

**TOWN OF GREENFIELD  
PLANNING BOARD**

**September 12, 2017**

**REGULAR MEETING**

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

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**MINUTES – August 8, 2017**

MOTION: B. Duffney

SECOND: M. Gyarmathy

RESOLVED, that the Planning Board waives the reading of and approves the minutes of August 8, 2017 as submitted.

VOTE: Ayes: Duffney, Gyarmathy, Siragusa, Streit Weeks, Yasenchak  
Noes: None  
Absent: None  
Abstain: Bokus

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**MINUTES – August 29, 2017**

MOTION: J. Bokus

SECOND: T. Siragusa

RESOLVED, that the Planning Board waives the reading of and approves the minutes of August 29, 2017 as submitted.

VOTE: Ayes: Bokus, Siragusa, Streit, Yasenchak  
Noes: None  
Absent: None  
Abstain: Duffney, Gyarmathy, Weeks

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T. Yasenchak notes for the record that there appears to be a number of residents present for the public hearing that was adjourned for SaraSpa Rod & Gun Club. She states that this case will be moved to the beginning of the Old Business.

**NEW BUSINESS**

**ANDREW & LEIGH LALLY – Minor Subdivision**

Case #610, Ure Way

No one is present for this application so this will be adjourned.

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**STEWART'S SHOPS – Site Plan Review**

Case#611, Route 9N

B. Duffney recuses himself. John Barnes, Plant Manager, is present and explains that they are seeking approval for a shovel-ready project, a 1000 square foot addition to the existing warehouse. They do not anticipate creating additional parking spaces. They have approximately 26,000 yards of earth to move to prep the site and when an opportunity comes up to move that much fill, they would like to be in a position to do so. Being greater than one acre they need to be before the Planning Board for site plan approval. He explains that 90% of this is currently permeable space, the current drive around is on the north end of what they call the beverage warehouse (he explains on the plans); they have delineated the existing swale. In order to create a buildable space, they will have to do a considerable amount of removal and fill, roughly 26,000 cubic yards. They wish to cut into the bank and extend the drive further north. That allows them to be prepared to extend the drive around to be able to do a full 360 around the entire campus; it is good for fire protection to be able to have a contiguous road that would go behind Building 2. The drive is already there. The building would be a high cube building so that they can maximize storage. There may be a second or mezzanine area for things like break rooms, bathrooms, supervisor's offices, but that probably would not encompass more than 10% of the existing footprint of the proposed building. It is predominantly storage with perhaps 10% other use. T. Siragusa asks if there will be a new road. J. Barnes explains that the drive around runs around the north side of the beverage warehouse, they currently have a fire lane behind Building 2 and the asphalt would now be contiguous with the drive around that is extended further to the north. He explains where the current roadways are located. T. Siragusa asks what other facilities it would have – J. Barnes mentioned a breakroom, bathrooms, etc. J. Barnes states that more than likely it would have a men's room and ladies' room, possibly a utility storage area and there is always the chance of some undeveloped space. Currently their drivers who come in from the outside; he explains where product is received; they are going to relocate that receiving operation to this location; and that will necessitate having bathrooms for drivers when they come in. T. Siragusa asks if the loading docks will all be replaced/moved. J. Barnes states that there will be 10 new loading docks. T. Yasenchak states, to clarify, all the trucks will come around the north side, or how will they be accessing this. J. Barnes explains the location of the receiving office, which will likely remain and this is where they give the drivers coming in direction as to where to go, and the current traffic flow. T. Yasenchak questions that they will still be exiting on to 9N. J. Barnes states that is correct and that periodically they will have a truck that comes in that needs to stop at more than one location and he explains a scenario. There is no commercial traffic allowed on Milky Way. T. Siragusa questions new lighting. J. Barnes states that because they are a manufacturing facility, they tend to put high pressure sodium lights, which are a bit of a yellow light, on the building so that they are not attracting bugs. They do not have a lot of lighting around the facility. They do have canopy lights in the parking areas for safety but some of the buildings only have lighting for emergency exits. There probably would be 4 high pressure sodium lamps or LED equivalents. T. Siragusa asks what the hours are and if there will be any changes to those. J. Barnes states that their receiving hours for outside traffic are 7:00 a.m. to 1:00 p.m. That does not mean that trucks don't come in after that, but they try to keep the truck traffic coming in between those hours. Their own traffic – a majority of the trucks will be leaving anywhere from 3:00 a.m. to 11:00 a.m., Monday thru Friday. Incoming deliveries are only Monday thru Friday, with very few exceptions and those would be food product. S. Weeks asks about the square footage of additional paving that will be added. J. Barnes states that they are displacing the paving; that they are looking at about another 30,000 square feet of asphalt; and he indicates the location on the map. S. Weeks states that they are creating quite a slope to the north, so how will they be dealing with the water that comes off there. J. Barnes states that in 2009 when they did their last Master Site Plan update, they created a new SWPPP and with that project they purchased a piece of property which is a storm water detention pond that is for everything that is on the west side of the facility, they had an existing pond that was done in the previous review, 2005, and he indicates the runoff that encompasses. He states that they did this with the forethought that everything that could be developed would be developed at some point in time. They will have to update the SWPPP for this. J. Streit asks what will be done with the excavated material. J. Barnes states that they don't know yet. Obviously it is going to be quite an expense to get rid of that, somewhere in the range of \$6 to \$7 a yard, which is a pretty hefty sum. One of the reasons they would like to get the approval is so that when the opportunity comes up perhaps they can defer some of those costs.

(R. Roeckle arrives)

T. Yasenchak states we are just looking at a concept plan so obviously we are going to need to see the final drawings showing the details. She asks if they are doing any additional solar on the building as we do have new solar regulations for commercial buildings. J. Barnes states that is always a possibility. He indicates the building which is currently covered with solar and it is not visible as it follows the slope of the roof. It does provide 7% of their electricity use and they are quite happy with it. The new building would be an excellent candidate because of its position, but they would have to do their homework. T. Yasenchak asks what other sounds may be involved with this, because there is a certain hum that happens with a manufacturing plant. She states that she can hear Stewart's from her home on Wilton Road. Will there be any manufacturing, will there be any additional berms that are required, etc. J. Barnes states that no manufacturing is planned; this is a dry warehouse so any of the vehicles that would be coming in would be dry boxes so they would not have refrigeration units so there would not be anything that would add to that. If anything, he would think that because this building is going to be 10 to 15 feet higher than the existing building, it would act as somewhat of a buffer from the road-ready refrigeration units that are running. T. Yasenchak gives J. Barnes a copy of C. Baker's review letter with questions, etc. C. Baker states that the SWPPP and NOI are required since they are disturbing more than an acre. He has a concern related to the removal of that material. Basically what is happening is that they will be creating an earthen dam between the pond and the buildings. He would say, for Stewart's protection, that they would want to look into a geotechnical report. J. Barnes states that they actually did two explorations, one last fall and one this spring, where they actually did test bores to make sure that there wasn't going to be any ground water that was coming up or leaching through. He indicates a pond and states that it used to be a reservoir for the City of Saratoga Springs and he explains. He states that when they have drained the pond to do periodic maintenance on it, you can actually see how it is tiered going into the pond itself. There is also a natural gas line which limits where they can cut through. C. Baker asks if they have done any geotechnical report on the actual embankment itself. J. Barnes states that they have not. He will make sure that happens. C. Baker states that he has been on this Board for a long time and seen all the versions of Stewart's plans, he has not seen a traffic report to date and thinks it is probably well overdue. J. Barnes states that has come up at other site plan reviews and if required he will certainly see to it. T. Yasenchak states that typically when the Town Engineer does ask for something, we defer to his expertise. S. Weeks states that the Town Engineer mentions two site access locations, he asks if the applicant typically does not use the one off of Locust Grove Road. J. Barnes states that there is no through traffic off of Locust Grove Road, there is entrance traffic for employees only and it is only one lane. T. Yasenchak asks if J. Barnes knows the overall coverage of the buildings on the site or if he can get that number to the Board. J. Barnes states that he believes they would be roughly close to six acres of the 57.77 acre site. R. Roeckle asks if the short form SEQRA is sufficient for the expansion and if/when a full SEQRA was done. C. Baker states that he believes it was done in 2008 when they did the last Master Plan review, it should certainly be revisited. T. Yasenchak states that we have begun to ask applicants to go to the DEC website and fill that in. It helps in that the site fills in the application in certain areas. T. Yasenchak states that the next step would be to provide the additional information discussed - the traffic study, site plan, there is a list in the code for what is required. Jim Norton, Vice President, works with John Barnes and is in charge of plant operations, thanks the Board for their time.

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**ANDREW & LEIGH LALLY – Minor Subdivision**

Case #610, Ure Way

Andrew Lally is now present. T. Yasenchak states that this project will also require an Open Development. A. Lally states that they are seeking to subdivide to build a second house as they cannot build a second house as the property currently exists. T. Yasenchak states that we do have a preliminary drawing. Will this have direct road access? A. Lally states that the existing driveway will be an extension further passed where it turns to go to the existing house. It would go further to the south/southwest. There was originally an old carriage lane there. There is an old farm house on the Wilton Road that also has a family

plot cemetery and he is assuming that it used to cut through. T. Yasenchak explains open development and that they need to have approval of that from the Town and ZBA for a variance. S. Weeks states that it looks straightforward to him, it looks doable. T. Siragusa agrees. B. Duffney states that he knows this piece of property, he knew B. Ure and he sees no issues with this. Peter Barber also went through the Open Development process. His concerns would be pull-offs, etc. for the Fire Department. R. Roeckle asks if the electrical lines need to be updated. A. Lally does not think so but he will find out. J. Streit states that if that driveway is in excess of 1500' that also raises a question. T. Yasenchak states that it would require additional information at the site plan process. C. Baker states that frontage is the big issue. He is familiar with this property, the soil is good. T. Yasenchak states that a survey will be required; we will require easement language because it is a shared driveway; there is a small bridge and how is that addressed. C. Baker states that should be in the easement language.

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### **SARASPA ROD & GUN CLUB – Site Plan Review**

Case#605, Porter Corners Road

T. Yasenchak recuses herself. S. Weeks indicates that C. Baker is also a member of the club so he will not be commenting on this project. S. Weeks was unable to be at the last meeting but has reviewed the minutes and T. Siragusa led the discussion. He asks if the applicant has additional comments he would like to make. The public hearing is reopened at 7:40 p.m. Gerard Moser, President of SaraSpa, explains that a member who is an engineer created some displays based on the conversation from the last meeting which will hopefully clarify and answer some questions regarding sound, the layout, etc. Jeff Ferguson, Board of Directors for the SaraSpa and also helps with the shotgun field, provides copies for the Board. He explains that this is from the County GIS website, which anyone can have access to. The Club property is 126+ acres on the main parcel. Most of this property is inaccessible to them except maybe by snowmobile in the wintertime or a very rugged ATV, most of it is undevelopable, most of it is wetlands and they cannot use very much of it. He indicates the area they primarily use for shooting; it is less than 17 acres. They own 2 lots across the street – 181 Porter Corners Road is 75 acres and 227 Porter Corners Road is 37.86 acres. Most of the land to the north is undevelopable as it is wetlands. They pay taxes for a buffer. They might be able to do some limited use with it down the road, but the primary purpose for it is a buffer. They have done some softwood logging in there to the north to help pay for the purchase of the land. On the south side, their main property, they have done selective hardwood logging for veneer logs, etc. There is no clear cutting as was alleged but they did run into problems with their logger cutting some logs on Mr. Musso's property which is 224 Porter Corners Road to the west. Mr. Musso's property has no house, it has a machine shed, some improvement, and from the imagery, it looks like there is a travel trailer and a gate across the entrance. S. Weeks asks when that logging was done. J. Ferguson states that it was done over the last year, year and a half. G. Moser states that the logger is one guy, he does selective logging. He thinned out some of the soft wood on the other side where the ranges are now. On the other side of the power lines there were some veneer logs that he pulled out. J. Ferguson explains surrounding properties. He states that they cannot put in any real permanent access across the power lines. S. Weeks asks that one is not allowed to have a road under a high power line. J. Ferguson states that you can probably do some type of dirt road, but most of that is kind of wet and it is a moot point as you really can't get in there and if you do, what are you going to do with it. J. Ferguson explains the layout of the club property; he explains the overshoot protection with 'no blue sky', the berms. The overshoot protection is wood filled with stone. S. Weeks asks that all the berms shown are all at least 25 to 30'. G. Moser states when they were originally installed and they should all be within this 20' to 30' range and with the overshoot, it wouldn't have to be that high. Nothing can leave the range; there is no physical way that a discharge on the range should be able to leave the property. S. Weeks states that he is more concerned with sound. B. Duffney asks about the vegetation on top of the berms. J. Ferguson states that it is a mix of vegetation. G. Moser states that it is his understanding that the National Guard built these berms for the Club in the 1980's and then the Club beefed them up. B. Duffney asks if the shotgun is year round. G. Moser states that it is. B. Duffney states that brings him back to whether or not the vegetation is evergreens. G. Moser states that they are not all evergreens, on the 50 yard it is predominately evergreens. J.

Ferguson states that within the shotgun field there is a trailer that they think is from the 1960's and they hope to replace that one of these days. There are two light poles that provide the lighting for the evening shoot; there is a five-station, elevated shooting stand, their main trap house. He states that they researched and then rented a sound meter that would pick up gunfire at a distance. He explains how he did the sound test on Tuesday night, 9/5; it was raining a little bit so they only had a couple guys show up. He went 1000 feet away and they had 2 gentleman shoot 50 shots, and the maximum LAF is the audible sound that a human ear can hear. He explains the areas where the testing was done – the property lines with Musso, Fiorino and Lieberman. He explains that when they shoot at night there is often an echo off the Greenfield Estates mountain and that happened during this test, he could hear it. He explains how the sound of vehicles going by affected the testing. He also explains that there was some other unidentified sound that occurred that affected the study. At the Fiorino and Lieberman property lines, he could not hear the gunshots and if the shooters had not called his cell phone, he would not have known when they were done. There is specific information in the handout regarding the equipment used to measure the sounds. S. Weeks asks how directional the meter is. J. Ferguson explains how it works. He states that one comment was made that shot guns are louder than rifles, and that is not true. It is louder than some. T. Siragusa asks if tests were done on that as well. J. Ferguson states that you have to have different equipment, a different microphone. There are several pistols that are louder than shotguns shooting target bullets. There is a chart in the handout comparing sounds of everyday household items, construction equipment, firearms, etc. He indicates that the distance from the sound is important. J. Ferguson states that he does not believe that there is a problem with increasing the hours as it is not a significant noise. T. Siragusa asks how to understand more about the clearing/logging and what was done after these photos were taken. J. Ferguson states that the most logging has been done on the lots to the north and that is where they took mostly soft wood. G. Moser states that this year they have not taken anything due to weather and the logger was working elsewhere. There are logs that have been cut that are still sitting there and he has been pulling them as the mills will pay, but nothing else has been cut this year. T. Siragusa states that the applicant did unbelievable work in a limited amount of time, and way more than anyone would be expecting. That is extremely appreciated. One of the questions was to understand what has changed over time. J. Ferguson explains on the plans. G. Moser explains. J. Ferguson states that they do not want to clear cut because they know the sound issues. G. Moser states that National Grid cut more than they did. J. Ferguson states that National Grid left a great deal of what they cut. T. Siragusa asks J. Ferguson if he is an engineer. J. Ferguson states he is not a licensed professional engineer. T. Siragusa states that he does not know what to make of all the sound tests if they were not done by an engineer; however he thinks it is good work, thoughtfully done and the thing that strikes him is that it is still pretty loud and you can see how it changes over distance. He states that looking at the things that make the noise in the 70 to 80 decibel range, that is still pretty loud, but closer. One of J. Ferguson's comments was that he could hear the sounds because he was listening for it. T. Siragusa states that some of the comments from the neighbors were that that is what they are hearing. He does not remember anyone saying that they need ear protection. Another thing that was asked for was possible alternatives that could satisfy some of the neighbors. G. Moser states that when you look at the numbers, they are well within a reasonable sound level – lawn mower decibels are going to be higher than the gunshot. He states that the sound is acceptable. T. Siragusa states that he found it interesting that there was nothing but backlash against the neighbors and the Board asked for something to suggest that they might be concerned about the neighbors. G. Moser states that if they were doing something that was wrong, then he would understand where the Board is going. If they were in some sort of violation or even on the border line, he would sit down and say to the Club that they needed to do something, but given that they are well within limits that are considered acceptable, he does not feel that there is anything that they should step up and have to do. He believes that because of some of the comments that were made, this is not about noise but about guns in general. T. Siragusa states that no comments were about guns in general. G. Moser states that there was concern from the lady across the street who said she had gray hair and that someone would mistake her for a deer and shoot her – so that is about guns. T. Siragusa states that is not guns in general. He states that he is astounded that the applicant does not have anything but pushback against the neighbors. G. Moser states it is not push back. M. Gyarmathy states that he thinks there are a couple of variables here that all of us have missed. He really appreciates all the work that was done, he was not present at the last meeting, but to him J.

Ferguson is not a sound engineer, so he has some other questions about the microphone, it being overcast, etc. as he believes all of these things come into play about sound travel. The applicant is making a comment about acceptable levels of sound. By whom is it an acceptable level? G. Moser states that in trying to find something where other municipalities have something in place – there was just not enough time to make more copies, etc. J. Ferguson states that these numbers are what are associated with what is considered loud, but there is a distance associated with it. M. Gyarmathy states that in the chart it indicates construction equipment which would be a short term thing whereas this is an ongoing thing. He states that he appreciates the work that was done, but he would like to know a little bit more and hear from an engineer the thoughts on how the tests were conducted, would the weather conditions affect the tests, etc. J. Ferguson states that they would and that the tests are not intended to be an absolute number. Those are the numbers he got that day, in those weather conditions, etc. M. Gyarmathy states that what T. Siragusa was getting at was mitigation measures. Is there anything else that the Club can provide as far as mitigation measures for the neighbors? Lou Renzi introduces himself as the general counsel to the club and as a member of the club so he is familiar with some of the issues. The Board's concerns are well founded. They have a neighbor who is very angry with them right this minute because their contractor made a human error, made a mistake. That is being litigated and dealt with by the lawyers and insurance companies, unfortunately the neighbor has decided to make some comments and some rather upsetting statements including that the Club has been less than trustworthy over the past year. L. Renzi states that he has been working with the Club members for a very long time and doubts very strongly that there is any truth to that. He is a very angry neighbor and L. Renzi states that he would be very angry too if someone cut his trees. The neighbor will eventually be compensated. Mr. Musso's letter was read into the record at the last meeting. T. Siragusa states that is the only time it came up and we made it clear that it was not a concern for the Board. L. Renzi states that early on this evening someone was questioning when this regulation of this permit was put into place. The meeting took place in late January of 2002; on February 1 the club was notified by the then secretary Rowland that the use permit for the 200 meter firing range had been granted. In the course up to that decision, someone asked when they shoot skeet and that got built into the special use permit that was issued. He does not believe, based on the materials that he received from the Town that that was ever really something that was discussed in any detail or had any real connection to the firing to the 200 yard range, not that the Board is not free to put any conditions that it wants as long as the applicant accepts it. He believes that came out of nowhere, at the time it should have been appealed, it wasn't. He would like to ask the Board to take a look at the whole thing and at least consider that we have an opportunity to undo something that was never intended in the first place. High powered rifles make a lot more noise than shotguns generally do. He thinks the engineer has done a great job of trying to show in general terms, maybe not with the highest degree of precision that one would ideally like to have, but in general terms that when you get out to where the property lines are, and they have a very significant piece of property, out to where their neighbors really are, the noise isn't all that significant and it certainly isn't any different than the noise that is already being created by rifle shooting. The Club is asking if the Board would be so kind as to see their way to put the Club back into place where they were prior to February 1, 2002. Sandra Arnold-Spaulding, Porter Corners Road, states that she did not come here tonight to argue. She introduces herself, states that she spent 28 years in the Army and she is not afraid of guns. She has a sharp shooter badge she wears on her chest when she is in uniform. She was an officer, has her hunting license but as a nurse she knows there are a lot of accidents and when someone sees the white tail of the flag they shoot at it. She is not saying it is the members. She does not know how many people are members of the Club or how many people hunt there. She does have concerns. People have asked her permission to shoot turkeys on her property. She gave permission once and what happened was the neighbor behind her, after she told the people where her border was, complained, came to her house and yelled at her that she had given permission to hunt on their land. Not only did they not hunt on her land, they put a tent up so that she could not look out her window and watch the wildlife, it blocked her view. The turkeys got used to that tent and they were shot at unfairly. When she asked her son to go out in the field to check it out, there was marijuana growing in the field. She called the sheriff to come over to investigate as her son was going to College for wildlife and conservation and she did not want him blamed for it. The Sheriff did nothing about it because it was such a small amount. She states this is why she has concerns. When she mentioned that the noise has gotten louder, it has. She knows that some of it is

beyond the Club's control. Mrs. Neuberger's home burnt down and the neighboring trailer was removed so those structures must have been some sound barrier. Others also did a lot of logging before the Club bought the property. She is sorry, she does feel attacked because of some of the comments, she wants to be a good neighbor and she does not have a fear of guns, but she does have a concern that she wants to be in her yard. Right now the sound isn't that bad but it is not from 8:00 a.m. to 9:00 p.m. every day. George Dunfey, director of the shotgun field, states that to try to put the neighbor's mind at ease about the hunting, there is a sign that there is no hunting on the club property. As shotgun shooters, they enjoy seeing the turkeys run across the field, the deer hang out in the field – they don't want to shoot them, they enjoy wildlife. He states that they cannot control other people coming in from the backside and hunting. S. Arnold-Spaulling states that there used to be posted signs but they were removed. She wants to put some signs up so that no one comes onto her property. G. Dunfey states that is fine because they do not encourage hunting on the property at all. Regarding the youth hunt, DEC has not gotten back to them but that is a very controlled situation. S. Weeks asks if the Club property is posted. G. Moser states that it has been over the years but he cannot say that every sign is still up. They have had work parties over the years and everyone goes around and posts signs. G. Dunfey states that as far as extending the shotgun hours they have to run that. They have to show up 45 minutes before a shooting to set everything up before they can start shooting and they are all volunteers, they have full time jobs. He states that there are times because of the weather that they would like to shoot on a different day and would like a little flexibility. They do not want to do more - they just need flexibility. Paula Shapy, Wilsey Road, states that she has been running the women's program for the last 5 years. Michelle Heber is the director in charge of the women's programs. They have brought many women into the shooting sports, to come to the Club to enjoy shooting in a comfortable atmosphere with other women who are NRA Certified instructors and help them to learn to do it in a safe and responsible way. Everyone enjoys the pistol shooting and the rifle shooting, but the women in the club are so excited about the possibility of shooting shotgun. It is a skill, it is not easy. Charlie Dake, Cohen Road and member of SaraSpa, shotgun range is not the only place that you can shoot a shotgun. It is explained that you can shoot the shotgun in another area and they do not understand why you can walk around the berm and you cannot shoot the shotgun at the shotgun range. C. Dake states that if there is a difference in noise level, he can already generate the exact same noise within the rules that are already put forth because you can shoot the shotgun at other ranges on the property. Discussion takes place and the public hearing is adjourned at 8:40 p.m. S. Weeks states that he does not think that any of the Board members are very familiar with the location and in most cases where there are contentious issues, the Board likes to make a site visit so that we can all get a firsthand view of what is there. We do not discuss issues at the site visit but ask that someone from there would be able to explain to the Board what we are seeing and he thinks we would like to be there when it is active. J. Streit states that we ask permission to sit at the site where most of the complaints are coming from, such as the Lieberman property, during what the busiest hours are so that we can hear with our own ears what is stated on paper. S. Weeks asks if the Club could host the Board members. G. Moser states that Saturday between 9:00 and 1:00-ish or there is a women's shoot on Wednesday, 9/13 from 6:00 to 8:00 p.m. Board discusses and members will visit on Saturday at 9:00 a.m. B. Duffney questions that C. Dake just stated that there are other areas to shoot the shot guns. G. Moser states that you can shoot shotguns on the other ranges, but it is not very satisfying shooting shotgun at a piece of paper. B. Duffney questions that you can shoot the shotguns at any hour on the other ranges. This is confirmed. B. Duffney questions how long Board minutes are kept and if there was a misunderstanding at the meeting where the decision was made. As far as the neighbor taking issues with trees being cut on their property, B. Duffney states that as a logger, it is the logger's responsibility if not more than the land owners. He does not think anyone should be held accountable for a logger crossing the property lines, that falls on the logger. G. Moser states that they did offer to buy the neighbors land and he is not interested. J. Bokus states that what the applicant is asking for is an extension in the hours that they are permitted to do this; this is not a manufacturing facility where an extension of hours would equal an expansion of activity. It just gives them the flexibility to schedule events without being so restrictive where they run into problems with cancellations. He does not believe that there is any sane reason to believe that if you expand the hours for something permitted that it is going to multiply out and fill those hours. T. Siragusa states that we just heard that there was an increase in membership just on the women's side for it, so now there is a women's league and that is one example.

**PLP PROPERTIES, LLC – Minor Subdivision**

Case#597, Middle Grove Road

T. Yasenchak states that the applicant has provided a lot of information. The applicant had been asked to think about modifying the driveway locations to help with the sight distances; we were waiting on a letter from ACOE and we have received that; we had another letter from the applicant’s engineer about the driveways; and we do have a letter here from the Town Engineer. C. Baker states that the new information received satisfies the previous concern with sight distance and he has no further engineering concerns. T. Yasenchak questions that when an applicant states that they are going to make some site improvements in order to enhance the sight distance. P. Pileckas states that they have done those. S. Weeks states nice work and he has no major issues or questions. R. Roeckle questions whether this is a minor or major subdivision. T. Yasenchak states that it is the way that our code enforcement official interprets major vs. minor is that he counts the existing lot not as a new lot. Board consensus is that as long as there are no engineering issues, everyone is fine.

**RESOLUTION – PLP PROPERTIES – SEQRA**

MOTION: S. Weeks

SECOND: T. Siragusa

RESOLVED, that the Planning Board completes Part II of the Short Form SEQRA. All questions are answered and the second box is checked, indicating that this will not result in any significant negative environmental impacts for the Minor Subdivision of PLP Properties for property located at 130 Middle Grove Road, TM#164.-1-12

VOTE: Ayes: Bokus, Duffney, Gyarmathy, Siragusa, Streit Weeks, Yasenchak  
Noes: None  
Absent: None

**RESOLUTION – PLP PROPERTIES – Minor Subdivision**

MOTION: J. Streit

SECOND: B. Duffney

RESOLVED, that the Planning Board approves the application of PLP Properties for a Minor Subdivision of property located at 130 Middle Grove Road, TM# 164.-1-12, per the maps submitted.

VOTE: Ayes: Bokus, Duffney, Gyarmathy, Siragusa, Streit Weeks, Yasenchak  
Noes: None  
Absent: None

**RODERICK CORELL – Major Subdivision**

Case#593, Locust Grove Road

J. Streit recuses himself as he is a neighbor. Brett Steenburgh, engineer, reviews that this is a 6 lot subdivision. The Board had minimal comments previously on the subdivision. All the lots meet the required standard for the current zone. The driveways and houses were located on the lots. They did have the wetlands boundaries located. The one major wetland which comes up through the middle of the site is noted on the DEC mapping. There is another area which is noted but they assume it will be considered a DEC wetland. They have applied the 100’ buffer zones to all of those wetland boundaries. Sight distance is noted and they do not feel where they fall short that those are impasses to locating a driveway. Lot 1 is denoted as ‘not for construction’ and the reason for that is it is substantially encumbered by wetlands and buffer area. The owner does not want to preclude the potential to be able to sell or build on lot 1 in the future, and would

like to subdivide that off at this time. However, they did add 'not for construction' and a deed restriction would be placed on that lot that it could only be built on with DEC's review of the site, the wetlands and any impacts associated with that, and subsequent review by the Planning Board of that parcel. T. Yasenchak states that typically we do not do that. We do not create any lots that cannot be buildable. Why we don't do that is because it then backs DEC into a corner. We would have to be asking for driveways and a DEC permit showing that you could actually be able to build on it someday. T. Yasenchak states that the applicant would need to show us that information. B. Steenburgh states that what they will do is leave a narrow strip from the existing lands and leaving that as part of Mr. Correll's parcel. Then he could pursue that in the future if he wants. Mr. Correll would like to move on this as quickly as possible as his son passed away about a year ago and he is trying to help his daughter-in-law out with being able to make things work financially. They are under some time constraint so rather than go through a DEC process at this time; they will just eliminate that lot. T. Yasenchak states that this Board would still have to review it at a later date if someone decided to subdivide. C. Baker reviews his letter. He asks if they have received a Jurisdictional Determination letter from ACOE. B. Steenburgh states that they have not and as they will be, post development, substantially outside the wetland area, that an ACOE JD would not be necessary. C. Baker states that the applicant does show the 100' buffer and if they are ACOE wetlands he is being extremely generous, so he does not have a problem with that approach if the applicant is voluntarily willing to put that kind of restriction on there. C. Baker states that typically this Board looks at intersection sight distance and he believes that is 500', which he believes that lot 5 does not meet. B. Steenburgh states that perhaps some mitigation would be something that would be entertained. C. Baker states that he knows the road quite well, but unfortunately that is the design condition that has to be taken into consideration. As far as mitigating with signage, typically that is not something that is allowed unless it is an existing condition. We are creating a potential driveway here. He states that it does not look like they have any room to move that. Maybe a traffic engineer could do a speed study and if he could demonstrate that the actual travel speed is less, you might be able to put together an argument based on that. T. Yasenchak states that we know that our Town does have a lot of challenging topography; we do take out sight distances very seriously because it could obviously be a life-threatening issue. We have denied projects specifically because of lack of sight distance. R. Roeckle states that if they remove the one lot this will become a minor subdivision. There is also a setback issue on the property between lots 1 and 2 right now. B. Steenburgh states that he saw that.

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#### **464 MAPLE AVENUE – Site Plan Review**

Case#606, Maple Avenue

Eric Carlson is present and explains that he is building an office building on Maple Avenue with an apartment building to the rear. On the south facing roof of the apartment building is where they would like to place the solar panels. T. Yasenchak states that we do have a new solar code and asks if the applicant has had a chance to look it over. We will need to see that information. It is Chapter 105, Article 11, 105-134, Subsection B. E. Carlson states that he does have that information. T. Yasenchak explains some of the information that the Board would be looking for. T. Yasenchak explains that the Board would have to discuss whether or not to hold a public hearing on this. She explains that the applicant made application in July, missed the meeting on which they were scheduled, she understands that he is under the gun, but the Board could have asked for the additional information at the last meeting. We need the information documented so that it can become part of the file. We need the additional information by the September 26 to be on the first meeting in October.

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#### **DAVID VANDERZEE – Open Development Area**

Case#609, Squashville Road

George Smith is present for the application and explains that they had been asked to try to find out if the one lot had been created to provide access to the land locked acreage in the back. In looking at the

history of the lots, the 79 acres was its own lot at least back from the early 1900's. The subdivision of the front acreage has no reference in any of the deeds as to having any of these lots provide access to that property. T. Yasenchak states that there had been some questions about the driveway and the pole and some information has been provided. T. Yasenchak states that sight distance was also provided and that the Planning Board is only looking at this for Open Development. We are not doing site plan review. G. Smith states that those sight distances were measured. C. Baker states that sight distance criteria is established by AASHTO and they are the governing body. G. Smith asks if the sight distance is a requirement for this part of the project. T. Yasenchak explains that it is because we are looking for safe access/egress to the property. She explains the process for the open development process. C. Baker states that the only engineering concern that he would have is sight distance. T. Siragusa states that the access for parcel 2 goes across the Niagara Mohawk easement and is that straightforward or do you need permission to do that. T. Yasenchak states that something was provided and a deed was provided from 2005 stating that they are allowed to cross over. R. Roeckle questions that this is really open development since he is providing the access to the lot as a keyhole lot. T. Yasenchak states that it would be different if the land was owned by the back portion. R. Roeckle states that his only concern would be the approval of Niagara Mohawk for the crossing. T. Yasenchak states that since there is only the one last item, she would be comfortable if the applicant can get that traffic information to the Board within the week for the next meeting, in making the advisory opinion. G. Smith questions that this information needs to be provided by an engineer. C. Baker explains.

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**G. DAVID EVANS – Open Development Area**

Case#607, Plank Road

G. David Evans is present. T. Yasenchak states that at the last meeting we asked the applicant for information about having someone review the driveway and saying that the applicant had safe access to the property. The Board also asked the applicant to continue to look into some kind of easement language or something from the adjacent neighbor because any open development that we discuss is not allowing the applicant to cross over someone else's property. We are not dealing with land rights; whether or not it was an abandoned road, etc. – the Board cannot give the applicant access over someone else's property. That is something that the applicant would still have to do before any kind of development could occur. D. Evans asks if the Board has seen what his attorney sent the Board and if the Board is discounting it. T. Yasenchak states that we are not discounting it. We are saying that we can only look at the open development, meaning that the property does not have frontage right now on a public road. Our next step in determination would be saying to the Town Board that if we felt that you had the ability to have safe access to it that you could move forward with the project. T. Yasenchak states that however, in saying that, and she said it at the last meeting, it does not give the applicant the right to cross over someone else's private property. That is not something that this Board does. The applicant would still have to talk to the Pompa's, talk to the owners of that property and have them give permission to cross the road. D. Evans states that he is saying that he already has the right to cross. T. Yasenchak states that the Town Attorney said that we are not dealing with that. Any decision that the Town makes on Open Development does not give an applicant the right to cross over someone's land without their permission. D. Evans states that he understands that the Town is not getting involved with that issue. T. Yasenchak states that would be a civil matter that the application would have to take up. Before someone could start building on that property the applicant would have to have permission from the neighbors that they could cross the property to build on the parcel. D. Evans asks if that is a legal opinion. T. Yasenchak states that it is, it is from Miller Mannix. D. Evans asks if that means he should discount what his attorney said. T. Yasenchak states not necessarily, that what our attorneys have said is that it is a civil matter. When you have a public road that has been abandoned, the Town is no longer responsible for the upkeep and maintenance of that private road. We cannot tell the applicant that he can't build on it, he just has to go through the process, however, at the end of the day, you are still crossing someone's private property and we cannot give him permission to do that. It has to come from that owner. D. Evans states that then to be clear you are not denying or approving. T. Yasenchak states that we can only look at the project that is before us and that the applicant can have safe access to that property, but whether or not the neighbor

will give it to the applicant, that is a civil matter. She states that one of the items that she also wanted to address is that Mrs. Pompa is not dead. D. Evans had stated that he was not able to talk to any of her successors; obviously he is going to have to talk to them. She asks if the applicant has done anything about looking at the driveway that is there and is it something that could be safe or could be made safe for residential use with a plan. D. Evans states that the Board should have a letter from his engineer and the Fire Chief. T. Yasenchak states that we do have an e-mail from Mike Chandler saying that he does not feel safe about having fire trucks or emergency vehicles cross the bridge. S. Weeks asks if D. Evans has a copy of that. D. Evans states that he does. S. Weeks states that this is our main issue. T. Yasenchak states that is correct, the main issue is the road and the bridge. B. Duffney explains the issues with pull off areas and the width of the right-of-way. T. Yasenchak asks if D. Evans has done anything else about the driveway, we had asked about possibly having it shown of the drawing. D. Evans states that he thought that the culverts had to be replaced but apparently that has been done. Unfortunately he had trouble with his printer but he has a couple copies. T. Yasenchak asks how the applicant plans to address the bridge. D. Evans states that he could replace the top of it, replace it with a culvert as was done downstream of it. B. Duffney state that in order to make that work with a 30" culvert the applicant would have to make that 50 to 60-feet wide to get it to where it could be filled in and then you are dealing with DEC. D. Evans explains his thinking. B. Duffney states that as you fill in the stream, the depth of that stream bed from the bridge, to get the driving width that you need for the amount of dirt that would come down. When you put a permanent culvert in a stream, you definitely have to go through the State, DEC. He states that as loggers they have to do that to just put in temporary culverts/bridges. D. Evans states that it will have to be looked at to determine the best way to handle it, replacing the decking, etc. B. Duffney states that it is not even so much the deck; it is the shoring for the bridge. T. Yasenchak states that the issue is that the only thing that we are typically concerned about with open development is safe access to a property. Knowing that you can't access it or if there isn't safe access, what can be done to make it safe? At D. Evans last project the engineer went out and was able to say that, yes, this driveway is safe or you have to do A, B, C, in order to get there. We need to know that it can be done. D. Evans states that anything can be done; he is not sure exactly what the Board means. Any part of a road, culverts, bridges, surface – it all has to be maintained and replaced. Even if it is done, at some point in the future it is going to have to be done again. T. Yasenchak states that it is not at that point now, so it would have to be as the applicant goes forward. B. Duffney asks if an engineer certified that there is any engineer who could certify the bridge and say that it is safe for "X" amount of years? M. Gyarmathy states that it is not our job to determine that. It is D. Evans job to provide us with that information that says that the bridge is safe or his driveway is safe to get there. S. Weeks states that D. Evans has given us a drawing and note #3 says, 'driveways servicing individual lots shall be designed and certified by a licensed engineer to hold 50,000 lb., 30 foot long vehicles'. He states that as far as he is concerned, that covers the driveway. B. Duffney states that he looked at a job in that area once and there was an issue brought up with that – the ownership of the bridge. Apparently the bridge is on the Pompa's property and they felt responsible at that time, that they were being held responsible for liability for the bridge. Things may have changed, but this was an issue that he ran into in that area. T. Yasenchak states that she agrees that those are good driveway notes, and that the driveway to access his property should be built to that. Maybe in any determination or advisory opinion that we make, we make a determination saying that someone has to certify that that bridge is ok. It is not on his property. S. Weeks states that it does not make any difference in his mind, it has to be certified. If an engineer certifies it, he can build on the lot. If they don't certify it, he can't build on the lot. S. Weeks states that the drawing says that this driveway has to meet this criteria and certified by an engineer. As far as he is concerned, that is all he needs to say. He is going to have to make sure he has access to the lot. That is the applicant's problem. As long as the applicant does that, he can build on the lot. T. Yasenchak states he might not be able to if he doesn't get the certification. This is also a pre-existing lot. We are discussing safe access. R. Roeckle states that it is a pre-existing lot without road frontage and is going to require open development, and the open development by the Town Board and/or Zoning Board should require that there is safe legal access to that property otherwise he can't sell the property that doesn't have legal access and he can't build on it. As long as D. Evans can demonstrate that they have safe legal access to that property, are we willing to allow him to build on that lot without road frontage? C. Baker states that he does not have anything to add that has not already been said.

D. Evans questions for his own clarity that the Board is saying that he has to show that it can be done or that it has already been done, at this point. T. Yasenchak states that it could be done. T. Yasenchak reads from the Town Attorney's letter stating that any decision that this Town makes – Town Board, Zoning Board or Planning Board – would not be granting the applicant access over someone's property. It is a civil matter and if a dispute arose with regard to the access it would be a private civil issue between D. Evans and his neighbors that would be resolved between and among them through negotiation or litigation. The Town Board, the ZBA and the Planning Board do not have the responsibility to resolve that private dispute between D. Evans and his neighbors. Any Open Development area that would be granted or any variances that would be granted would not provide the applicant with right of access or expand any access rights that he might have. Any decision should clearly state that it does not grant the right of access to D. Evans property or expand any access that he might have. D. Evans confirms that he understands this. J. Streit states that since it seems that we have defined one legal problem that we can't resolve and one engineering problem that we can't resolve, he moves that we table further discussion. T. Yasenchak states that we haven't said that we can't resolve it. J. Streit states that we can't resolve these problems. T. Yasenchak states that we are only an advisory opinion and that is something that the applicant needs to do anyway for when he builds, the question that is before us is how does the Board feel – do we feel we need more information or do we feel that we are just saying that the applicant needs to have safe access and he needs to get it at some point. J. Streit reiterates that we have defined 2 issues that we can't resolve and that would be our advice, that these be resolved by the appropriate authorities who are capable individuals. M. Gyarmathy states that he agrees. C. Baker states that the problem he sees is that if you allow this open development creating this lot, who is to say that if D. Evans finds a buyer and sells the lot, then that buyer is the one who is going to go for the building permit – the buyer is the one who is going to be responsible for getting permission to rebuild the bridge on someone else's property, to settle the easement issue – to him, that just doesn't seem like the right thing for the Planning Board to do. M. Gyarmathy asks how we would proceed. C. Baker states that he does not know the answer and that is why he would agree with J. Streit. He thinks it is a legal issue that the Town Attorney should give some advice on. M. Gyarmathy states that he does not know that the Town Attorney was aware of these two issues, so maybe we should ask it again. T. Yasenchak states that she is concerned with the bridge; she is concerned with it being on a plan somewhere that the person is responsible for that. Somewhere on the plan, not just a note, somewhere on the plan that says that this is a contingency or something. If someone was looking at this, didn't have a second page, if it wasn't attached – they don't know that they might have to spend 10's of thousands of dollars. Maybe it is not our problem, she really doesn't know. D. Evans asks if this bridge is the last hurdle in this whole issue. T. Yasenchak states it is safe access and she would say that if he didn't have a bridge involved, personally she would feel more comfortable because then all you are talking about is the easement. A bridge is 10's of thousands of dollars, it is getting into permitting of a waterway, etc. D. Evans states that he has done 2 previous stream crossings of that stream and it wasn't 10's of thousands of dollars. B. Duffney states that the stream crossings D. Evans previously put in were on his own property. This is on the Pompa's property. D. Evans states that the attorney is saying that this is a civil matter between the applicant and the Pompa's. T. Yasenchak states that was the Town Attorney saying that to the Town Board, the ZBA and the Planning Board giving an advisory opinion and the safety of the development. If it were on the applicant's property we could just say that he would have to deal with it. S. Weeks asks if you attach a note to a deed or what do you do? If we are concerned with selling that property to an unknown buyer, how do you advise the unknown buyer that he has to have access and an engineered road. There has to be some way to do that. M. Gyarmathy states that is what he thinks we should ask the Town Attorney. S. Weeks states how do we best tie that to that lot so that it is definitely understood that that is required to make that a buildable lot. D. Evans states that he is still waiting to hear whether the bridge is the last issue. M. Gyarmathy states that safe access is our issue. R. Roeckle asks if he can clarify safe legal access. D. Evans states that the Town Attorney has already said that that is the applicant's issue and not the Town's – the legal access. T. Yasenchak asks if there has been any other discussion with the Pompa's about that. Usually when people come in for open development, there has been open discussion and the Planning Board just asks to see it in writing. D. Evans states that he has spoken to 2 members of the family – Mrs. Pompa, he corresponded with her several years ago and she wrote back that she was unhappy with the way the Town treated her in regards to getting permission for the gravel pit,

etc. The other one, she mentioned responsibility for that bridge and the liability. D. Evans states that he thinks that could be resolved by granting something. T. Yasenchak states that she is saying that since it is something that is going to be needed anyway, she does not understand why it hasn't been done. D. Evans states that is because his attorney says he doesn't need an agreement. In terms of the bridge, he understands that it is still the responsibility of the Town. R. Roeckle states that if we give a recommendation to the Town Board, that if we choose to allow development to occur that the safe legal access be demonstrated to the Town to the satisfaction of the Town Attorney prior to the granting of the open development. If those are the only impediments that we have, it is a legal question and an engineering question; we are not going to solve it. T. Yasenchak states that we are going to table this for tonight. If the applicant has additional information that the Board has not seen, he can give it to the Board and they will have an opportunity to look at it. D. Evans has abandonment information stating that the other end of the road was abandoned. T. Yasenchak states that we are going to ask the Town Attorney to take a look at this and the way we need to proceed with this.

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**WITT CONSTRUCTION – Amendment to Subdivision/Site Plan Review**  
Case#506, Old Stone Ridge

T. Yasenchak states that we went through this process and there were inspections or observations that were done by Cornell Cooperative Extension. There were items that they felt were not done correctly as far as trees that had not had the burlap taken off or some other items that they felt would severely restrict the longevity of those trees. Our Code Enforcement Official, because he doesn't do this all the time and the Planning Board does not do this very often, and this is the only advice that we have to go by, he felt and we as a Board felt that it had not been done correctly according to the plan. Even though the observations were made in a timely fashion, because the installation wasn't made, that something needed to happen. The next usual step is that the Town would take that bond and then use it to repair the situation, to make it according to how the original plans showed how those plants needed to be put in. The applicant is here so that we can have some discussion as to how to proceed. Is there something that Witt Construction is planning to do to modify the situation, etc? Katy Gehl states that they were definitely open to pulling away the burlap and they were going to have T. Smith do it. Todd Smith, Mandy Springs Nursery, states that the trees that have the burlap on them, that should have been done within a period after they were planted of 3 to 12 months, and it wasn't done. They have discussed it with Witt Construction and they are amenable to have Mandy Spring go up and do that remediation. All the 127 trees would be dealt with and that can be done soon. He believes that the burlap that is remaining will come off easily. T. Siragusa states that some of the trees, it is his understanding, are already kind of disabled. They have mold or fungus growing. T. Smith states that that is probably the normal decay of the burlap or leaf matter. He hasn't been up there recently but he does not think there is a concern with that. Blue Neils said that there was some evidence of that but the burlap itself would rot. T. Siragusa asks what they would do if they found a tree that was already infected, the tree itself. Is part of the plan to replace trees that are diseased or harmed, or if they might not survive. T. Smith states that his discussion with Witt has been that since they exceeded the target mortality rate by almost 50%, not to; they replaced three that were dead originally. They made the numbers, added the 18 trees that they needed to. At the end of 2015 all the trees were in place alive. If there was a tree, at this point, and he does not think that B. Neils has been up there and T. Smith certainly hasn't, that shows signs of decline, he does not think that Witt was planning on replacing any right now. The idea would be to provide the best situation possible, take B. Neils recommendation and certainly the decay/fungus he is talking about is not a pathological fungus, it is not actively killing a tree. T. Siragusa questions that that is what B. Neils said or is it T. Smith's determination. T. Smith states that B. Neils is not talking about pathological fungus in these notes; he is talking about the decay fungus. They are two different things and he explains. B. Neils is concerned about things rotting against the bark of the tree that could eventually cause the tree a problem. S. Weeks states that he does not see why Witt would expect to replace those trees if they were not planted correctly by the nursery, why would the nursery not replant the tree. T. Smith states that they are one unit. They were in a situation where Witt Construction was doing the maintenance and post care. He states that

they were planted properly and the burlap should have been removed a year later and Witt should have called them. The trees were doing fine and there wasn't a push for that. They are ready to go do that now and make it right. T. Yasenchak asks what the timeline would be. We are not really making any decisions but just so that we know that the bond is going to continue to stay in place until those items have been done. T. Smith states 30 days. Does the Board want them to be done before the deadline for submittal for the next meeting? T. Yasenchak states that we need for it to be done, someone to verify it and asking B. Neils to go out to see that it has been done is a little excessive. T. Smith states that they could take pictures and submit them. S. Weeks states that if they could also take notes and submit that. B. Duffney asks what the mortality rate is. T. Smith states that as of last fall, 2016, the mortality rate was 11%. The threshold was supposed to be 20%. You expect to lose 10 to 20% of the trees. T. Yasenchak states if they can have that done within 30 days, have some kind of documentation to prove that that has been done and submit it to the Building Department. The applicant is before the Planning Board because G. McKenna had questions for the Board and he wanted to recommend the bond to go back to the Town Board, however, once that information and documentation has been given to him, he may feel confident enough to say ok and that the conditions have been met. T. Smith states that B. Neils did say, in his letter of January, that he would go out and work with them, and maybe submit a report. T. Yasenchak states that would be fine.

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**PRESTWICK CHASE – PUD AMENDMENT**

Case#595, Denton Road

Dave Penkowski, attorney and Luigi Palleschi, engineer, are present. T. Yasenchak states that at the last meeting the Board expressed their concerns, we came to an impasse as far as what we were asking for and how we were to proceed. We had mentioned that there were some changes that we would like to see either on the plan and/or in the PUD language and had asked for those to be given to the Planning Board. The question came about as to whether or not those could be made at this phase or we should only be looking at the proposed amended PUD language which was only those two paragraphs. In talking with Mike Hill, Town Attorney, it is T. Yasenchak's understanding that we can ask for revisions and we can have dialog with the applicant at this phase because that can become part of our advisory opinion or recommendation back to the Town Board. She asks how the applicant would like to proceed. D. Penkowski states that he discussed this with M. Hill and they came to an agreement that we cannot amend the proposed PUD at this stage. You can make recommendations for that to the Town Board. T. Yasenchak states that we won't be changing it, but we are not writing those recommendations. That it is something that we can have discussions with the applicant to provide us as part of our review and recommendation back to the Board. Otherwise we are just going to pick out what we feel is right and that may not be what they are dealing with. D. Penkowski states that he misunderstood. T. Yasenchak states that we are not changing the application, we are not changing those two paragraphs but in our recommendation it would say that we feel that these two paragraphs continue to make the PUD inconsistent so we would recommend that these additional revisions be made and those additional revisions, although we are not reviewing them right now, that is something that this Board and the applicant can have a discussion about now. D. Penkowski states that one thing we discussed was the phasing portion of this which is really left over from the application that is currently in effect. We don't even think, at the present, that it requires phasing because every building is going to require a building permit and no building permit is going to be issued without the necessary infrastructure to support it. As far as the language of the PUD, they are comfortable not having any language regarding phasing and just do the project as they go. T. Yasenchak states that that is something that does need to be addressed, the phasing, whether or not they are going to put in all the infrastructure all at one time or if they are only going to do one road at a time and build the homes out. Also, she thinks that there was some minor phasing that the homes would all be built out in 72 months, rather than whatever it was before. D. Penkowski reiterates his comments about building permits. They do not anticipate building the whole road out but obviously they would build such infrastructure as would support any building permit that would be requested. He states that they would not build the road and dead-end it. T. Yasenchak reiterates that the construction phasing that was in the PUD

originally did talk about what roads get built or what infrastructure gets built and when; when the recreation building was getting built, etc., when the road over to Daniels was being built – that was all included in the phasing. So what we are saying is that that still needs to be revised. Unless their phasing is literally that they are going to build all at one time. L. Palleschi states that they are going to have a SWPPP and the SWPPP is going to identify a lot of the construction phasing. DEC does not allow the disturbance of more than 5 acres at a time. T. Yasenchak states that she understands, the applicant knows our concerns. The PUD language does talk about phasing and if we are going to make a recommendation about changes in that phasing we would need to see something. The Board can come up with something or the applicant can provide information about what they want in their PUD language. L. Palleschi asks that that would be the recommendation to the Town Board that you need to see that section of the PUD revised. T. Yasenchak states that because we are lead agent for SEQRA, we would want to know specifically what that revision is. Just to say it is revised, that may not give us enough information to make some kind of determination down the road, because we will have to determine whether we have to reopen SEQRA as part of this process. She does not feel comfortable enough saying to the Town Board that phasing needs to be revised and leave it open to whatever the applicant decides on. She would feel comfortable with some kind of specific recommended language to them. D. Penkowski asks if T. Yasenchak is suggesting that the phasing portion of the legislation could affect the SEQRA. T. Yasenchak states she does not know. L. Palleschi states that he is not sure that they know. T. Yasenchak states that it is in the PUD language and that is why we keep going around in circles. We are looking at something that is incomplete. She states that the whole point of last week's meeting was that we can give a recommendation to just say it is not complete, it is full of inconsistencies, period, deny it or we can make recommendations saying it can be approvable with these other recommendations and give those recommendations. We are not going to just make up those recommendations. We need input from the applicant as to what they would like the Board to say. L. Palleschi asks why the Board does not tell the applicant what they want to see. T. Yasenchak states that is not the Board's job, just give us a paragraph that says this is what we would like to do and we can say, that is something that we find acceptable. M. Gyarmathy asks if we can just draft our recommendation as it is right now. In our recommendation we are going to mention these issues. We can let the applicant review the draft and give them the opportunity to address the issues before we give it to the Town Board. Would that be a way to solve this? T. Yasenchak states that at the last meeting she went through and pretty much read it verbatim. M. Gyarmathy states that then if the applicant hasn't brought any additional information, we just write our recommendation. T. Yasenchak states that is how we left it at the last meeting, we came back to say that they have the option, we can continue forward or they can meet us half way and help us come up with some of these recommendations. L. Palleschi states that we have been discussing back and forth, but this Board never provided anything in writing to the applicant that could be addressed item by item. T. Yasenchak states that we had several meeting minutes that said what we wanted to see and what the concerns were. There was no meeting in the middle; it was just the applicant saying this is what we want to go forward with. She read the draft determination last week, which was not going in a favorable direction for the applicant. What we were saying is that to help the applicant through the process, we can pretty much go forward with what she read last week, we can discuss whether or not we are going to reopen SEQRA, we are giving that to the applicant as their decision. D. Penkowski states that the Board is telling the applicant that the application is too dense. T. Yasenchak states that we have said that all through. S. Weeks states that he did not say that, he thought that it was considerably less dense than what we had approved previously so he does not want to be quoted as saying he feels it is too dense. D. Penkowski states that he is hearing that from the Chairperson. T. Yasenchak states that she does not speak for everyone although at one of the meetings there was significant discussion about that. D. Penkowski states that if that is the consensus of the Board, can he respectfully ask that they make the recommendation to the Town Board that it is too dense, but you are not telling us what appropriate density is and we are not going to come back with numbers for the Board to say no it's not right. That is not how the process should be. We have an application with a certain density; some people feel it is too dense, someone feels it is not. It is inappropriate to keep coming back to the applicant and saying come with something that the Board can say yes to. If the Board said 100 units would be an appropriate number, then the applicant would have something to consider. He states that he did not realize that the Board had a draft opinion that T. Yasenchak had read. T. Yasenchak states that she had

said that it was a work product between the Board and the attorney, and she had said that she was giving a brief rundown of the highlights of the concerns. D. Penkowski states that she did say that but he wasn't aware that that was a draft opinion that had been generated. He would like the record to reflect how that draft opinion was generated. T. Yasenchak states that it was generated after discussion that this Board had regarding all of the itemized, line item details within the code that says what we have to address, it was done with the Town Attorney reading our Board minutes. D. Penkowski states that it was from the minutes, there was no separate meeting to generate this letter. T. Yasenchak states correct, it was all during our public meetings – the minutes. There were a lot of people who had asked, maybe not using density in the terms of the number of units but the square footage of the units or the square footage of the buildings. It had been discussed if there could be some kind of table that gave some specific square footage or maximum number. L. Palleschi states that was in the narrative. T. Yasenchak states that that is what we are saying, that the narrative is not part of the PUD. L. Palleschi states that the Board has numbers in front of them to pick from and to make the recommendation to the Town Board. It is not that we didn't provide it to the Board, just because it is not directly written in the PUD language. T. Yasenchak states that is what we are asking for. We don't have a maximum footprint of a building or development. It is not in the PUD language, it is something that we could recommend. D. Penkowski states that you do have it because you do have the reference to the map which is incorporated in the PUD. There cannot be greater buildable area than what is on the map that is incorporated in the PUD. T. Yasenchak states that we don't have any specific numbers unless someone calculates the square footprint. B. Duffney states that F. McNeary came in with 4 different size homes, are they all going to be a maximum? If they are it is going to cover a lot more ground. L. Palleschi states that what he talked about at the last meetings was that what is shown on the site plan shows the maximum, but they will build a range from A to B, and that has been provided to this Board. T. Yasenchak states that there is nowhere that gives that maximum number. D. Penkowski states that the maximum square footage is incorporated. T. Yasenchak states that there is no number that says that there is a maximum building area of "X". D. Penkowski states that the map that is incorporated has the maximum square footage. Ultimately the map that gets approved is probably going to have less square footage and that map is going to be the one that is going to be incorporated into the ultimate legislation. The one you approve today would have the maximum amount; the one that is ultimately approved would probably have significantly less. C. Baker states that he made a comment at a previous meeting that the map that the applicant presented to the Board shows the maximum worst case development that could occur on that property. When you go into detailed site plan review, there is a very good chance, and we talked about this, that the number of units is going to have to be decreased because they are not going to be able to meet storm water management or they are not going to have the proper separation between the buildings or whatever the case may be. Those are details that would get flushed out at detailed site plan review. What they are showing you with their map and what they are referring to is the worst case scenario. We did have that discussion. T. Yasenchak states that what she keeps coming back to is that we had a lot of discussion about some kind of area and bulk schedule, and actually having that in the PUD language. D. Penkowski states that is an easy recommendation to the Town Board - that the legislation spell out the square footage that appears on the map. The only difference is that what is going to happen is that it is going to come back to the Planning Board and the density is going to be less on the map than what is in the legislation. R. Roeckle states that one of the questions he had was that the applicant is showing 117 single family units at a maximum possible square footage. What is to say that the applicant is not going to build 117 single family units at that maximum square footage? There is nothing in the law that is going to prohibit them from doing that. If you are going to propose a range, you are going to have a maximum number of units with a maximum square footage per unit or minimum square footage per unit, and then aggregating how much of the total is going to be of that square footage. Is every unit going to have a two car garage, are some going to have a one car garage? There is no way to do that unless we come back and look at every single building, which no one wants to do. L. Palleschi refers to the building permit process which would say that the building permit does not exceed the maximum square footage allowed. R. Roeckle states that suddenly you have 117 units at the maximum versus what was said in the meeting that they would only have perhaps 25% at the max, maybe 15 % at another number, etc. The Building Department would have no control over that so suddenly we have a development which is much more physically dense looking than it actually is. That

was one of the biggest concerns with regard to space and bulk requirements. There is going to be a maximum of 117 units, but once you start laying them all out, like C. Baker said, you are going to lose some of them possibly. He states that if we approve the PUD based on a site plan approval that doesn't exist, are we approving something that doesn't exist. M. Gyarmathy states that we are not approving anything. When we make our recommendation, all the issues that we have raised in the prior meetings we will note in our recommendation. Then if the Town Board wants us to review the PUD legislation after it is amended, then we will do that. At this point, the applicant doesn't have any additional information for us so he thinks it is time for us to move on. T. Yasenchak states that the applicant is saying that they want the Planning Board to go forward with what was provided. L. Palleschi reiterates that they feel they have provided the information, and at this point they want this Board to make the recommendation with all the recommendations that we keep discussing and let the Town Board decide. T. Yasenchak states that M. Hill's hope was that instead of the Planning Board coming up with specific recommendations such as 'we want to see phasing like A, B, C', that the applicant would say that they would change that and come up with some ideas and give those to us now, instead of it bouncing back and forth. Discussion takes place about calling M. Hill and T. Yasenchak states that she is not going to call him at 11:05 p.m. D. Penkowski states that one of the frustrations he mentioned to M. Hill was that we talk about density –we have a certain number of units with a maximum size and people keep asking us about density. No one is telling us what density is acceptable. If the Board feels that something is appropriate, they could tell us. T. Yasenchak states that we have been recommended by the Town Attorney, that as lead agent we will have to address SEQRA. If we feel that we have to reopen SEQRA, he feels that we need to be able to make a determination either to say that the previous negative declaration on the previous PUD amendment remains or if there would be a different outcome. S. Weeks states that he personally feels that this has less impact than what we previously approved and he would see no reason to reopen SEQRA. T. Siragusa asks when we would do that. T. Yasenchak states that we would do that as part of our actual determination and recommendation. Part of the recommendation that we give to the Board states that we have looked at SEQRA and the possible impacts. J. Streit states that S. Weeks feels that this has less impact and to pass this on to the recommendation along with the points to be addressed. J. Bokus states that if we had a negative declaration before and the density is less now, wouldn't it be a negative declaration again. T. Yasenchak states that it is how you personally feel in your review of the plan that is presented. T. Siragusa states that there are more buildings and more roads than what was previously proposed. S. Weeks states that they are two-story versus three-story, and they can build the three story approved plan tomorrow. In his opinion a two-story single family house has a lot less impact than a three story building. There are less people. T. Yasenchak reads from the code. T. Siragusa states that he feels that there are changes, there are a lot more buildings, there is a difference in the roads, but overall looking at the entire property, he does not see that there is a big enough difference to go through SEQRA again. B. Duffney states that there is a lot more ground covered, but they are going to have to address the water runoff. C. Baker states that he does not want to overcomplicate this. In his opinion, if the Board is considering making a recommendation to the Town Board and one of the concerns is the density, then he thinks you need to look at SEQRA again because that is where you are going to talk about the density. M. Gyarmathy states that he wonders if we are confusing density with character. T. Yasenchak states that the consistency of the community character is one of the items in SEQRA. L. Palleschi states that regarding B. Duffney's concern, they cannot send any more water off site than what is currently happening today and that is being provided with a SWPPP document. He explains further. M. Gyarmathy states that based on what we were just told, it needs to be revisited because we are uncertain and he does not know if we do revisit it, if we are going to come up with an answer. He thinks we need to revisit it based on the character change of the PUD. J. Streit states that S. Weeks has stated his position. J. Bokus states that he does not think it is necessary to redo SEQRA. T. Yasenchak states that she feels that we do need to reopen it because of community character and consistency with the Comprehensive Plan, we had discussed those impacts and also the possible visual density has changed. We have brought the buildings down, but because of the visual and aesthetic resources of that, she does not think it is consistent with the character of the neighborhood and the density as far as the number of single family homes. R. Roeckle states that with the reduction of density that may offset the change in character, but he is not really sure if we need to reopen it. T. Yasenchak states that it appears that the majority of the Board feels that we don't need to reopen, but because we have to prove that we addressed

SEQRA, she does feel that we have to ask our attorney how we put that in our recommendation. After we ask him how to do that, we could probably make a recommendation at our next meeting. D. Penkowski states that he does not have the authority to agree to anything. T. Yasenchak states that we have a general recommendation that we have written from before, but M. Hill was assuming that we had reopened SEQRA and so in our recommendation we have to say that we have addressed it. If we are saying that we don't feel that we have to reopen it, she knows that M. Hill is going to say that we have to state our reasoning and that needs to be in our draft opinion. If we are reading something that he has prepared, she thinks that needs to be in there so that we can correctly vote on it. L. Palleschi asks if the Board needs to vote on whether or not it needs to be reopened. The majority of the Board has stated that in their opinion they do not feel that it needs to be reopened. T. Yasenchak states that we are going to run that by Mike Hill again. S. Weeks states that he thinks that there is good reason that the Board is given so many days to come up with a recommendation and that is so that we don't get into this kind of stuff. He is really tired of it. It just is not a good use of our time, of the applicant's time. If we really thought it was too dense, from day one, we really should have come up with our recommendation instead we are going around and around. He is very frustrated with this process. If we cannot come up with a recommendation tonight and the applicant is not willing to give additional time, he is not sure that we are going to be any smarter two weeks from now. T. Yasenchak states that in this determination that M. Hill drafted, we would have to have language in there about how we addressed SEQRA and that if we are not going to reopen it that there is language in there that says this is why we feel we do not have to reopen it. T. Yasenchak calls M. Hill at 11:23 p.m. M. Hill is not available. Board members state that they did not get the revised copy of the draft. T. Yasenchak states that we can read through the draft and add our own language. T. Yasenchak states that her understanding from talking to M. Hill was that there was going to be some give and take as far as the applicant helping us with the recommendation that we give to the Board and that is not what is happening. We are at an impasse and that is what she was prepared with after the discussion earlier today. She feels hesitant without getting those two additional weeks. She does not want to leave here saying that all we need from him is to just put that language in our determination and have F. McNearly say that he is not giving those two weeks and all of a sudden it is an approval. D. Penkowski states that he and L. Palleschi don't want to be obstinate, we have a client who is not here and D. Penkowski does not have authority to agree. T. Yasenchak states she is uncomfortable with language that has not been approved by the Town Attorney. J. Streit states that S. Weeks had suggested that we approved a previous project/application, we are seemingly teetering on disapproving this on the matter of density and this project is less dense as S. Weeks pointed out. As far as the character of the community, it is a very different character; he thinks it might even be a better character. As far as being harmonious with the surrounding areas, you can't see this, it is behind trees. You cannot compare what they are proposing to build to the community standards up and down Denton or Daniels. It is a new concept and that is why they make PUD's. This is a PUD structure of little houses; it could be that during the site approval process the storm water will mandate that they can't put in as many houses as it calls for. He thinks that if we are thinking of disapproving this because it doesn't fit in with the character of the neighborhood, this establishes a character of its own neighborhood and it is in the woods. You can't see it; you can't compare Daniels Road, which is the neighborhood, to something that is deeply in a forest. You can't say that one is incompatible with the other because you can't stand in one spot and see both areas. He states that this is like a cluster development, it is impossible to look just like Daniels Road. He thinks that if we pass this along to the Town Board with the revised language, that these are the points that are brought up by our Town Attorney after carefully reviewing the minutes, these are concerns the Board has expressed and we want these conditions evaluated by the Town Board. We have been told that we will have control over the site review process. Otherwise we are never going to resolve this. T. Yasenchak states that the issue is that we had meetings and we had notes that we all put together, that talked about meeting consistency within the PUD so it is not just about the density, it is also about the rest of the language of the PUD. When we make a recommendation there are 18 items that we have to address and we have to say what we feel about those items. M. Gyarmathy asks if they are all addressed in the draft. T. Yasenchak states that they were addressed based on the list that we had made. M. Gyarmathy states that we have to vote as to whether we accept that draft and submit it. T. Yasenchak states with revisions to the SEQRA section, which we felt that we didn't have to reopen. T. Siragusa states that there is a draft and that draft was changed before we came

in and everyone has at least the original but not the latest draft. He would say that we should make sure that everyone has a copy of the draft. The draft includes a response from the Board for all 18 points we have to provide. One of those is density and visual density. He would suggest that everyone reads that, look at all 18 things and especially the question of density. You have to look at the Comprehensive Plan to get an understanding of what is meant by density, there are no numbers, it is all about character. Review the draft, look at density to come up with your own determination of density because his feeling is that is going to be key to the project, but it certainly is key to whether we review SEQRA or not. Unfortunately we are not there tonight, but those are the things that need to be done and done well by the Board. He hopes that we can get the extension so that we can do that. He thinks that in talking to the applicant, some of the comments that were made were that we wanted it to succeed, that is generally the feeling for the Board and we are trying to figure out how to get it done right. We have been asking for things from the applicant and the applicant not providing them with their own reasons. We need to look at that draft and make a determination of whether we agree or not, paying special attention to density which will lead to SEQRA and then at the next meeting we can figure it out. T. Yasenchak reiterates that after talking with M. Hill earlier today he did not think that we would be at this point and there would be a different outcome. R. Roeckle states that the issue is that the applicant's representatives have told us that they are not authorized to give an extension beyond tonight, so if we do not make the recommendation they receive a default approval on the PUD language. M. Gyarmathy states that if that is the case, then he thinks that we need to make some kind of vote on whether we accept the preliminary draft. If that draft has to be submitted to the Town Board tomorrow, we have to be ok with it. T. Yasenchak states that the worst case scenario is that F. McNeary says no and then there is a default, it also does not mean that the Town Board approves it. Whether or not the Town Board approves it knowing that we had multiple discussions, they can read our minutes and feel that it has gotten to them because maybe the applicant is being stubborn; they have the right to deny it. It would be unfortunate if he did that because then our time would be wasted. T. Siragusa asks what the Town Attorney would need to revise in the recommendation. T. Yasenchak explains the part about SEQRA. T. Siragusa states that he would rather everyone read it as is before making changes based on our discussion tonight because he feels that some of those things, to C. Baker's point, about SEQRA were made without understanding the full scope of the document. T. Yasenchak explains that the change to the draft would be based on tonight's discussion about not reopening SEQRA. T. Siragusa states that if we are not going to make a determination tonight, he would like everyone to read the document that they haven't read. S. Weeks states that he feels that we should have a vote about SEQRA to make it official and then M. Hill knows where we are about SEQRA.

#### **RESOLUTION – PRESTWICK CHASE – REOPENING OF SEQRA**

MOTION: S. Weeks

SECOND: J. Streit

RESOLVED, that the Planning Board decides that they do not need to reopen SEQRA for the Prestwick Chase amendment to their amended PUD for property located at 100 Saratoga Blvd, TM#152.-1-109.1, 111, and 115, based on:

- **This project is less dense than the SEQRA that was already approved for this project**
- **This project goes from three-story structures to two-story structures**
- **This project goes from a lot of clustering of people together, to individual homes, which is the trend in this industry that people still want to live in an individual home**
- **No other significant negatives to this project compared to the one that was previously approved**

T. Yasenchak states that she does not feel that those reasons are fully in line with the SEQRA process or the reasoning behind SEQRA or our Comprehensive Plan. J. Bokus states that his thought is that if we came up with a negative declaration once, we could come up with it again. T. Siragusa asks what T. Yasenchak's reasoning is. T. Yasenchak states that she does not feel that it is consistent with the Comprehensive Plan, it doesn't meet for visual density, the number of homes is too dense. As far as looking at the Comprehensive

Plan, the number of homes that would typically be in this area, if it were a regular subdivision. Originally the approval was consistent with its own project having apartment buildings. She feels that now these buildings are too close together, they are visually too dense. She does not think it is in keeping with the Comprehensive Plan because of the number of single family homes on the square footage of this whole project area. J. Bokus states that it seems that the Comprehensive Plan is an overview of what they want the Town to look like. It seems to him that a PUD is a way to create its own, so that it doesn't have to go along with the Comprehensive Plan. T. Yasenchak states that is true and just because we reopen it, it doesn't mean that we will come to a different decision. She just feels that going through that process is the correct way to go. J. Streit states that he was on the committee when the Comprehensive Plan was rewritten. He does not see how this is not compatible.

VOTE: Ayes: Bokus, Duffney, Streit, Weeks  
 Noes: Gyarmathy, Siragusa, Yasenchak  
 Absent: None

T. Yasenchak states that we are going to have the attorney put this into the language, everyone should review it and we will come to the next meeting and take our chances. Discussion takes place as to who has which copy of the draft. The Board will be providing their final recommendation and we feel that we need to have our attorney make some revisions and we need to review those. We will be providing that document at our next meeting. Unfortunately it was 11:20 when the Chair attempted to contact the attorney.

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**RYAN FITZGERALD – Open Development Area**

Case#608, North End Road

Applicant is not present and no one was present at the last meeting. We did have a general discussion that we needed some kind of information regarding access. This is on a private road that people use on a regular basis, T. Yasenchak states that she would be ok with making a motion to provide a favorable advisory opinion for the open development due to the fact that it is already a private road that is used on a regular basis for not just seasonal homes but for year round homes. Some homes are beyond where this particular home is located so because of that we feel that there is proof of safe access.

**RESOLUTION – R. Fitzgerald, Open Development**

MOTION: S. Weeks

SECOND: J. Streit

RESOLVED, that the Planning Board provides a favorable advisory opinion for the request for Open Development for Ryan Fitzgerald for property located at 551 North End Road, TM#122.19-2-1, based on the following:

- **This is already a private road that is used on a regular basis for not just seasonal homes but for year round homes**
- **Some homes are beyond where this particular home is located so the Board feels that there is proof of safe access**

VOTE: Ayes: Bokus, Duffney, Gyarmathy, Siragusa, Streit, Weeks, Yasenchak  
 Noes: None  
 Absent: None

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**DISCUSSION**

T. Yasenchak states that this is Dr. Streit's last meeting. J. Streit states that he has enjoyed the meeting and he concedes that on occasion some of the Board members were right.

T. Siragusa states that for SaraSpa there was a public hearing and there were three letters that were supplied that were not read. S. Weeks states that he intends to read them at the next meeting.

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Meeting adjourned, 11:53 p.m. All members in favor.

Respectfully submitted,

Kimberly McMahon

Rosamaria Rowland

DRAFT