spoke to the applicant, Mr. McNeary, or anyone involved with this project and specifically only spoke with the marketing director, Cathy Bowen. He states that he never identified himself as a member of the Town of Greenfield Planning Board and C. Bowen did not state that she had any knowledge that T. Siragusa was on the Planning Board. He states that he certainly did not ask for any preferential treatment for himself or his parents, no conversation ever happened about such. He did think about the process in general at length and fully confident that he can continue to be completely objective in this process and the decisions that will be rendered. J. Streit states that knowing T. Siragusa as he does, he feels totally comfortable with his ethics in this matter. T. Siragusa states that he has discussed this with

June 10, 2014

the Town Attorney. T. Yasenchak reopens both public hearings at this time, 9:39 p.m. Paul Bouchard, Denton Road, states that his impression of the comments from the Board was that they were leaning towards an emergency access road for emergency vehicles. His feeling is that traffic is like water, it will seek its own level. If 600 cars are dumped onto Denton, it is going to make it more difficult for the people who are using Denton for a short cut so it will not surprise him at all that those people don't wind up on Daniels, because their main goal is to get around Saratoga and that won't change. He states that he did not realize until after the public comments were adjourned the last time that the apartments are 2 stories – bedroom on the ground floor and bedroom on the second story. With the 3-story buildings, the parking is on the bottom; the first bedroom would be on the second floor and the second bedroom would be on the third floor. He states that there is no way, in his mind, that you could even begin to call this a senior project. He states that there is no way that someone older than himself would make it up to the third floor. It is just not being designed for seniors. T. Yasenchak states that, to disclose for the record, she has a client who is leasing property from Peter Goutos, however, she states that that relationship will not affect how she views this property or project. P. Goutos states he was not aware that his tenant had retained T. Yasenchak's firm. Peter Goutos, Denton Road, states that traffic is of concern. We have talked at length about entrances and exists. His concerns are for Denton and Daniels roads. He wants to ask the Board to make sure that they are accessing the traffic impacts on Denton accurately because he thinks they are going to take the full brunt of this development if the Board decides that there are not going to be 2 entrances to Prestwick Chase. He thanks the members of the Board who visited the Saratoga Farmstead. The owners were not able to be here tonight and asked P. Goutos to thank the Board. He suggests that the Board take a look at the southern part of Greenfield when making their decisions because it is just as much Greenfield as the rest of the Town. Michael Toohey, attorney representing Bill Van Pelt, states that he has submitted two letters to the Planning Board since the last meeting. The second letter was late and if the Board does not accept it, he understand that but thought that it was important for the Board to have a better grasp of what was going on. He has shared that with Attorney Dave Pentkowski and has spoken to him about it. He states that the key to that matter is that he believes that, this has specifically to do with the Country Squires Estates modification; he believes that that application is jurisdictionally defective. It is his opinion based on the documentation signed by the Planning Board and filed in the County Clerk's office that the homeowners in that subdivision have to be a party to an application to modify that plan. The Country Squire Estates subdivision modification plan was signed by F. McNeary, Jr. and Prestwick Chase. They may be parties to that, but he does not think that they are the only parties to that. He discusses how the cluster subdivision came to be and states that the 25.5 acres was always there and always attached to the cluster subdivision that is Country Squire Estates. He states that notes placed on a subdivision are an agreement of what will happen with that subdivision. In the first plan, 10/8/1991, it states, "The intent is ownership by the Developer MBP, Inc." and also that "Public access is not envisioned." The 12/10/1996 plan for a modification to the cluster subdivision then states, "The intent is ownership by the owners of Country Squire Estates." and "Public access will not be permitted except for persons using the golf course." He states that this clearly cannot mean it is under the control of the developer or the then property owner. "Owners" can only mean one thing - the seven owners of the seven lots that are in the Country Squire Estates. He states that lots were sold out of this development in 1994 and 1999; they were sold by Saratoga Pine Ridge Development, Inc. Those deeds were signed by Frederick J. McNeary, Jr. The reason that is important is that both before the modification and after the modification the same applicant we have before us tonight was the applicant for that. He knew what he had filed and had covenanted with the Town that these rules were going to be followed and stretched. M. Toohey states that it is the clear intention from what he read and it is on the maps, that the seven lot owners were the parties who were going to make a determination as to what happens with regard to that green space. The #4 note had been changed to state that "Public access will not be permitted except for persons using the golf course." So they went from a word like 'envisioned' to 'will not'. The developer certainly said that, but more importantly, the Planning Board of the Town of Greenfield told everyone and everyone who bought lots in that subdivision that that is what the new rules were going to be. He does not believe that you can change those rules without consulting the people for whom that benefit was given. M. Toohey states that the idea that none of these people have

June 10, 2014

been represented here, and in fact some of them have opposed this, means that he does not think that the right people are before the Planning Board with regard to that particular issue. The only possible argument that can be made is that Mr. McNeary never did what he was supposed to or Prestwick Chase. That argument can't hold any water because if you allow it to what happens is every time you come to an agreement with an applicant, the applicant files the subdivision in the County Clerk's office and then decides that they don't want to do that, they can then come back and say that they don't want to do something. He does not believe that the Board can do that because it would set such a difficult precedent that would allow that kind of shift to take place. The statement regarding access only for people using the golf course is a covenant between this Planning Board and the developer. This is your covenant to the people out there, especially the people in that subdivision that this will never be violated, that we are not putting public access thru that. He does not believe that the Planning Board can change that without having all of those 7 property owners in here as applicants asking to do that. He asks the Board not to break that covenant, not to reward the applicant who didn't do what he said he was going to do by allowing him to do something different now. M. Toohey states that he knows what the traffic report says, that the Planning Board lives here and knows exactly where the "S" curve is and that it is a lousy place to introduce an entrance/exit system. The Board can also look at this plan and divide the property in half looking at how many units are on each side. If the traffic report states that only 25% of the residents are going to go in a northerly direction, he wants the Board to use its own common sense. 60% of the units to be constructed are on the north side. He believes that the traffic will go to the closest exit. Comments were made that the Fire Department required that this be an entrance. He wrote a letter to ask the reason or rationale behind that. In his letter he attempted to do an analysis of the time and distance from both entrances. The difference in time is miniscule and will disappear if that gate is controlled by a lock box or something similar. He discusses having multi-lane entrances and that the Planning Board can request that. He reiterates his position that the people of Country Squire Estates should be party to the application. John Jayco, Denton Road, states that he does not think that it is fair to allow this type of facility to be put in without a second access. You are going to dump all the traffic from this facility onto Denton Road. He states that the residents will go to the entrance closest to their destination, which in most cases will be Saratoga. He states that he is the most impacted person to this driveway. There are approximately 230 fire calls to Prestwick Chase every year, which is almost one per day, ambulance and fire trucks. He sees lights and hears every one of them. If we double this facility, that would be 500 and it goes to almost 2 per day that he will see. That does not count the service people, the staff, all the delivery trucks, etc. He states that, not that he wants to sell his house, but he may not want to live there with all that going on. This is a project that doesn't need to expand in this area especially without a second access. He believes that this Board has to find an alternative solution to that. M. Hill reviews that M. Toohey's letter indicates M. Toohey's view that the prior approvals by this Board, specifically the amendment of the subdivision approved in 1997, has somehow conferred ownership rights or other rights to the owners of the lots in the Country Squire Estates subdivision. M. Hill states that they do not find authority for that idea in the review that they have done. He states that from this Board's perspective, it would be important to have some basis, some authority for that assertion. If the Planning Board intends to give weight to the argument that M. Toohey is making, he would suggest that the Board ask M. Toohey to provide some authority to support the proposition that ownership rights in the green space have been conferred on the owners of those lots. If the Board is going to do that, he suggests setting a limit of time for the submission of that information and suggests that he provide copies of whatever he submits to the applicant's attorney for review. The Board should also set a date by which the applicant's attorney could respond. M. Hill states that all of the owners of the Country Squire lots were on notice by individual mailings of the public hearings for this application that is being considered by the Board. He states that the Board can continue with its review, if it wishes to, adjourn the public hearings to allow any further submissions. J. Streit states that he thinks that we have heard significant information from M. Toohey and J. Jayco and therefore we should not consider closing the public hearing. He states that he has great respect for M. Hill, but he thinks that there is such a thing as intent of the law, spirit of the law and letter of the law, and M. Toohey makes some convincing arguments that the intent is as he represented. J. Streit states that he does not challenge M. Hill and he has no objection to requesting authority from M. Toohey. He thinks that the intent of the applicant is very clearly stated and

June 10, 2014

we can all see or make our individual judgments about that as far as the green space as being perhaps morally owned by the owners of Country Squire Estates. M. Hill states that the Board has an application before them with regard to a proposed amendment of the green space, M. Toohey is saying that it is not proper for that application to be before the Board at all because of his assertion that the lot owners have an ownership interest in the green space by virtue of a prior approval that was rendered by this Board. He reiterates that he does not find any legal support for that proposition. M. Gyarmathy reiterates that he thinks that the green space should be left alone because that is what it was originally intended for and he does not feel that anything should be allowed to happen on that green space whatsoever. Regarding what M. Toohey is saying about ownership, M. Gyarmathy just can't find the validity of that argument. He does not feel that he needs additional information. J. Streit states that he agrees with M. Gyarmathy and he does not personally need more information. J. Bokus states that he would like to see the ownership finalized with no legal questions. B. Duffney states that we know that Prestwick Chase owns the property, but do the residents of Country Squire have ownership. He would like to see the attorneys clarify that issue. He is in favor of the road going thru the green space. S. Weeks states that he would suggest that this Board not proceed on any more issues with this project until that legal issue is settled. That could be an incredible waste of the Board's time. He states that we need to have a solid legal opinion that we can then proceed forward with. T. Siragusa states that a question has been raised; the Town Attorney has stated that there is no authority and M. Toohey has said that there is with no back up. He would like to know if there is intent to provide more information. Is this stalling or is there more information. He would be open to seeing more information but would like some indication as to whether that material actually exists. T. Yasenachak asks M. Toohey if he has additional information that might be researched that the Board may continue to review that or is there an intent to provide additional information if it is requested. M. Toohey states that he does not have it at this time, it just came to his attention and he wanted to get a letter out as soon as possible. If the Town wishes him to do research, he can do that, but would not be able to get it to the Board for a month. Much of what he has said is based on what is on the approved plans. D. Pentkowski states that he has no problem addressing the issue, but if the Board is talking about simply who has to be on the application, there is no question who the owner is. The owner is the company of record, the people who are taxed for the property, etc. If it is being suggested that these other lot owners have a potential interest of some sort because of what the Board has done in the past, that is one thing and we could all talk to that, but as far as the initial standard of making an application, there is no doubt as to who the owner is. If the Board wants a title company to give a title policy as to who owns the property, he can do that. It shouldn't be an issue, it can be verified. The fact that there is some notation on the prior subdivision that may give some rights or not to people who might use the property, that doesn't change who the owner is for purposes of the application. If the green space were to be available to the public, are we suggesting that everyone in the public has to make application - that doesn't make sense. He will do whatever the Board wants. M. Gyarmathy states that what is confusing for the public and the Board is that the green space is part of the Prestwick Chase amendment. He reiterates that he feels it would be much simpler if the Board addressed each issue individually. T. Yasenachak states that they are intertwined and one is reliant on the other and as part of SEQRA we are required to do a coordinated review. L. Palleschi states that they are at the point where they are asking for a recommendation and he knows we have to go thru SEQRA. Can't we proceed with the recommendation and SEQRA without necessarily approving that connection thru the green space amendment? When we come back for site plan review, the amendment to the subdivision would be part of that. T. Yasenachak states that without the answer to that green space, we can't proceed. L. Palleschi states that the SEQRA documents are the worst case scenario and when we come back for site plan review, we could agree to not putting the road there and withdraw the application. M. Hill reiterates his previous comments that it is up to M. Toohey to provide support for his assertion. The Planning Board can proceed with its review of the SEQRA subject to the receipt of information from M. Toohey. T. Yasenachak states the Board would not act on the SEQRA or recommendation. M. Hill explains why these projects need to be considered together. L. Palleschi states that they have agreed to make the roadway emergency access only. Regarding the 4 conditions that M. Toohey stated are on the existing plan, he states that they are not asking to amend that but to add a 5th condition to allow the road, the emergency access road. If this is going to hold up the project, they can agree to eliminate

June 10, 2014

that. S. Weeks states that he is not in favor of removing the road. This Board has asked from the beginning that on a development of this size that we really felt there should be 2 access entrances to this project. It is not only for fire, it is ambulance calls that we are talking about here. T. Yasenchak states that the application has space for both an applicant and an owner, if different. She states that we don't imply ownership unless there is a home owners' association or something that is specifically reviewed as part of our subdivision. It is now this Board's standard to ask how a green space is to be owned and it is written into some kind of contract and she does not believe that she saw that in the original documentation for the approvals of Country Squire. As to ownership, she questions who has been paying the taxes and who has been taking the legal responsibility since the beginning of this subdivision. How people feel that they may access the property may be different. She agrees with D. Pentkowski that over these decades we have seen the legal ownership responsibility of taxes, etc., taken on by the current owner. She takes exception to someone saying that they own something or have the right to affect it if they haven't been paying taxes or there is no legal document that says that they have that right. She states any of those neighbor's would have come forward with their deeds if they felt that they owned it. It does need to be resolved though. M. Hill states that his legal opinion would be that M. Toohey has indicated that he would be able to provide additional information and it is up to him to support his statements. He suggests allowing until 6/20 for any additional submissions and to move forward with the SEQRA review. T. Yasenchak states that we have reviewed the SEQRA, we have an understanding of what has been happening thru this whole process and she feels comfortable going ahead with it. Typically when we have reviewed a project of this size we have not made a declaration the night that we review the SEQRA. We also have the Town Attorney write a proposed action and then review it at the next meeting. The Board agrees to continue with the SEQRA. M. Toohey states that there is a representative here from the Fire Department and he would like to know what their position is with regard to the exit onto Daniels Road being an emergency exit only. T. Yasenchak states that we have discussed it in the past and is not sure that the representative is prepared to comment on it. Michael Chandler states that the Fire Department did not request this exit. He states that from the first time they saw the plans, this exit/entrance was always included. The Fire Department, obviously, would like to see 2 access points, not necessarily stating that it needs to be a full blown access or an emergency access. They believe that there is a time frame concern and public safety. He states that the other project that was approved in 2007 (Brookview), their reasoning behind requesting the 4 lanes was the same. Even though it was proposed as a two lane road with one going in and one out, it was still only 2 lanes. The public hearing is adjourned at 10:45.

T. Yasenchak reiterates that there is a deadline of 6/20 to get the additional information to the Planning Board. J. Streit states that all three attorneys have expressed very clear and valid points. He states that the Board members have their opinions on whether or not the road should be there. It is also valid to think what was the intention of the applicant at the time to establish a green space and intention counts also. He believes that the intention was to keep it a forever wild green space and that is not going to be resolved by legal opinions. The revised long form SEQRA received May 20, 2014 is reviewed. Part 1, #14 is amended to read that a neighbor has stated that the view might not be commercially important, but it is known to be important to someone in the community. T. Yasenchak states that when

she was looking at this she referred to when we were looking at Skidmore. Although that field was beautiful, open, and all of the neighbors were able to enjoy that, it wasn't necessarily a known scenic vista. M. Hill states T. Yasenchak's comment is consistent with the way that the Board previously handled that question when it came up with regard to the Skidmore application. The Board could make a notation in the comment box that the view may be important to the owner of the Saratoga Farmstead B & B and to immediate neighbors. View of the property and green space has been identified as important to the adjacent neighbors. B. 2 - Discussion takes place that there will be some blasting in the internal loop area, but it has been reduced and the boulder will be reused on site. #5 - T. Yasenchak states that she recalls discussion that the construction would take 36-60 months. L. Palleschi agrees. C. #6 - T. Yasenchak states that currently it is a PUD for senior living. B. Duffney states that the Town Code does make provisions for PUD's and cluster

June 10, 2014

developments, so he believes it would be yes. T. Siragusa states that in general it is consistent, but he thinks that there is a limit to that and he does not know what that limit is. He believes that, especially with the change in green space and the overall density measures, that it is too dense for the area at 300. In general, as a senior living residence and having been in use there, for whatever value precedence has there, he thinks it is consistent with that area and other things that are in the area. Board consensus is that it is consistent as it is currently a senior living PUD. L. Palleschi confirms agreement with revisions made to Part 1. T. Yasenchak states that we have already gone through the long form SEQRA and will now review the answers. #3, pg. 12 is amended to add "less than 1/10th acre at road crossing with no effect to DEC jurisdictional wetlands." #11, pg. 16 – potentially large impact is indicated for example #1 - 'project components obviously different from or in sharp contrast to'. #12, pg. 17 – Saratoga Farmstead is listed in the Comprehensive Plan as being historically significant. #13, pg. 17 – Discussion takes place that there is a proposed golf course in the exiting PUD and the Board would like it noted that that is not the case with the new proposed PUD. Note is made that the golf course proposed in the original PUD was to be in Country Squire green space, based on the amendment from 1996. M. Hill states that a potential recreational opportunity, that exists now, would be eliminated. #15, pg. 18 – There is a traffic report that addresses the roads being up to a service level. The Board notes that illegal use of speed on Daniels Road is understood and the neighbors have voiced concerns about that, but that is not under the purview of the Planning Board. The Planning Board cannot make a decision based on people breaking the law. #19, pg. 19 – Potentially large impact is indicated to a change in the density of land use. #20, pg. 20 – is checked as a yes, regarding public controversy. T. Yasenchak states that some potentially large items have been indicated, #1, #11, #19, and that they can be mitigated by project changes. We are not going to get into a discussion about the mitigation at this time. T. Yasenchak believes that there will be lengthy discussion about mitigation.

ZBA REFERRALS

Gale & William Hika – Area Variance

See above.

Thomas Robarge – Area Variance – T. Yasenchak recuses herself. J. Streit reviews that the applicant is seeking an area variance to build a hunting camp on a land locked parcel. No Planning Board issues

Zachary Dake – Area Variance – The applicant is seeking an area variance for front setback to build a garage. No Planning Board issues.

Meeting adjourned 12:09 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland
Secretary