

**TOWN OF GREENFIELD**

**PLANNING BOARD**

**July 8, 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: John Bokus, Nathan Duffney, Michael Gyarmathy, Thomas Siragusa, John Streit, Tonya Yasenchak and Robert Roeckle, Alternate. Stan Weeks and Charlie Baker, Town Engineer, are absent. Mike Hill, Town Attorney, is present.

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**MINUTES – June 24, 2014**

B. Duffney states that on page 12, he would like to clarify the statement "...and sat on the road" to read "...and sat on the road at the entrance to Country Squire Estates."

M. Hill states that on page 5, it should note that the statement, "...as there was a question of ownership." should be clarified to read, "...as there was a question of ownership of the Country Squire Estates green space."

M. Hill states that on page 6, "T. Yasenchak states that we have received letters from:", should be clarified to state that, "T. Yasenchak states that since the last meeting we have received letters from:"

M. Hill states that on page 10, "#19". It would be helpful to have it read, "#19 in part 2 of the SEQRA form".

M. Hill questions that on page 11, T. Siragusa is discussing 16 units on the left side and that is about a 10% reduction. T. Siragusa states that the intention was to say that there were 16 in the corner and 16 in the front for a total of 32 units. M. Hill states that we may just want to note that for clarification in this discussion tonight rather than revising that particular entry.

MOTION: M. Gyarmathy

SECOND: T. Siragusa

RESOLVED, that the Planning Board waives the reading of and approves the minutes of June 24, 2014, with the revisions as discussed, and approves as corrected and submitted.

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

Noes: None

Absent: Weeks

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**MINUTES – June 10, 2014**

T. Yasenchak states that M. Hill had requested that the minutes of June 10, 2014 be revised to include some additional discussion on the SEQRA review. Those revisions were made and submitted to the Board on July 1, 2014. M. Hill has requested some additional revisions to that discussion section in the June 10, 2014 minutes. T. Yasenchak states that the first item is the statement, "T. Yasenchak states that we have already gone through the long form SEQRA and will now review the answers." Her intent was not to reconsider the questions and the answers; her intent was to review the answers for the Board's final determination. It wasn't necessarily to reconsider as much as to review the answers that we had already made. M. Hill states that then in that case the minutes should stand as they were originally written, but from a legal perspective

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he would note for clarification purposes in tonight's meeting minutes that because there was a material change in facts between the time of the original SEQRA review and the time of the re-review, the material change in facts was the discovery that the 25.5 acres of green space associated with Country Squire Estates was not in fact green space that was part of the Prestwick Chase PUD and because of that material change in facts, the Board was in a position where it needed to reconsider the answers to the SEQRA questions. He states that as T. Yasenchak has pointed out several times, we are doing this combined SEQRA on Prestwick Chase and the Country Squire Estates green space.

The second item is the statement, "There is a traffic report that addresses the roads being up to a service level." M. Hill felt that it might be more descriptive to say, "There is a traffic report which finds that the roads would be adequate to handle the projected increase in traffic levels while maintaining acceptable levels of service." T. Yasenchak states that it was not necessarily stated that way as much as it was said that the roads are up to a service level. M. Hill states that it can stand as originally written and he would just offer that that was a clarification to be included in tonight's meeting minutes.

The third item is the statement, "... and that they can be mitigated by project changes." M. Hill has suggested that the minutes read that "they might be able to be mitigated" rather than "they can be mitigated". M. Hill states that if that is what T. Yasenchak said, then it can stand, but from the Board's standpoint, it is up to the applicant to demonstrate that mitigation can be accomplished. T. Yasenchak states that that is why it can be mitigated, depending on those project changes which we did not define. She states that she thinks that that still keeps it open for those projects changes to be before the Board.

MOTION: T. Siragusa

SECOND: B. Duffney

RESOLVED, that the Planning Board waives the reading of and approves the minutes of June 10, 29, 2014, as submitted, noting the discussion regarding same.

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

Noes: None

Absent: Weeks

Abstain: Roeckle

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### **GALE & WILLIAM HIKA – Site Plan Review**

Lake Desolation Road

Gale and William Hika are present. T. Yasenchak states that the Zoning Board has approved the variance request for the applicant. G. Hika reviews that she would like to open a small eatery/country store in the same building where the Middle Grove Post Office is located and in the space currently used as a rental apartment. They have two lots and will join them together to make a parking area for the store so that it does not interfere with the post office area. They have hired a site engineer, an architectural engineer, they are in the process of working on the septic changes. They are planning on operating 6 days per week and closed on Monday's. They will be bringing back the Corner Post sausage that used to be a staple at the Corner Post. A public hearing is opened at 7:15 p.m. and adjourned as there are no public comments at this time but we are waiting for the engineering information. T. Yasenchak explains that the Board cannot take action without the updated plans and engineering information. G. Hika states that the engineers are on vacation, but she does have both in line. She has had the water test done and received the results and it is perfect. They have had the septic system inspected by the engineer who seems to think that the tank will be fine except for the addition of the grease trap. She states that they will be buffering the parking lot by using a lot of landscaping between the residence next door and the parking area. They also need to put in a firewall. G. Hika states that there was the mention of the County Planning Board and she is wondering if that is

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something she has to do. R. Rowland explains. T. Yasenchak requests that any additional information be submitted at least one week prior to a meeting.

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**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 explains that we adjourned the public hearing from the last meeting because we were waiting for additional information. P. Kelleher explains that the Board had requested information as to the distance to the neighbor's home. This has been provided along with information on the comments of the DOT with minor revisions. An information sheet is distributed regarding the lighting that will be used at the intersections in the new area. These will be 12', full cut-off and there will be similar style lighting poles at each driveway but they will be 5 – 6' tall and will be LED lighting. T. Yasenchak states that there will be 4 intersection lights in the new area. P. Kelleher states that there will also be one at the point where the boulevard begins at the intersection with the existing park. T. Yasenchak reiterates that the applicant had stated that there are no lights at the basketball court. B. Duffney questions the buffer, on the south side, between the property line and the actual clearing for the homes. P. Kelleher states that it is 110' from the property to the area cleared for the culvert and 129' to where the homes will begin. There should be no additional clearing to the south of these points.

A public hearing is reopened at 7:25 p.m. Hank Mulder, NYS Route 9N, states that in seeing the property distance, the 255', he is still not clear what the buffer will be in terms of his concerns for the noise and the visibility. He states that he is roughly 255' from his neighbor's house and that is just two people who live there so he is extremely concerned with having 5 houses now at basically the same distance – the visual that he will see, the noise, the lighting, etc. His other concerns that he expressed in the past were residents of the park that go off the property and are dumping trash; camping; whatnot – what is going to prevent that from happening on his property or in that specific area. He states that he was not aware of where one of the ponds was and it looks like it is very close to the stream, and as he expressed previously, any water that goes into that runs the risk of washing out his driveway. There is a culvert that goes under his driveway. If that washes out, that denies him access to his land. Some other issues he addressed in the past were the property values, but mostly the water runoff and then looking at this, the concerns with the proximity to his property. He states that his neighbor was here last time and he discussed if there was an option to potentially move the position of those. He wonders if that is something that is still being considered and to reconfigure the area. He understands that they had some other area to the north and he wonders if that can be shifted. He was not really sure, they were approved in 2007 and then reapproved in 2010, and he wasn't sure what the difference was between the regulations in 2007 and 2010. He states that there were requirements that were governing this project in 2007 and evidently there were some changes that were made in 2010 to the regulations in terms of this mobile home park. T. Yasenchak states that the reason she believes they are back now is the changes to storm water runoff. In 2010 there were zoning regulations that were changed; however, she does not believe those had anything to do with this particular project. It was just in general, zoning regulations. There were some regulations that changed in relation to mobile homes in general, but that had to do with replacing mobile homes and being of a certain age. R. Rowland states that those changes had to do with individual mobile homes on individual lots, not mobile home parks. H. Mulder states that the residents of the park were to be notified that there were going to be changes, did that ever go out, and what were the results of that. T. Yasenchak states that it did and that there were some residents present at the last meeting. H. Mulder states that seeing this map, the proximity is even closer, extremely close. He does not know what they are going to do in terms of providing some sort of sound barrier or visual barrier. There are a lot of wetlands through there so the vegetation is relatively sparse, so if there are requirements or something that can be done to help reduce the sound. Ideally that would be to move those 5 units from that edge. He questions the location of the waste water treatment plant. T. Yasenchak states that is in the exact same place that it was. H. Mulder questions that then they don't need to expand, the one that is in there will be

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sufficient. T. Yasenchak states that we do have letters and reports on record from their engineers and DOH of the approvals, and the process that they have gone through. H. Mulder reiterates his concerns for the pond and the spillage into the stream. T. Yasenchak states that we have addressed that at a previous meeting and explains the SWPPP and what that requires of any applicant. H. Mulder states then he should have no concerns, what guarantee does he have that it is not going to impact his property? T. Yasenchak states that we have a licensed engineer who has stamped and provided a SWPPP, and that is something that our Town Engineer also reviewed. H. Mulder states that it is now going to have paving, mobile homes and if it captures the water that is fine, but if it doesn't and it runs off, what issues does he have. T. Yasenchak explains that that is part of the review process and that is why they are here. That SWPPP report from their engineer and what our Town Engineer reviews is that it will not runoff at a different rate. She states that if something happens to the stream on the neighbor's property, that is not up to the applicant, as long as they are doing what is in their SWPPP. H. Mulder states that it is closer to his property and the stream that he realized; he realizes the intent of what that is, but at the end of the day there are failures. T. Yasenchak asks what year his house was built. H. Mulder states that he bought it in 2007. Paul Bouchard, Denton Road, asks for clarification that the Fire Department verified the entrance road. T. Yasenchak states that the road was built based on the Fire Department's comments. Mary Scout, NYS Route 9N, questions where the street lights are going to be placed and how far they illuminate. P. Kelleher explains on the map and states that they are full cut-off lights, which means that there are shields that block the bulbs and the shields can be adjusted if necessary. They are only there to illuminate the intersection. Generally the radius is approximately 30'. M. Scout states that as to the proximity, it seems awfully close. Now you don't see too much, but come the fall when the leaves drop and in the winter you can see straight thru. She states that she has a question as to what happens with the animals and their habitat that is being displaced by this. T. Yasenchak states that that is part of what is reviewed under the SEQRA. M. Scout states that it was asked at the last meeting why we are even here, because something expired. Since it expired, do they have to start all over? R. Rowland states that the applicant did some of the infrastructure work, but had not completed the building and G. McKenna determined that they should come back to the Planning Board for review. M. Hill questions that the measurements don't appear to correspond with the scale at the bottom of the map. P. Kelleher states that the scale is not correct; however the title block is correct. Discussion takes place and the public hearing is adjourned at 7:44 p.m.

T. Yasenchak states that we have discussed that the lights have an approximate illumination radius of 30, but asks the applicant to see if they can find that out. She states that for the record, even if something has a cut-off, you can still horizontally see some type of illumination. You might not be seeing the bulb itself, but you would see anything that is being illuminated by the light. The reflected light. T. Siragusa states that the lights are a good question, it is pretty distant for light, but in terms of sound and some anecdotal comments from other residents talking about noise or people going back out into the woods, has the applicant thought of anything that could prevent someone from going back there? The stream might be attractive for people to go out and check out the stream, so he is concerned with preventing access to the neighbor's property. P. Kelleher states that it is desolate and no one lives out there right now. He believes that when there are people living there, some of those things will not be taking place. He states that if it is a resident, there are other recourses. M. Mancini states that there is a manager for each community and they address any issues. If it is something illegal, it should be called to the police department. Violations of rules are addressed by management. A manager is available Monday – Friday, 9:00 to 5:00 and there is an emergency phone number. T. Siragusa states that he would rather prevent issues in the first place so that it is not a problem for the neighbors. If there is history, then likely people will find somewhere to go, so he wants to know what can be done to prevent access into the neighbor's property. J. Yorick states that there are wetlands on either side of the stream. P. Kelleher states that whoever is allegedly out there causing the problems is looking for somewhere desolate and not populated, and if people are living around there, that type of activity is not going to be tolerated by the people living there. If there are street lights, cars parked, dogs, etc., he doubts that anyone is going to be going out there. J. Bokus asks if this area is going to be open to all age groups. M. Mancini states that it is. R. Roeckle states that one of the questions is the buffer area. He knows that the areas around the mobile homes are pretty well designated. Having owned a mobile home

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Park he knows that tenants don't always tend to stay where they are supposed to. He asks how will they keep them from slowly encroaching back into that preservation area. P. Kelleher states that he believes that there will be signs posted and the management is to keep an eye on the situation as well. B. Duffney states that the activities such as the 'camping', etc. is probably kids and that is what kids do, but there is a liability issue for the adjacent landowner. It has been stated that it is quite wet between the two properties and he does not know what could be done with that outside of a fence. P. Kelleher reiterates that anyone going back there lives somewhere else and is not going to go back there when someone else moves in there. The new residents will not want strangers going thru their yards, disrupting their lives. B. Duffney discusses what appears to be white pines or hemlock on the aerial plan and asks if there is the possibility of adding a few evergreens in the areas that seem to be sparse. He suggests hemlocks because they like the wet areas and grow fast. That would take care of some of the noise issue because they hold their limbs towards the ground and it will block some of the noise. He suggests staggering them through the area because they will start seeding themselves afterwards. T. Yasenchak suggests that the applicant come to the Board with a potential landscaping plan. She explains that with some of the other projects that have come before the Board, plantings are not necessarily all in a row, they are in clumps and staggered, something large enough to provide an initial buffer and then grows. P. Kelleher states that he will have to check to see if they can actually go out there and plant, although he is sure that ACOE will be fine. T. Yasenchak states that when she looks at where the potential homes will be and the rear lot lines, it doesn't look like it is that much. P. Kelleher states that it is the minimum required by code and they are also minimizing clearing. T. Yasenchak states that they have done a good job with minimizing the clearing. She is asking how they define that with the residents – putting up their own fences, etc. M. Mancini states that they do not allow fencing and they will not allow any cutting or clearing in this area. T. Yasenchak questions what else is planned as far as landscaping, any other trees on the lots or anything in between. She states that the first time this project was reviewed, there was a site visit and the Board saw the type of homes that they will be putting on here. They are more like a modular home than a single wide. It looks a little more like a ranch house. She asks if there is a reason they don't have any other trees. She understands that you would not want them to grow and fall. It would be easier to move and replace these units without landscaping, but what other landscaping do they have or are they not proposing any other. Having all these homes close to each other, the noise will echo off of the buildings. She asks if the applicant has anything that they could propose to maybe soften any sound. P. Kelleher states that the idea of some perimeter planting is good, but each individual lot is pretty tight as proposed. It is very difficult to propose any individual planting details because things are going to change as things are actually built. He asks if the Board wants them to commit to something like a certain number of trees being planted per lot. T. Yasenchak states that she is just asking and normally when we do a subdivision, we ask for a certain number of trees per lineal foot of road and this is not a typical subdivision but it is kind of a mini subdivision to itself. There are no street trees; there is nothing that would soften the look of this. It may help with a buffer as far as to break up noise. It may help with the neighbors to the property but it may also help the community itself. M. Gyarmathy asks about the lot size. P. Kelleher states that it is the minimum lot size spelled out in the code and he believes it is 6300 square feet per lot. T. Yasenchak asks if they are one story units, no loft area, etc. Applicant confirms. B. Duffney states that the map shows all single homes. P. Kelleher states that they are double wides. M. Mancini states that the standard is 28 feet but they can be up to 32 feet wide. B. Duffney confirms that you need quite a wide space to move mobile homes. T. Yasenchak asks the turnover on the units that they have now, people updating their homes. M. Mancini states that there is not a great turnover, typically people just stay there. T. Yasenchak asks if there is a maximum age for the units in the park. M. Mancini states there is not, as long as they are safe and clean, they are allowed to stay. There are some homes from the 1960's that look like brand new. T. Yasenchak asks about policies regarding adding on to them. M. Mancini states that they typically do not allow that and if it is allowed, they must come to the Town for a building permit. R. Roackle states that that it is difficult to add onto mobile homes. J. Streit suggests that the applicant discuss with H. Mulder ways that the applicant might address his concerns and hopefully there could be something that would be mutually acceptable. T. Siragusa states that on the exiting park, there are trees on the satellite view and he asks if they grew back after the property was developed or did they remain during the construction phase. P. Kelleher states that he is not sure about the history of the existing park. B. Duffney explains the area of the

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original park from the 1960's and then an expansion to the south sometime later. J. Bokus states that he would like to see if the applicant could come back with some idea about plantings. He states that B. Duffney explained that the maneuvering of the homes is tight and he is more concerned with the buffer between properties. M. Gyarmathy states that his concerns are mainly about the buffer. He states that he owns a mobile home park, as well, and he does agree with T. Yasenchak about having plantings in the park. He thinks that will help with the noise, so maybe some small trees between the double rows to help absorb some of the noise. T. Siragusa states that he would like to see a plan but mostly his concern is with the buffer on the south side. R. Roeckle states that he agrees with M. Gyarmathy about some plantings between the double rows. P. Kelleher asks if they satisfy these questions, if we can close the public hearing and move on to SEQRA. T. Yasenchak states that it depends on how complete the information is that is provided and whether the Board feels they need any additional information.

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

Luigi Palleschi, ABD Engineering, is present. T. Yasenchak states that the applicant had been asked to provide some additional information to help address the mitigating measures that could be taken to address the potentially large impacts that were identified during the Part 2 SEQRA review. L. Palleschi states that he did submit a map showing the construction phases. Phase 1 would be the construction of buildings 1-19, the roadway and infrastructure. The importance of building 1, 2, 3 & 4 is that it does not involve a lot of infrastructure work and the marketing can be done to construct those units first while constructing the infrastructure for the internal loop. He came up with estimates of the timing for the phasing and he tried to break it down to what it would take to get the infrastructure in as well as the whole build out of the phasing. Phase 2 would be the roadway to Daniels Road and the construction of buildings 20, and 32 – 40. Phase 3 would be the construction of buildings 21 – 30 and the cul-de-sac to the west. L. Palleschi states that for phase 3 he had anticipated less than a month for infrastructure and about a year to build out the rest of the units. When you look at the overall construction, 48 months, he thinks that is pretty reasonable with the timeframe that is in the SEQRA. T. Siragusa asks if the timeframe of doing the infrastructure, followed by the building structures, are sequential. L. Palleschi states that, as in phase 1, they could start the construction of the first two units to be able to start marketing while the construction of the infrastructure for the internal road is being constructed. As the units are being built out, the construction of the phase 2 road would continue, all those units might not be built out, but the start of the construction for the road would be going in. It all depends on the market. T. Siragusa questions that the new main road, where it goes from Denton to Daniels, that will be in 3 parts as part of each phase. L. Palleschi states that it will be part of 2 phases. He states that what he did not have on these plans, and he apologizes, is the timing of construction for the noise ordinance. He states that we had discussed this before, and the Town Code is 6:00 a.m. to 9:00 p.m. We had adjusted that slightly for this project and discussed that interior work such as taping and painting could be done a bit later. T. Yasenchak states that this had to do with the physical changes to the project site and we also discussed the impact, because this is a combined SEQRA review that we are doing, we also did talk about the impact of the emergency access road and how that could be mitigated. Some of the discussion had to do with whether or not it was gated, whether or not it was paved or gravel, etc. L. Palleschi states that we had discussed putting in a gate in the area of the last unit so that the residents would not be able to drive down the roadway and then another gate further out towards Daniels and the applicant will work with the Fire Department as to what they will require there. The roadway would be paved. M. Gyarmathy states that he thinks that the phasing that has been proposed is reasonable. He asks if we would be reviewing the project between each phase or how is that going to work. L. Palleschi states that they can certainly incorporate a plan like this in the site plan set, the construction phasing would certainly be part of that. He states that they have to do one for erosion and sediment control anyway. T. Yasenchak states that then they would be open to, before they start the next phase, having it reviewed. L. Palleschi states that what he provided is showing all three phases. Of those three phases, there will be sub-phases to be in compliance with DEC's requirements on soil disturbance to be less than 5 acres. He does not have acreage on the actual

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phases. M. Gyarmathy states that he understands what L. Palleschi is saying, but was questioning that the Planning Board would be reviewing phase 2 before the applicant begins that phase, because we are looking at a PUD that is over 20 years old and it is not completely built out. L. Palleschi states that is why they are here for the Board to look at it again. M. Gyarmathy asks if the applicant would be amenable to looking at phase 2 before starting phase 2. L. Palleschi states that he believes we have discussed this before; he would rather get approvals now, and go thru the Code Enforcement Officer as to when they are issuing building permits, if they are not in conformance with the approved site plan. T. Yasenchak states that what she thinks M. Gyarmathy is saying is that what if the applicant does not get to build phase 3 for 10 years. L. Palleschi states that then they will be back in 10 years. T. Yasenchak states that having something like that built into the language so that there is a certain stop point. J. Streit asks that the Town Attorney had stated that one of the main points of having the phased construction was that the applicant could not advance to the next phase until the Planning Board approved it, so it is built into the concept. T. Yasenchak states that is C. Baker's view of phasing, but we are being offered a different view. What the applicant's representative is saying is that they would not come back every time. J. Streit states that then we would not be following thru on our Town Engineer's advice to mandate that they come before each phase for approval before they proceed. That was one of C. Baker's main points he had for maintaining control over this process. T. Yasenchak states that she thinks he was concerned that it would be 20 years later and they start another phase, so if there is a point where we can meet in between. J. Streit suggests language that the Planning Board and the Enforcement Officer approves each phase as it is begun. B. Duffney states that L. Palleschi just said that the plan is 4 years. L. Palleschi states that is correct, 4 to 5 years. T. Yasenchak states that it could be something where if it is not built out within that certain period of time, then before they start each phase they have to come back. M. Gyarmathy questions that would be something that would be written into the legislation. T. Yasenchak states that is something that we would be using as a mitigating measure. Right now we are looking at whether the impact can be mitigated by project change, so the project change would be should the applicant need more than "X" number of years to build this out, then they are required to come back before the Planning Board for review. M. Hill states that he thinks that when we previously spoke about this we were trying to balance the applicant's desire to have a complete approval so that they could then obtain the financing that they need to do the project, with the Board's desire to have reviews at stages along the way so that, per C. Baker's suggestion, if mitigating measures applied to phase 1 were not proving to be sufficiently effective in mitigating, for example, noise concerns, that something different could be done with regard to phase 2. As he recalls, there was an effort to try to correct some language in the proposed PUD that would allow reviews at subsequent stages when the applicant came in for building permits for phase 2 that this Board would have an opportunity to have a review at that time to confirm whether or not the mitigating measures that were used in phase 1 were really affective so that they can be adjusted for phase 2, if necessary. He thinks that there was a proposal to have something in the legislation to allow this Board to have further review of the project although the applicant would have an overall approval that they could use for financing purposes. T. Siragusa states that he is thinking that as time goes on, what other things can change? What if ownership changes? If there is new ownership, he would want to know what the new owner's intentions were. T. Yasenchak states that the PUD language goes with the land so we cannot really dictate a specific owner; however that new owner would have to follow the zoning that is written for this land. J. Streit asks that if this is approved and someone buys it at some time in the future, they would be obligated to live under the same terms that are dictated by this. M. Hill concurs that anyone would be subject to the existing PUD. L. Palleschi states that if someone desired to change the concept, then they would definitely have to come before this Board with any changes from that approved plan. B. Duffney states that according to the language, this is 'senior housing'. If the property is sold to someone else, it would still have to remain 'senior housing'. T. Yasenchak states that that is how the PUD language is actually written, 55 years of age or over with certain exceptions for spouses, caregivers, etc. M. Gyarmathy questions that in order to satisfy this impact; the applicant would have to write legislation to this PUD regarding this Board reviewing each phase. T. Yasenchak states that it would be written into the PUD language. Very similar to the last time we reviewed this, we did have our Town Attorney work with the applicant's attorney to craft language to be in the PUD. R. Roeckle states that he is looking at the original PUD language and there is phasing clearly laid out that was not followed. T. Yasenchak states that what the Board is saying is that they

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like the idea of how they proposed the phasing we just need to see a little bit more specific language of how that is going to be included in the PUD language. The next potentially large impact was Part 2, #11, pg. 16 – Will the proposed action affect aesthetic resources, the Board had indicated potentially large for ‘Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use....’ and the Board had stated that they believed it could be mitigated by project change. L. Palleschi states that he had prepared and believes that we had talked about this at the last meeting, a landscaping buffer plan. This was regarding buildings 3 and 4, which are 8 units each, 2-stories in height. Originally they were 3 stories and they were pushed up against the 50’ proposed buffer. They are now over 100’ away to the building and they are proposing to spade trees on the site and spade them into the area shown on this plan. He provided a cross-sectional view. The concern was for the Bed and Breakfast. He took a worst case scenario, he does not think that they are using it, but it is a white 3-story barn with a window on the third story. He used that elevation to see what the view shed would be for the closest building in the southwest corner. At the last meeting he discussed providing a berm at a height of 6- to 8-feet and then have the spaded trees on top of the berm, 12- to 13-feet in height. When doing that, on the 3-story white barn looking in this direction, you will be looking at the top of the trees and just over the proposed roof line of the building. He states that as far as view shed, the buildings will be blocked. L. Palleschi states that he was out there and can’t even see the Bed and Breakfast area. He states that the owner had stated that she could see from the Bed and Breakfast the existing Prestwick Chase facility. When he was out there, he could not see the building from either direction and points out the areas where he stood. He states that he saw nothing but the white barn that is not being used for people visiting there. He states that he did drive around and park in the Bed and Breakfast parking lot. When he got out of the car, you can see from the parking area the existing Prestwick Chase facility. He states that the proposed berm and trees would assure that when you are standing in that parking lot you will not see the proposed buildings. L. Palleschi states that as you walk the site, there are trees that were spaded behind Mr. Goutos’ home and the neighbors, and you cannot see the existing residences because of the way the trees are and there is no berm there. That is what they are proposing to do, with the berm. L. Palleschi states that he does not feel that it is necessary for him to provide the PUD language right now. He feels that the Board can make the recommendation to the Town Board in their notes and they will certainly work the PUD language and make that presentation to the Town Board who has the ultimate say on the legislation. He states that he does not feel that this project should be held up at this point. He knows that density issues have been raised and we can go thru the procedures in the Town Code, which basically says that the Town Board has to determine the intensity and/or the dwelling unit density, and that the density is simply determined by the septic, the waste water, the potable water and so forth. They have provided all of that information to show that the proposed density meets all of the requirements that you would look at in proceeding thru SEQRA. R. Jensen states that so much in the information that L. Palleschi gave the Board is 1000% inaccurate, before anyone makes any decision on the handout. T. Yasenchak states that we are in the process of discussing. L. Palleschi states that the neighbor brought up a good point. They are currently doing an addition next to the Bed and Breakfast. He indicates on the plans a location where he was standing and states that the addition that they are building, knowing what is being proposed by Prestwick Chase, you can see the peak of the new addition. He does not know the height of that new peak, but the applicant should not be held responsible for any additions after the fact. T. Yasenchak states that she does understand that the way the zoning law states it about density and the Town Board votes on that, however, we are doing the State Environmental Quality Review and have been designated the lead agent. One of the questions, Part 2, #19, which is within the Planning Board’s purview to review, is about density and that is the third question that the applicant was asked to review. The Board did check the potentially large impact for whether the proposed action would cause a change in the density of land use. The Board also stated that the impact could be mitigated by project change. That was one of the items that the Board asked the applicant to address as to a possible mitigating measure. T. Yasenchak states that she looked up the NYS DEC conservation glossary as far as what they say density is because we are doing the SEQRA. The definition is: *The number of residential structures allowed per acre. It is not the same as minimum lot size. Also the number of families, individuals, dwelling units, households, or housing structures per unit of land.* She reiterates that the Board checked that they felt that this proposed action would cause a change in the density of the land use. She states that the Board had given L. Palleschi some of



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their ideas of how they felt it could be mitigated. L. Palleschi states that he pretty much stated what the Town Code says procedurally that the Town Board has that density authority. The existing PUD legislation, and he states that he has stated this many times and there are studies that prove it, the intensity of the existing PUD is more than the intensity of this project. He states that everything they are proposing here is a lot less than the current PUD. T. Yasenchak states except for the number of living units per acre. L. Palleschi states that the intensity goes along with density because the intensity of the existing PUD has the 20,000 square foot club house and the 120 bed nursing home in addition to additional cottages. There was also a lot more disturbance of wetlands than what is being proposed now. This is environmentally better than the existing PUD. T. Yasenchak asks if L. Palleschi has any comment on the State's definition. L. Palleschi states that the Town Code states what density is. He understands the Board's point on density and if they feel that their density case, then make that a recommendation to the Town Board. Let's move to the Town Board. T. Yasenchak states that we have to finish SEQRA first and that is what we are doing. L. Palleschi states that the SEQRA looks at water, sewer, storm water, traffic – and they meet all of those criteria. T. Yasenchak states also density because that is the question that we are talking about now. We are asking and discussing what the project changes could be to mitigate that. M. Gyarmathy states that he feels that the applicant did not bring any mitigating measures to the Board. It is still a potentially large impact and in his mind a mitigating measure would be to reduce the number of units in the proposed PUD. L. Palleschi asks why. M. Gyarmathy states because it is too dense. J. Streit states that he thinks he means too many people. M. Gyarmathy states that the traffic study said that there would only be 15 additional cars in peak traffic periods. He questions that they are going to build 300 units with 600 people and no one is going to drive or go anywhere. There is an impact. J. Streit states that in terms of density, which is a lesser issue to him than the aesthetics, he does not think that there is a way to mitigate those two buildings on the south west corner and his thought, his proposal is that those 2 buildings be eliminated from the project and that is the only way to address the aesthetic issue, and it also contributes to the density issue. He assumes that the applicant would be allowed to appeal to the Town Board and reverse this if the Board were to take that position. He was there and could see from the B&B, standing right next to it, the existing building. That is there and we can't do anything about that, but putting up those 2 buildings where they are proposed, there is no amount of mitigation – berms, trees, any kind of landscaping - that could address that issue and in J. Streit's view those 2 building units have to be eliminated. J. Bokus states that is what we discussed the last time. Eliminating those 2 buildings, which would take care of the aesthetics plus density. He is comfortable with the mitigation of the aesthetics but the density did not change and he would like to see some additional mitigating measures for the density. T. Siragusa states that he does not have anything new, but will restate more clearly what he stated in the last meeting that didn't come out clearly in the minutes. In looking at Part 2, #11 and #19, in terms of what his proposed solution might be that he thinks would mitigate it, in #11, in this discussion as presented by the applicant's representative, is that it is really all about the Bed & Breakfast and that view. He appreciates the view shed and that workup that was done, and L. Palleschi has done a lot of work all throughout the application process to respond to what we are talking about, to the Board's requests. However, what the Board marked as a potential large impact is not just the concerns of the Bed & Breakfast, it is really about the community and what we decide is community or current surrounding land use patterns. T. Siragusa states that his feeling is that the buildings in that south west corner, but also just on the south side in general on that road side, don't really fit in the community. He thinks it is too much, it doesn't fit in with the look and the feel and the use of that land. Yes, there is an existing use, because obviously Prestwick Chase is there already, but he thinks two problems are solved. He thinks that the aesthetics are solved, for him, for #11 and the 16 units there in the south west and the additional 16, if he is adding correctly, on the south. That is 32 units. So segwaying into #19, that is a 10% reduction or thereabouts – 32 units out of the 300. That for him would solve the density. T. Siragusa states that pretty much at every meeting he has mentioned his personal concern would be overall density. When he thinks of density he thinks of, as it is described, it is not the intensity, not comparing it to a golf course – there are 600 new people, 600 new residents, but the buildings themselves and the fact that the original amendment to the PUD had an additional acreage in the green space that we are no longer counting. That was a 29% increase in density just from that revelation that we have less land to deal with. We had some comments last week that this is coming in late, new comments from the Board, but that is not accurate, we have been talking about

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density all the way through and kind of telling the applicant that we are not happy with density the whole time, not just the last meeting. He states that he does not think that we have heard anything about mitigation. He will say that in respect to the applicant, that the work that they have done in terms of tree planting, the spading that they have done and moving natural trees around on that property is very good, it is impressive. He has no question that they couldn't do a good job spading in trees. He thinks that F. McNeary and company have done a great job of managing the landscape there having walked it. So he does not think that that is the mitigation. Just hiding it is not mitigating, it just doesn't fit to the current surrounding land use and keeping the density itself where the math of the buildings behind the existing infrastructure would be preferable. L. Palleschi states that those 4 units, he thinks he has mentioned this, they are very important to this project because you don't have to build a lot of infrastructure to construct those units. Those could be constructed after approvals. Once those are constructed they become the ones that are marketed so that he can start selling the rest of phase 1, 2 and 3. If we are talking density, why those? T. Siragusa states that he feels that those would mitigate #11, which is the aesthetics for the community. He thinks that having the buildings close to the road affects the current surrounding land use. He states that he understands the commercial aspect and wants to look at it that way, but we are asked to look at it in all ways. R. Roeckle states that in looking at the original PUD language, you are looking at close to 231 dwelling units plus 120 beds in a nursing home, and if you count each bed as a unit that is 351. The proposal is for 476 altogether. That is a large increase. 351 is already more than 100 that would be allowed in the conventional zoning in the surrounding area. This was changed for the original PUD. If you increase it again another 30%, that is a substantial change in density over an original change in density. He thinks it is too much, too dense. The impact, depending on the type of use, less traffic, water and sewer – will mitigate some of that but he thinks it is too much for the area. B. Duffney states that he can look at this from both sides. When an application comes before us, he looks at the area of the land and as L. Palleschi stated, it is more dense, but you do have sewer and you do have water. You do not have individual septic systems, you don't have individual wells. On the other hand, it is pretty dense. The only thing that he sees with this Board that we have asked, and he does not think that it is a lot, was the aesthetics and the density, by removing the 2 buildings in the corner by the B&B. It is not going to decrease the density a lot, but it would still show him that ok we can do this, they would try to take the density down a little bit. He states that the buildings in the front are going to look like townhouses, but maybe we could persuade the applicant to do a little more landscaping along the front. T. Yasenchak asks M. Hill to speak to the statement of whether or not it is within the Planning Board's purview to be reviewing density. We are reviewing the long form SEQRA which is State mandated and the Planning Board has been listed as lead agent by the Town Board. M. Hill states that this Board has to review the question of density, and this Board has to come to the conclusion from a SEQRA review perspective that the Board is satisfied with the proposal and that the proposal of the level of density is acceptable from this Board's perspective in order to complete the SEQRA review. It is agreed that the Town Board ultimately has to approve any amendment to the PUD, but the density has to be considered first here by this Board in the SEQRA review. B. Duffney asks if once this is referred to the Town Board, can they overrule the Planning Board and say that they do not have a problem with those buildings being there. M. Hill states that in that case the Town Board would have to look at the SEQRA review that was done by this Board and consider whether the applicant's request in the increase in the number of units would be consistent with the Planning Board's findings with regard to SEQRA before the Town Board could entertain or approve a request for density in excess of the density recommended by the Planning Board. T. Yasenchak states that it could also go the other way and the Town Board could say that they feel it is still too dense and they may cut it. L. Palleschi states that that is where he thinks that, procedurally, he feels that getting to the Town Board and letting them make that decision. Why are we going thru all of this, when the Town Board could change this? L. Palleschi reiterates that they have an existing PUD, they are not asking for a new PUD, just to amend the existing PUD. T. Yasenchak states that she concurs with the rest of the Board members; she has said from the very beginning that she felt that this was too dense. She feels that once we took the 25.5 acres out of the picture, that made it more dense. She does not feel that the applicant has compromised in this area whatsoever. It has always been 300, when the acreage was removed, it continued to be 300. It needs to be a compromise for the whole community and not just the developer, and she does not feel that the applicant has compromised on this number whatsoever even after hearing all of the reservations. We are at a point where

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we can continue with taking action on SEQRA, however, she states that she thinks that L. Palleschi knows as a professional, what the answer may be if the Board does not feel that a large impact is mitigated correctly. We can go ahead with that or L. Palleschi can go back to the applicant and see how he feels. L. Palleschi requests that this be tabled to the next meeting. J. Streit states that he would request that L. Palleschi pass along to the applicant that increased marketability is not a good reason to do something that is a bad idea, and it may be a bad idea in the view of some of our Board that the density and the aesthetic issues, by leaving those 2 buildings where they are proposed, doesn't fit the Town's view for that particular portion of the project. L. Palleschi questions that even if he got rid of those 16 units and added units on the 7 unit buildings and still came back with 300, the Board is saying no to that. T. Yasenchak states that she thinks that what the Board is saying is that the number 300 is too large for the acreage of this project. She states that it is the applicant's choice how he would like to proceed. L. Palleschi asks if we can close the public hearing or any of the above. T. Yasenchak states that we did close the public hearing because we felt that we had all the information that we needed and that any additional information that would be provided would be to mitigate the potentially large impacts. It is closed unless we come back with something substantially different. Reducing the number is not a substantial change. T. Yasenchak states that we need any additional information at least one week before the next meeting. P. Bouchard asks about the closing of the public hearing. T. Yasenchak states that it was closed and a statement was made at the last meeting that any changes the Board would be asking for, all the information given to the Board is on the larger project, so the mitigating measures would be something that would make it less of an impact.

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### **JOHN WITT – Site Plan Revision**

Old Stone Ridge

John Witt, Frank Palumbo, Steve Riley and Jen Merriman are present for the application. J. Witt states that the site is finally getting cleaned up; it is about 90% complete. He states that they had been asked to come back with a plan from a landscape architect and they had Mike Ingersoll and Dave Carr from the LA Group prepare a plan that was submitted to the Planning Board. He states that he has been meeting with the neighbors and trying to come up with a plan that is mutually acceptable, but they are on kind of different ends of the spectrum still. He apologizes to the neighbors for the situation that we are in and thanks them for their time. He states that he has learned much from this process and is looking forward to a resolution. He has tried to reach all the neighbors to come up with a satisfactory plan for both neighbors and the Middle Grove LLC. He states that he does have support for his proposed plan. It is a difficult situation with a grand misunderstanding. J. Witt states that he is going to have Frank Palumbo and Steve Riley discuss various issues. F. Palumbo states that he is not sure how many Board members were here at the time that he presented this plan. He is with CT Male Associates, they did the original subdivision plans, both phase 1 and phase 2. He was at every presentation meeting; his name is in the minutes in many places in terms of how they presented the plans. J. Witt asked him to recount what they did when they put the limit of grading and clearing line on the plans. He states that C. Baker asked for it in one of his last comments on the plans, to add the limit of clearing and grading line. It was something that was on a check list for providing for the subdivision and probably also on the site plan check list, he believes. He states that it was not something that they were looking at as being a "no cut line". He will discuss where he, professionally, sees the difference in that. The limit of clearing and grading line, when they were doing the subdivision, part of the process was also to do the SWPPP. The SWPPP plan, that C. Baker was also reviewing at the same time, had to establish the area that was disturbed for the purpose of what was heading to the detention basins, and how the erosion and sediment control plans would be developed based on the area that was being disturbed. The monitoring of all of that construction, within the SWPPP regulations, continues until that area is reestablished. So all the side slopes of the roads were included in that, the road was being developed first. The way that that was defined, both for the volume of area that was contributing to that storm water management plan, but also the area that would have to be reestablished before the SWPPP inspections would come to a halt. The limit of clearing and grading line, in his professional language, is much more the work of a construction limit line. In some cases it can be used to say that it is absolute, but he does not think that any of the record shows that that

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was what we were talking about here. As a matter of point of fact on that, he would also point to the Homeowners' Association language that did talk about clearing in some of those areas. He had a brief conversation with C. Baker before he sent the letter because he wasn't sure if he should be sending it to the Board or to C. Baker. C. Baker recommended that it be sent to the Board. They talked about, not just presenting here at the Planning Board meeting, but he and C. Baker were out on the site from the inception, from the very cold November day that they were out there with the DOH doing the soil tests in this area, and he did remind F. Palumbo that there was some concern in terms of the area of the slope and the erosion capability there so that that was a concern, but he thinks that, unfortunately C. Baker is not here and he does not want to put words in C. Baker's mouth, but in the conversation he said the same thing that he just said here, the limit of clearing and grading was a construction line at that time, and that it was not a no cut line. A no cut line would have a very, very defined and specific purpose and it would be defined so that it could always be re-measured in the field. He states that if C. Baker were here, he would have plans that he could pull out of his office and F. Palumbo could pull out of his office, where you have areas like sensitive environmental areas, wetland lines, where you have to establish those, those are given meets and bounds and they are defined. In many cases, that would also carry with the individual lots. He states that C. Baker was very clear, and F. Palumbo thinks he would say it if he were here, they showed this clearing limit line because the DOH in this particular subdivision, because of the low depth to the bedrock, they wanted to be assured that every single lot could be developed with an approvable septic field. Every house that is shown graphically on the subdivision plan is just that, it is just a graphic based on a style and type of house that would be going there. As you know, every house that has been built has been a house that someone has wanted. What was important with each of these lots was that they had to verify that an approvable septic system could be built on the lots to get it approved by the DOH. In doing that, they took the edges of the grading where it was around many of the lots and they showed grading back to that point. They showed that was the limit that they needed to do in order to put that septic field on there. He states that they would never have thought that that line meant that that land owner would not have use of his property. Had it been a no cut line, that would have been very articulated, defined just like a property line would be and it would be in the deed and it would have carried with the lot sales. That is how he would differentiate it on a plan from a limit of clearing and grading line. The limit of clearing and grading line is much more towards a construction, to not let construction just sort of run rampant out there. Subsequent to that being on the plan, the HOA, which F. Palumbo did not prepare, but he knows that it had been submitted and reviewed by the Board at that time and by the Board's attorney. They had to get the subdivision approved, it had to go down to the Attorney General's office for approval of the HOA and those things were happening at the same time. F. Palumbo states that when they got phase 1 approved, in order to keep the process rolling and to make sure that it was not going to be something that was lost, it was conditioned that phase 2 would not be approved until the HOA was reviewed by the Town's Attorney and that it had been submitted to the Attorney General's office. He can only go by the fact that phase 2 was approved, it was finalized, that condition was met. He states that it may sound like semantics, it may sound like minor differences, but a no cut line would have been very, very defined because you have to be able to reestablish it in the field. C. Baker conceded that he never expected that those lines would be holding to the lots when the lots came in and he does not think that the Building Department has treated the lots where the limit of clearing and grading line are as sacrosanct, that it must be where it is. He thinks that they have allowed that latitude of the line. He states that it may sound like a minor difference and certainly that there is no expectation that there would be great movement of that line because there wouldn't need to be, but at the same time J. Witt's work with the HOA did define that clearing would happen in that area. That is the issue in terms of how all the meetings that he presented it, their putting it on the plans in response to C. Baker saying that, it was just to put the limit of clearing and grading line on. It was not stated from the standpoint of the Board has determined that no cut should happen in those areas and you need to establish a limit of clearing and grading line. It was the edges of what was known to be the development at that time. A particular area of concern of C. Baker's was along the slope area. They had come in during the subdivision process, asked the Board and were granted an exception to the standard Town road grade. One of the reasons they did that was to show that they could do a more beneficial, less grading, not clearing, but less grading, by going with the steeper road grade because if they had gone with the flatter road grade, the grading would have all had to go out. It was not a

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consideration of the limit of the clearing that might happen at the site. With respect to the cluster subdivision and the 100' setback, that 100' setback from his belief as they went through the process, they came in initially with a conventional plan; C. Baker helped them and informed them that they had to do the "cluster plan". You have to at least "investigate the cluster plan and with that the cluster sets the density", so even if they had decided to do a conventional subdivision plan, they would "not be able to do more than the lots generated through the cluster subdivision". The cluster subdivision said use 100' feet in from the property line. That 100', if it was a property that had no trees on it, would have been the same. There was nothing that said that 100' was specifically intended to be preserved. It was a cluster to help set the density. They went through a few different generations of the conceptual subdivision because they realized that they were going to end up doing more roadway, the Town would accept more roadway, they at one point had tried to have an access out on to Middle Grove Road, but the sight distance wouldn't allow it. It made sense to do the cluster style because it was less roads for the same amount of lots and it could be done with less impact. He thinks that the Board appreciated J. Witt taking that approach. In terms of the visual analysis, that was done and C. Baker had forgotten about that. He states that it was very basic at the time but they were asked and the SEQRA form talked about visual impacts within a ¼ mile of the site. They had shown the ¼ mile radius from the site and superimposed where the subdivision was. They found that within that radius there were no fixed points that were going to be detrimentally impacted by the view, mainly because of what they described as the superior positioning and the view was that this being up on the hill, there was really nothing that was going to be looking down at the biggest area of clearing which was the houses. By virtue of the houses that were down lower were more hidden from view but the houses in that area at the top which cleared a whole lot more area than what we are talking about now. That was reviewed by the Board, they presented it and the visual analysis, and the Board did not even see that there was a small to moderate impact. He thinks that the Board at the time had seen that this did not have a visual impact. Also, when they do these presentations, they always do them with the idea of the leaf off conditions. They were using topography to dictate, because you can't see through a hill form. What they were looking for was where the public view sheds were, was there anyone who had a house that was looking right in this area that would have been impacted by it. It was not done for inside the subdivision in terms of views back and forth between houses, it was done in the context of SEQRA within that ¼ mile radius. They also did the analysis from the road and he thinks that the road as you drive it today, you can really not see the houses up top, which is what they were intending and had presented at that time. He states that they did cover it, the Board did review it, and he thinks that the plan is consistent with what was determined at that time. The limit of clearing and grading is not a no cut line or else every one of those lots would have that established in their deed. That line was just representative of what they had to do to get the storm water management areas packaged. T. Yasenchak states that one of her questions is that part of the additional information that the Board has received from the LA Group is that they address the difference between the SWPPP because obviously when you are looking at run off from an area you look at both the coverage, is it field vs forest area, where originally the SWPPP showed that as forested area. Part of what the applicant is giving us now from the LA Group addresses that there is a difference, that originally 9.3 additional acres of wooded area would be cleared. Originally it appears that the intent was to keep it wooded because it was not included in the SWPPP as clear cut at the time. It was not included as vegetative grassland. F. Palumbo states that there are different runoff coefficients from those areas and that is probably what T. Yasenchak is addressing. He explains that the SWPPP is expected to be flexible, there are field decisions made so the runoff coefficients that were used from that plan were that this would all be grassed area (points to the map), and that would be coming to the road and that is where the catch basins were. F. Palumbo states that the runoff coefficient between the forested and the grass land is nowhere near as significant as a permeable surface to an impermeable surface. He states that the most dramatic impact on the SWPPP is when you have hard surface. The difference of where these areas were going and how they were getting places is not as significant as where we had roads and houses, etc. The potential erosion factor is something that he believes that the LA Group addressed in that area. Where the selective clearing was done, they provided the information that says that there are no signs of erosion, that those areas weren't all directed and headed towards those same basins. In fact, many of those areas were just heading to their natural low areas. T. Yasenchak states that she understands that, but still even the SWPPP is something that evolves a little bit and it gets massaged as you

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go thru, that 9 acres was still on the original SWPPP meant to be wooded. She understands that the coefficient is different. F. Palumbo states that more importantly, those areas were not intended to come to the same storm structures and basins. A change there would not have changed the SWPPP. T. Yasenchak states that she understands that, but in the original SWPPP it stated that that area was wooded. The Board thought that limited clearing, if it was shown as wooded, even in the SWPPP, why would we think that it was clear cut or even if it said in the HOA selective clearing, there is a difference between the two. She states that her first question was why in the original SWPPP was that shown as wooded if the intent was to clear cut then it would have been shown as field. F. Palumbo states that the clear cut and the clearing, how much of it, what is there, what has been done – whatever it ended up at, it would not have a substantial modification to the storm water management plan. It would not be adding the hardscape that would cause that runoff to really impact, we would be talking about storm water impacts if that were the case. If there were evidence that this was running off and causing a problem, that would be a storm water problem and then the question would be, certainly and not that he is saying that it is not a valid question, but it would certainly be more valid because if there were issues in terms of this running off and causing problems from that. It is not to his understanding that that has been the issue. The issue has been about the view sheds and J. Witt's desire to have the view sheds, which when he and C. Baker talked about what they saw out there originally, there was also the agreement, everyone knew that those lots were the ones that those views were available to. That was always presented at the meetings in terms of the value of those lots and the views that you could have from there. He remembers they were up there during the fall and he was very surprised that he could see the Empire State Plaza towers and then at the other lot, being able to see all the way to Vermont, because he had never known that that existed that close to Saratoga. He states that where we can talk about what we did or didn't say, he can say that it was always presented that the reason that J. Witt wanted the ability to clear in that area was because those lots were of such high value. B. Duffney states that F. Palumbo keeps repeating limit of clearing, does the limit of clearing include mowing the hillside? He states that he was looking at the map and he states that it says no cut zone. F. Palumbo states that they never prepared a map that says no cut. B. Duffney states that what he sees is the side of the hill mowed. He states that F. Palumbo stated that there would be no visual impact to the neighbors. F. Palumbo states that what he said was that they presented it to the Board and the Board at the time saw the rationale that they used to make that determination, and through the SEQRA process and the ultimate approving of the subdivision, concurred that the subdivision had no adverse visual impact on the community. One of the tests of a visual assessment is that you are weighing what is going in compared to what is around it. It was a residential subdivision, so the test was not high. It was not like you are saying that you are putting an industrial plant in the middle of a rural residential area. It was a cluster subdivision in a rural residential area and that is why they presented what they did, and the Board at the time took the option that it had no adverse visual impact on aesthetic resources. T. Yasenchak states that the difference all comes to the definition of that limit of clearing and whether the Board at the time felt that it was going to be clear cut or whether the Board felt that there would be, maybe, selective cutting or whether they felt that it was going to be forested. B. Duffney states that there is a big difference between clearing and selective. He asks if the visual impact on the neighbors who are in the development, does their visual impact matter? F. Palumbo states that that was never considered by the Board, they were never asked to do an interior and in all the years that he has done residential subdivisions in many, many different localities, that is the last question that is usually, if ever asked, because basically it is a developer who is coming in with a plan. If the Board were to ask, if they were that close together or there was a window facing a window, not the case here. He has only faced that where you might have 10,000 square foot lots. In the City of Saratoga, you can do a house on a 6600 square foot lot and you could have one right up next to it. That would be something where you would say, is this going to be something that will be an impact. In this case, the Board never considered or asked them to present anything from the impact of views from one subdivision home to another. T. Yasenchak states that someone did say, in the minutes, that they wanted to 'make it a first class project and not wipe out a couple hundred feet wide of trees' if they do not need to. She states that there are other things in the minutes that talk about keeping a buffer and about trying to keep as much trees as possible. She states that it is a difference of interpretation from the Board at the time. For herself, she can say that when she sees a limit of clearing, maybe a few trees are going to come down, but not all of them, so she wouldn't have asked for an aesthetic report or visual report, because in her mind it wasn't

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clear cut. F. Palumbo states that he thinks that the area that had most of the focus, was really up along Middle Grove and he remembers having a lot of discussion there about what was going to happen down around the corner and the aesthetic of what was a rural, albeit a fairly heavily traveled, but a rural road and would there be a lot of views into the site from there. He also does not recall many neighbors coming to the meetings at that time to voice that they thought that there was a visual impact. T. Yasenchak states that we are going to agree to disagree because she does not think that it is neighbors because if they thought that a limit of clearing meant that you were not going to clear cut, then maybe they thought that the buffer was big enough. They thought that the limit of clearing was good. If they knew that all of the trees on the hill were going to come down, maybe the neighbors would have had something to say. F. Palumbo states that he recalls not having very much public comment from the neighbors, it was really dialog between the Board. T. Yasenchak states because there is a limit of clearing. F. Palumbo states that the limit of clearing was added very late in the process. He thinks it is one of the conditions on one of C. Baker's last letters to the applicant so they were going into the final. It was not thru the whole public hearing process. T. Yasenchak states that in looking thru it, there is a lot of notation saying that 'as much vegetation as possible', they don't want to clear cut, selective cutting, etc. For her, it is the difference in the interpretation of what that meant at the time. B. Duffney states that they said that the biggest part of the clearing was for building lots. He asks if they are going to put a house in the middle of that side of the hill that was mowed, you can look right down into the neighbors. F. Palumbo indicates a section on the map and states that there will be no other houses. B. Duffney asks why it was mowed down; all the trees were mowed, gone. F. Palumbo states that J. Witt, through what he believed was allowed under the approved HOA document that allowed selective clearing for the creation of views from those lots, that that was clearing that was done. F. Palumbo states that the issue was in the HOA agreement that selective clearing would occur. B. Duffney states 'selective clearing'. F. Palumbo states that is why J. Witt had the LA Group do something, some alternate plan, but he does not think that J. Witt was acting illegally in that manner because he believed that that is what the HOA agreement allowed him to do. J. Streit states that the Board was given many, many copies of minutes of various meetings over a long period of time. This is the process and he thinks of things very simply, if you have a whole bunch of process, this leads to a point and to him, the point from what he is understanding, leads to the plan that is in the office, which shows a clearly delineated no cut zone. He was told by the Town's Code Enforcement Officer that this is exactly what is says, there are signatures on that plat of Gary Dake and engineers, and it shows clearly that what we are talking about, storm water, etc. – no, don't cut those trees is what is specified on that map. He states that we don't have our Town Engineer here, we don't have our Code Enforcement here and F. Palumbo is a professional, and J. Streit is not in that particular field, but unless we sit down with the map and look at it, he was told that it is very clear, there is not even a question, those trees were not to be cut down on that slope. No matter what the process says, no matter who said what at what meeting, a document was signed that said clearly that this is a no cut zone. F. Palumbo states no, it does not say the words 'no cut'. He knows that it sounds like semantics, but it says 'limit of grading and clearing' and he thinks that you could find a lot of plans that have been developed that show that that is on a plan to generate that area of the construction that is occurring. It is not a no cut line. J. Streit states that he thinks that we need to have that plan out here and have it discussed by our Town Engineer and Code Enforcement. F. Palumbo states that he has the subdivision plan right here and it does have the words 'limit of clearing and grading', but it does not have the words 'no cut'. He states that the Board also has a document that was also a part of that approved record that does talk about some clearing. S. Riley states that it is more than that, it talks about removing 'any and all vegetation'. He states that people are quoting it as saying selective cutting but it goes on in the very same section to say 'remove any and all vegetation'. J. Streit asks M. Hill if that document is in force, the HOA. M. Hill states that it is in force as to a homeowners' association but it is not the subdivision plan that was approved here by this Board. It governs between and among the residents of the subdivision. J. Streit states that he thought that they had not sold enough lots to make it in force. S. Riley states that it has been recorded and it is specifically called out in every deed a reference to that HOA. Everyone who bought a house was specifically told about that declaration; there is a record at the County Clerk's Office. They could not trump, it is not as clear, it is not a no cut zone. The neighbors are subject to that, they knew and were on record or should have asked what that means. He states that J. Witt also has the right in the paragraph above; he reserves himself the right in

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perpetuity to log. T. Yasenchak asks if the Board can have a copy of that document. She states that the Board is commenting on comments that were made in previous minutes about the selective cutting. So she thinks that the Board is taking that off of some of J. Witt's comments at previous meetings because we do not have a copy of this to review. F. Palumbo states that another part of the question, he has talked with C. Baker and would be happy to talk with him again and would be happy to talk with the Building Inspector, but it is his understanding that that line was not enforced on all the lots that were developed. So the same line is on all those lots and if it was a 'no cut' line, as it is being said, then why would it be, the line is not hard and fast as a 'no cut'. There have been lots, it appears, where that cleared area has been on some of those lots. Is it only hard and fast as a no cut line over in that area but where it is on the lots it is not a hard and fast line. It is the same exact line that goes around there because it was what they defined as the limit of construction, excavation and clearing that was going to be necessary to do the lots that the DOH made them show that they could do. J. Streit states that you say, limits of clearing, does that mean that you cannot clear beyond that limit? F. Palumbo says that is states 'limit of clearing and grading', so the two were put together because that was the grading that was necessary and where they had grade they would obviously have to clear. They only put that line on there, it actually took them longer to get the DOH approval, because they wanted to see every single lot with an approvable septic system. It is not the septic system that ended up being built; they were put in different places because in some cases the house and septic were switched. As long as they could get that approved thru the Building Department showing adequate depth to the bedrock and the percolation rates, that could be done, changes could be made. The grading, if it was necessary, he does not think that the Building Department said that there is a line on there and that you cannot go over it on the lot. By the time they got phase 2 approved they had already established and this is where they made connection to the storm water, that line was not even asked to be on there. The phase 2 subdivision approval does not even include that line. They had to define the road, so there was a line that went across that area. As phase 2 was approved, it was approved with no limit of clearing and grading on it because the area that was contributing to the basins as far as the storm water management was already factored in and had been established so any drainage from these lots that was coming forward and going into the basins, there was no need for it anymore. It was a construction line. They also used that area to develop the bond that J. Witt was required to do. That area was factored into reseeding, reestablishing the grass on all those areas. That was the boundary that they used for construction purposes and the bond. T. Yasenchak states that she cannot find, besides the limit of clearing line, where we said in the minutes or how we looked at the area that was supposed to remain open space. F. Palumbo states that when you decide to do a cluster, one of those ideas is that if there is land that is of value to the Town to be used for recreation purposes or value as open space, it would more than likely be defined as being turned over to the Town. That never became a part here. All the land was left for the HOA with the exception of those areas which were used as the basins and the roads, which would be dedicated to the Town. Everything out side of that was put into the HOA because the Planning Board saw no value to recommend that that land be turned over to the Town. As far as open space, anything that was not in the lots was in the HOA. J. Witt states that going back to when they developed the site, it was difficult. They had to get the road up there; they had to blast thru the rock to get up to the top of the hill. The objective was to get lots on top of the hill for views. He states that he met with a lot of the neighbors. Some of the common ground that they have is that they all agree that there should be some views. Where they disagree is they thought it should be forested and selective thinning of the views. The old Benton Farm was there which had cleared for a beautiful view of Vermont. That whole ridge has that same view if you clear the trees and that was his intent all along and he apologizes for all the confusion. He states that he would like to work with the neighbors and the Planning Board to come up with a plan so that there is not confusion. He states that he thinks that his proposed plan defines the intent of the original approval of the project with the open land and the buffer, and it provides a no cut area. Most importantly, it eliminates HOA confusion and disagreement. In the future, this is going to be something defined, set in stone and it is not going to be subjective. Right now it is very subjective, we can't even agree if that is a no cut zone or a clearing line or a construction line. If he can't sell the lots with the views, he is out of business up there. He states that this plan has a great criteria for the removal of trees, to maintain the view while protecting a planted buffer. J. Witt states that the first area is a no cut zone and he indicates its location on the plan. The intent of the project was that when you drive down Lester Park you look up and you don't see any houses. It



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looks like it always was. That was the intent when he got the approval and if you go through the minutes, that was the total intent. To recreate behind the field, he has to trim a few saplings that have grown up, but the intent was to have the stone wall exposed, the big maples that are along the stone wall, you look thru that and see the bottom of the hill and you might see a rooftop, but the intent was that you are not going to look at a subdivision. He reiterates that that was the intent and he is not changing anything and he thinks that this plan reflects that. The second zone is a reforestation zone in which he proposes planting 600 seedlings and he points that area out on the map. He states that a lot of this area is filled in already and he thinks that with the seedlings it will fill in even more. The only person who is affected by any of the views of that field in the summer time is Joe Szpak. All the neighbors in the subdivision can't see thru there with the leaves on the trees. His plan is to plant that up with some evergreens so that even in the winter time, eventually, they won't see anything on the hill side. Along with that, this is something that they do in the Adirondack Park and is something that the LA Group came up with, to maintain the views they can't just clear the area, but let's say a tree grows up into the view, they can cut trees larger than 12", but they can't clear cut it and they can't clear any of the shrubs, the lower protected area. That will fill that in and will create the visual buffer, it will create a buffer for J. Szpak who he feels is the only neighbor impacted by the cutting. The third area is the managed scenic buffer, managed by the adjacent lots. He indicates on the map, the downhill side. It would really be up to the adjacent lots to do what they want to in that HOA land, which is what the HOA says that he provided when he got the plan approved. That they are allowed to clear for the views or if they want to let it grow up, they can let it grow up. T. Siragusa asks if that is what is happening where there is a whole clearing, the one way up on the top, the old house. J. Witt states that the clearing has always existed. They bulldozed some pine trees that had grown about 12' tall. The reason why the Benton family built that house there was that view. The fourth area would be the areas between the lots and that is really up to the homeowners who own each lot. He states that in some of the buffer areas there are nice trees and some that are not so nice. The fifth area is a replanting area to be replanted with a mix of trees, 50 seedlings and then he has proposed \$3,000 worth of larger trees to go in that area so that it would grow in solid so that you cannot see anything on the hillside when you drive by the site. The sixth area is the fields that are to remain cut annually and the catch basins would be included in that. F. Palumbo states that that is in the SWPPP's annual maintenance. J. Witt states that it should be on the plans so that the HOA knows. J. Witt states that he is talking to the neighbors and hoping on working with them on coming up with an acceptable plan. The plan that some of the neighbors came up with is not acceptable to J. Witt. He believes that it is excessive, it is a reforestation and that is not something that he feels was approved with the project. The estimated cost is large and not feasible, it would block views from the ridge lots – 15' trees, 65 per acre, planted by this September is unrealistic. It is not keeping with the approved HOA. He states that he wants to apologize, although some of the clearing was excessive, he thinks that when it grows in it is going to be beautiful. S. Riley states that it is fair to say that they have some neighbors who have also indicated their support of J. Witt's plan as presented. It is not that all the neighbors are opposed to it. He states that he wants to comment on a couple of things from the June 24<sup>th</sup> letter from some of the neighbors. It says that a statement that he made is tantamount to saying that his client's argument is completely invalid. He states that his statement was in response to a question when he stated that the HOA document does not trump what the Planning Board has said, but in going on from the official meeting minutes, all he went on to say was that everyone was on notice of what was in the HOA document. He states that there is a very strong argument that because zoning restricts the right of a developer, ambiguity is going to be interpreted against the Planning Board because of that. He states that to the extent that it was ambiguous at the time, he thinks that the developer is entitled, under the law, to fair amount of deference as to what is going on at that site. If the Planning Board had wanted to make that a hard and fast line, as F. Palumbo has indicated, they could have said at the time that it was a meets and bounds, and they did not. T. Yasenchak states that one of the things that someone did quote was that they felt that putting specific limits on the developer when they believed that the developer would do the right thing, was not appropriate. She states that most people on the Board now were not at that time. T. Yasenchak states that in the original minutes as well as on this proposed plan, there is a 100' buffer and yet on the reforestation the applicant is still saying that that 100' can be cut. Is that what J. Witt is suggesting or is that going to be part of the no cut buffer once it is reforested. J. Witt states once it is reforested. The idea is that once the trees get big, you can't cut anything until it gets over 12" and then

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only 60% of that every 10 years. The idea is that you can't clear cut that area, you need to keep it as a buffer, but it allows a mechanism to clear for the views. T. Yasenchak states that she is concerned with the trees that may still be there in that 100' buffer, someone could come and cut those right behind J. Szpak's property. J. Witt states that no more trees are going to be cut in that area. T. Yasenchak states that it does not say that it is no cut. She states that it doesn't seem that they would grow that tall from the bottom on the hill. J. Witt states that there are just a few trees along the edge, he indicates on the plans, that need to be cleared for the house that they are building now for the views; otherwise this stays as it is. T. Yasenchak states that then J. Witt would be ok with changing that to no cut. J. Witt states absolutely. T. Siragusa states that those trees are already gone. J. Witt states most of the large ones are. T. Yasenchak states that it is in the reforestation area, but it also says that you can continue to clear it. T. Siragusa states that it is defined the same as the managed scenic buffer but it doesn't have any trees on it. M. Gyarmathy asks if we have received a copy of the HOA information. T. Yasenchak states that we just received it tonight and that is something that added to the confusion. Now the way we review things is that if we have a HOA that is something that we review as part of the project. When it was originally done it was not and was something that was taken as a document and given to the chair at the time and Town Attorney to review. When we did SEQRA we did not include that as part of the overall review.

A public hearing is reopened at 10:12 p.m. T. Yasenchak states that we have received a lot of letters, a lot of correspondence, so if you want to repeat yourself, please do so in summary. Joe Carbonaro, Lower Meadow Lane, provides a copy of his notes and speaks from those. He thanks the Planning Board for the opportunity to provide input on this matter. He states that J. Witt provided his latest proposal about 2 weeks ago and they thank him for giving it to them in plenty of time to comment. Those comments were documented in the June 24<sup>th</sup> letter and it can easily be summarized as appears in his handout. He states that as to some of the comments that were made here, it sounds like both F. Palumbo and S. Riley at least acknowledge that there is ambiguity in words like 'limit of clearing and grading'. He is not sure how it could be expected to be reasonable, that any average person could expect that the limit of clearing means you don't clear beyond that. He provides a print out from the Saratoga.com website. It is an advertisement by Witt Construction from 3 days ago. It very clearly says, and there are comments here about views, but you don't look at that and think that he is going to clear cut everything. The ad states 'conservation subdivision' and you know that has a very specific technical exact meaning, it says that you have to leave 50% of the area alone. He thinks that removes any ambiguity whatsoever. J. Szpak, Lester Park Road, states that one thing that he hasn't said so far is that he was foolish; he did not make any public comments during the original Planning Board meetings because he was convinced that he would have a 50' to 100' buffer and about a 250' buffer in another location that was going to remain forested. To him that sounded fine, he went to all the meetings and didn't say anything. He was in favor of the project and didn't say that. He had Board members say the same thing to him during the time of those Board meetings that at least he was protected. Certainly today, because of the clear cutting, even in the summer time right now at the most forested point, he has a direct view into the backyard of the hill behind him. He did talk to J. Witt who said that he definitely wanted to work with J. Szpak and plant some taller trees that were directly between J. Szpak's house and the house behind him. That is not reflected in this plan, but he did agree to do that. As a minimum he would expect that to be in the plan. He is very concerned about the current plan allowing additional cutting to be done with the few mature trees that are left, 60% of them could be removed. He is opposed and would like that redefined. He discussed that with J. Witt who stated that he was amenable to making some changes with the horseshoe area that goes around J. Szpak's house. It is not in this plan. J. Szpak states that he strongly recommends to the Board that before any approval is given to any new plans that the remediation is done for the unsafe and hazardous conditions that exist, and also that the property is cleaned up for all the fallen trees. The remediation did start a few weeks back and he would say it is about 90% done, there are only 4 very large trees that remain and that is planned to be done tomorrow. The other thing is to clean up the fallen trees and some of the old ones, that is about 45 to 50% done. There are still large piles in some areas. He discussed that today with J. Witt and the contractor. He states that J. Witt has agreed and that that would be added to the scope of the contract. That has not been done yet and it is over 9 months that it was supposed to be done. His request to the Board is that prior to approving any type of plan, finish the remediation, finish

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the cleanup. He is opposed to this plan because it allows more cutting behind his house and it does not include the additional planting. The last thing he is opposed to on this plan is the area that was clear cut there is no replanting in there at all and he thinks that there should be some type of replanting in that area. It has been taken over with invasive species and it looks bad. He states that 7 months out of the year you have complete views, even before anything was cut. When people went up to the old Benton cottage on the hill, you could see the views. It was completely grown in because all the leaves were off the trees. 7 months out of the year, before anything was cut, you had the beautiful views. This is the part of the year that it is the most forested and he thinks they have filtered views in the most forested part of the year, which tells him that there should be some kind of replanting done on the hill. He states that J. Witt had stated that he did not want a neighborhood type of look but he also said we wouldn't be looking into backyards and you can see the fence and the back yard from his house and from Lester Park Road. He states that he did not object to this subdivision, because he was foolish and he thought there was going to be the 250' approximate buffered area that was forested. William Crowe, Old Stone Ridge Road, states that he disagrees with this plan. He indicates where his house is located, not just J. Szpak is affected, he is also and states that he can see D. & K. Little's house from his house. He disagrees with this plan because there is no replanting of the part of the hill that was clear cut. This plan also allows for a cluster of trees to be taken down, he indicates location on the map, which means that they are going to be looking at the new house as well. At the very least the last cluster should not be taken down, it is the last cluster between the new house and B. Green's house. J. Witt states that he does not plan to cut that. W. Crowe states that J. Witt stated that he was going to remove those. W. Crowe states that J. Witt had said that the houses would be tucked in and you might be able to see the roof tops from Lester Park Road. Like J. Szpak said, you are looking right into the Little's backyard. The notion on the HOA document being the controlling document and J. Witt having total control of that, that notion kills him. Is the site plan the controlling document or is the HOA the controlling document and are they the neighbors and do they get to approve what goes on? From J. Witt's point can he put a playground, can he put a gas station in there before he turns it over to the neighbors. He states that they do not approve of this plan. Christine Fox, Lower Meadow Lane, states that she did not build her house; she is the secondary owner and just moved in last November. She does not approve of this plan. The forest is gone. When they went to the website before they bought the house, they saw that it said conservation subdivision and that the land would stay forever wild, and that was very appealing to them. Right now the house that is being built, she states that they can see right up to the house. She states that it is very hard to see with the colors on this map, but all of the area, the managed buffer zone, and the HOA can take out 60% of the trees in that area. Since he is the HOA at this point, it seems like he can take out 60% of the trees around the whole subdivision. This to her does not say a conservation subdivision. Ken Clifford, Old Stone Ridge Road, states that he spoke to J. Witt earlier about this and had some suggestions. He asks if the limit of clearing and grading isn't what it is, then what exactly is it and does that mean that every single document on file isn't accurate. He states that it seems that everyone on the Board is under the same impression as they are. Limit of clearing and grading, means you don't clear beyond that point. He states that he talked to J. Witt about this plan. He states that no one has ever said that they want to take the views away from the people in those houses. What they are disagreeing with is the fact that this plan, for the majority of the year is unacceptable because you can see into that area and it is completely barren. It has been raped. He states that the area behind the Benton house, he has lived there for 4 years and it was not cleared, it was wooded. He knows that because he walks his dog there every single day. That was done over a period of time and no one was aware of it, but it happened. He states that he is not saying that there wasn't an area there, because there is dumping going there, there is fill going in there. He states that F. Palumbo made a statement about the backside of the ridge and the limit of clearing and grading. None of the homeowners cleared that. It was done by a subcontractor during construction. He indicates where he lives. He states that he is all for working with J. Witt but this as it stands right now has to change. He states that it is very specifically clear that it is a conservation subdivision, so what happens when you change that? Do things have to be filed with the State, etc? Tom Selfridge, Lower Meadow Lane, states that he has lived there for the last 5 years. He states that the facts of what the HOA, what the construction was, what J. Witt's intentions were – were not well developed. He states that there are several of the neighbors who agree with what J. Witt has done, appreciate the construction that he has done, appreciate the way he has handled the homeowners, etc. As far as the

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context of the properties, he builds a great home, he is always available and they appreciate what he's done. He states that some of the letters that the Board received, not all the homeowners were a part of those letters. He disagrees with the plan that has been presented by the individuals here tonight. He thinks it is excessive, he thinks that they ignore long term expense when the HOA takes it over. He thinks that the plan that J. Witt has put together is in the context of the facts. He states that if the other folks didn't agree with it, they should have read the information before they moved there. Shannon McCarthy, Realty USA, states that she represents J. Witt and is also currently representing two of the resales that are in the neighborhood right now. She states that the lots will be extremely difficult to sell if they are not able to market them as having a view. She currently has a contract for a new customer to build on the ridge and that agreement is 100% contingent on that customer being able to maintain the view. If for some reason they cannot confirm that the view will be maintained, they are not interested in moving forward at all. It would definitely be in the best interest of all the homeowners there to try to resolve this conflict as soon as possible because she received feedback from buyers and brokers that she has been showing to that they are very concerned about moving into a subdivision, an HOA, with this type of conflict. The sooner this can be resolved the better it will be for everybody and it will protect their resale value as well. J. Carbonaro states that there is an incredible amount of angst that those in the neighborhood have been put through because of the way this whole process has come about. They don't appreciate person A being told how person B feels about something. He states that they know that there are people in the neighborhood who don't agree with the plan the neighbors put forth and they never claimed that they did. He is not sure what copies of e-mails the Board received. T. Yasenachak states that she cannot accept something that is not specifically from those people to the Board. If it was sent to J. Carbonaro, if he feels it is important for the Board to look at, they should send it directly to the Board. W. Crowe states that he urges the Board to make a decision about the no cut line despite whatever plans J. Witt has to replant or not. K. Clifford states that he has read every document and he is one of the original homeowners, and there are a number of neighbors who are also original builders. Not one of them received an HOA document. It might be attached to the deed, but it wasn't. They had to specifically call and ask for that document. That was not made readily available to anybody who actually bought the process and built the home. He states that if this is indeed a no clear/no grade, then is J. Witt and/or Realty USA promoting views that they don't own. If that is the case, that is a problem with the State because you cannot do that as a realtor or anybody else. You cannot promote something that is not fact or not actual. He states that he is a realtor and knows, you can't do that. Brian Green, Old Stone Ridge Road, states that he does not understand why the backside of the neighborhood is in a different area. To his knowledge there is no view that way so he doesn't understand why that wouldn't be a no cut zone. J. Witt indicates 3 lots and states that they cleared into those areas because they have sunset views when they built the houses. He states that it is the intent of the project to have filtered views, to set the house and clear for the view, selectively or clear for the view. That was always the intent. He states that some of us are just never going to agree, and he feels bad about that. He states that the reality of it is that they bought the project for the views; they developed the project for the view lots, to always clear the view lots. It is in the HOA document, it is part of the approval process and he wants to close this chapter and move on. T. Yasenachak states that we do have some letters that were given to the Board and questions that if it is a letter that is not addressed to the Board, she should suggest that it be. M. Hill states that the letters should be addressed directly to the Board from the individual. T. Yasenachak reads a letter signed by Chris Farr and Maria Lander dated 7/7/2014 regarding agreement with J. Witt's plan. J. Carbonaro questions that these people do not currently live in the subdivision, their house is being built. T. Yasenachak explains that anyone can comment on any public hearing about any project. They do not necessarily have to live there. B. Duffney asks if he can have permission from J. Witt to drive into the subdivision. J. Witt concurs. B. Duffney states that he would like to see some additional information. Seedlings are 6" to 8" tall, rabbits can eat them, a lot of them don't survive, and they need to be maintained. He would like to see something bigger than seedlings. T. Yasenachak states maybe a mix, not just seedlings but maybe used in conjunction with something else. B. Duffney suggests using something like White Pines, Hemlock, hardwoods, etc. T. Siragusa states that he is having a hard time making comments against a plan when we have too many things that he does not understand. He states that he needs some guidance, what is the guidance to the Board in terms of no cut vs. limit of clearing and grading; what was done wrong, exactly, vs. right. We have a lot of complaints and a lot

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of words like illegal, but he does not know where the line is drawn. He does not know what the controlling document is, he does not know what the status of the HOA is – he would like that explained to him because otherwise the rest of it doesn't seem pertinent. Also, conservation subdivision – what is that, is it a real thing, is that the status that gives us a sense of what we need to do here to rectify this situation. T. Yasenchak states that all of the conversation that had to do with the original minutes, was all cluster subdivision. She states that we would have to look to see at the time if that was interchangeable in our zoning code. She does not believe it was, it was always viewed as a cluster. Now, we would have to look to see at the time what a cluster was defined as, if it was intended to conserve areas, we definitely have an open space requirement for cluster subdivisions. T. Yasenchak asks M. Hill, and this may need a little more research, as far as the limit of clearing vs. what was approved with the HOA, outside of the Planning Board, because it was something that was a contingency that was going to be approved by Town Attorney and the Chair at the time, is there a proper way to manage that or there is that ambiguity that she does not think that some people are sure how we address that. M. Hill states that we have been given a lot of information to review and as counsel; they have not gone thru all of the information and reviewed it. T. Siragusa has raised some good questions that should be answered and it is not possible to do that in the context of tonight's meeting. He states that we may want to also hear from G. McKenna and C. Baker. T. Yasenchak asks T. Siragusa when he is looking at the applicant's plan and how to proceed forward, what his thoughts are on that. T. Siragusa states that he would really like to know that remediation is necessary. It is here because the Code Enforcement Officer noticed that there was clear cutting, said that there was a no cut zone – that there was to be no cutting, and that there needs to be a remediation plan. He is not sure that there needs to be one. He is not saying that he is for or against anything but he would like to know what the considerations are. If he is to comment on the plan itself, he feels like we are just going to have to come back to it. He thinks that the plan as shown, if there is a remediation plan needed, is insufficient. 600 seedlings are going to be gone; he cannot imagine them covering that area. 600 trees sounds like a lot, but it isn't. Seedlings are going to get eaten unless they are maintained and it does not give anyone the remediation that they need in any near term. It doesn't seem sufficient to him. If there is something that needs to be interpreted, even removing 60% of the trees is a lot, and then in 10 years you get to remove another 60% of the trees – it is so loose that he thinks that what you end up having is just a lot of clear cutting and more late nights talking about this stuff instead of something that is satisfactory. He thinks that some of the things that people are asking for are not unreasonable. The other plan by the neighbors seems to be a more mature plan and they worked with the Cornell Cooperative Education (CCE). He thinks that the applicant also worked with the CCE, but he does not see how that is possible since the plans are at such odds. He believes that more can be done there. The applicant is adamant that there is the right to do that and brought in everyone to say so, but you can also say working with the neighbors, but he does not see that. He feels that more can be done and certainly in what is called the managed scenic buffer is basically a clear cut area and the reforestation zone is just seedlings, which is insufficient for making that area a lot nicer and saving it from the erosion that has got to be taking place. M. Gyarmathy agrees with T. Siragusa and states that the questions he raised for the Town Attorney need to be answered before he can comment too much on this plan. He thinks that he has said before that seedlings are not the answer, the animals are going to eat them and they are not going to be effective. That being said, he thinks that the plan proposed by the existing residents goes a little too far. He thinks that there has to be some kind of happy medium here in the replanting. He thinks they need to work together and come up with some kind of a replanting plan if indeed that is what we need to do. J. Streit states that he went over the original subdivision plan with Town Officials and they categorically pointed out that this is a no cut zone and he needs to have that resolved because it was said tonight that it was not a no cut zone. That issue has to be solved before he can figure out anything. J. Bokus states that he agrees that the seedlings are totally unsatisfactory and he also had the question regarding conservation subdivision. Is that just a term for a rural area or does it hold legal status? T. Yasenchak reiterates that when the applicant went thru the approval process, it was approved as a cluster subdivision, cluster development. We have a definition from 2008 – *A cluster development is a development design technique that concentrates buildings in specific areas of a site to allow the remaining land to be used for recreation, common open space and preservation of environmentally sensitive areas without exceeding the overall maximum density permitted by this chapter.* It refers back to State law – *the term of average density development is normally a synonym for a cluster*

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*development, however the term average density development....* – then it goes on about the Adirondack Park, etc. When it was approved, it was always a cluster subdivision. How it gets marketed is beyond the purview of this Board. We can't comment on the legalities of that, we are only looking at what the plan says, a remediation plan and how to go forward. J. Bokus states that J. Streit commented about the no cut zone, that has to be defined. T. Yasenchak states that the difference is that the plan as approved says "limit of clearing" and our Code Enforcement Official is interpreting that as 'no cut zone'. We need to have our Town Attorney review that, we need to also have an official letter of interpretation from our Code Enforcement Official. T. Yasenchak states that her specific questions or comments is that she thinks that the area that is of primary importance seems to be from J. Szpak's little horseshoe area around the corner to that bank where the road goes up and goes to the cul-de-sac. She is not as concerned with what is happening beyond J. Szpak's space. She likes the idea that J. Szpak is protected and that he gets the buffer that he needs so that he is happy. The area above, she is not that personally convinced that replanting needs to be done towards that field. She thinks from there down where the other neighbors are concerned about the cutting, as well as J. Szpak, that is important for her. She also agrees with the Board members that 600 seedlings for an approximate 1800' length of space, that is 100' wide by 1800' long, 600 is about 1 every 3' in a straight line and she does not think, personally, that that is enough as far as a buffer is concerned or reforestation. She does not think that it necessarily has to be in a line, but maybe something that visually breaks up that hill and creates a look of, not necessarily full plants, but a variety of heights. She is not against seedlings but against them as the only way to remediate. She would like to see a revised plan with maybe a little more specifics. We have asked for some plans, especially in buffers, applicants have given it to us by showing us where those will go. If there is a clump of 10 trees in a certain area, they show it there so that we have an idea of what that looks like. She does not think that is a lot to ask and would like to see a little more detail on the plan. We also need to spend time looking at the HOA and getting Town Attorney opinion and our Code Enforcement Official's opinion. We know verbally what it is, but would like to have him actually give us a specific comment as well as our Town Engineer. J. Witt appreciates the Board's time and is looking forward to getting this resolved, hopefully at the next meeting. T. Yasenchak states that the quicker he can get us a plan, the better. She states that she does understand that as with any developer, time is important, however we have waited a while for this plan. She cannot say if what he gives the Board can be approved at the next meeting or not. We have adjourned the public hearing so we will be hearing additional comments. J. Witt states that he would like to meet with the neighbors, but he does not think that they are going to get to one place. T. Yasenchak states that the Board understands, but there needs to be some kind of middle ground. We are also not the Board that officiates HOA's or how those were, yes, they were originally approved by the Chair and whoever the attorney was at the time, but any disagreements within that have to happen civilly within the HOA. The Planning Board does not manage HOA disputes. We are looking at this right now from a site plan perspective. We want to be able to manage everyone's concerns appropriately. We are listening to the community, but also, we are not the ones who manage the HOA. K. Clifford states that that would be the Attorney General. T. Yasenchak states that she cannot speak to that. If there is an issue, that is a civil matter. K. Clifford states that if there is an issue with a sponsor it is with the Attorney General. T. Yasenchak states that we are looking at the site plan, it has been interpreted as a no cut from our Code Enforcement Official and that is why we are here. The public hearing is adjourned at 11:00 p.m. The neighbors can make comment or give the Board letters during this time. M. Hill states that in case any Board members are interested in going up, driving around and looking at the subdivision, and seeing what the situation is up there, has J. Witt given his permission and is he agreeable to that. J. Witt states absolutely. He would like to meet them up there because it is a little confusing and he could show them where the plantings are proposed. T. Yasenchak states that the Board would need to see the plan because when we go out for a site visit, we don't listen to ideas, we take the plan and are there to visualize it ourselves. Not to be sold on something. J. Witt states that the Board should feel free to visit.

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## **ZBA REFERRALS**

**Wesley & Cathy Montgomery** – No Planning Board issues.

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**Ray Barnes** – No Planning Board issues.

**Ryan Christopher** – No Planning Board issues.

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**DISCUSSION**

T. Yasenchak provides the Board members with printouts of the glossary of terms for future reference. R. Roeckle states that at his real job, he might be able to provide information on cluster vs. conservation. Cluster is a matter of law. Conservation is a term of marketing. T. Yasenchak thanks R. Roeckle and states that originally the term of ‘conservation’ was not used. R. Roeckle states that a cluster subdivision is not necessarily a conservation subdivision. T. Yasenchak states that how they market it or what they say it is in their HOA, that is not something that is within our purview now. It maybe should have been something at the time, but we don’t know. R. Rowland will copy and distribute the HOA information.

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Meeting adjourned 11:07 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland  
Secretary