
REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 22, 2010

NOTE: Per Robert Freeman Esq., NYS DOS director of Committee for Open Government, addresses of individuals listed in these minutes have been removed. Complete minutes are available in the Town Clerk's office during regular business hours.

A regular meeting of the Town of Victor Planning Board was held on June 22, 2010 at 7:00 p.m. at the Victor Town Hall at 85 East Main Street, Victor, New York, with the following members present:

PRESENT: Dan Benulis, Vice Chairman; Joe Logan, Ernie Santoro, Robert Davis, Heather Zollo, Al Gallina

ABSENT: Dawn Grosso

OTHERS: Mark Tayrien, Town Engineer; John Wilson, Town Attorney; Cathy Templar, Planning Secretary; Marge Elder, Conservation Board; Marco Marzocchi, Bill Leier, Clint Battista, Paul Terwilliger, Jerry Goldman, Chris Lanzalaco, Kitty Van Bortel, Paul Hermanet, Jennifer Michniewicz, Joe Strazzeri, Jack Dianetti, Linc Swedrock, Jeffrey Loson, David Hofmeister, Mauro Polidori, Rudy Kumpf, Karl Essler, Dennis Wilmot, Marshall Hardy, Glenn Thornton, Frank DiFelice, Gary Smith

APPROVAL OF MINUTES

On motion of Ernie Santoro, seconded by Joe Logan

RESOLVED that the minutes of May 25, 2010 be approved.

Dan Benulis	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Bob Davis	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 6 Ayes, 0 Nays

On motion of Al Gallina, seconded by Joe Logan

RESOLVED that the minutes of June 8, 2010 be approved.

Dan Benulis	Aye
Joe Logan	Aye
Ernie Santoro	Aye

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Bob Davis Aye
Heather Zollo Aye
Al Gallina Aye

Approved 6 Ayes, 0 Nays

BOARDS AND COMMITTEES UPDATES

Planning Board reported by Cathy Templar

July 13, 2010 Planning Board meeting:

- Public Hearing
 - Hartz/Holtz Subdivision located on 201 Blazey Road
 - Lehigh Crossing located on County Road 42
- Decision
 - Conifer Village at Eastview located at 7410 Forest Trail
 - Van Bortel Used Car Center –house demolition located at 7310 St Route 251
- New Application
 - David Smith Vegetable Stand located at 7161 St Route 96
 - Glasgow Pole Barn located at 860 High St
 - Drake Pole Barn located at 1337 Wagon Trail Dr
 - Friendly's Outdoor Seating located at Eastview Mall
 - Wood's Edge Subdivision located at 7112 Valentown Rd
- Informal Discussion
 - Cane Bogojevski regarding 6608 St Route 96
 - Capezuto Subdivision located at 845 Victor Egypt Rd
- Recommendation to Town Board
 - Victor Holcomb Road/Morrell Property located on St Route 444

Conservation Board reported by Marge Elder

Quail Ridge and Auburn Meadows

- Will comment when discussing later during meeting

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Macy's Temporary Tent 100 Eastview Mall Drive Appl. No. 2-SU-10 & 11-SP-10

Special Use Permit and site plan for a 40' x 120' temporary tent to be placed outside of Macy's to conduct a rug sale from June 27 through July 20, 2010.

The legal notice was read and ran one time in the Daily Messenger on June 15, 2010.

Vice Chairman Benulis asked if there was anyone from the public wishing to speak. No one came forward and the public hearing was closed. Vice Chairman Benulis asked the applicant if they had any comment.

Mr. Paul Herman with Macy's – We have the support of the Mall, Wilmorite and all of the plans. There will be no power source. It's a rug event so if there was a purchase of a rug, everyone would walk in so there is no need for power. It's all an outdoor tent and secured by an independent security company that we have. It's just a revenue making avenue for us.

Mr. Santoro – How do you ring up the sale?

Mr. Herman - I'll walk the customer inside when they make a purchase and we have a register by the dresses. There is no power needed outside. We'll secure it ourselves by an independent security company.

Mr. Logan – I'm curious how you will light it in the evening.

Mr. Herman – We won't have it running in the evening. At dusk it will be shut down and we'll have our company secure it. There will be nothing going on at night, it's all shut down.

Mr. Davis – Is the rug sale a Macy's company?

Mr. Herman – No it's a leased department of New York and they will do all of the advertising for us. It's called the MINK Company. They are bringing the rugs in if this is approved. There will be our sales people in collaboration with them. But it's in conjunction with Macy's, yes but we lease the department.

Mr. Santoro – this is similar to the Home Depot tent which we had previously approved.

Mr. Davis – That parking lot is your property as well right?

Mr. Herman – Yes it is.

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There were no additional comments so Vice Chairman Benulis read the resolutions.

SEQR

On motion made by Bob Davis, seconded by Heather Zollo

WHEREAS, the Town of Victor Planning Board reviewed the Unlisted Action on June 22, 2010 and identified no significant impacts; now, therefore, be it

RESOLVED, that the project, Macy's Temporary Tent, will not have a significant impact on the environment and that a negative declaration be prepared.

Dan Benulis	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Bob Davis	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 6 Ayes, 0 Nays

RESOLUTION FOR SITE PLAN

On motion made by Bob Davis, seconded by Joe Logan

WHEREAS, the Planning Board made the following findings of fact:

1. A site plan application was received on May 25, 2010 by the Secretary of the Planning Board for a Site Plan for Macy's Temporary Tent.
2. It is the intent of the applicant to install a 40' x 120' tent temporarily from June 27, 2010 to July 20, 2010 to conduct a rug sale.
3. The application was deemed to be an Unlisted Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations and a Short Environmental Assessment Form was prepared.

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NOW, THEREFORE, BE IT RESOLVED, that the application of Macy's, 100 Eastview Mall Drive, Victor, New York, Site Plan for the installation of a 40' x 120' temporary tent for sale of rugs from June 27, 2010 to July 20, 2010, received by the Planning Board May 25, 2010, Planning Board Application No. 11-SP-09, BE APPROVED WITH THE FOLLOWING CONDITIONS:

1. That no final signatures will be given until all legal and engineering fees have been paid as per Fee Reimbursement Local Law adopted November 25, 1996.
2. That the applicant obtain an operating permit from the Building Department.

AND, BE IT FURTHER, RESOLVED, that the Planning Board Secretary distribute the appropriate standard conditions with the Planning Board's approval letter.

Dan Benulis	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Bob Davis	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 6 Ayes, 0 Nays

RESOLUTION FOR SPECIAL USE PERMIT

On motion made by Al Gallina, seconded by Heather Zollo

WHEREAS, the Planning Board made the following findings of fact:

1. An application was received on June 4, 2010 by the Secretary of the Planning Board for a Special Use Permit for Macy's Temporary Tent.
2. It is the intent of the applicant to install a 40' x 120' tent temporarily from June 27, 2010 to July 20, 2010 to conduct a rug sale.
3. Section 211-22 B 1 (c) states that the Planning Board may issue special use permits for open displays which include the placement and arrangement of displays that must not be

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- so prominent that the display is likely to cause a traffic hazard by significantly distracting the attention of passing motorists and that the projects, merchandise and other items displayed must directly reflect the products sold or services offered by the business or individual responsible for the display.
4. The appropriate use of the neighboring property will not be substantially injured. The temporary location of the tent is located in the parking lot adjacent to the Macy's store.
 5. The temporary tent/open display is a permitted special use as set forth in Section 211-22 B 1 (c).
 6. The temporary tent will be located and is proposed to be operated such that the public health, safety and welfare and convenience will be protected.
 7. The temporary tent will not cause substantial injury to the value of other property in the neighborhood where it is located. It is located within the Eastview Mall.
 8. The temporary tent will be compatible with the adjoining development and the character of the district where it will be located.
 9. The temporary tent will not have landscaping or screening. It is located in the parking lot adjacent to Macy's.
 10. The temporary tent location will have adequate ingress and egress and will not block or interfere with traffic patterns or intersection.
 11. The temporary tent for sale of rugs conforms to all applicable regulations for the Commercial district in which it is located.

NOW, THEREFORE, BE IT RESOLVED, that the application of Macy's, 100 Eastview Mall Drive, Victor, New York, Special Use Permit for the installation of a 40' x 120' temporary tent for sale of rugs from June 27, 2010 to July 20, 2010, received by the Planning Board June 4, 2010, Planning Board Application No. 2-SU-10, BE APPROVED WITH THE FOLLOWING CONDITIONS:

1. That no final signatures will be given until all legal and engineering fees have been paid as per Fee Reimbursement Local Law adopted November 25, 1996.
2. That the applicant obtain an operating permit from the Building Department.

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AND, BE IT FURTHER, RESOLVED, that the Planning Board Secretary distribute the appropriate standard conditions with the Planning Board's approval letter.

Dan Benulis	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Bob Davis	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 6 Ayes, 0 Nays

VICTOR OUTPARCEL DEVELOPMENT - Establishment of Lead Agency.

NYS Route 96

Appl. No. 10-MS-10 & 3-SP-10

Resubdivision of Parcel B consisting of 5.357 acres and adding 2.253 acres of land from the New York State DOT to create Parcel R-B1 which will consist of 3.446 acres and Parcel R-B2 which will consist of 4.161 acres. Parcel R-B1 is proposed to be developed for a 7,138 square foot restaurant. **Establishment of Lead Agency.**

Vice Chairman Benulis – The only action tonight is we will be establishing our determination to be lead agency. The public hearing was opened. Vice Chairman Benulis asked if there were any public comments and the only one that spoke was Marco Marzocchi.

Mr. Marco Marzocchi represents Widewaters – I can see by your agenda you have a busy evening. Given this evening the only action that will be taken is for Lead Agency, I'll leave it up to the Board if they desire any presentation. Otherwise we can do that at the next meeting.

Mr. Santoro – This is what we've been through a couple of years ago.

Mr. Marzocchi – We've been through this before, right. I'll leave it up to the Board.

Vice Chairman Benulis closed the public hearing and asked for comments from the Board (there was none).

Vice Chairman Benulis – In your packet we did receive a letter dated 5/27/2010 from the NYS DOT concurring the Planning Board has the Lead Agency. We also received a letter back from

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the County Planning Board basically taken no action or comments on this and you should find that in your packet as well. With that, I'll read the resolution.

RESOLUTION

On motion made by Joe Logan, seconded by Al Gallina

WHEREAS, on April 5, 2010, the Secretary of the Planning Board received a minor subdivision and site plan application for Victor Outparcel Development; and,

WHEREAS, it is the intent of the applicant to resubdivide Parcel B consisting of 5.357 acres and add 2.253 acres of land from the New York State Department of Transportation to create Parcel R-B1 which will consist of 3.446 acres and Parcel R-B2 which will consist of 4.161 acres. Parcel R-B2 is proposed to be developed for a 7,138 square foot restaurant; and,

WHEREAS, the application if a Type I Action under State Environmental Quality Review Act; and,

WHEREAS, the Planning Board intends to proceed with coordinated review and a lead agency must be established prior to determination of significance; and,

WHEREAS, that the Planning Board declared its intent to act as lead agency and directed the Planning Board Secretary mail the EAF, with Part 1 completed by the project sponsor, and a copy of the site plan application to all identified involved and interested agencies, notifying them that a lead agency must be agreed upon within 30 calendar days of the date that the Environmental Assessment Form (EAF) was mailed to them expressing the Planning Board's intent to act as lead agency. Notification was sent to the New York State Department of Transportation. The Town of Victor Water Department, Ontario County Planning Department, and Town Engineer were also notified of the pending application as interested agencies; and,

WHEREAS, the involved agencies have submitted responses indicating that they concur with the Planning Board acting as lead agency, now, therefore, be it

RESOLVED, that the Town of Victor Planning Board assumes lead agency status; and, be it further

RESOLVED, that the project, Victor Outparcel Development, will not have a significant impact on the environment and that a negative declaration be prepared.

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There was confusion on the parcels numbers listed in the resolution.

Mr. Marzocchi – Right now Fridays is on Parcel B. We will incorporate the DOT land into Parcel B and then subdivide Parcel B into two separate lots. R-B1 is Fridays and R-B2 is the proposal.

Dan Benulis	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Bob Davis	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 6 Ayes, 0 Nays

DECISIONS:

127 BLAZEY ROAD PROPERTY Blazey Road

Appl. No. 12-MS-10

Subdivision of 67.7 acres into two parcels. Lot 1 will consist of 9.16 acres with frontage along the west side of Blazey Road and proposes a single family house and the remaining 58.54 acres will remain with the existing house.

Linc Swedrock with BME Assoc. – If you have any other questions, I'd be glad to answer them.

Vice Chairman Benulis asked for questions from the Board and there were none. The SEQR and Resolution were read.

SEQR

On motion made by Ernie Santoro, seconded by Heather Zollo

WHEREAS, the Town of Victor Planning Board reviewed the Unlisted Action on June 22, 2010 and identified no significant impacts; now, therefore, be it

RESOLVED, that the project, 127 Blazey Road Subdivision, will not have a significant impact on the environment and that a negative declaration be prepared.

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Dan Benulis	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Bob Davis	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 6 Ayes, 0 Nays

RESOLUTION

On motion made by Heather Zollo, seconded by Joe Logan

WHEREAS the Planning Board made the following findings of fact:

1. An application was received on May 6, 2010 by the Secretary of the Planning Board for a Minor Subdivision entitled 127 Blazey Road Subdivision.
2. It is the intent of the applicant to subdivide a 67.7 acre parcel into two parcels. Lot 1 will consist of 9.16 acres and proposes a single family house and the remaining 58.54 acres will remain with the existing house.
3. The application was deemed to be an Unlisted Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations and a Short Environmental Assessment Form was prepared.
4. The Conservation Board reviewed the Unlisted Action on May 18, 2010 and identified no significant impacts.
5. The Planning Board, as lead agency, found that there would be no significant impacts to the environment as a result of the action and directed that a negative declaration be prepared.
6. In a letter dated June 14, 2010, LaBella Associates stated that technical aspects have been addressed.

NOW, THEREFORE, BE IT RESOLVED, that the application of Daniel Bajus, 127 Blazey Road, Victor, New York for a Minor Subdivision entitled 127 Blazey Road Subdivision, Drawing No. 09 through 11, drawn by BME Associates, dated May 2010, received by the Planning Board May 6, 2010, Planning Board Application No.12-MS-10 BE APPROVED WITH THE FOLLOWING CONDITIONS:

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Conditions that must be met prior to the Chairman signing the minor subdivision plan:

1. That no final signatures will be given on the plans until all legal and engineering fees have been paid as per Fee Reimbursement Local Law adopted November 25, 1996.
2. That the comments in a letter dated June 14, 2010 from LaBella Associates have been addressed.
3. That the Town of Victor Highway Department comments regarding the driveway connection to Blazey Road with regards to meeting the Design & Construction Standards for typical driveway section have been addressed.
4. That before the Planning Board Chairman signs the approved film original(s), the developer should submit three (3) copies of electronic files to the Town. Copies shall be forwarded to the Town Engineer's office to confirm that the data on the electronic files are the same as the approved subdivision plans.
5. That Section 5.1 Standard Approval Conditions for all Subdivisions (Major & Minor) in the Design & Construction Standards be met.

Conditions that are on-going standard conditions that must be adhered to:

1. That the minor subdivision comply with Town of Victor Design and Construction Standards for Land Development, including Section 5.
2. That approved subdivision maps, including conservation easements, lot consolidations and lot line adjustments shall be submitted in digital format, Autocad 2002, or latest version, effective January 1, 2004 (per Town Board Resolution #193 of June 23, 2003).

AND, BE IT FURTHER RESOLVED, that the Planning Board Secretary distribute the appropriate standard conditions with the Planning Board's approval letter.

Dan Benulis	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Bob Davis	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 6 Ayes, 0 Nays

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3. The application was deemed to be an Unlisted Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations and a Short Environmental Assessment Form was prepared.
4. The Conservation Board reviewed the Unlisted Action on May 18, 2010 and identified no significant impacts.
5. In a letter dated May 27, 2010 LaBella Associates stated that technical items remain to be addressed.

NOW, THEREFORE BE IT RESOLVED that the application of Victor Rod & Gun Club, 6649 Gillis Road, Victor, New York, Site Plan entitled Victor Rod & Gun Club – Pole Barn, received by the Planning Board May 4, 2010, Planning Board Application No. 6-SP-10, BE APPROVED WITH THE FOLLOWING CONDITIONS:

Conditions to be addressed prior to the chairman's signature on the site plan:

1. That no final signatures will be given on the plans until all legal and engineering fees have been paid as per Fee Reimbursement Local Law adopted November 25, 1996.
2. That the comments in a letter dated May 27, 2010 from LaBella Associates be addressed.
3. That the comments from the Codes & Development Office dated May 17, 2010 be addressed regarding the sprinkler system.

Ongoing conditions:

1. That the site plan comply with Town of Victor Design and Construction Standards for Land Development, including Section 5.

AND, BE IT FURTHER, RESOLVED, that the Planning Board Secretary distribute the appropriate standard conditions with the Planning Board's approval letter.

Dan Benulis	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Bob Davis	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 6 Ayes, 0 Nays

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HYLAND – WIND TURBINE 8042 Main Street Fishers Appl. No. 4-SP-10 & 1-SU-10

Site Plan and Special Use Permit for the construction of a 3.5kw Wind Energy Conversion system on a 7.222 acre parcel which will be used for Mr. Hyland's personal use.

Mr. Dave Hofmeister from WindTamer Corporation – I am representing Mr. Hyland and to answer any questions.

Ms. Zollo – I wasn't here when this was originally presented. I wonder if the visual impact assessment was conducted.

Mr. Hofmeister – It was my understanding that no, we didn't.

Ms. Zollo – Did we not require that?

Mr. Davis – The resolution says that a visual impact study is not required due to project location. I hadn't heard that until I just read this.

Ms. Zollo – My other question was is there any evidence that after years of use that the noise becomes significant, that the noise changes as the bearings wear, etc.

Mr. Hofmeister – The answer is “no”. We will do periodic maintenance on the turbine. There is just one bearing system on the turbine and the use of life is about 20 years with proper maintenance.

Ms. Zollo – Is that an annual type of maintenance that you do?

Mr. Hofmeister – No, it's actually a housed bearing system so rain, it's not open to elements. So it's probably about 5 years.

Ms. Zollo – Just because we were recently out west and saw wind farms out there and there were quite a few that had failed and there was oil dripping on to the ground. Is there some kind of mitigation for this or will the regular maintenance take care of that?

Mr. Hofmeister – Our design is much different then the conventional 3 router blades that are 200 to 300 ft high. The housing that we have is much different so the amount of grease and/or oils that are in the bearing system are not any more significant than your car. It's not a huge amount of lubricant that is in our turbines.

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Ms. Zollo – So the regular maintenance will probably take care of that.

Mr. Hofmeister – Absolutely, we've never had any problems to date.

Vice Chairman Benulis – I'd like to go back to Heather's first question about the visual impact study. It's my understanding per code that there is a visual impact study that may be required but can be waived by the Planning Board. I just wanted everyone to be aware of that.

Mr. Davis – Why did we waive it?

Vice Chairman Benulis – We don't have to waive it, that's my point.

Mr. Davis – But the implication is that we want to.

Mr. Benulis – That's why I wanted to bring this up. It's open for discussion. This draft resolution added that as a condition to be discussed.

Mr. Logan – As I recall I questioned that and Mark agreed to take a look at it. I think his latest letter was transmitted by Cathy, there was a response by email explaining that it wasn't going to be necessary or the recommendation wasn't going to be necessary because the height of the tower is below the tree line and it was sufficiently shielded on the property and that it wasn't really visible and it wouldn't be a visual impact. The request was not made.

Mr. Davis – Because this is the very first one, I would prefer that we just don't waive it.

Mr. Logan – I don't think it was just waived from what I understand.

Mr. Davis – Two years from now when I read that (referring to the draft resolution), we just waived it. What I would prefer is that we have some language in the resolution that says that after some type of engineered assessment, etc., because we don't know. Kim's note on top of this was that we are trying to get going here, we're trying to put the right regulations in place. I think we should make sure we reserve our decision rights as long as possible.

Vice Chairman Benulis asked Mr. Davis to explain.

Mr. Davis – I didn't get this either because apparently this was an email as well. If there is a letter, maybe all you have to do is reference the LaBella letter saying that it is well within compliance to the standards.

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Vice Chairman Benulis – so something to the effect that the Planning Board has determined.....

Mr. Davis – No, LaBella has.

Mr. Tayrien – Let me jump in, my recollection is a little different. I recall you raising the issue at the last meeting and we wrote a letter June 10th. I think the first question was whether or not a visual assessment or simulation required and I think we pointed out in our letter that the code actually requires either a visual simulation or an assessment of some sort or a balloon test. That same provision gives the Planning Board the authority to waive either of those requirements. I think that is really all our letter really said. If there is another letter from LaBella....

Mr. Logan – Maybe that was my interpretation of your letter Mark, sorry I didn't mean to....

Mr. Davis – So with that a letter indicating the options and we've chosen to waive it and I don't know why.

Vice Chairman Benulis – Again, I think this was put in the draft for discussion. We do not have to waive it. We need to decide whether or not we are going to waive it or we are going to ask for the study to be done.

Mr. Davis – I just go back, it's our first time through. It's a brand new ordinance and I'd like to exercise it, especially if we don't have an opinion from engineering, I don't know why we would waive it.

Vice Chairman Benulis – The only thing I recall from the last meeting and I think someone already said it. I think there were discussions about the visual from the road and from the neighbors and no major concerns were raised. Other than that, that's all we really had to go on, the discussion from the last meeting.

Mr. Davis – Why don't we just strike #13 (referring to the resolution).

Mr. Santoro – You have to have something, either require it or waive it.

Vice Chairman Benulis – As Cathy just suggested, do we want to make it a condition?

Mr. Davis – We're waiving something that is required by code.

Mr. Santoro – The code is here in LaBella's letter of June 10th.

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Mr. Davis – Was that in the package or the email?

Mr. Santoro – No it's on the table here.

Mr. Davis - I haven't found it yet.

Mr. Santoro – It was in the packet that I have here.

Mr. Davis – So documentation required prior to this or would be required as a result of this. I guess I was thinking it is now required as a result of the resolution and we were just waiving it as a future step for them.

Mr. Santoro – I think it was based on the discussions we had last time about the height and its location being within the tree line.

Mr. Davis – It's just my opinion, there are 5 other ones of you.

Vice Chairman Benulis – I think if we added it as a condition that might be an issue unless it was prior to installation. The condition would have to say that if we feel we wanted to go that way, we would have to add a condition to complete the visual impact study as a condition prior to installation.

Mr. Tayrien – My understanding of the code provision was that it was intended to provide the Planning Board an opportunity to review the visual simulation prior to the issuance of the Special Use permit. The waiver condition was inserted in there to provide some opportunity to do other wise in instances where it was clear from the review that visual impacts weren't just going to be an issue. That being said, my recollection is that it was intended to be something that would be provided before the permit was issued, not afterwards.

Mr. Davis – My only reaction is I don't know what the facts were deeming that it's not required to be done.

Vice Chairman Benulis – I think in Labella's letter, to your point Bob (a section from Labella's June 10, 2010 comment letter was read):

Visual Impact Assessment. Town Code, Section 206-8, Paragraph B (17) indicates that unless waived by the Planning Board, applications shall include visual impact documentation. The paragraph further states that for residential WECS, the applicant may provide a simple balloon study in addition to manufacturer photographs instead of producing a photo simulation study. No visual impact documentation or balloon study has been provided.

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So the question we have is do we want to defer the decision on this until that is done or do we want to find another way to move through this process?

Mr. Davis – I think we could come up with some language that says; pending final approval of the visual impact study by town engineering. So we could pass this and then it just requires a condition that we would need town engineering to approve the outcome of the visual impact study.

Ms. Zollo – I'm looking at the minutes from May 25, 2010 where it was discussed, there was no drawing or anything to indicate whether it truly was below the tree line when the presentation was made originally.

Mr. Santoro – There were some photographs of the area from what I recall.

Vice Chairman Benulis – So we would have to add a condition because we don't have any conditions at this point wouldn't you say Bob?

Mr. Davis – That's my opinion.

Vice Chairman Benulis – I agree with that, I personally don't have a problem with that. Does everyone else feel that way?

Mr. Zollo – Legally is that the way to address it?

Mr. Wilson – Legally I think it could be done the way Bob suggested as a condition. The permit won't take effect until the study meets the engineer's satisfaction. That's probably alright

Mr. Logan – I hesitate to leave the approval language to the engineer. We've approved it, it's just the engineer has no objections to it.

Mr. Davis – How about acceptance.

Mr. Santoro – You're just thinking about a balloon study right? Not a full blown impact study.

Mr. Tayrien – I think what the code references is a photo simulation which is relatively straight forward. I don't want to speak for the applicant but my guess is they would opt for that rather than a balloon study.

Mr. Logan- You take a photo and then superimpose on that photo something with the same height that is proposed in the photo, relative to the trees around it and whether or not you can actually see it from the road or the adjacent property.

Mr. Paul Hyland, owner of 8042 Main St. Fishers – At the last meeting, I recall several people asking me about that and they were going to go out and look at it. Where the blue is down there

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(on site plan) and where Main St. Fishers is, it's all trees that are 40 ft to 50 ft tall. That sits down, you can not see this from the road.

Mr. Davis – The issue is not you or the land, the issue is that this is the first time this has come through here. We have language in here that is waiving a condition with no facts. So even if it was some documentation that you could refer to that says, we waive because of...

Mr. Hyland – I thought that is why they asked. They spoke as though they would just stop out and look and see. It was a casual remark.

Mr. Davis – But there should be something backing up the waiving and there is not. I think what this allows us to do is have something submitted that shows that this is legitimate because the next time this shows up someone is going to say that we waived the last one without doing anything, why not now.

Mr. Hyland – I understand. I just wanted to let you know that in this instance that question did come up.

There was mixed discussion on the wording for the resolution.

RESOLUTION FOR SPECIAL USE

On motion made by Joe Logan, seconded by Heather Zollo

WHEREAS, the Planning Board made the following findings of fact:

1. A Special Use Permit Application was received by the Secretary of the Town of Victor Planning Board on April 20, 2010.
2. It is the intent of the applicant to construct a 3.5kw wind energy conversion system on 7.222 acres of land located at 8042 Main Street Fishers for personal use.
3. The proposed WEC use will not substantially affect the use of neighboring properties.
4. The proposed WEC use is a special use as permitted in Chapter 211.
5. The proposed WEC is designed and located to be operated such that the public health, safety and welfare and convenience is protected.

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6. The proposed WEC will not cause substantial injury to the value of other properties in the neighborhood.
7. The proposed WEC will be compatible with the character of the residential district in which it is located.
8. The proposed WEC will be located on the property near existing vegetation to help screen from adjacent properties and the public right-of-way.
9. Ingress and egress will be from the existing residential driveway and will cause minimal interference with traffic on abutting streets.
10. The proposed WEC will comply with all applicable regulations in the district in which it is proposed.
11. Section 206-9 of the Wind Energy Conversion Systems code provides for a number of development standards that shall be complied with unless waived by the Town of Victor Planning Board.
12. The Ontario County Planning Board reviewed the action on June 9, 2010 and recommended that the application be sent back to the referring agency as a Class 1 and that the application would have no significant intermunicipal or county wide impact.

NOW, THEREFORE, BE IT RESOLVED, that the Special Use Permit application, received by the Secretary of the Planning Board on April 20, 2010, for the construction of a 3.5 kw wind energy conversion system to be located at 8042 Main Street Fishers BE APPROVED with the following conditions.

1. A visual impact study be completed by applicant and submitted for review and acceptance by Town Engineers prior to a permit being issued.

Dan Benulis	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Bob Davis	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 6 Ayes, 0 Nays

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RESOLUTION FOR SITE PLAN

On motion made by Joe Logan, seconded by Ernie Santoro

WHEREAS, the Planning Board made the following findings of fact:

1. A site plan application was received on April 20, 2010 by the Secretary of the Planning Board for a Site Plan entitled Hyland Wind Turbine.
2. It is the intent of the applicant to construct a 3.5kw wind energy conversion system on a 7.222 acre parcel for personal use.
3. The application was deemed to be an Unlisted Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations and a Short Environmental Assessment Form was prepared.
4. The Conservation Board reviewed the Unlisted Action on May 4, 2010 and identified no significant impacts.
5. The application was referred to the Ontario County Planning Board under Section 239 of the General Municipal Law. On June 9, 2010, Ontario County Planning Board determined there would be no significant intermunicipal or county wide impact.
6. In a letter dated May 17, 2010, LaBella Associates stated that technical items remain to be addressed.

NOW, THEREFORE BE IT RESOLVED that the application of WindTamer Turbines, 156 Court Street, Geneseo, New York, Site Plan for the construction of a 3.5kw wind energy conversion system to be located at 8042 Main Street Fishers, received by the Planning Board April 20, 2010, Planning Board Application No. 4-SP-10, BE APPROVED WITH THE FOLLOWING CONDITIONS:

Conditions to be addressed prior to the chairman's signature on the site plan:

1. That no final signatures will be given on the plans until all legal and engineering fees have been paid as per Fee Reimbursement Local Law adopted November 25, 1996.
2. That the comments in a letter dated May 17, 2010 from LaBella Associates be addressed.
3. That comments from the Building Department dated May 7, 2010 be addressed.

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Ongoing conditions:

1. That the site plan comply with Town of Victor Design and Construction Standards for Land Development, including Section 5.

AND, BE IT FURTHER, RESOLVED, that the Planning Board Secretary distribute the appropriate standard conditions with the Planning Board's approval letter.

Dan Benulis	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Bob Davis	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 6 Ayes, 0 Nays

SEQR

On motion made by Ernie Santoro, seconded by Heather Zollo

WHEREAS, the Town of Victor Planning Board reviewed the Unlisted Action on June 22, 2010 and identified no significant impacts; now, therefore, be it

RESOLVED, that the project, Hyland Wind Turbine, will not have a significant impact on the environment and that a negative declaration be prepared.

Dan Benulis	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Bob Davis	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 6 Ayes, 0 Nays

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38 EASTVIEW MALL

Appl. No. 5-SP-10

Site plan for the replacement of the existing 13,000 square foot office building with an 11, 900 square foot commercial/retail building.

Mr. Paul Terwilliger – Good evening, thank you for the opportunity to come back before you. I am Paul Terwilliger of Stickley Furniture and I'm representing the owner of the property at 38 Eastview Mall. I have several people with me tonight so as questions come up, we can answer those. Bill Leier who is also with Stickley; we have Jeff Goldman who is with Fix Spindelman Brovitz and Goldman, attorneys; Bob Bringley who is with Marathon Engineering; Clint Battista who is with Smith Assoc Architects who are the architects for the project; and I also have Bob Lucchesi who is with Ardent Realty, Commercial Realty who is working with us on the project.

What I'd like to do tonight is offer you a little bit of a background as to how we got here this evening, to this point. We have been before you in one way shape or form three times now. We do the informal workshop at the very beginning of the project. At the last Planning Board meeting you had identified several different things that we need to do in order to get this project approved. Those were; we needed to obtain variance approvals for front and rear setback and a greenspace, we needed to obtain approval from the Ontario County Planning Board for the project and we needed to consider several modifications to the architecture of the building.

We are at this point now because we did go to the Ontario County Planning Board. We met with them and they did approve the project. They did send it back with one comment which I believe you have. The Zoning Board of Appeals approved last night the front, rear setback and greenspace variances for us. So that has been accomplished and we have made several architectural modifications to the building. What we would like to do is start with that and be able to show you the changes that we've made. We tried to take into account the comments that you brought forward at the last meeting. I'd like to turn it over to Clint Battista who would like to take us through that and hopefully with that being said and after you see the building, we could have hopefully some approval for the overall project.

Mr. Battista – Good evening, my name is Clint Battista from Smith Associates Architects. I wanted to show what we have revised on the building based on the Architectural Review Committee comments from the last meeting. This is the revised elevation sheet that was submitted. We raised the windowsill height so there is less square footage of glass, so hopefully that will meet your requirement for less opportunity for window display and clutter. We have also filled that area under the windows with more brick. We've toned down the white trim, horizontal on the building to try to emphasis the vertical elements of the building and we have also changes some of that white trim to a tan color so it's not so stark. The materials are the same. The only change we made is the white trim now is a tan/beige color. Just to remind you this is the west elevation of the building that is currently on this property (referring to power

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point presentation) and here is the photo simulation of the revised elevation that we have provided. I know at the last meeting, it wasn't clear if we had to raise the windowsills on this side of the building, but we chose to do so, so that we had a common look on all three sides. Here is the existing east elevation that is facing Route 96 and this is the revised photo simulation of the new building and I also put in some landscape because you guys had requested some of that shown at the last meeting. If there are any questions that I can answer for you, I'd be glad to do so.

Vice Chairman Benulis asked for any questions from the Board.

Mr. Davis – I appreciate the effort.

Ms. Zollo – I have a question, is that the extent of the landscaping or is that just to give us an idea of what might be there?

Mr. Battista – What I did was, Bob Bringley from Marathon Engineering had included a landscape plan on last months submission so I just included what was on that plan on here. I don't know if that will be final?

Mr. Bob Bringley from Marathon Engineering – We are in the process of completing the foundation plantings around the plan. I think Labella's office made a comment to make it a condition of approval that we provide the specifics because the buildings ----- have not been completed so our landscape architect couldn't put together a complete plan but we will do that with Labella's office.

Ms. Zollo – How high are you going up with that brick, you said to reduce the affect of the window size?

Mr. Battista – The brick stayed the same height, it's just in the areas where windows were. We raised that window height up so it about that water table line.

Ms. Zollo – So how high is the brick?

Mr. Battista – 3'4"

Ms. Zollo – Thank you

Mr. Santoro – I see there is a proposed resolution that access to the Stickley property 3 way stop sign be eliminated.

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Mr. Davis – Are you guys aware of that clause? Are you aware of the condition that the access to the Stickley property at that 3 way intersection be eliminated?

Mr. Jerry Goldman – I am the attorney for the project. We are aware of the Clark Patterson letter, we are not aware of the imposition of the condition. We would welcome the opportunity to discuss that with you. Clark Patterson, in their letter, seemed to have a problem with the concept of closing that driveway and frankly so do we with regards to it. There is a 3 way stop in place at that location so we are able to control traffic as it comes from every way. The only way that is allowed clear access is coming off of Route 96. Coming out of the Stickley driveway, coming out of the mall in two different directions are all controlled by stop signs. Frankly, given the fact that we are changing from a 13,000 sf office building to an 11,900 sf retail does not really warrant, to our mind, any major modifications with the regards to the roadway network. In fact, comments that were made by Clark Patterson specifically addressed some of the concerns and problems that would occur if we closed that driveway. For example, if we were to move further west, we could conflict with BJ's traffic in addition to creating more circulation problems on the overall site.

Mr. Davis – There are two entrances there now correct?

Mr. Goldman – that's correct

Mr. Davis – So we are just asking for one of them to be blocked off at that intersection and use the other one as the main entrance.

Mr. Goldman – That's correct. If you take a look at the Clark Patterson letter, I assume everyone has that right?

Mr. Santoro – No

Vice Chairman Benulis – I have a copy and also.....

Mr. Davis – I'm not going to do any more e-mail like this, I'm not doing it. I'm sorry, I get a package and I study the package and then everything we talk about is in the e-mail. It's unacceptable, I'm not doing it.

Mr. Goldman – Would you like me to read this paragraph?

Mr. Davis – I'd actually like to read it.

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Vice Chairman Benulis – Excuse me just a second. I wonder if it would make sense to have Jennifer to come up and take us through her letter so that we can get her perspective on this.

Mr. Davis – I'm actually kind of sad where this is going because I was thrilled to see the language because I thought what we were doing is bridging between the banking and the parking problem, trying to finally resolve a problem on the intersection which if anybody in here doesn't think that intersection is a problem, you need to move to the county and live here. So I was actually thrilled because I said we're good, we're golden here but I'd love to hear the opposition of this.

Mr. Santoro – Can I just ask one question first? Where did that proposal come from?

Mr. Davis – In the resolution? I don't know?

Mr. Tayrien – I think it was brought up by the Chairman at the staff meeting. She noted a long standing problem with that intersection. I think it was at her suggestion that that provision was inserted into the resolution as a matter for discussion with the Board.

Mr. Santoro – And that's what we are doing now, right?

Vice Chairman Benulis – And again, I wonder before we go much further with traffic discussions if we could ask.....

Mr. Davis – It would be interesting also to understand why the additional signage went up last night or two nights ago on that intersection about Traffic Must Stop.

It was mentioned that that was for the LL Bean application not this one.

Mr. Goldman – I noticed that too and said that that doesn't look familiar.

Mr. Davis – It was the day after that accident at that intersection too.

Ms. Jennifer Michniewicz from Clark Patterson Lee, Town Traffic Engineer – I was asked by Kim to look into removing that access point. I did not have a traffic impact study from the applicant to review so I went out to the site. The second driveway that would remain open is closer to the BJ's access point, it's actually very close. So I had reservations about closing the access by the stop sign and have that be the only access point because it's so close to the BJ's where all the gas station traffic is. In addition to that, there is a slight curve to that with a mound so there could be some sight distance issues. So I suggested in my letter to conduct a traffic

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study with the option of closing that driveway where the 3 way stop is. At the time, I had no idea what the applicant was proposing, whether it was retail or whether it was all going to be office space as it is now. Without all of those facts in my hand, I could not say yes or no, close that driveway. With the on going traffic at the gas station, the way you have the 3 way stop there now, there is a condition where the people can exit the Stickley Furniture site. If you move the driveway further away, all of the traffic on the ring road has the right of way. So there is not stop condition to allow people to get out of the Stickley Furniture site.

Mr. Davis – I guess the fortunate part based on the applicant's discussion last time is that it's so under utilized from a parking perspective that's not going to be as big a deal as if it was a major retail outlet.

Ms. Michniewicz – Well with an office type facility, people come, they park, they go into work, they stay there for hours and then they leave. With a retail type setting, you are going to have even more traffic. That is why without reviewing the traffic study, I can't make a decision without having a traffic study to look at. Another recommendation that is in that letter is also looking at a possible egress behind the site towards BJ's so that everybody uses that same driveway.

Mr. Davis – You would go west towards the BJ's building?

Ms. Michniewicz – Yes

Mr. Davis – I think we have a beautiful opportunity here to try to fix what is a pretty bad intersection.

Ms. Michniewicz – I agree

Mr. Davis – And it seems like between this and I didn't even realize that LL Bean is next, but it seems like somehow we've got to come to an agreement on how to fix this intersection and I thought we had done that. I guess that's why I'm maybe a little bit more emotional quicker than I should be. I thought we had done that and kind of bridged, like I said, this parking issue that has been hanging over our heads. A terrible intersection that I think just detracts from that whole area, an opportunity to fix the whole thing. I guess we are not anywhere near that are we?

Mr. Logan – How did we come to the conclusion that closing that driveway was the right thing to do in the first place? I don't even recall having that discussion.

Mr. Santoro – No we didn't.

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Mr. Davis – I don't know. That's what I'm reacting to Joe, I thought that we had done some work and thought that was a way to solve it.

Mr. Logan- There was some discussion about making that a 4 way but that would back right up to Route 96. I'm very sympathetic with the owner at this point in not closing that. I think that would be a big mistake....

Mr. Davis -that may be, but we get back to the parking discussion. We have to get more rigid about the amount of cars and parking and that's not an acceptable answer to these guys either so. I think there is a huge opportunity and everybody to resolve this intersection is in this room today.

Mr. Terwilliger – If I may, at the last meeting there was a lot of discussion about parking, I would agree with you. One of the things that was identified at the last meeting was it was asked that your group, meaning the Engineers, the Town Engineer along with Code Enforcement Officer, take a look at, is there some sort of control on 40 Eastview Drive building so that if somebody new came in there that has more intensive traffic, is there control that has to go back to the Planning Board or the Zoning Board of Appeals to be approved? That was one of the issues that had to be looked at from your end. I don't know how we got from that to the whole Route 96 intersection being done through this project.

Mr. Davis – Starring at me and getting emotional with me is probably not a good thing. I was reacting to the fact that the language was in here and thought this is great. We finally fixed a major problem here.

Mr. Goldman – I think at the same time, this is really a surprise to us relative to this being here. I was not at the last meeting but I did review the minutes. I really didn't see anything there which is pointing us in the direction of making reference to closing. I did review the June 16th letter and took a look at it and said okay maybe we do have more discussion to be had on this issue and perhaps more analysis. We don't have a formal traffic consultant on board right now to deal with the traffic issue and it sounds like we are going to have to bring someone in to perhaps interface with Clark Patterson and take a look at what should be analyzed and what should be studied on this.

Mr. Davis – I would suggest you might want to engage the Mall as well. Everybody benefits from good traffic flow here. It just seems to me that any answers some how are going to implicate the mall or you. It just seems to me we have an opportunity to fix something that is probably the worse intersection I know of.

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Mr. Logan – I would step back a little and ask is it our responsibility to review and regulate the traffic on Mall property. I know that it's something that we may have a personal.....

Mr. Davis -yes, I think it's part of the character of the community.

Mr. Logan – Okay, but every time we've talked about the traffic, the Mall has always said they are the ones that have control of it within the mall.

Mr. Davis – There was an accident 2 or 3 days ago where I don't know the state of the people in that car. So there comes a point where as a citizen, I can't just sit here and plausibly deny the fact that that intersection is bad and we get opportunities to address it. So if it's not my job, fine. As a citizen, I'm disgusted by that intersection and we have the opportunity to fix it right not and if we don't, it's a shame.

Mr. Logan – I don't know if it's this applicant's obligation to change something that

Mr. Davis -we have everybody in the room today that could address this and fix it. Everybody that has to be here is here.

Mr. Logan – I'm struggling with the very first statement we have in here which was we as a Board decided or at least the Chairman decided that it was the right thing to do to close that off. We are not traffic engineers, we have traffic engineers to do that.

Mr. Davis – I don't think it's any different than the bolded on the wind turbine. It's in here and it's bolded. I think it's for the intent of discussion.

Mr. Logan- Just the way it got on here that bothers me. I can say we have to address the intersection because there is a concern about traffic but not just to pose a solution before we even have a study that even suggests that's the right answer. I just have a real problem with that. If we just arbitrarily require that the developer do that, then there is all kinds of problems that come back to us because we aren't the engineers but we are the ones that required it. We need some good studies to justify this.

Mr. Santoro – I don't think we can put this in as a condition to this resolution tonight. It's the first time the applicant has heard about it. There has been no discussion and no study as Joe said. I just don't think it's proper at this point in time.

Mr. Davis – But we shouldn't vote on these tonight then.

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Mr. Santoro – I don't think so, if it's going to remain an issue, we need to get it resolved.

Vice Chairman Benulis – I've got another comment too. Another issue that we talked about which I thought was one of the key issues is that I don't think the last time around was resolved was the issue of parking. We understand that it doesn't meet code, we understand there is an agreement between parties to share the parking areas. But along with the fact that we've got an opportunity to fix something and I have a question for you. Would it be feasible, in my mind if we are starting with the new building, to at least have that building comply with the parking code. Then deal with the Stickley building as a non compliant issue with the code. Is there any way and I'd have to look at the.....there are two parcels and to get the 54 spaces that I think we need to comply, would that require a change in lot line or would it not? Why wouldn't we consider that if we can?

Mr. Goldman – First there are separate owners on the two lots and while there is some commonality in terms of some of the people, they are separate lots as they sit right now. The lot that we have with regards to this line over here really does not apply to the property line. The property line comes from somewhere like this for the 38 Eastview Mall property. Essentially if you were trying to do it and put all of the parking there, either you would be stripping away all of the greenspace or we would be having a building that is so small it would be unmarketable. That's part of the issue that we are talking about.

Vice Chairman Benulis – Is there any opportunity to change the lot line to make an adjustment on the two parcels?

Mr. Goldman – There is no way. That's been explored.

Vice Chairman Benulis – Can you tell us why?

Mr. Goldman- There are separate groups within the owner groups and they won't come to an agreement to do that. But even if you were to do that, the net result is in essence the parking field itself is going to service whatever is there and it's pretty clear that while there is a lot line here, you're going to be dealing with common parking. You are going to be dealing with common parking no matter what you do. You are going to have to have cross easements to be able to access intersections, to be able to do anything. So there has to be cooperation between the property owners in order for things to work. In order to be able to function, there has to be cross agreements relative to that. So saying one is in conformance would essentially put another one out of conformance. We would wind up with a circumstance right now where we probably would have to go back to the Zoning Board of Appeals again if we were to try to move a lot line because we are further reducing the number of spaces on the 40 parcel. So at the end of the day,

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it's still going to be the same amount of land that we are dealing with and essentially we will be talking about the same parking field. So moving the lot line, you'll be saying okay maybe we have less, maybe we have more on each specific lot, but in terms of the overall site, we are at the greenspace number overall. I don't think anyone really wants to...since 1993 in the initial variance, no one wants to see us cut down greenspace below the 35% and neither do we frankly. We have a circumstance where we have an operating parking field, we have a Zoning Board of Appeals approval which says that if there is any increase in degree of intensity on 40, that the variance has to be revisited that was granted. So all of the controls are in place relative to that parking.

Vice Chairman Benulis – I understand that. I was just looking for clarification. Is there any opportunity to rectify such that the new building would be in compliance by making a lot line adjustment and you are saying the answer is no.

Mr. Goldman – I gave you a long answer to a short question.

Vice Chairman Benulis - No that's okay.

Mr. Davis – So let's get back to the driveways. I think for right or wrong on this resolution, I think what we've exposed is we need more information about the traffic and the traffic pattern based on the occupancy at the Mall. There has been two changes and additions, BJ's, the addition of this. I think we have to have those facts to be able to vote on this with good conscious and I think if we have an opportunity at all to relieve that intersection from being what it is today, that would be a great outcome as part of this. But even if that is not a plausible outcome, I don't know I think Ernie is right, I don't know how we could vote on this without the facts around the traffic.

Mr. Wilson – I would just like to comment. I don't know if the Board has seen the County Planning referral or not, I don't think I have seen it. But the County Planning Board has made comment, I'm not entirely familiar with their Class 2 but they treat this as a Class 2 referral retaining it and sending their comments to us with a presumption that it would trigger at least a super majority to act contrary to recommendation. The principal comment to what you folks are talking about is this:

Internal Traffic Circulation: *The existing internal access and signage to the site is confusing. Since the new building will have retail uses, more traffic can be expected. Since the entrance is close to Rt. 96, there is possibility for confusion leading to backups, etc. The Town should require an analysis of internal circulation patterns and (flow, directional signs, etc.) and any needed changes to improve safety.*

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This was a motion then made to treat this as a Class 2 and returned to the municipality with comments and that motion carried. This was dated by the County Planning Board secretary of June 17, 2010.

Mr. Davis – Then that requires a 5/2 approval?

Mr. Goldman – Let me address that. If there was a recommendation modification for that, then it would require a super majority vote. This was returned with comments and that's a simple majority.

Mr. Davis – Is that your opinion John?

Mr. Wilson – I've only seen this for about 5 minutes time. There is actually several pages of comments and it's just not clear to me what this reference is to a Class 2 referral. It's suggestive to me that they think they have made comments sufficient to cause us to be under some added legal burden. If it's to be voted on tonight, I guess I'd like a little more time to look at it more carefully.

Mr. Davis – I'm hearing that none of us want to vote on this tonight. I think I'm hearing that right? (*Most of the Board agreed*) I think what we all believe we need is a traffic study that has a solution in it.

Mr. Robert Bringley, Engineering – Okay and just so that we go in the right direction from this point on, when we talk about the intersection, we're talking about the intersection that is internal to the Mall, not the intersection of Route 96 and High street, correct?

Mr. Davis – No, that's a curve put on all of us.

Mr. Bringley – So we are talking about the internal intersection.....

Mr. Davis -.....where that 3 way stop is.....

Mr. Bringley -studying that and internal traffic movements. So there will be no need to study the level of service for the intersection of Route 96/High Street and Eastview Mall Dr. That is outside the scope of this study.

Ms. Michniewicz – Unless there is added traffic because of the change of use.

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Mr. Bringley – I understand, we are such an incremental part to a million plus square foot Mall. I think frankly.....

Mr. Davis -but Jennifer there was an analysis done about the additional trips that would be generated as a function of the destination site of LL Bean, that would be brought in though as part of the analysis through that intersection but we are not talking about the traffic that goes between Route 96 and High Street proper. That additional use plus the change in this retail space all has to be comprehended in that intersection.

Mr. Bringley – That is part of the Mall's analysis. You're looking at an analysis that has to do strictly with the internal movements within that 3 way intersection as related to the 38 Eastview Mall and 40 Eastview Mall and how we are coming and going into that project.

Mr. Davis – I guess I'd ask Jennifer to define this in a way that it's done properly so we get the right assessment of that intersection.

Ms. Michniewicz – Because the existing building is an office type use and the new building, until tonight I did not know that the new building is proposed to be retail. Because of the change of use, there could be a change in the traffic pattern. There could be additional traffic at the Route 96 intersection. The traffic study should look into that to see if their proposed development will make that intersection worse.

Mr. Bringley – But again, the Mall...that's a function of the Mall, a million square footage in the Mall, we are on the Mall's property, our percentage increase in terms of overall traffic is insignificant to the level of service analysis that that intersection of Route 96.....

Mr. Davis -so you're telling that if the analysis indicated that a change in the entrance to that store would benefit that intersection, you're not obliged in any way to comply?

Mr. Bringley – I don't understand where you are coming from.

Mr. Davis – Well you are trying to separate the Mall traffic from your traffic and I'm not sure how you do that.

Mr. Bringley – We're saying the impact on Route 96 and High Street intersection.....the fact that we are building a 11,900 sf retail complex has an impact on the level of service at the intersection of 96 and Eastview Mall. That hasn't been a contention of this Board. That's why I asked the question, are we concerned about that intersection and the answer was no. So we're concerned.....

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Mr. Davis -my questioning today is about that 3 way stop and a way to solve what is a problem there.

Mr. Bringley – Right, so our focus should be that area, not any impact we are having on Route 96. I point that out because in the June 16th letter, Clark Patterson points out that they would like to see at a minimum that intersection studied. That intersection being 96 and High Street and I'm as an opinion that that is not necessary clearly and that your concern with the Board has been safety and circulation internally on the Mall property. So there is what we should study, if there was a way in fact to improve that 3 way intersection, we should look at that and come up with some solutions that improve that 3 way intersection, not the State Highway and High Street and Eastview Mall intersection because that is a study of the Mall. That's our opinion; I just wanted to make that perfectly clear. I know that Clark Patterson has stated something differently so I didn't want to walk out of here and have confusion in that matter because that would significantly impact our client. That study of that intersection would require them to obtain all of the previous studies of that intersection, get all the traffic counts of that intersection, look at all of the users within the Mall property, all things that they don't have information of. So they would have to start from square one just to mass all of that information to perform that study.

Mr. Santoro – We've got the next project which has encompassed this to some degree about placing some additional signs at that 3 way intersection.

Mr. Dennis Wilmot with Great Eastern Mall, owner of Eastview Mall – I'd like to dispute some of the claims that were previously made regarding that intersection. If you recall years ago when we discussed the LL Bean proposal, a traffic study indicated that 30 to 40 percent of the increase in the traffic that we experience at the High Street intersection which would logically include the 3 way intersection was directly correlated with the change in gas prices and the BJ's traffic. The BJ's gasateria is less than 5,000 sf and has had a tangible effect on the traffic patterns at High St and at our 3 way intersection. So to delude or diminish any impact to change of use and to pass that buck on to us I think is not right.

Mr. Davis – So everyone who benefits from that intersection has no accountability for it. Unbelievable.

Mr. Wilmot – I'm taking accountability, I'm just...

Mr. Davis – The other think I don't understand and maybe Jennifer you can help, is we'll do the study with all numbers, how do you quantify confusion? Because every time and this is nonfact based but of the three accidents I have seen there in the last 6 months, they have been either kids

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or elders that are pulling across that intersection following a four way stop pattern. It's just pure confusion. Numbers won't get us there, its confusion.

Mr. Santoro – Can I just ask, these proposed signs at that 3 way, are they definitely going in?

Mr. Davis – Some of them are up

Mr. Santoro – Have you done a study to see if it made a difference?

Mr. Davis – They were up earlier this week. The day after the accident they went up.

Vice Chairman Benulis – So are we moving forward with this resolution?

Mr. Davis – No, I think we've all agreed that we don't want to do that. I think that's what I heard counsel say.

Mr. Goldman – I think as a practical matter, it wouldn't be wise for everybody to move forward at this point. We have a couple of extra questions we need to deal with. I think we need to discuss this. I think Bob's point is relevant. Jennifer obviously has a different perspective relative to studying Route 96. I think I mentioned informally that the intersection of 96/High Street and the Mall entrance may be one of the most studied intersections already in Ontario County. I think State DOT, if they saw another study may start pulling their hair out relative to it. I don't know that there is much incrementally to be gained by our studying that intersection and we would request that the scope of what we are asked to review deals with our site in the 3 way intersection which has been defined as being a critical point, at least for some Board members.

Mr. Santoro – I thought that was what we were talking about.

Mr. Goldman – Yes, I just wanted to make sure.

Mr. Santoro – I don't know how we got into Route 96 and High St.

Mr. Goldman – Well Jennifer's letter recommends it, that's why.

Ms. Michniewicz – My concern is, it's two fold the additional traffic; if the traffic generated as a result of a 13,000 sf office building is comparable to that which is generated from a 11,900 sf retail space, then the Route 96 intersection is probably the same, especially when you have such a large Mall. My main concern is if there are modifications that are made at that 3 way stop

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intersection. For example if you change it to a 4 way stop, there will be impacts to the Route 96 intersection. So if you change something here, you have to look further on down the line to see what type of....because you can improve that internal intersection to be perfect but if you make other intersections.....

Mr. Goldman – But in reality, I think what we have is a situation that is relatively static at that intersection. I can't see that our project is going to trigger a reconfiguration or even a change in signal timing or anything else at Route 96/High Street/Eastview Mall Drive. As a practical matter, I hate to say it's a proverbial drop in the bucket, but if the net result is we are going to take green time away from High Street, I think they are going to be some very concerned residents in this town. As a practical matter, I think 96 High Street and Eastview Mall Dr is going to be static no matter what we do. So to that extent, to study that.....

Mr. Davis -the intersection is busted. That intersection is busted, it's not good, it needs to be fixed and I don't know who is accountable. The last time we had this discussion, we actually waited for a fatality before anyone did anything.

Mr. Santoro – That was the DOT

Mr. Davis – Okay, but still we have an opportunity not to let someone die there and fix it! So we can get legal and we can get technical about it, why don't we just agree that we want to fix that intersection.

Mr. Goldman – The 3 way internal, right?

Mr. Davis – That's all I'm on tonight.

Mr. Goldman – As long as the consensus is that's what you want us to study. We're good. That's the point that Bob (Bringley) is making.

Mr. Davis – If you find a way to fix that intersection, I'll shut up for this project.

Mr. Terwilliger – Can I ask one question. If we do a study on that particular intersection, we can't fix it, we don't own it. So now tell me what I do.....

Mr. Davis -you guys are all developers, you know how to do this. Please either we all agree that we want to fix the intersection or we don't. If we don't, let's vote, I'm ready, I can vote now. He wants to fix it, you want to fix it, we shouldn't have to tell you what to do. It's for your best interest to fix it. This isn't even about how much money you're going to make, this is about

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somebody's life or death. This is beyond anything you guys deal with. Come on, please. Once, take a moral position on something and fix it. Are you signed up to do that? (Asking individuals) Are you signed up to do that?

Mr. Goldman – We are signed up to do what we can do.

Mr. Davis – Fix this intersection finally, please! Jennifer you can help I'm sure. Anybody else want to chime in and tell me how many laws I just broke here!

Mr. Wilson – It's only because this is new to me, I just want to be sure that the record reflects your thinking. When you say this intersection, you mean the one currently controlled by the 3 way stop.

Mr. Davis – The 3 way stop, the through from Route 96 into the Mall.

Mr. Wilson – That's the intersection you want them to focus on, not the 96/High Street.

Mr. Gallina – Correct, but the solution to that 3 way stop could have other potential solutions maybe potentially west as Jennifer you indicated. Maybe do something with the BJ's intersection, I don't know. Obviously we aren't going to be able to take it back to 96 intersection. But can anything around the peripheral of the property we are talking about that helps mitigate the 3 way stop problem, we'll open to.

Ms. Michniewicz – the issue of the 3 way stop is from a safety perspective.

Mr. Gallina – Correct

Mr. Davis – So to the extent that intersection has a negative somewhere else, that has to be assessed enough to understand the cause and effect, right? But the focus of the work has to be on that 3 way. Just so I'm clear, I don't think fix means signs here. I think fix is a physical reconfiguration of that intersection, not being an engineer, I don't think signs are a fix. That's my expectation and I applaud what we have done to now, but I think we have a better chance here to do something.

Mr. Goldman – Guys back here on my left may hate me, but remember the improvements we are talking about are off of our site. I just want to make sure that the town reserve.....

Mr. Davis –a few years ago you told me something I'll never forget....

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Mr. Goldman -which was.....

Mr. Davis -sometimes you have to wait for the right batter to be in the box.

Mr. Goldman – I said that?

Mr. Davis – Yes you did sir. Batter up!

Mr. Goldman – I understand that. But what I'm just saying is, we have people participating and I'm not sure.....

Mr. Davis -but he raised his hand.

Mr. Goldman – Okay, let the record show, the hand was raised, right counsel? Because in fact, the fixes may have to come off of our property. The fact of the matter is there is a reference of perhaps having another access, we don't have a right to access that road, I don't think without the consent of the Mall owner.

Mr. Santoro – But we don't have anything at this point.

Mr. Goldman – I understand. What I'm saying is, I just want to make sure that everyone is committed to having all necessary parties at the table to do the fix that's all.

Mr. Davis – What would you like to try to have happen tonight for you to be comfortable?

Mr. Goldman – I'll leave that to counsel to make sure everyone.....

Mr. Davis -I think you have the commitment of the most powerful gentleman associated with Mall saying he will work with you. Go do that and come back and show us what you can do, show us what the answer is.

Mr. Goldman – Okay, I'm assuming and as I take it and believe me, I've gone down that stretch of road too. I'm one of the people that cause the problem by buying gas at BJs. But the bottom line is we are talking about a reconfiguration of that, that's a reconfiguration of that 3 way off of our site.

Mr. Davis – I don't know.

Mr. Goldman – Okay

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Mr. Davis – I assume so, you could shut all of the exits on the Mall site and half the problem goes away there too. I mean, I don't know but give us something that we can react to.

Mr. Goldman – Nor do I

Vice Chairman Benulis – I next Planning Board is July 13. Do you think that we might be ready to talk about this?

Mr. Goldman – Why don't we put it on the agenda. It's pretty aggressive to think that we will be able to get done by that point. But certainly we want to keep the pressure on ourselves to try to get that done.

Ms. Zollo – I have one more question that I tried to get in earlier, that dark gray area with the green circle (referring to site plan), is that additional pavement that doesn't exist right now? The part that is jutting out into the drive is the part I'm asking about.

Mr. Goldman – That's all existing pavement, nothing is being reconstructed.

Ms. Zollo – Okay so you are not affecting site distance on that drive because it looks like it is. Okay

Mr. Goldman – Okay, we'll see you soon.

LL BEAN @ EASTVIEW MALL State Route 96

Modification of conditions of approval for the Phase I Traffic Mitigation measures.

Mr. Doug Eldred from BME Assoc representing Great Eastern Mall – I know that Dennis Wilmot is here with me, President of Wilmorite. Also Marshall Hardy who is our traffic consultant with McFarland & Johnson. Marshall actually worked on the Mall years ago at sort of its inception stage or at least when we were doing the back expansion so he has a lot of history in the Mall as well. We are here requesting an extension of an approval that would allow us to open LL Bean and continue to complete the Phase 1 traffic mitigations before the holiday season. We have been working diligently to meet the conditions of approval. I know that it doesn't seem like it since this was approved 2 years ago. It took up until summer of last year to get things approved with all of the Mall agreements and that type of thing before they could get going. Then after that, we started working right away with DOT on the changes that the requirements of the Phase 1 improvements. This Board made the Phase 1 requirements, but DOT has to be

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involved and has to approve them so it does take some time typically working with DOT. I think the good news is, although we are asking for an extension, there are many things that came out of this process of where we worked with DOT, discussed the various issues that are actually quite an improvement over the initial thought process that we had when the project was approved and we'll get into that a little bit later. What I thought I would do is I can go through in as much detail as you would like, the conditions that brought us to the point we are at now or I can give you the crib note version of that and we get right into the things we are expecting to do that are improvements over what we had before. I guess I'll leave that up to you. But in general, but first I'll ask that question. Do you want us to kind of go through the conditions that got us to where we are today sort of quickly or in detail? I guess that is my question.

Vice Chairman Benulis – I think quickly would be good.

Mr. Eldred – Okay. There were a number of conditions in Phase 1 approval that were granted including lengthening the northbound left turn lane on Route 96/High Street intersection, install signage on Route 96 to encourage use of the second driveway rather than turn left into this site at the southern driveway, make improvements to the internal ring road and signage which we have completed and that's part of what we'll be talking about later. We'll talk about that 3 way intersection as well and what Marshall has come up with for that. Again, I don't think that we're probably the ultimate solution there but we're trying to move in that direction. We installed signage to encourage northbound traffic to use the south entrance to go south and then curl around to 490. Then once this is all done, we'll be completing a traffic impact study after LL Bean is open and determining whether or not further improvements at Route 96 are required.

Basically what our hang up is in getting through to DOT is we had initially proposed signage that would direct people to the second entrance to the north coming northbound. The idea there is to lessen the amount of left hand turns at the southbound entrance to make that work better. There was talk about when we got the approval that perhaps doing an overhead sign. In further discussions with the State and that happened about a year ago, in the summer and kind of looking at the effect of putting the signage in at Market Place Mall, I don't know if you know but if you get off Highland Drive, there is overhead signage that attempts to direct people to other intersections. So with that experience, having not been real successful, we were somewhat discouraged about having to install a big overhead sign at a huge cost that wouldn't work. What we wanted to do is make sure the dollars were wisely spent. So what our first thought was, let us put in some road side signage to see if that would have an impact and if that would then maybe some additional signage would be an improvement there. the DOT came back and eventually said that we will only allow you to put an electronic message sign up as opposed to an overhead sign which we do think is going to be quite a lot more effective than just an overhead sign because of it's nature. It's a lighted sign that comes on and so on. So we went through that process but we still quite frankly are concerned that it would work based on experiences even

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with those types of signs. So we asked them to give us kind of a trial period which they agreed to such that we would put up a test sign which is more of a mobile sign. If that does the job, which we hope it does, then we would go ahead and put the permanent sign in, the electronic sign, then we would not necessarily be looking at doing a dual left turn lane which was a Phase 2 improvement. But that decision would come out of a test period and at that point in time, after LL Bean is opened and presumably the Stickley conversion and all that type of thing, I think we would have a better handle on the numbers there in that regard.

Mr. Gallina – So has anybody evaluated what the capacity of the northern most turn into the Mall is? So for example do you need to divert 20%, 50% or 90%?

Mr. Eldred – I think we said that if we diverted 5% – 10%, it would have a measurable difference on the intersection. It wasn't a huge number.

Mr. Gallina – But would that second entrance have the capacity to absorb?

Mr. Eldred – The second entrance is fine, yes.

Mr. Gallina – But up to what percent? A 100%? I mean could you put no left turn? I'm just trying to get an idea....

Mr. Eldred -you wouldn't want to divert more than 5% - 10%. You wouldn't want that to be a marginal situation. The other reason we are kind of concerned about moving to that next entrance, is if you look at the plan it is a switch-back entrance. So people are going to feel a little less inclined to do it.

Ms. Zollo – I have a question about that. Is there a left hand turn arrow on Route 96 into the Mall there?

Mr. Eldred – No we are adding it, we have to add it.

Ms. Zollo – Had you looked at the impact on the internal intersection of the Mall using that entrance?

Mr. Eldred – We did to a certain degree, not knowing what was happening with Stickley's at the time. When we finished with the original project and had as a condition of approval to do something at that intersection, which it is, it's a condition of the Phase 1 approval. Frank Dolan who was the traffic consultant at the time, thought that we might be able to turn that into a four way stop. Quite frankly when we told DOT that, they just said "No, it's too much of a

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possibility that you back traffic up onto Route 96 if you turn it into a 4 way stop." So we put Marshall on it and he did come up with some signage that we are hoping will help. Basically it alerts people that there is thru traffic that doesn't stop and that's the nature of the signs that is out there now. So we are hoping that we will have, and I'll let Marshall describe that in more detail. But we do hope that will have some positive impact.

Ms. Zollo – I'm talking about the second internal entrance to the mall.

Mr. Eldred – Once you get into the "T" there?

Ms. Zollo – After you go up to the K-Mart entrance, turn left into the Mall and it loops around. How will it impact that intersection?

Mr. Eldred – I don't believe there has ever been any problems....that's kind of been a standard mall configuration, it's what they call a commute across the way. People have to stop on the ring road and allow this traffic to go through. So it's a "T" rather than a four way, that's the big difference, you are always stopping the people on the two sides. The problem with this intersection is it's only one way thru without stopping from Route 96. The other 3 stop so people physiologically think it's a 4 way because they see people stopped to the left and to the right and adds to the confusion which Bob described previously. That's the reason the accidents are there.

Ms. Zollo – So my question is, is there potential for traffic to back on to Route 96?

Mr. Eldred – You mean at the second?

Ms. Zollo – I'm talking about the second.

Mr. Eldred – No because that's free flowing into the Mall.

Ms. Zollo – There is a stop sign. The second entrance, there is a stop sign. What's the potential for that to back up onto Route 96?

Mr. Eldred - I'll let Marshall look at that. There is very little traffic that uses that now. I'm sure that maybe either.....

Ms. Zollo -well you were talking about diverting. My other question is, you're saying that you may wind up with two left hand turns northbound on Route 96 into the Mall?

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Mr. Eldred – Condition of approval was two pieces, Phase 1 and Phase 2. Phase 1 is to do the things such as lengthening the left hand turn lane at the southbound entrance, making the internal improvements with signage, adding the left turn signal here at that entrance, changing the signal timing which DOT has already done. Once that work was done and LL Bean was open, between 6 months to a year after that, we are to conduct a second study. The thought process there is this is sort of a regional draw and may have a bigger impact on the intersection than people are thinking. If that is the case, then it may require or suggest that a two lane left turn lane at the south entrance would be an improvement that would be.....

Ms. Zollo -okay just because I thought the DOT didn't like to do the double left.

Mr. Eldred – They don't.

Ms. Zollo – Okay

Mr. Eldred – In fact, they want this signage thing to work quite frankly. That's their desire. They are kind of giving us the best shot that this will work by using the electronic message sign. I think that if something is to work, that would probably be the mechanism that is to work. But the other thing that is sort of exciting about this whole situation is, as we went through this process with DOT, we did come into a situation where we had discussed and had included in the plans currently putting a camera in at that intersection that would have a remote access to the NYS DOT control center. What that means as some point in time, I'll let Marshall describe in more detail, what that means is they will be able to make real time changes to that intersection as things happen there. as you start to see cars backup one way or the other, to a certain degree, they can make some changes. That has to be tied into the Wal-Mart intersection. It's a delegate situation. But it does give them a mechanism to really get some good on the spot information, call the police if they have to, make changes to the signal timing right there from the control office. We are hoping that intersection will have the opportunity to work much better than it is. The problem with the intersection is for the week day movements, the traffic volumes are completely different then they are for the peak times, especially holiday reasons. You need more green time on other intersections, other movements during the holiday seasons and weekends then you do during the weekday. They already actually did implement a two system phase for that. They do now have a Christmas time phase where they allocate green times according to the seasonal flows. Then they have the every day traffic flow days. That was in place last year and we think it did make a measurable difference and we hope that will continue.

So the bottom line on all of this, I guess that is the short version is that we had requirements to have this done before the C of O (Certificate of Occupancy). LL Bean is scheduled to open July 9th. We did quite frankly try very hard to get all of these things to terms, to get them done before then. Once we got the go ahead kind of a year ago from the Mall, we

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just weren't able to pull it off, DOT kind of has their own schedule. They are happy with getting this done before the holiday season. They feel that is the season we are approaching and that that will be the right timing to get that done. We are asking for you to allow the Building Inspector to issue a Conditional C of O such that we can complete these improvements prior to the holiday season. Then once that happens, it would be a full C of O.

Vice Chairman Benulis – Question on your Phase 1 mitigations that includes that extension of the left hand turn lane.

Mr. Eldred – Yes sir

Vice Chairman Benulis – And that would not be done until some time in October at the earliest do you think?

Mr. Eldred – September or October. We would love to do it faster but they just kind of said we aren't going to let you do this in pieces.

Vice Chairman Benulis – What else needs to be done on the Phase 1 mitigation or has pretty much everything been addressed?

Mr. Eldred – We've addressed everything in a ----- form. I can let Marshall talk to you about the details of the internal signage, the details of the message sign and the communication with regional traffic office if you are interested in having additional technical information about the system, I guess that is up to you, at least the internal signage.

Mr. Santoro – On their grand opening strategy thing, am I reading this right, they are going to be open 24 hours a day?

Mr. Eldred – No that's not right.

Mr. Santoro – No? That's what it says. It says store hours are 9:00 AM to 9:00 PM each day during the Grand Opening. The store will not be open 24 Hrs during the Grand Opening.

? – *Indicated that a LL Bean at another location is open 24 hours.*

Mr. Santoro – It says Eastview Mall.

? – They work nights, they are working 24 hours a day stocking, etc. It's not open.

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Mr. Davis – So what happens if we don't get this done by the holiday season? What do we do then?

Mr. Santoro – Doug will have to go out with his shovel!

Mr. Davis – Well Jack was out there directing traffic two years ago.

Mr. Gallina – I think there should be a contingency plan.

Mr. Davis – But what is it?

Mr. Eldred – There is a contingency plan, you use local law enforcement, whatever you need to do. What they really did last year was.....

Mr. Davis – It just seems, it's one of those points, once you get our certificate, what are we going to do? If you hold it back, then there is some energy to resolve this. I've heard no commitment. We don't have any commitment that it will be done other than they want it done by.

Mr. Santoro – Make it a conditional C of O.

Mr. Davis – I understand. My point is, you give it.....

Vice Chairman Benulis – I have a draft resolution in front of me and as I said, I'm filling in as the assistant to the Chair so I wasn't able to attend the preliminary meeting to get ready for this meeting. I'm seeing some dates here, September 1, 2010 to finish your Phase 1 mitigation. From what I'm reading here, that's not possible. Our resolution is written, I'm just bringing this to our Board's attention and yours.

Mr. Eldred – I wouldn't want it to be September 1st.

Vice Chairman Benulis – September 1st is not a good day.

Mr. Eldred – No. I think Clark Patterson was using October 31st.

Vice Chairman Benulis – I just bring this up to the Board because this is a resolution that I too have seen just recently and it does have a September 1st date and that date wouldn't fly.

Mr. Eldred – We've been discussing this very intently and at great lengths with DOT and they recognize the importance of getting this done. It will be bonded from a financial point of view

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so that the monies would be set aside. I see that they are asking for a letter of credit, that's kind of redundant with the DOT bonding that is required anyways.

Vice Chairman Benulis – It's my understanding that we didn't ask for a letter of credit before and that's probably the reason why. As you just stated there is a bond.

Mr. Eldred – That's right, I've never really known where we have done a letter of credit for DOT work because the monies are assured through the DOT bond, it's a performance bond. They don't want you to start on the road until they know you're going to finish it.

Vice Chairman Benulis – I would like the Board to take a look at this if we are going to act on this tonight. I think we need to address the September 1 dated needs to change.

Mr. Gallina – I guess I'm more on the same page with Bob that says what if the Phase 1 mitigation improvements are not completed by whatever date we determine, October 30th or 31st, whatever that is, then what?

Ms. Zollo – Number 2 says the C of O expires on that date. If that's the case then no Christmas season.

Mr. Eldred – That's a pretty big hammer.

Mr. Gallina – I would think so.

Vice Chairman Benulis – So that's another reason why September 1st doesn't work.

There was mixed conversation at this time.

Mr. Eldred – I would like to see November 15th would be more reasonable.

Ms. Zollo – What was the date?

Mr. Eldred – November 15th, just before Thanksgiving.

Ms. Zollo – November 15th, didn't you just say October 31st?

Mr. Eldred – No I said that's what Clark Patterson said which is fine but I think November 15th would as well. Would you like the improvements described in more detail?

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Mr. Gallina – I've reviewed the improvements so I understand them. Like I said, I'm just more concerned as you indicated earlier the State does kind of move to its own time line and with the --- State issues right now.

Mr. Eldred – They also put us off for four months.

Vice Chairman Benulis - I think that's the point in terms of the lengthening the left turn lane has been an issue largely held up by the State. I'm also looking at the other Phase 1 mitigation measures. It looks like most of them are done.

Mr. Eldred – That's right, they are all done except for what's on 96.

Vice Chairman Benulis – Something that seems to be somewhat out of the control of the applicant.

Mr. Gallina – I understand but are we comfortable that something outside of the developers control being the State and we are not able to complete probably the biggest phase of the mitigation plan, are we comfortable that we are okay with that. Or are we seriously going to revoke the C of O on November 15th or whatever date.

Mr. Dennis Wilmot – May I make a suggestion. Our intent is to get the mitigation measures in place prior to the holiday season where you see a dramatic increase in the traffic. The only thing preventing us from getting this done is the Department of Transportation. If for some reason we can't meet that date, would it help if we paid for and had additional.....during the holiday season, on the weekends we will contract with the police to direct traffic, if we increase that to have it 7 days a week or something until it comes on line. At least we are mitigating the issue that we are trying to solve so that if we are a few days late, we are addressing the problem.

Mr. Gallina – And again, I personally would be more comfortable with a defined contingency plan than we are going to shoot for a date and hope for the best.

Mr. Wilmot – I mean October 31st, we are fine with that date.

Mr. Gallina – From your perspective.

Mr. Wilmot – Yes and I guess my point is and I think Bob is correct, are you going to pull, well I hope you wouldn't pull the C of O, certainly none of would like to see that, but if we get to that point and we are certainly happy to provide the Board on a weekly basis updates and transmittals

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and correspondence between ourselves and the DOT so that everyone is privy to the activities of our group to make sure that everyone knows where this thing is going. That's just a suggestion.

Vice Chairman Benulis – So you are basically saying that you would, at your expense, provide the necessary manpower to actually.....

Mr. Wilmot -correct for that intersection, the High Street intersection, to direct traffic during the start of the holiday season until Phase 1 measures are complete.

Mr. Gallina – In lieu of the absence of the completion of Phase 1 mitigation, right?

Mr. Wilmot – That's correct.

Mr. Davis – I think as long as there is some cause and effect that we can tie back to and say look... I mean you struck the deal with DOT so I thinkI was starting down this path that says, how much do I owe you.....how much do I hold you obliged to something you don't control but you struck the deal. We need to hold you to that and if you are willing to sign up for October 31st and it doesn't happen and you will all expenses associated to that. I think there would be other language that goes around that, how to invoke that.

Mr. Wilmot – Sure and again if the communication helps whether it's a weekly or monthly basis. If we get to October 1st and it's apparent that we may not make the 31st, we can implement our action plan then accordingly

Mr. Davis – I don't need a weekly communication, but I think something as soon as you know that October 31st isn't going to happen, you are in here telling us what you are doing as a result of that.

Mr. Wilmot – And we won't send it to you, certainly not email. We will at least provide it to Kim either way so she has it.

Mr. Tayrien – I might suggest, there is a deadline date for every Planning Board meeting for written information to be distributed to the Board. If you want to submit a progress report on each one of those dates so that every time they meet, they will have an update from you.

Mr. Wilmot – Sure

Vice Chairman Benulis – Okay so I heard two proposed dates, the end of October and November 15th.

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Mr. Wilmot – We will do October 31st.

Vice Chairman Benulis – Okay. I drafted another condition, something to the effect of if Phase 1 mitigation measures are not completed by October 31st, then Wilmorite Management Group will provide at their expense the necessary manpower to direct traffic through the holiday season and there after if appropriate.

Mr. Wilmot – I would say until Phase 1 mitigations are in place at the High Street intersection.

Vice Chairman Benulis – And we are also saying that a progress report will be submitted prior to the.....

Mr. Davis – With the regular Planning Board status. Before you read that can I just ask two questions or a question and a comment. As long as you are up here, on the record, are you still committed to the discussion prior in terms of working with Stickley's to solve that intersection?

Mr. Wilmot – Yes

Mr. Davis – And you understand that solving that intersection is not a function of signs, it's most probably something of a physical change?

Mr. Wilmot – I guess and I'm not an attorney, I guess that if there is no solution and signs are the only solution, I don't want to say that they are not.

Mr. Davis – You are open to looking at a primary solution associated with physical relocation?

Mr. Wilmot – Physical relocation?

Mr. Davis – Of that intersection. A physical redesign.

Mr. Wilmot – I don't know about a relocation but maybe a reconfiguration.

Mr. Davis – Fine, whatever.

Mr. Wilmot – Yes we would reconsider.....

Mr. Eldred – The way to look at it is Dennis is saying give access at a different point.

Mr. Davis – I wasn't trying to get into solving it, the intent should be.....

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Mr. Wilmot – We have acknowledged that that is an imperfect intersection and Marshall who is a traffic engineer has been charged for some time to try to find a resolution to that. We don't want anyone to be hurt or get into accidents either. The problem is, we are in a box, we can't seem to get a handle on what the solution for that intersection is. I mean, the simply solution frankly is a 4 way stop but I think that is just never going to happen. But yes, we will come to the table and discuss the options and leave it at that.

Mr. Eldred – I do think the signs are.....at least you know.

Mr. Gallina – They help clearly, but to me that's a passive solution. A bigger stop sign doesn't.....

Mr. Davis – For an ADD driver like myself, it's just more things to read and that's not good.

Ms. Zollo – I was just there today and I didn't see them.

Mr. Goldman – If I may, you did take a few minutes of ours, so I'd like to address this as well. I take a look at the plan over here and it sounds like from what Bob is saying, this is certainly a preexisting condition that is here. Was this studied at all as part of the LL Bean traffic in the approval site plan here?

Mr. Gallina – I think that is where we got all of the Phase 1 mitigations from.

Mr. Goldman – But in terms of the 3 way intersection, I like the fact that we are talking about cooperation but a potential result would be, okay here is the answer, you guys are in front of the Board, we are not there any more, you pay for it. I don't necessarily want to be there either. How do we insure that some how there some

Mr. Davis – I suggest you go away and come back with a proposal.

Mr. Goldman – But you have all 3 parties here.

Mr. Davis – We'll deal with it from there. if you want to take this back....you were doing okay....if you want to take this back around the technicalities of all that and you want to avoid the morale responsibility of all you people who own that land, fine.

Mr. Goldman – That's not what I'm saying.

Mr. Davis – We all agree....

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Mr. Goldman - ...that's not what I'm saying.

Mr. Davis – You are trying to look for a technical answer of who is responsible when, who shot Bob, okay? That's not where this discussion should be. You know you're doing it. This is not what we should be talking about. Somebody is going to die there.

Mr. Goldman – I'm as concerned as you are. We don't come in front of these boards.....

Mr. Davis -then go find an option and bring it back so we can debate with facts and data.

Mr. Goldman – Okay

Mr. Davis – You can argue all of the legal points you want, let's try not to kill somebody first and then you can go sue whoever you want about why this is wrong. It is unbelievable!

Mr. Goldman – The point....

Mr. Davis -thank you...

Mr. Goldman -if I may....I'll address the Chair then. The point is that my understanding is that this a preexisting condition. We want to help remedy the situation but if our client were to say that we aren't going to deal with, that situation is still going to be there. we just want to make sure that all of the parties are legally at the table and perhaps I should be addressing it to counsel because as I understand it, there are no other pending applications. If this is approved and everything else, the answer could be, it's all on your neck.

Mr. Davis – You know you were in a good place about a half an hour ago when you all agreed to go back and come up with options with facts. I don't understand why it has to be more complicated than that right now. You have the major landowner in the area around you saying I'll work with this. I don't understand why you have to keep coming back to this, I don't. give us an option for God's sakes.

Mr. Goldman – Okay

Vice Chairman Benulis – Okay, I think we are ready to move forward on this resolution. Are we all set? Any further comments? Okay thank you.

At this time the resolution was read.

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RESOLUTION

On motion made by Joe Logan, seconded by Al Gallina

WHEREAS, the Planning Board made the following findings of fact:

1. A letter dated May 27, 2010 was received by the Secretary of the Planning Board from Doug Eldred, BME Associates, regarding Eastview Mall Outparcel Phase I Traffic Mitigation measures.
2. The Town of Victor Planning Board granted site plan approval to the Eastview Mall Outparcel for LL Bean on November 13, 2007.
3. A condition of the site plan approval stated that a memorandum of understanding in a form acceptable to the Town Attorney be executed requiring the applicant to complete Phase I mitigation measures as outlined in the applicant's original letter of intent dated November 9, 2007.
4. The Letter of Intent stated that Phase I traffic mitigation measures must be completed prior to tenant opening.
5. In a letter dated June 7, 2010, Wilmorite has requested that the Town of Victor Planning Board modify the condition of the original approval to allow for the opening of the LL Bean store prior to the mitigation measures being addressed.

NOW, THEREFORE BE IT RESOLVED that the request of Wilmorite Management Group, 1265 Scottsville Road, Rochester, New York, to allow modification of the condition of the Phase I traffic mitigation measures BE APPROVED WITH THE FOLLOWING CONDITIONS:

1. That the original Letter of Intent be revised to indicate that the Phase I (Mitigation Measures) must be completed by October 31, 2010.
2. That the Town of Victor Building Department issue a Conditional Certificate of Occupancy for the shell building to expire October 31, 2010.
3. If Phase I mitigation measures are not completed by October 31, 2010, then Wilmorite Management Group will provide, at their expense, the necessary manpower to direct traffic at the High Street/Route 96 intersection until the Phase I mitigation measures are completed.

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4. A progress report will be submitted prior to each Planning Board meeting until mitigation for Phase I is completed.

Dan Benulis	Aye
Joe Logan	Aye
Ernie Santoro	Aye
Bob Davis	Aye
Heather Zollo	Aye
Al Gallina	Aye

Approved 6 Ayes, 0 Nays

DISCUSSION:

KUMPF SUBDIVISION County Road #9

Appl. No. 6-SKP-09

Sketch plan for the subdivision of 51.6 acres into 25 lots.

Vice Chairman Benulis recused himself from this application. Mr. Davis Chaired the meeting.

Mr. Davis – I believe this is a discussion about the potential grade and entrance architecture.

Ms. Marge Elder – Conservation Board – I mentioned two projects that I wanted to make a brief comment about but I also wanted to include the Kumpf project as well. so whenever that fits in, I'd like to do that as well.

Mr. Davis – Do you have a general comment that you'd like to make before or would you like to react after?

Ms. Elder – I can make it now. It's a general comment. I don't know if you all have received the Conservation Board comments on the Kumpf subdivision because I think they were emailed. The reason our comments are always emailed is because you are requiring the packet to be sent out before we actually meet and review the projects. Therefore, the only way we can get them to you in a timely manner is to email them. So this is a discussion for staff meeting, I understand.

Mr. Davis – Yes and my issue is that personally when I get 8 of them dribbling in over the week, I...it doesn't work that way.

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Ms. Elder – I understand. That wasn't my comment on the Kumpf subdivision but I'm just hoping that you got the Conservation Board comments and had read them. I just wanted to bring out and perhaps this is after the fact, but this subdivision is being proposed in the 100 acre wood which was identified back in 1995 as an area that is a high priority for natural resource areas for protection. The Colyer Subdivision was also part of that 100 acre wood and at the time the people were complaining about a development going in there because the Town said they would protect that area and it was protected. I remember getting up and saying Mr. Colyer has the right to develop this land because the Town never took action to protect it. I guess the same thing applies to Mr. Kumpf. I know that he loves this land and would like to do whatever he could to not develop it as he is proposing, unless you have changed your mind on that? (Mr. Kumpf answered no). at any rate, the Conservation Board did review this back in January 2010 and we made some comments and I'm not going to read them, concerning the steep slope and the fact that we felt the development did not fit the site. At our June 5th meeting, we repeated those comments but we also said that this may be an opportunity for the Town of Victor to investigate the feasibility of preserving a unique site within the Town by engaging the advice and perhaps resources of an organization such as the Genesee Land Trust. The Genesee Land Trust was the trust back in 1995 that identified the 100 acre wood as a high priority natural resource area for protection. The Conservation Board believes it represents the true character of the resources and environmentally sensitive areas most desirable to the Town. The project is before you but I did just want to remind you of this area. I have been quite angry with the Town, that over the years I've been quite angry with the Town for not addressing this right up front and protecting this land and doing whatever it needed to do to protect it. When I was sitting here and you were talking about responsibility and when one is very angry with the Town, it's a very amorphous kind of unformed thing, you are angry with the Town and I did realize that the Conservation Board played a roll in the past and not taking action to say, all right Town Board this is what you need to do or this is what we are proposing you need to do. So I'm just saying it right now that we are at least coming forward. It's after the fact perhaps, but we are coming forward and saying that we really feel that this is land that the Town should preserve in some way.

Ms. Zollo – Marge have you addressed those comments to the Town Board?

Ms. Elder – No this just came out of our meeting and I would like to say that I was at that meeting, but it wasn't me who expressed this idea first. This is not just Marge Elder saying that we've got to do this. But no we haven't gone any further with that but I just wanted to let you know where our mind was on this.

Ms. Zollo – Is it your plan to do that?

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Ms. Elder – Well I think we need to. I don't know how it fits into your schedule but at any rate, I think we at least need to make some further comment. Thank you.

Mr. Glenn Thornton from Thornton Engineering – And I hope that the actions that we hope will be taken tonight will not be delayed by that but if that plan can be incorporated in the future, I'm sure Rudy would consider it. But we would like to keep the proposal moving along if we could. With that said, I think this is our fourth time in front of the Board. We've had a couple of informal meetings with Town staff. We were in front of the Board last month and we were charged with evaluating the amount of land disturbance, clearing, excavation that would be caused by the 8% grade and the 10% grade. We also, since the last meeting, have pulled together additional plan drawings and information that was submitted in hopes that we have completed the Concept Plan application package so that action can be taken.

In the packet, I think we should tackle the 8% and the 10% grades in the packet. Since the last meeting, we have provided a couple of plans in which we have depicted the impacted areas shown in red. On the left is the 10% grade up the hill with 150 ft radii on the horizontal curves. Between the curves, per Town Development Standards, we have provided the 100 ft tangent sections. We are proposing to super elevate the roads from a normal crown of 1/4", we are banking to 1/2" per foot. Primarily it's a low speed road, but it's for driver comfort. I don't like to go around curves that are banked in the wrong direction. So we are proposing to bank the curves slightly. The 100 ft tangent section as is required by Town Development Standards gives us an opportunity to reverse the crown from a normal crown to a banked section and back down so you are never driving on a road that is banked in the wrong direction. So in the red we are showing the disturbed areas for the 10% grade.

On the right is a similar plan showing an 8% grade on the roadway on the length of the road. The red shows the amount of the disturbed areas. The additional yellow that is shown which is not in your packet, we thought that for a presentation tonight, we should depict that. What the yellow is, is an additional amount of clearing beyond what's showing in red which would be necessary if we provide a roadway meeting Town Development Standards with 100 ft tangent sections between the horizontal curves. What's depicted in gray is not include those 100 ft tangents. It's a curve to the left immediately into a curve to the right. We did that when we first developed this scheme just because of the amount of disturbance on the land and from the initial meetings that we had with the Town, we were led to believe and understand and it's our belief as well that the amount of disturbance should be kept to a minimum out here.

So basically, what I'm saying is with an 8% grade for a roadway to meet Town Standards would include the disturbance of the red area plus the yellow area. You can see there is a significant amount of difference between the two. But we can do either. It's just that there would be a substantial amount of tree loss with the 8% grade. One of the thoughts in the amount of disturbances, this section of the roadway through this area is really running parallel to the

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grade and we can't elevate too high because if we did, it would be filling in Rudy's barn with fill material. So that's the difference.

Mr. Davis – There is no development happening in that section?

Mr. Thornton – We've kept the home sites up in this area.

Mr. Davis – So you're going to take some of those trees down any ways?

Mr. Thornton – Oh absolutely and all we have tried to do is show the difference between the 8% and the 10% grade on the roadways. Yes there is development here and up here, back here and through here.

Mr. Davis – So a portion of what you are showing, red and yellow, is going to be disturbed anyways for development.

Mr. Thornton – Yes some of this back in here would be disturbed with the proposed development.

Mr. Davis – So can you explain to me why if you go to 8% to 10%, I've got to disturb that much more land. What's the physics of what's going on here?

Mr. Thornton – If you look at the contours, we are in an extremely steep area over here. With this alignment, we can minimize the disturbance of this steep area, keep it to a minimum up in this area. With this alignment, this juts out quite a bit further back here and we are disturbing a lot of this steep area through here.

Mr. Davis – If you tried to keep that line (referring to the 10% plan) and grade it at 8%, what would happen on that line?

Mr. Thornton – On that line, there would be more disturbance, in fact we couldn't build it on this alignment at 8% grade because of the amount of excavation depth. We would have to shift over. We need the additional length because of the grade. We need the length of the roadway to get up the hill.

Mr. Davis – How much of the one to the left is at 10%?

Mr. Thornton – 10% is about up to this area in here, then we flatten out to the 8% so that we can create the intersection up here that is fairly flat.

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Mr. Davis – So from the road, all the way up to the second arch....

Mr. Thornton – It's 900 and some feet.

Mr. Gallina – Is that the only viable entry plan from Victor Egypt Road?

Mr. Thornton – I looked down here. Anything down here would really disturb all of this hillside. We looked at many, many schemes and we felt this was the most effective with the 10% grade. 11% grade, we would disturb even less. But with a 10% we thought that we could keep it down to a reasonable disturbance.

Mr. Davis asked the Board for comments.

Mr. Davis – This has been the point of contention and we've asked for facts and data that we can.

Mr. Logan – I definitely appreciate the comparison Glenn. I certainly would prefer to disturb as little as possible. I think that Colyer Crossing has shown that we can live with 10% in sections. I think you certainly want to get input from Troy since he will be maintaining the road. But he has accepted the 10% in numerous areas around the Town, as long as it's not too long and as long as it flattens out by the time you get to any intersections so you have the opportunity to slow down.

Mr. Davis – You trigger a thought Joe. So Colyer Crossing, the 10% grade there is pretty much a straight shot. This isn't. All the more reason I go back to Troy, does that cause a different problem.

Mr. Logan – I would ask him that question on how he would maintain it. Certainly the radius of the road, he'd want to be able to plow it and I think that Glenn is meeting the Town Code requirements, if I'm hearing you right Glenn, with the straight sections in there as well. The fact that he is banking it around the curves, makes me more comfortable riding on a road just as Glenn expressed that he does. I don't like driving on the outside because I think my car is going to slide right off of it and it would be especially important with at 10% grade. I'm much more inclined to forego an 8% requirement in light of the disturbance differences.

Mr. Rudy Kumpf, owner – If I could interrupt for just a moment. I talked to Troy about this and he has no problem writing a letter so stating that he can live with that 10% grade.

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Mr. Davis – Well he's going to have to as a matter of the application any ways. He's going to have to go on record.

Mr. Kumpf – His conversation with me and it was not a formal conversation was that he had no problem with it. But I'm sure you'd want to check with him.

Mr. Davis – Well all of the department heads get inquired on can they support development. So he'll have to acknowledge that. Joe do you have any other comments?

Mr. Logan – No, not about the road itself.

Ms. Zollo – My only comment about the road is that the 10% grade is less disturbance, it's very steep, the whole piece of property, this was plain when we walked it the other night. That would be all I have for right now.

Mr. Tayrien – My only two comments are: I appreciate what you said about your informal conversation with Troy but I think it's important, whether it's initiated by you or whether it's initiated by staff that that conversation be followed up. There is a letter in the file from very early in this process when Troy didn't have the benefit of this kind of analysis, there was really no consideration of trade offs going on. He was simply asked if he would rather have a 10% road or 8% road and he very clearly stated that an 8% was preferable. So it's going to be important to provide him with this information. This is good information for him to have to assess the different options we have here and I think that's going to be important to get in the record.

The only other thing, following up on something that Bob mentioned and again, like Joe, I appreciate the graphics that you provided but it would be nice if you could quantify to some level, how much of the savings and disturbance would be lost anyways to homes. I would hate to see us get into the scenario where we go for the 10% only to find out that much of the savings disturbance is lost to home sites.

Mr. Thornton – The only reason we didn't show it, we didn't want to confuse the issue but there is a little overlap but we can.....

Mr. Tayrien – I'm assuming it's not much. We don't need it to 3 decimal points but if you could just give us an idea.

Mr. Thornton – It's very little, but we will show that and that's exactly what Bob was speaking about.

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Mr. Kumpf – the other thing is and I don't know if it means all that much, the home site disturbance is a different type of timber than the road disturbance. The road disturbance in the lower level of the red, forget the yellow for now, just in the red is what I would call "old" growth. I would say in excess of 50 years, most of that is hardwood (oak, black walnut, red oak, hickory). When you get on the top where there is disturbance for the home sites, you're talking a different type of material, you're talking about trees that we planted (pine trees and locust). The black locust by definition is a weed, it is not a true tree. So I think that should be part of the thought process.

Mr. Tayrien – Could you characterize that on the drawing somehow? I know that you don't like imprecision, but I'm thinking a marker, just a general area of the old growth as opposed to the general area that has been replanted with conifers or something like that. That would help the analysis too.

Mr. Gallina – Certainly of the two options from a conservation perspective, I'm much more in favor of the one that minimizes the destruction but that leads back to a maintainability discussion with the road. The Highway Dept is agreeable to maintain the steeper slope, then that would be my preference.

Mr. Santoro – Driving up Colyer Crossing, I wasn't particularly disturbed about that grade. The only grade I saw was coming back down, just before you come to County Rd 9 which doesn't give you too much of a stopping area if you are going on ice.

Mr. Thornton – If I could address that quickly. I really don't have a good answer to that but we did mimic what was done at Colyer Crossing. I drove that a few times and they have a 10% approach to County Rd 9 as well. We'll have the same vertical curve at the bottom of the hill, stopping area, queuing area to enter County Rd 9. Just from driving it, it seemed adequate. Obviously if we could create a larger flat area, it would be better but what happens we lose on going up the hill, we'll be excavating more, we'll elevation if we do that. So we think it's optimized and I'm pretty comfortable that it will work. There appears to be enough area down below to safely stop and enter County Rd 9.

Mr. Santoro – Is it equivalent to Colyer Crossing? Longer or shorter?

Mr. Thornton – We tried to keep it the same as Colyer Crossing. As their 10% slope approaches County Rd 9, we kept the same vertical curve, flattening at the bottom of the 10% grade.

Mr. Davis asked for any other questions.

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Mr. Logan – Just a comment on the profile. Glenn you were talking about the bottom of the 10% grade section. You're flattening out with a vertical curve that's only.....the LVC is 100 ft from the bottom of there? (Mr. Thornton agreed). So the last 50 ft or so is much flatter than....or backs up to the 2% grade there. I'd be interested to see how Troy feels about that stretch, to see if it's enough for him or vehicles to stop without sliding out because you're going right to the edge of pavement, then it looks like you are going back to 2% to the center line of County Rd 9. That'll be important to see. He might have you slide that some to get a little more run out. That's the only issue I might see on that or have a longer vertical curve.

Mr. Thornton – Okay

Mr. Davis – So did you intend to talk about anything else tonight other than to resolve this?

Mr. Thornton – I believe that was the primary issue that needed resolution. We strived to address that and as I said, we attempted to complete the application package because we had received various sets of review comments and we acknowledged that there were some items that were missing. They weren't submitted before just because we wanted to have a better feeling on the grading of the site.

Mr. Davis – I think this was the immediate open issue. Mark, if you could put a couple of words together and send them to the Chairman, with her not being here, and then coming back, if we can avoid having a re-do knowledge.

Mr. Tayrien – I can take care of that.

Mr. Logan – There was a discussion at the top of the hill where the cul-de-sac about the depth of which the houses were being placed away from the cul-de-sac.

Mr. Davis – That was on the east?

Mr. Logan – I'll call them parcels 2, 3, 4...

Mr. Davis – At the end of the cul-de-sac.

Mr. Logan – Because the houses are placed right up against the "cliff", I'll call it. I think we talked about it in the field, Rudy and Glenn, about perhaps bringing those houses back closer to the cul-de-sac.

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Mr. Thornton – The sighting of those homes, on the grading plan it is more apparent that we kept the pads back from the slope. We tried to minimize or eliminate disturbance of the eastern slope of the “cliff”.

Mr. Logan – I'm looking at a pretty steep grade here. I would have fallen down pretty fast if I fell off of that.

Mr. Thornton – We call it a scenic vista.

Mr. Logan – Well, your scenic vista is about 5' to 10' away from the back pad of at least one of those houses.

Mr. Thornton – Rudy and I talked about that and obviously that's why we tried to keep them up there. I think we probably do have the ability to pull them back to the west and remove them a bit from the edge.

Mr. Kumpf – Just to point out, we could move them this way. This is where you walked up through in here. We can push them that way. My feeling was from a (inaudible) standpoint of view, the closer I could get to that view, and the better it would be.

Mr. Santoro – You'd have a useless backyard.

Mr. Kumpf – You would but that's...it would be a useless backyard, you're right, but that is the trade off that you would have for a view. If you go to Cobblestone, there's many, many useless backyards but they have a tremendous view. I don't know if that's a valid argument. It is a point to consider but that was the reason for pushing them that close. It would be a nothing thing to move them closer to the cul-de-sac.

Mr. Davis – I guess the other concern it brings up then is, as I recall, standing at that cul-de-sac, to have that view, you are going to clear an amazing amount of trees to see anything.

Mr. Kumpf – But that's not really old growth.

Mr. Davis – Oh, be careful. You just told me that yellow was old growth and you wanted to protect it.

Mr. Kumpf – No the yellow, the red. I said the yellow (inaudible).

Mr. Davis – I'm pointing to the yellow up on the board up there. It just happens to be your red.

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Mr. Kumpf – I'm talking about this yellow.

Mr. Davis – But now we are talking about cutting down old growth to have a view but we want to save it to not have a road.

Mr. Kumpf – I don't think you'd have to cut much there. I really don't.

Mr. Davis – I think to Mark's point, you have to show us what is coming down.

Mr. Thornton – I understand what you are saying. We did depict a conservation easement on the drawing but obviously it's not depicted tight to the house so there was that area where a property owner, even though it wouldn't be necessary to create the pad, but we did leave that area, I think it is 30' or 40' that we had proposed leaving up to the property owner's discretion. I think I'm hearing something different here from the Board but I'm sure we can look at that, as well.

Mr. Davis – I guess I'm a little confused which has probably been clear most of the night. We talked one time about want to save all the cut and then we talk about how we are going to create all this open view so people can see things. So, I don't need an explanation. What I need, I think, and I think what we all need is it laid out and said this is what we are going to preserve, this is what comes down, and to Mark's point, this is old growth and hardwoods and this is what is not and we can make a resource assessment of what would be involved to develop it the way you are proposing to. I don't think we've had a contiguous conversation about that.

Mr. Thornton – I understand what you are saying and I'll try this one again. I'm sorry, we didn't show the proposed conservation easement line on this drawing but even though the home sites were up in this area, we had depicted conservation easement removed to the east from the home sites, which, as I was saying, gave the property owner some discretion as to what potentially old growth trees they might remove to improve their views. I think what I'm hearing here is the Board doesn't want to leave it up to the property owner.

Mr. Gallina – Well, because, again, we are going back to this trade off discussion and if virtually there is no difference when it is all said and done between the two, then I'm going to vote for the 8% grade.

Mr. Thornton – I understand what you are saying. We'll have to work that out.

Mr. Davis – I think that's why we have to. On the site walk, if we were in the right spot, when you said think of the view you can have here, there is no way a two story house would have that view because there's nothing but trees in front of me.

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Mr. Thornton – It's a winter view.

Mr. Davis – I think there is confusion, in me; at least, that you can clean up via a resource map by saying here is our commitment to what stays, here's what goes, and let us start to make decisions about the viability of the site on that.

Mr. Thornton – I think the easiest way for us to illustrate that would be to move the conservation easement line to the west closer to the home pads and possibly in conjunction with that, moving the home sites away from the steep slopes.

Mr. Davis – And I'm not trying to pose a solution here. I'm just saying that I have two different stories in my head. One time we are trying to save the trees and the other time we are talking about how beautiful it would be if they gone. I'm just confused.

Mr. Kumpf – I'm going to interrupt you just for one minute on that. I don't have too much... I mean, these two roads, as you see them, can go either way. We sort of wanted you to tell us which one you wanted us to do. As we said earlier, this is our fourth time appearing before you. The first drawing that we ever came with was this one or very, very close to this detail and we were told that we were taking down too many trees. I think I made the statement when I presented it that we were going to raise hell with the hill to get to the top. And we were asked to come up with a way that it would do less damage. And Glenn went to work and came up with this option. From a standpoint of trying to get to the top of the hill, I really don't care. I would prefer to not take down so many trees. That was my intent right from the start. But I would rather have the Board say this is the way we want you to go.

Mr. Gallina – For us to give pass judgment, we need to see what the total development means in the way of trees before and trees after.

Mrs. Zollo – And we need to have that resource assessment. We need to know which are the hardwoods; the amount of grading that is going to happen on some of these lots, particularly on that cul-de-sac with those extended driveways that put them to the edge of that really steep slope. That would be really helpful to us to be able to see the extent of the disturbance across the whole site and then the pieces of wood that are valuable in terms of hardwood and not hardwood.

Mr. Thornton – I think we understand what you are talking about. We are asking the Board to grant a waiver on the 10% grade because we are trying to minimize disturbance of the steep slopes, preserving vegetation, so we will look at these sites over there and try to do the same and come up with a plan to make the Board comfortable on that.

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Mr. Davis – So I think that if you were to go away from here, you'd say based on this discussion only, I think the Board is saying the 10% makes sense. If you come back in and show us a 10% grade road there and then you've cleared every other tree off that site, don't expect us to be sympathetic. This was an obstacle. I have a better perspective of what the issue was. I understand why the 10% for that 989' makes sense or whatever you said it was. Now you've got to show us the whole site plan and the resource assessment against it.

Mr. Thornton – That's fair. I think we will be proposing conservation limit lines to provide the homeowner with some discretion and that will be for the Board to review. I mean, we won't go crazy with this but I think it is worthwhile to give them some discretion just around the house. These aren't all quality trees up there. We would like them to be able to clear out some of them.

Mr. Davis – Are we good?

Mr. Thornton – We're good. Thank you.

Dan Benulis, acting chair, entered back into the meeting.

NEW APPLICATIONS:

Mr. Chris Lanzalaco appeared before the Board representing Van Boatel.

Site plan for the demolition of the existing house on the corner which was constructed prior to 1950.

Mr. Lanzalaco – My name is Chris Lanzalaco. I'm with the Van Boatel group. We would like to remove the house of the existing property at the corner of State Route 251 and Route 96.

Mr. Benulis – The code indicates that if a structure was built prior to 1950, the Planning Board approval is required to demolish the building.

Mr. Davis – This is coming here because of the age of the building?

Mr. Benulis – Because of the age of the building.

Mr. Davis – There is no historical relevance that we know of?

Mr. Benulis – It has been addressed from Babette Huber, the Town Historian.

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Mr. Davis – Is there a future plan or is it just to clear the lot?

Mr. Lanzalaco – To clear the lot and make more display.

Mr. Logan – Don't we need a site plan for the rest of the site for parking and everything else? We've been doing that with Farnsworth down the road pretty strictly. This was, I don't think, was ever intended to be a car sales spot, that particular lot.

Mr. Davis – Is this a separate tax account parcel? Is this a separate piece of property?

Mr. Lanzalaco – It is a separate parcel.

Mr. Logan – It is a separate parcel and I don't know if you guys were doing something with the drainage. I know Kitty came to us some time ago to look at re-building this whole facility as a Ford dealership and that's clearly changed. But there is some drainage that goes through there.

Mr. Lanzalaco – There has been some discussion with the DOT and it has been on-going. Right now we are proposing just to remove the lot and clean up that corner. We're not proposing anything else at this time.

Mr. Logan – But do you think you may want to do some landscaping and what is going to grass, what is going to be gravel, everything. So, wouldn't we want to see that? I don't have a problem demolishing the building but there is lighting on the site that has always been a problem and then the cars being parked closer to 96 than should be allowed.

Mr. Lanzalaco – I believe we have a 35' setback that was approved. We are at that 35' now. We are not planning any more display until that corner is developed. I'm sure Kitty will be in front of this board again with a plan. I know we are now working on signage, removing that stick pole that is on the front of the lot. There are plans for that to come down.

Mr. Logan – The old Ford sign?

Mr. Lanzalaco – The old Ford sign. We have a draft coming from an architect for a monument sign so she is very, very aggressive, especially in this Town to beautify that corner and other properties she owns.

Mr. Logan – You may want to offer that she come before the Board with a revised lighting plan because right now it blinds people on 251.

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Mr. Lanzalaco – We are aware of that and we're definitely working on that too. There are some great plans coming for just addressing like she has her other properties in this town.

Mr. Logan – Thank you.

Mr. Benulis – I don't know if the Board saw this, but there is a letter dated June 1, 2010 from Al Benedict that works to the points that Joe mentioned. It says that it is noted that a variance was granted for parking reduction to 35' from the right-of-way on 10/10/2007 and in the findings of fact stated that the project will be reviewed for site plan by the Planning Board for lighting, landscaping and to mitigate the appearance of development of this parcel. A letter was sent on 12/15/2008 reminding the applicant of this requirement. To date, our records do not indicate that site plan approval for this parcel has been reviewed or granted. This office is aware of an illumination issue that presently exists on this parcel. It kind of just points to the discussion that Joe just raised.

Mr. Lanzalaco – And we are moving along in stages. As we all know, DOT is a long thoughtful process working with them so we are pretty much finalizing the steps of what DOT is looking for for that corner.

Mrs. Zollo – So, Dan, below what you just read, it's the law that is cited that says we can't go forward with the demolition of a building unless we have a site plan to review and approve. Is that correct? Am I right about that?

Mr. Davis – We're not taking any action tonight. The application is being filed for the demolition that I think the clarity is we are expecting a full site plan that says here is what it is going to look like after that we would review and approve.

Mr. Logan – So, they won't actually remove the house until we've done all the site plan review and approval. Is that what I'm hearing?

Mr. Lanzalaco – We're here for an application to remove the house and pending after removal, a site plan for any development of that corner.

Mr. Gallina – I think there is a two step site plan. One, what's it look like when the building comes down and if there is any future development, what that new site plan would look like. Am I correct? We are looking for what it is going to look like when the building is gone...

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Mr. Davis – So, the permit to demolish the building is contingent on an approval of the state that lot ends up in in the end. Then you'll come back and say now I want to do something on that land.

Mr. Lanzalaco – So, if we say we don't want to do anything on that land right now, we just want to remove that building and level it and fill the hole in...?

Mr. Davis – I think we want to see that and make sure from an engineering perspective it is within spec.

Mr. Logan – And where you intend to, park cars.

Mrs. Zollo – And landscaping and whatever else will be put there after the house is removed.

Mr. Lanzalaco – We can provide that to you.

Mrs. Zollo – I'm sorry, Bob, I thought I was just missing the resolution. I wasn't sure whether we were taking action or not.

Mr. Davis – They are just submitting their application for process.

Mr. Benulis – But I think to Heather's point, again, it does say the Code Enforcement Officer shall refer the site plan of such demolition to the Planning Board for its review and approval. I don't think I've seen that before.

Mr. Tayrien – I'll just jump in. My understanding is that the site plan that is referred to in that section that you just read may not be the type of site plan that we are used to seeing. My understanding is that unless you are dealing with a structure of this age, you can demolish a building in the Town just by getting a demolition permit from the Code Enforcement Officer. Because this building happens to be of that age, it requires, in addition to that, an approval from the Planning Board and my understanding is that's what you are intending to come in here for.

I agree that you probably ought to show us what the conditions are going to look like after the demolition. My further understanding is that it was your intent not to make your plans to develop or use that lot after the building is demolished part of this particular site plan application but that you anticipated coming in subsequently with a second application to describe what you are going to do on that lot. Whether the Board is comfortable with that or not, I don't know, but I think procedurally that is the path you were on.

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Mr. Lanzalaco – We thought that was the path we are hoping to be on.

Mr. Davis - I don't have an issue with...I think there are two steps. I think what I was talking about is you tear the building down and tell us how it is going to be left and then later you can come back in and say this is what I'm going to use it for and tie it into the other lot, etc.. But I think if there are drainage issues, lighting issues and things like that, I think we just want to make sure that when you do this that part of the demolition comprehends those things as requirements.

Mr. Lanzalaco – Will the lighting issues be part of the demolition application? We are really not applying for any lighting. We are applying for a demolition of the house.

Mr. Davis – But there is existing lighting, right?

Mr. Logan – Looking at the upper picture, those two lights have been added well since Kitty bought the property as a Ford dealership.

Mr. Lanzalaco – Those lights were, I believe, added five years ago. Those are owned by RG&E.

Mr. Logan – We get that all the time. But these are her lights. I'm sure she contracted with RG&E. But they are aimed wrong. They are aimed out. They should be aimed straight down.

Mr. Lanzalaco – I understand that. However, we are not changing lighting on this application for the demolition. We are just applying to remove the house. We're not asking for any more parking, for any more display, for any more signs.

Mr. Logan – I don't know if we've ever approved display for that parcel.

Mr. Lanzalaco – That was approved three years ago.

Mr. Logan – It must have been approved through the Building Department and not through the Planning Board.

Mr. Santoro – There were some conditions that have not been met yet.

Mr. Lanzalaco – It was on setbacks, I believe. I may be wrong.

Mr. Santoro - Well, lighting, landscaping, and mitigate the appearance of the development and illumination.

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Mr. Benulis – It sounds like that never happened.

Mr. Lanzalaco – What would you like and what would you expect to proceed so we know?

Mr. Logan – Me personally, I would expect to see what the plan is going to look like when you are done. You'll show what is going to go back where the building is, if it's fill and grass seed, fine. That's what I would expect to see. You could do nothing for ten years, you wouldn't want to leave it a gravel lot. If there is an intent to put parking and display there, I think you need to come back and apply for the ability to use it as display because that is not a currently approved site plan.

Mr. Benulis – Did you say that lot is currently a separate parcel?

Mr. Lanzalaco – Yes.

Mr. Benulis – And the pole that we are referencing on that same parcel or the larger parcel?

Mr. Lanzalaco – I believe it would be on that same parcel.

Mr. Davis – When we addressed it before, the answer was we weren't addressing that parcel.

Mr. Benulis – For this evening, it is a new application but no decision. We are looking for you to come back with your demolition plan and just an overview of what the site is going to look like.

Mr. Lanzalaco – Fine, we can do that.

Mr. Logan – It doesn't have to be sophisticated. It has to be a plan showing your lot lines, easements, building foot print, where the utility pole is and what you are going to do with it if you had to walk away from it and not do anything more.

Mr. Benulis – Our next meeting is July 13th.

Mr. Lanzalaco – Thank you for your time.

QUAIL RIDGE CROSSING

LANE ROAD

Appl. No. 2-FS-10

Mr. Linc Swedrock appeared before the Board.

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Mr. Swedrock – My name is Linc Swedrock with BME Associates. I'm here to request final subdivision approval for Quail Ridge Crossing. The plan has not changed at all from when the Planning Board reviewed and approved the preliminary subdivision at your May 11th meeting. The plan, like I said, is very consistent and actually we took into account your conditions of the preliminary approval with the final plan application. We also have received all the staff comments and comments from the Town Engineer and we will draft responses for all those comments. We will be providing written responses and revised plans back to the Town this week. I think Marge Elder has comments also. We have shown the conservation easements and we've delineated them per the Town's requirements. Those are some of the comments that we are working to address from the Town staff. With that, I'll keep it short and answer any questions you have. Like I said, it is very consistent with what we looked at before.

Mr. Benulis – Just a note, we do have a resolution in your packet.

Mrs. Zollo – Did you see the letter from our Code Enforcement about the splash blocks and the markers for the conservation easement and all that stuff?

Mr. Swedrock – Yes. We are going to address all of the comments. We've gone through them all. Like I said, I do have written responses drafted for all of the comments. I'll get them to the Town tomorrow.

Mr. Davis – And those responses are compliant...?

Mr. Swedrock – We didn't see anything we didn't agree with. We'll address all of the comments.

Mrs. Zollo – So, you are not going to use the splash blocks and use...?

Mr. Swedrock – We are going to pipe it all the way to the rear yard swale.

Mrs. Zollo – Okay. And the conservation markers, you are all set with that, as well?

Mr. Swedrock – Yes, we've added them.

Mrs. Zollo – And the side load garages?

Mr. Swedrock – We'll add a note on the plans regarding those. There are no plan for side load. We'll add a note to the subdivision plan that if they are planning a side load garage, that they will

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make the application to the building department or do a grading plan. I think that was his request, right? I'll put a note on the plan to that effect.

Mr. Benulis – I think, Marge, you had some comments on this.

Mrs. Elder – Marge Elder, Conservation Board. Actually I was going to use this time to take an opportunity to explain the process of making a decision on conservation easements, the three types of easements. I do think everybody's brain is fried and I don't know if it would go anywhere tonight. I will just say that we had a discussion with Jeff Morrell, well, first the Conservation Board met and discussed what type of easement would go on there and identified on the section where there's a hill opposite where the pond is that there is a Gray Dogwood and there is a nice bird habitat that has begun to develop in that area and then there are some trees that come down the sides. So, all of that area we are putting in the most restrictive conservation easement and then the area that we were discussing with Jeff Morrell between the pond and that property there, we were thinking that might fit, I was thinking, I should say, the site specific easement which is where you have a site and there are some areas that are more environmentally sensitive and would need the most restrictive and other areas that may be would fit into the least restrictive which they are supposed to be able to put in a lawn and garden, etc., because the definition of open space in the code is that there is vegetative growth and that there be no impervious surface.

However, in our discussions last week, the point was brought up that there should not be lawns put in going up to that pond which is a stormwater management pond but it is also stocked with fish and I guess it is quite a productive habitat there and that it would not be appropriate to have lawns going up to that area because where there are lawns, there is going to be pesticides and herbicides. That would all flow into the pond. So, Jeff Morrell also concurred that this whole area is going to be most restrictive easement and that does enable the homeowner to put a pathway or create a footpath through that area to also deal with invasive plants because that is now cleared area and that is just an invitation for invasive plants to take root.

We are suggesting also that they do some plantings in that area as well to begin to develop that as a habitat. We've had different discussions. Not everybody on the board is on the same page as far as what can and can't be done. Some people want everything left no touch as was in the past and that's not the direction we are moving in. So, we did have a discussion concerning that. So, that's where we are on this. I guess we discuss it with Kim. I don't think it has anything to do with the Planning Board at this point. I don't know. Do you know, Mark?

Mr. Tayrien – The conservation easement?

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Mrs. Elder – I think it goes through Kim. Do you know? We still need to continue to have some discussion. That goes through Kim. Kim does all of that, doesn't she?

Mr. Tayrien – I guess my only suggestion is that it should at least be referenced in the resolution that the finite boundaries of the conservation easement are still being finalized by the Conservation Board or something to that effect because ultimately I think it relies on the Planning Board's approval for teeth. Does that make sense to you? There should be some enforceability.

Mr. Wilson – Yes. The Secretary was just pointing out to me that we need it in the conditions, at the very least.

Mr. Benulis – In there findings, #6, is this correct then, it does say the Conservation Board reviewed the project on June 1, 2010 and June 15, 2010 and recommended that the most restrictive conservation easement be placed on the subdivision.

Mr. Davis – I think Mark's comment, some defined boundaries that that conservation easement applies to.

Mr. Benulis – I think what we are saying is that #6, as written, is not correct.

Mr. Tayrien – Your recommendation is that the most restrictive be placed on a portion of the subdivision and a site specific conservation easement on another portion of the subdivision.

Mrs. Elder – That was my recommendation but the Board did not go that way. So, because of the pond and so on, they decided they wanted the whole thing in the most restrictive.

Mr. Tayrien – So, the resolution is correct then.

Mr. Benulis – 50% of this needs to be open space, correct?

Mrs. Elder – Correct.

Mr. Benulis – And that 50% will all be conservation easement, correct?

Mrs. Elder – Correct.

Mr. Benulis – Will it all be most restrictive?

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Mrs. Elder – That's right.

Mr. Benulis – I think it's right the way it is written.

Mr. Davis – Is it worth referencing a drawing?

Mr. Tayrien – Is there a drawing?

Mr. Swedrock – Yes. 9338LR-12.

Mr. Tayrien – I know I'm belaboring this but it's late. So, that drawing depicts the conservation easements as was recommended by the Conservation Board the way you just described it? It got down on paper, at some point.

Mrs. Elder – Yes. It is written in our comments. They defined where that easement would go. In previous discussions you'll recall that we were concerned about the impact on the slopes so we had it moved further down so that it would be more of the slope in the conservation easement. This whole process of the conservation easements and what goes where is we are in a learning process right now and I think it is going to, as the next project comes along, between now and then, we are going to have further discussion as to the reasons for having these different types of easements so that everybody on the board really has...not everybody is going to agree, certainly, but at least we are moving forward.

Mr. Benulis – For clarification, there are three classes of which this particular subdivision, there is only one class and that is the most restrictive.

Mrs. Elder – That's right.

Mr. Benulis – We got it right. Okay.

Mr. Swedrock – But I have to throw a wrench in it. That's my job. On behalf of the Morrell's we'd like to request that you consider not being the most restrictive for all the lots just because of the general nature of the area because it is mowed field right now. They do understand that we want to keep it in a conservation easement and it is their obligation but they were wondering if you could think about maybe not doing the most restrictive on the whole thing.

Mrs. Zollo – Didn't you already agree to that? Didn't Marge say one of the Morrell's already agreed to the most restrictive? And I don't think it would be workable to have most restrictive

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on some and less restrictive on other lots because then you have neighbors saying how come they can do this on their property and we can't. So, I think that would be problematic.

Mrs. Elder – In our discussions on conservation easements, the reason we came up with these three types and the second one being site specific is that actually we considered a true conservation easement would protect environmentally sensitive areas. There are a lot of things included in that and one is what type of habitat it is, if there is a wetland and all of that. There might also be some other areas on a site that are just a mowed field that do not have a creek running through them, that do not have a wetland, that do not have trees and so does it really make sense to say this is an environmentally sensitive area and this needs the same protection that an environmentally sensitive area has.

I understand what you are saying that different neighbors might be concerned when they can't mow their area and these people are putting in a garden in their area. The reality is, we are trying to make it more flexible. We haven't tested it. There was the Aldridge Acres Subdivision where we actually do have an easement like that. Some of this came from what Mr. Polidori proposed on Aldridge Acres. So, there is an area in the back that is most restrictive, there is an area that folks can have lawns, they aren't allowed to put any impervious surface in and there are other differences that I don't want to go through all of that. You received that documentation.

Mr. Santoro – But that one ran one right after the other in a line.

Mrs. Elder – This is different, you're right. This you have a "C" shaped subdivision, almost a circle that goes all the way around the conservation easement. You have neighbors in the development that are mowing. It is kind of a confused area but I think we have to see if this is going to work. On this, it's not. I mean, we talked it over with Jeff and invited him to our meeting and it was decided that is what would work and the Conservation Board decided that was most appropriate. So, where it goes from now in terms of discussion...do you have any thoughts, Mark?

Mr. Tayrien – Well, the only thing I would offer at this point is the Conservation Board, with all due respect, can make recommendations but the Planning Board is the only board, that I know of, that has the authority to actually require or impose these conservation easements in any particular configuration. So, it's really a Planning Board decision.

Mrs. Elder – Yes, it is. We are making a recommendation. Thank you for pointing that out and I'm glad you said with all due respect, as well. But this is true. That takes us off the hook, basically and gives it to you. Any questions?

REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 22, 2010

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Mrs. Zollo – Your recommendation is most restrictive, correct?

Mrs. Elder – The Conservation Board's recommendation has been to put most restrictive on this.

Mr. Benulis – But also when you talked about the process to get to this point, with all due respect, you also talked about kind of a collaborate effort, as you pointed out on the Aldridge Road project, sitting down with the applicant and going through the process of the different types and conclude on what made sense for you folks and what made sense for them and came to a consensus and it sounds like that maybe also occurred here.

Mrs. Elder – Well, it really is, in terms of the recommendation, in the long run, it is the Conservation Board that is making the recommendation. Certainly the Conservation Board, I think that the developer has the right to express their vision of what they are seeing there on their development. It is the Conservation Board making the final recommendation and taking it to the Planning Board.

Mr. Benulis – Because when I look at this drawing, my only thought would be, as you pointed out, over by the pond side, the backyards of those two or three properties that border the pond, you wouldn't want them to create a lawn necessarily up to the pond but if I look at the east side, I might think that it might be a little more restrictive than it needs to be if there is a conservation easement along the backs of those lot lines. Getting to Heather's point, then you have two different elements of restriction but on the east side, why would we want to restrict those people not to be able to....

Mrs. Elder – Is the east side the opposite side from the pond?

Mr. Benulis – The right side.

Mrs. Elder – Because actually, the right side is very appropriate to have most restrictive. It is a slope but there is also a very healthy brush habitat growing up there. There is very little invasive species. I mentioned to Jeff that there is some Autumn Olive in there that should come out but that is the area, above everything else, and also down at the bottom there where there is a tree line along there, all of that makes sense, to me, to have that as most restrictive.

Mr. Benulis – And now that you have explained it to me, I understand and just looking at a flat plan, you wouldn't see that. I'm sorry, I do understand. So, I guess with that, unless there are any other questions, we are ready to move along with the resolution as drafted.

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Mrs. Elder – I guess the question is, how, since this is the Planning Board's decision as to how you are going to address or if you are going to accept the Conservation Board's recommendation or if you are going to modify the Conservation Board's recommendation. That's up to you. I don't know if that is done tonight. It is done tonight, Mark, you are nodding your head.

Mr. Davis – It has to be resolved tonight or we don't have a resolution to approve.

Mr. Benulis – As John just pointed out, in the conditions, we don't have what we talked about in the findings. We have to tie the findings down into a condition because it doesn't exist right now. And your point?

Mrs. Elder – The Conservation Board has made a recommendation and it is your decision as to whether you accept our recommendation or you chose to modify our recommendation. That's where it is.

Mr. Davis – And Mr. Swedrock, you are telling us that your client will not accept this?

Mr. Swedrock – We request that you consider lightening it if you feel that is appropriate. How's that?

Mr. Davis – I was just trying to test where we are at on this. It seems to me that there is at least four sites around here where applying the most restrictive easement to it makes sense. I think my logic would take me to a place that says if I've got four, do them all. It's better for you, it's better for everybody and it sounds like there are even arguments that Marge could make, if we allowed her to stand up, on all six. My tendency right now is that if we think the most restrictive is legitimate is four of the six, put it on all of them.

Mr. Santoro – I agree.

Mrs. Zollo – I agree.

Mr. Davis – I think that comes after consideration.

Mr. Benulis read the draft resolution.

RESOLUTION

On motion made by Ernie Santoro, seconded by Al Gallina

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WHEREAS the Planning Board made the following findings of fact:

1. An application was received on May 12, 2010 by the Secretary of the Planning Board for a Final Subdivision entitled Quail Ridge Crossing.
2. It is the intent of the applicant to subdivide 14.0 acres into 6 single family lots.
3. The Planning Board reviewed a sketch plan for Quail Ridge Subdivision – Lane Road Lots on January 12, 2010 for a residential subdivision with 3.4 acres of conservation easement lands.
4. The application was deemed to be an Unlisted Action pursuant to Section 8 of the New York State Environmental Quality Review Act Regulations and a Long Environmental Assessment Form was prepared.
5. The Town of Victor Planning Board issued a Negative Declaration on May 11, 2010.
6. The Conservation Board reviewed the project on June 1, 2010 and June 15, 2010 and recommended that the MOST RESTRICTIVE conservation easement be placed on the subdivision.
7. In a letter dated June 11, 2010 LaBella Associates stated that there are technical aspects to be addressed.
8. That pursuant to Section 27-8J of the Town Code, a recreation fee for each lot, or in the event of a multiple dwelling, a recreation fee for each family unit, in lieu of park land shall be paid to the Town before issuance of a building permit.
9. That the installation of the sidewalk complies with the Town of Victor Design & Construction Standards.

NOW, THEREFORE, BE IT RESOLVED that the final subdivision application of Morrell Builders, 1478 Marsh Road, Pittsford, New York, Major Subdivision entitled Quail Ridge Crossing, drawn by BME Associates, P.C., Drawing No. 12 through 19, dated May 2010, received by the Planning Board May 12, 2010, Planning Board Application No. 2-FS-10, BE APPROVED WITH THE FOLLOWING CONDITIONS:

Conditions that must be met prior to the Chairman signing the final subdivision plan:

1. That no final signatures will be given on the plans until all legal and engineering fees have been paid as per Fee Reimbursement Local Law adopted November 25, 1996.
2. That the comments in a letter dated June 11, 2010 from LaBella Associates be addressed.

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3. That comments from the Town of Victor Water Department dated May 21, 2010 be addressed.
4. That comments from the Town of Victor Building Department dated May 27, 2010 be addressed.
5. That the installation of the sidewalk complies with the Town of Victor Design & Construction Standards.
6. That Section 5.1 and 5.2 Standard Approval Conditions for all Subdivisions (Major & Minor) of the Design and Constructions be met.
7. That the most restrictive conservation easement will apply to the entire subdivision as outlined in Item #6 in the *findings of fact* section.

Conditions that are on-going standard conditions that must be adhered to:

1. That the major subdivision complies with Town of Victor Design and Construction Standard Land Development, including Section 5.
2. Two-year maintenance bonds shall be provided by the Developer to the Town for all improvements to be offered to the Town for dedication. Maintenance bonds shall be written by a surety licensed to do business in New York State and they shall be in the amount of ten percent (10%) of the final construction cost, as determined by the Engineer for the Town.

AND, BE IT FURTHER RESOLVED, that the Planning Board Secretary distribute the appropriate standard conditions with the Planning Board's approval letter.

This resolution was put to a vote with the following results:

Daniel Benulis	"Aye"
Albert Gallina	"Aye"
Robert Davis	"Aye"
Ernie Santoro	"Aye"
Heather Zollo	"Aye"
Joe Logan	"Aye"

Adopted Ayes 6, Nays 0.

INFORMAL DISCUSSION:

AUBURN MEADOWS SUBDIVISION Oak Ridge Drive, Modock Road & Cork Road

REGULAR MEETING OF THE VICTOR PLANNING BOARD, JUNE 22, 2010

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Mr. Gary Smith, Parrone Engineering, appeared before the Board. Also present was Frank DiFelice and Karl Essler.

Mr. Smith – Good evening. My name is Gary Smith from Parrone Engineering and with me tonight is Frank DiFelice from DiFelice Development and Karl Essler from Fix Spindleman Brovitz and Goldman.

We are here before the Board for an informal discussion on a residential subdivision located on Route 251 over to Modock and Cork Road. We met with Town staff about four weeks ago to go through the pre-application process and at that point in time, we were informed what we would like to do is a resource inventory on the parcels that we are talking about.

Mr. Smith indicated on the drawing the parcels that would be involved in this development.

Mr. Smith – We provided the plans with the resource inventory on them. I think you have copy of those plans with regards to soil types on the site, wetlands on the site – there is a wetland, a New York State DEC and Army Corps wetland along Route 251 which was previous delineated two years ago for a previous application. We do show the Modock Springs plume that extends onto the site based on the town's mapping. We provided what the present uses are. Most of this area here is presently farmed. There is some wooded areas. We indicate the steep slopes, greater than 15%. On the circles and squares map, there is one area of a threatened species that is within this one mile radius. It is a Vascular Plant Swamp Lousewort. One citing in 1981. It is a wetland plant. Along with that, we show the adjacent subdivision that is off of Modock Road. We show the existing conservation easements that are all around the outside of that and a hiking trail easement that goes through that development.

Mrs. Zollo – Is there an intermittent stream or anything running through there just because where you are showing the steep slopes, it looks kind of green.

Mr. Smith – There is a draw, if you will, on that farmer's land that goes through that area. There is a draw that comes through right in this area here.

Mrs. Zollo – It just looked there might have been some water running somewhere on there.

Mr. Smith – That area is all being farmed.

Mrs. Zollo – Thank you.

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Mr. Benulis – How much is developable? When you start taking out all the stuff you just talked about.

Mr. Smith – Well, we started looking at slopes and started looking at the zoning of the site. We previously came in a development over here that was rejected because it was single access site. The idea is in order to get the sewer and the water to work, we would be working with this side of this site, this farm land site. Everything from that site comes lower and we're not able to sewer that. We would be restricted to a small number of lots in here utilizing the minimum zoning requirement of 25,000 square feet per lot. It is an R-2 district. What we would do here is as the road extends through to Modock Road, we would loop this road around and bring it back into Cork Road. That's a thought. We'd keep it closer to Modock so we are not developing anything in the back.

Mr. Davis – Where does the road start?

Mr. Smith – The connection would be initially where we had it off of Oak Ridge Drive with the understanding that it would come back through on this side, the high side of the parcel on Modock Road and then come through here, skirt this steep slope area and match back into Cork Road. A short spur, if you will, over in this area, keeping away from this woods so we wouldn't be developing through this woods. We hug this area here.

Mr. Davis – Why would you need to come through that residential development to come into that lot?

Mr. Smith – Because of the wetland.

Mr. Davis – Yes, but you've got access over here off of Cork Road? You've got access off of Modock. You said you were going to cut through there.

Mr. Smith – We would cut through here in one area.

Mr. Davis – As I recall, the issue cutting through that residential development was not clearly defined, even when you were planning (inaudible) on that wetland. Now that you have access off of two different roads, I don't know why you would want to go back.

Mr. Smith – One of the points that was brought up was the safety issue with a single access point. Oak Ridge Drive, right now, has a single access. It is a big loop. If I tie in here, it'll have dual access. I have the safety issue that was brought up in the initial subdivision requirement.

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Mr. Davis – Of what? Oak Ridge?

Mr. Smith – Yes.

Mr. Santoro – You would come through that same area you wanted to come through before off of Oak Ridge and just take it through to Modock and Cork?

Mr. Smith – It would come through to Modock and loop around and come back to Cork.

Mr. Benulis – I'm not sure, Bob, he understood your question.

Mr. Davis – He did.

Mr. Smith – The reason it was rejected the last time was because it was coming off a single access road.

Mrs. Zollo – You are saying when Oak Ridge Drive was constructed, that was a safety problem for Oak Ridge Drive.

Mr. Smith – It was brought up the last time we were here that it was a safety issue.

Mr. Benulis – Because it exceeded the 25 lots on a cul-de-sac.

Mrs. Zollo – Does Oak Ridge Drive now exceed the 25 lots?

Mr. Smith – Yes.

Mrs. Zollo – But that was before the 25 was in the standards?

Mr. Smith – Yes.

Mr. Benulis – There is a vacant lot that they wanted to come through to use....

Mrs. Zollo – Actually, as I understand it, it is an actual house that they want to subdivide to put a road through there.

Mr. Smith – It is an extra wide lot.

Mr. Logan – They took a piece of a lot and made that...

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Mrs. Zollo – I don't think you have that. That hasn't been subdivided.

Mr. Smith – No, it has not.

Mr. Logan – I think there was just as much opposition during that from the residents of Oak Ridge to even putting a road in as to there was the problem with the additional number of houses coming into that lot.

Mr. Smith – We had done a traffic impact study that didn't indicate that there was a traffic issue. Any subdivision that has a single access point and I'm adding traffic to it, if I'm a resident, am I going to have an issue with it? Yes.

Mr. Benulis – I think back on this, didn't we ask that you think about trying to find a way to come in from another direction?

Mr. Davis – The answer at that point was they didn't have access to Cork Road so they couldn't. Now they have access to Cork, you must have an answer.

Mr. Smith – One of the reasons why we didn't have access to Cork was because of the steep slopes that are located here. Bringing this to Modock in a straight shot, I'm not developing anything in here and the whole idea is this would be open space, if you will. So, the only development would be a thin strip over here.

Mr. Davis – We should keep following through with the process. What would you minimally develop here respecting the resources on the map? That's the whole purpose of this, right? And then from that, I think, we'll probably come to some point of judgment as to what degree do we want to protect the resources versus granting access through that site. But I don't think you are going to solve all that tonight.

Mr. Smith – We are only here for informal discussion. We're trying to get input from the Board as we go forward.

Mr. Benulis – You are talking about clustering in all cases and would there be like three elements of clustering? Again, just describe where you might develop.

Mr. Smith pointed those areas out on the map.

Mr. Santoro – I think you wanted to develop 13 houses the last time?

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Mr. Smith – No, it was 30.

Mr. Benulis – What is the overlay here?

Mr. Smith – It is “B” which is two acres per living unit.

Mr. Logan – I would suggest one of the things you are going to need to be looking at is the intersection of Cork and Modock Road. The alignment there has been identified as quite a risk. If you are talking about coming into that intersection, you may need a significant amount of realignment and since you own or at least have an agreement regarding the lots on both sides of that intersection, you may be able to straighten that all out and put in a four way or look at what needs to be done there. I don't mean to design it for you, but it's a very poor alignment. Some people have to stop, some don't. It's a challenge for someone coming up on Cork to decide who is going to go left on Modock and who is going to go right on Cork. I do that everyday.

Mr. Benulis – To that point, Joe, the transportation section in the Comp Plan, the consultants did propose some improvements on this intersection.

Mr. Logan – I suggest that probably didn't even take into consideration a fourth leg to that intersection. That will just magnify the need to do something there. So, that will probably be in your evaluation needs for this site. I would suggest that you at least look at one that does not connect to Oak Ridge Drive.

Mr. Smith – How would I propose to do that?

Mr. Logan – Like Bob said, there might be trade offs to what resources we can tolerate and what we can't tolerate touching.

Mr. Davis – Why couldn't you come in from Modock Road and just cul-de-sac it up at the end without going into Oak Ridge?

Mr. Smith – Then I go into the same single access deal that we had before. The length of this, to bring a single access loop in here, I'm going to have the same issue that I have over here.

Mr. Davis – It depends on how many houses you want to put there.

Mr. Smith – Does it or doesn't it?

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Mr. Logan – There is a length restriction. It's 800' but if there is a loop and it has a tie in, that's not an 800' loop. It's the number of houses ultimately on a cul-de-sac. But that's for you to look at and see what you can do to fit it without having to tie into Oak Ridge Drive.

Mr. Smith – The safety issue that was with Oak Ridge before, we are trying to solve that with the connection to Oak Ridge.

Mr. Logan – Your job isn't to solve Oak Ridge's safety issue. Your job is to not exacerbate anything out there.

Mr. Smith – I understand that but what I'm trying to do is alleviate an already existing issue that was brought up the last time. What if there is an accident at the end of Oak Ridge and the fire trucks can't get through...

Mr. Logan – But that was with you adding 23 or 24 more homes.

Mr. Davis – I think you are on a dangerous logic to try and tie those together. I think you need to design this optimizing this without going back to the Oak Ridge development. I think you really could get yourself knotted up and I'm not sure the Board would be your issue. I really don't.

Mr. Logan – Our issue, I think, the last time was find a way to get at it from another direction, not to tie into Oak Ridge by finding another spot but find another way to access and develop that property from another entrance or entrances.

Mr. Davis – Remember you designed the infamous road up behind all those houses and you were doing everything you could and we concluded that that hardship was there and if you really had access over to Cork, you could do it. Well, you got it now. So, it seems like you have an opportunity now.

Mr. Gallina – You've got a couple of options.

Mr. Smith – But we still have the issue of this steep slope, in this area, if you look at the amount of steep slope we have to get through to get to Cork....

Mr. Logan – What about the farm land on Cork and Modock...that corner? Can't you have a loop through there?

Mr. Smith – The issue you have with that is the selling point restriction. The farmer that owns that land and his family lives on...

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Mr. Logan – I thought you bought that.

Mr. Smith – It is under contract. Part of the contract deal is there is no development behind these.

Mr. Logan – I didn't fully understand your under contract meaning with some of that.

Mrs. Zollo – If the contract is realized, you still won't be developing over there?

Mr. Smith – No. If the sale goes through, the idea is that part of the deal of the sale is that there will be no development behind this outparcel and this house would be subdivided out as one of the lots, if you will and there will be nothing behind that.

Mr. Logan – So, what you need to do then as we're going through this process, delineate that as saying we can't touch it as if it were a permanent conservation easement or something to that effect.

Mr. Essler – I think to address that point, I think when we eventually show you something that may be more of a layout, I think our thought is that there is a couple of fairly substantial areas on this property that we would anticipate not only suggesting but recommending be restricted by conservation easement.

Mr. Logan – Would they be retained as farm land? They are currently farmed now.

Mr. Essler – If we owned them, we'd be willing, if the board wanted them to be restricted to simply have them restricted by conservation easement. We're not looking to keep them open as farm land.

Mr. Logan – I'd say the Town wouldn't mind having them opened as farm land to keep them productive.

Mr. Essler – That would be your choice.

Mrs. Zollo – As Marge has painstakingly pointed out meeting after meeting, we are looking to protect sensitive areas like steep slopes and the wetlands and things so just leaving that parcel open to protect the gentleman you are under contract with...I'm confused about where you are planning this road. It's just going to be accessed from Modock on one side? You are not having a Cork Road access at all?

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Mr. Smith – No.

Mr. Logan – I guess then we will have to see the contours and see how things will or won't fit. It's a little easier once you get that much further along and we need what you've just given us which is great but you have to show us that you can't do something.

Mr. Essler – Understood.

Mr. Logan – That's why you are getting a lot of the comments you are.

Mr. Essler – That's why we are here.

Mr. Logan – That's all I've got.

Mr. Benulis – Any other questions or comments?

Mrs. Zollo – I just have one because we've been looking at this for a while now. Have you ever approached the DEC about going through the wetland?

Mr. Essler – Yes.

Mr. Smith – And the answer was no.

Mrs. Zollo – Just curious. It seems like they have their favorite wetlands and then other ones you can...

Mr. Davis – These are little different though.

Mr. Smith – These are both Army Corps and DEC. But we did approach both.

Mrs. Zollo – Thanks.

Mr. Tayrien – I just want to compliment you for the effort you put into compiling the resource inventory.

Mr. Essler – And we want to thank the Conservation Board.

Mr. Smith – I forgot to mention we did walk the site with the Conservation Board.

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Mr. Essler – They gave us some great information about what they wanted to see. We'd like to think that we provided most of it.

Mr. Tayrien – I think you are to be complimented, nonetheless, for the effort that it took to put that together and also for the patience you showed in discussing the subdivision and the resource inventory without dragging out a layout which I'm sure you have somewhere. I think this is the proper sequence for the discussion and I want to thank you for that.

Mr. Essler – I can assure you the layout is far from finalized.

Mr. Benulis – Thank you.

On motion of Robert Davis, seconded by Joseph Logan,

RESOLVED that the regular session of the Planning Board meeting was adjourned at 10:50 pm

Adopted 7 Ayes, 0 Nays

Cathy Templar, Secretary