

**PLANNING  
BOARD  
MINUTES**

**2004**

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809

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## MINUTES OF THE PLANNING BOARD MEETING HELD January 15, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, KEVIN MAINELLO, RUSSELL OSTER, and DAVID TARBOX.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

ABSENT was JOSEPH WETMILLER.

A public hearing was held on the Morris site plan application concerning the Draft Environmental Impact Statement ("DEIS") which has been submitted by the Applicant and accepted by the Planning Board as complete. The public hearing commenced at 7:00 p.m. Attorney Gilchrist read the Notice of Public Hearing into the record, including a publication of the same in The Record. Chairman Malone explained to all interested members of the public in attendance that comments would be received concerning the DEIS, and further that the Planning Board would accept written comment on the DEIS through January 26, 2004. Chairman Malone also informed the public that while all comments would be received concerning the operations on the property, the purpose of the public hearing was not to act on or approve the site plan application itself, but was rather limited to the DEIS which has been submitted by the Applicant in support of its site plan application. With that explanation, Chairman Malone requested that the Applicant give a general description of the DEIS for the public. In attendance on behalf of the Applicant were Gary Morris and Forrest Mayer, and Mark Millspaugh, P.E., and Peter Kelleher of Sterling Environmental Engineering, P.C., engineering consultants in support of the

application. Mark Millspaugh explained the content of the DEIS. Mr. Millspaugh discussed each section of the DEIS, including the analysis of noise impacts, the analysis of traffic impacts, and the discussion of the compatibility of this land use with the surrounding properties.

Chairman Malone then opened the floor for receipt of public comment. Bernie Barber, Route 7, handed up a series of photographs, as well as letters and other written submissions concerning the DEIS. Mr. Barber commented that he disagreed with the conclusions of the DEIS concerning noise impacts, since the noise generated by Route 7 is dissipated by the tree line in front of his house, and that he can hear the operations from the log distribution facility much greater than any noise generated by Route 7. Mr. Barber also commented that the historical use of this property was not only as a nursery and vegetable stand, but as an antique shop, and that the prior uses were not compatible with the current log distribution use on the property. Further, Mr. Barber commented that Mr. Mayer was storing logs up to 10' from his property line in some locations, and at other locations logs were being stored directly against Mr. Barber's property line. Mr. Barber also thought it was inappropriate to have a business from Vermont locating in Brunswick and operating in the Town of Brunswick. Ken Herrington, Herrington Lane, next offered comment. Mr. Herrington stated that he was one of the owners of Herrington Farms, which owns approximately 1,100 acres of agricultural property. As with Mr. Morris' land, much of the land owned by Herrington Farms is forested, and that in the past Herrington Farms has harvested logs from their property in an effort to offset costs. In the past, neighbors have questioned Herrington Farms regarding the use of equipment and trucks in the harvesting of logs, and that Mr. Herrington had inquired with New York State Department of Agriculture and Markets ("Ag & Markets") as to whether the harvesting and processing of logs was considered an agricultural

use. He was informed by Ag & Markets that the harvesting and processing of logs for sale is an agricultural use in New York State. Therefore, Mr. Herrington comments that the use of this property as a log distribution facility where the finish processing of logs occurs is an agricultural use that is consistent with the surrounding agricultural property. Mr. Herrington further commented that in terms of traffic generation, the approximate 5-10 trucks per day generated by the Morris property is very insignificant, since Herrington Farms averages on a daily basis throughout the year approximately 20 trucks for milk distribution, and in the summer upwards of 100 trucks per day for milk production. Accordingly, 5-10 trucks per day from this agricultural use is not significant. Justin Morris, 60 Flower Road, next offered comment. Mr. Morris identified himself as a recent college graduate, and that the establishment of a business in the Town of Brunswick is appropriate as long as the operation meets all applicable standards and requirements. Mr. Morris commented to the fact that Forrest Mayers' business is also located in Vermont is of no consequence. Mr. Morris commented that the DEIS does show that the log distribution facility meets applicable code requirements, that the operation does bring money into the Town in terms of tax dollars, and that he supports Forrest Mayer coming to the Town of Brunswick to conduct his business. Stan Nigoda, Sr., 15 Flower Road, next commented. Mr. Nigoda said he is a resident of three years in the Town of Brunswick, and that he does not feel the log distribution facility is a significant impact on the community. Mr. Nigoda stated that there is more noise from chain saws at hunting camps than there are at this log distribution facility, and that he can hear nothing at his home, coming from the site operations. In fact, Mr. Nigoda stated that the only noise he hears at his property is that generated by traffic on Route 7, not from the log distribution facility. Bob Fletcher, 1928 Route 7, next commented. Mr. Fletcher stated that his property is one parcel to the west of Mr. Barber and that he can see the

log distribution operation from his property. Mr. Fletcher wanted to inquire how the Town was regulating this land use. Mr. Fletcher stated that people should be allowed to use their property only if they follow all applicable rules and requirements, and presumed that this land use was in compliance with applicable code, but was not sure at this point given the impacts associated with the log distribution facility. Concerning noise, Mr. Fletcher stated that the noise generated from the log distribution facility was a different type or quality than the noise generated by the truck traffic on Route 7, and was more of a banging type noise than a steady traffic noise. Mr. Fletcher also stated that smoke from the engines used on the site often drifts across his property. Mr. Fletcher stated that he has been a resident of the Town of Brunswick at that location for 15 years, and he was happy with the surrounding agricultural use of properties, but in his opinion the log distribution facility was not an agricultural use. Mr. Fletcher thought the log distribution facility was more in line with a transfer station or manufacturing type use. Mr. Fletcher also stated that the Town should consider the fact that Mr. Barber has been a resident of the Town for 50 years, and that his property is being greatly impacted by the log distribution facility, and that the log facility was not compatible at all with the surrounding properties. Finally, Mr. Fletcher commented that having the log distribution facility in such an open area was not a good entryway or portal to the Town of Brunswick traveling from the east, and that this property should be put to a better land use. John Gavin, 41 Flower Road, next spoke. Mr. Gavin stated that he has been a resident of the Town of Brunswick on Flower Road for nine years, that he is the same distance from the Morris property as Mr. Fletcher, only in a different direction. Mr. Gavin states that there are the same obstructions between his property and the Morris property as there is to Mr. Fletcher, and that Mr. Gavin is of the opinion that there has been no change in noise a result of the Morris property, and that the biggest noise impacting his property is the traffic from Route 7.

Marge Jarem, John Sneider Road, next commented. Mrs. Jarem is the mother of Christine Morris, and mother-in-law of Gary Morris, owners of the property in question. Mrs. Jarem stated that both Christine and Gary Morris had been put through a very difficult time in the review of this application and comments from surrounding property owners. Mrs. Jarem spoke strongly in support of Forrest Mayer's operation, and that Mr. Mayer was courteous, professional, and that he had bent over backwards to comply with all applicable regulations and work with the Town of Brunswick on the log distribution facility, and that it has been inappropriate that other people have harassed Mr. Mayer concerning his business. In her opinion, Mr. Mayer's business is very clean, and is aesthetically acceptable. Mrs. Jarem commented that in terms of traffic safety and visibility when accessing and exiting this facility, the trees to the west of this site that are near Mr. Barber's property should be not only trimmed but removed, and in her opinion they are existing in the State right-of-way. With these trees removed, there is no sight distance issue nor public safety issue as trucks are entering and exiting this location. Vicky Groth, 23 Flower Road, next offered comment. Ms. Groth offered support of the application, stated that noise did not affect her property, that there are no fumes or smoke going onto her property, and that she perceived no impacts from Mr. Mayer's business operations. Lane Fletcher, 70 Flower Road, next offered comment. Mr. Fletcher generally offered support for Mr. Mayer's business operations. Chris Jamalami, 26 Flower Road, next offered comment. Mr. Jamalami stated that he was a new resident to the Town of Brunswick, that he had purchased his property at 26 Flower Road in the summer of 2003, that he was aware of the log distribution operation on the Morris property, and that it was not a deterrent to him purchasing the property. Mr. Jamalami states that the operation does not impact his property, and wanted to offer support for the site plan application and DEIS. John McLaughlin, 59 Flower Road, also offered general support for

the site plan application and DEIS. John Colligan, 600 North Lake Avenue, next offered comment. Mr. Colligan stated that he had a concern regarding traffic impacts as you were traveling on Route 7, in that the speed of trucks coming in and out of the facility posed a safety issue for cars on Route 7. Philip Herrington, Tamarac Road, next offered comment. Mr. Herrington stated that he was offering comments as a resident of the Town of Brunswick and not in his position as Supervisor for the Town of Brunswick. Mr. Herrington stated that he has had many discussions concerning this business on the Morris property, and has made many inquiries concerning the business operations. Mr. Herrington commented that the log distribution facility was a seasonal business in his opinion, that in the summer time there did not appear to be much activity on the property, which was beneficial to surrounding property owners who are using their back decks and outside facilities during the summertime, and further that there appeared to be much more activity on the Morris property in the wintertime, when people were generally inside their homes with the windows closed. In terms of compatibility with surrounding properties, and given the seasonal nature of the business, Mr. Herrington commented that these issues might be resolved with appropriate hours of operation for both summer and winter activities. Mr. Herrington also commented concerning the sight distance from the facility to the west, and did concur that pine trees in front of the Barber property may need to be trimmed or removed. Mr. Herrington stated that Forrest Mayer was at all time cooperative with the Town, that he has stopped using chainsaws at 6:00 a.m. at the request of the Town, that he has moved his equipment around on his property at the request of the Town, and that he has been responsive to requests by Mr. Herrington. Mr. Herrington concluded by stating that Mr. Mayer was also a

businessman, and had a business to run in order to make a profit, and that the tax money generated for the Town as a result of this business should be taken into account. Mrs. Jarem reiterated her comment that the trees to the west of this site in front of Mr. Barber's house should be removed. Mr. Barber commented that the entrance to the Morris property off Route 7 has always been a problem. Hearing no further comments, Chairman Malone closed the Public Hearing at approximately 7:50 p.m. Attorney Gilchrist again stated to members of the public in attendance that written comments on the DEIS would be accepted by the Planning Board, as lead agency under SEQRA, through and including January 26, 2004.

Chairman Malone thereupon opened the regular business meeting for the Planning Board.

The first item of business on the agenda was the site plan application of GINSBURG, for the renovation of the existing structure to the rear of the Harley Davidson building on Route 7. Appearing on behalf of the Applicant were Mr. Darling and Mr. McDermott. Mr. Kestner stated that he had met with Mr. Darling and Mr. McDermott concerning this site plan, that the Applicant had made the changes to the site plan requested by the Planning Board, that a lighting plan had been provided for the proposed parking lot, that a stormwater management report had been prepared and provided which concludes that there is no significant difference between pre-construction and post-construction stormwater run-off, that handicap parking had been provided on the site plan, that a landscaping plan had been shown on the site plan, that the site plan does show a minimum 35% green space, and that the total parking spaces required for the proposed tenants complied with applicable code requirements. Mr. Kestner did state that the current proposed tenants were two professional offices as well as an exercise facility (Curves), and that



he had made his parking space calculations based on those tenants. Mr. Kestner offered that an appropriate condition to site plan approval would be the requirement that the Applicant needed to return to the Planning Board with a revised parking plan in the event a change in tenants would result in a more intensive use for the building. Further, Mr. Kestner stated that the site plan does show a current well location that is not in compliance for setback from the septic leachfield, that an alternate well location had been shown on the site plan, and that the site plan had been forwarded to the Rensselaer County Health Department for determination on abandonment of the existing well. Mr. Kestner stated that an appropriate condition for approval would be compliance with the recommendation and/or order of the Rensselaer County Health Department concerning abandonment or discontinuance of the existing well. Chairman Malone inquired whether any of the Board members had questions concerning the amended site plan. Member Esser inquired concerning the gutters and down-spout from the renovated building emptying into the proposed drywell. Member Esser stated that it was inappropriate to have 160' of 4" gutter emptying into one drywell, and stated that this was prone to future problems. Mr. McDermott explained that the existing roof line of the building already had down-spouts which drain to the rear of the building, and that the new proposed gutters were to catch stormwater from the proposed 8' porch only. Member Esser still opined that it was not practical to have all of the stormwater draining into one drywell, and stated that the Applicant should cut the gutter down-spout in half, and install a second drywell. Mr. McDermott and Mr. Darling stated that they would install a second drywell and have half of the runoff in the gutter go to each dry well. Member Czornyj inquired as to the material to be used in construction of the porch. Mr. McDermott stated that the porch

would be constructed of cedar to match the exterior of the Harley Davidson shop. Hearing no further questions, Member Oster made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Czornyj. The motion was carried 6-0, and a negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the site plan with the following conditions:

1. The Applicant must comply with the recommendation and/or order of the Rensselaer County Health Department concerning the existing well location on the site;
2. A second dry-well must be shown on the site plan in compliance with the comments of Member Esser; and
3. The Applicant must return to the Planning Board with a revised parking plan in the event a new tenant with a more intensive use went into the building.

Member Oster seconded this motion with conditions. The motion was approved 6-0, and the site plan application of Ginsburg was approved with the stated conditions.

The next item of business on the agenda was a site plan application by TROY CITY GARAGE for the property located on Route 7. Appearing on behalf of the Applicant were Jim Sleicher as well as Mr. Darling and Mr. McDermott. Mr. Kestner stated that he had again met with Mr. Darling and Mr. McDermott concerning the site plan for Troy City Garage. Mr. Kestner stated that the Applicant agreed to eliminate the 1800' expansion to the building which was previously approved by the Planning Board, and replace that future expansion area with parking to eliminate any issue concerning the necessary number of parking spaces for the square

footage for the building. The site plan has been revised accordingly. Mr. Kestner stated that a stormwater management report had been prepared, and that there was no change in pre-construction and post-construction run-off as a result of the proposed expansion, that stormwater was appropriately retained and then discharged to the storm sewer along NYS Route 7. Mr. Kestner further stated that the property line adjacent to Route 7 was confirmed with NYS Department of Transportation, including the necessary set-back from Route 7. Mr. Kestner stated that the proposed expansion complied with the 30' setback requirement from the front property line. Mr. Kestner also stated that a letter had been received by the Planning Board from the Brunswick No. 1 Fire Company, stating that the Fire Company had reviewed the plans as proposed and stated that the plans were in compliance for adequate access for fire protection. Finally, Mr. Kestner stated that the landscaping which existed in the front of the building would be replaced after the construction of the expansion was completed. Mr. Kestner saw no further issues concerning the site plan. Chairman Malone inquired whether any of the Board members had questions concerning the site plan. Member Czornyj inquired of Mr. Sleicher as to whether he intended to continue to have product display in front of the building as he currently has. Mr. Sleicher said that he wanted to be able to continue to display product in front of the building, even after the expansion was completed. Mr. Sleicher stated that in the winter he only put trailers in the front, and did so in order to avoid the trailers being impacted by snow falling off the roof when the trailers are stored to the side of the building. In the summer months, Mr. Sleicher likes to display merchandise in the front of the building. Mr. Sleicher stated that a product display area was previously approved on a site plan when this facility was constructed. Mr. Kreiger retrieved the historic site plans for this facility from the Town records. Upon

review, it was determined that a 10' x 30' display area in the front of the building was depicted on a site plan dated 1993, and that a display area to the side of the building was depicted on a site plan dated 1995. However, the site plan dated June 2000, which was approved concerning the 1800' warehouse expansion did not include the area for product display either to the front or side of the building. Further, Chairman Malone and Member Czornyj stated that the current area for product display in front of the building is within the footprint of the proposed building expansion, and that Mr. Sleicher now wanted to display product within 30' of the shoulder of Route 7 which raised concerns. Further, a comment was made concerning the use of the front of the building in the past to sell used cars, and that this was an inappropriate use for this location. Mr. Kestner confirmed that having product display within 30' of the shoulder of Route 7 could pose a sight distance issue as one was exiting this location onto Route 7. Member Esser stated that he simply did not like the outside display of merchandise in the front of the store and thought it unsightly along Route 7. Member Tarbox concurred in this opinion. Chairman Malone stated to Mr. Sleicher that the continuation of the display area for merchandise in front of the building posed a problem, since Mr. Sleicher wanted to extend the front of the building to within 30' of the shoulder of Route 7. Mr. Sleicher then inquired whether the proposed expansion was acceptable if he eliminated any merchandise display in front of the building. The Planning Board members concurred that this was appropriate. Upon further discussion, it was determined that the display area to the side of the building, measuring approximately 15' x 20', could be maintained. Hearing no further questions, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Chairman Malone. The motion was approved 6-0, and a negative declaration adopted. Thereupon, Member Esser made a

motion to approve the site plan, but with the stipulation that there is no product display to the front of the building once the construction of the expansion has been completed. Member Czornyj seconded the motion, which was approved 6-0, and the site plan application was approved.

The next item of business on the agenda was the site plan application of RENSSELAER HONDA for the proposed installation of a above-ground fuel storage tank. No one from the Applicant appeared, however Mr. Kestner stated that he had received a letter from the consulting engineers for Rensselaer Honda objecting to many of the requests of the Planning Board concerning the fuel tank, most particularly the installation of a canopy inclusive of fire suppressant capabilities. The Applicant's consulting engineers stated that having a canopy with fire suppressant was not a specific regulatory requirement, and that it was too expensive for this location. Mike Harrington, Town of Brunswick Building and Fire Code Inspector, also provided comments on both the application and the letter from the consulting engineers for Rensselaer Honda. Mr. Harrington stated that he had no problem concerning the installation of an above-ground tank at this location, and that the tank itself did meet regulatory requirements for venting and spill containment. However, Mr. Harrington stated that he would like to see the Applicant include a secondary barrier around the tank, and a steel or concrete barrier to the front for safety purposes. Further, Mr. Harrington concurs that a shelter or canopy should be installed over the storage tank, and have the canopy equipped with fire suppression. Mr. Harrington further stated that an emergency shut-off should be added to the tank, and have the emergency shut off also able to be accessed from inside the building. Mr. Harrington further concurred that a crushed gravel surface around the fuel storage tank was unacceptable, and that a concrete pad should be

installed, complete with a drainage system including an oil water separator. Mr. Harrington stated that in his opinion, these additional safety measures should be added to this site plan. Chairman Malone stated that these opinions of the Town Building and Fire Code inspector were the same safety concerns which had been raised by the Planning Board, and that the Applicant needed to adequately respond to these issues on the site plan. Mr. Kestner stated that he would prepare a letter responding to the consulting engineers of Rensselaer Honda, restating all of the concerns of the Planning Board. Mr. Harrington stated that he would likewise prepare a letter raising all of his safety concerns to the consulting engineers for Rensselaer Honda. Mr. Harrington also serves as Assistant Chief for the Brunswick No. 1 Volunteer Fire Company, and that he would write the letter in his capacity as representative of the Fire Company as well.

The next item of business on the agenda was the waiver of subdivision application by RODEN for property located on White Church Road. This application had previously been before the Planning Board, and the Planning Board had requested that the subdivision map be clarified to address questions concerning property lines. Mr. Kreiger reviewed the changes to the subdivision map with the members of the Board. Specifically, the property lines have been changed to eliminate any issue of the location of a barn on the property, and that the property lines had been relocated to come into compliance with all necessary setback requirements for structures on the property. Member Tarbox inquired whether this waiver of subdivision, which was intended to transfer property from one owner to the adjacent property owner, should be merged into one deed. Upon review, Attorney Gilchrist stated that the subdivided parcel itself had adequate road frontage, and that the necessary size and setback requirements for approval of building lots in this zoning district are met. Accordingly, the subdivided parcel could be added

to the existing deed and merged into one deed, or on this particular application, a separate deed could be maintained since the parcel met code requirements for a building lot. Hearing no further discussion, Member Tarbox made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Esser. The motion was approved 6-0, and a negative declaration adopted. Chairman Malone then made a motion to approve the waiver of subdivision application, which motion was seconded by Member Czornyj. The motion was approved 6-0, and the waiver of subdivision application approved.

The next item of business on the agenda was the waiver of subdivision application of ECKER. The Applicant had requested that this matter be adjourned to the February 19, 2004 meeting of the Board.

The next item of business on the agenda was the site plan application of BERKSHIRE PROPERTIES OF NEW YORK, LLC, for the property located on Route 7 and the corner of Betts Road. Appearing on behalf of the applicants were Max Stratton and Randy Stratton, principals of Berkshire Properties of New York, LLC, as well as William Doyle, Esq. and Scott Reese of Erdman Anthony, consulting engineers. Mr. Doyle presented an overview of the site plan application. The Applicant seeks to construct a BMW motorcycle dealership at this location, including access to the facility both off New York State Route 7 and Betts Road. Mr. Doyle explained that the applicants had purchased two adjacent parcels located on Route 7. The first parcel, adjacent to Feathers Furniture, totals approximately two acres, and is denominated as parcel "C" on the site plan. The second parcel is located between parcel "C" and Betts Road. This second parcel is approximately 25 acres in size. Mr. Doyle explained that all of parcel "C" and the front portion of the second parcel, are located in a commercial zone, whereas the

remainder of the second parcel described above is located in a residential zone. Accordingly, the Applicant seeks to divide the second parcel into the commercial and residential portions, and denominate the commercial zone of this second parcel as Parcel "A," and the residential portion of this second parcel as Parcel "B." As part of the site plan application, the applicant has also applied for a waiver of subdivision to subdivide this second parcel accordingly. The proposed building for the BMW motorcycle dealership is planned to be constructed on Parcel "A," and will be an approximate 6,000 square foot kit-style New England log building. The building is placed on Parcel "A" so as to meet all setback requirements, and green space requirements as well. 70% of the proposed parcel "A" will be green space. In terms of access, the applicant proposes to have a primary access off Route 7, with the access roadway being located on Parcel "C," which will then access the building on Parcel "A." A secondary access is planned for Parcel "A" directly on to Betts Road. The ultimate plan for the applicant is to sell Parcel "C" and Parcel "B" after the BMW dealership is constructed. Because of this, the Applicant proposes to maintain 75' easement on the east side of Parcel "C" for ingress and egress in favor of Parcel "A," which will be created prior to the transfer of Parcel "C" to a third party. The size of the proposed entrance road on Parcel "C" has been designed to accommodate a future commercial use for Parcel "C" as well as the proposed commercial use on Parcel "A." A curb-cut permit will be required from the New York State Department of Transportation concerning the access off Route 7. The applicant wanted to confirm with the Board that he had no plans whatsoever to develop either Parcel "C" or Parcel "B," and that he had acquired these properties simply because that is how they had been offered for sale. As stated above, the applicant seeks to transfer Parcel "C" and "B" to third parties after the BMW dealership has been constructed on



Parcel "A." Mr. Doyle further explained that the existing farmhouse on Parcel "A," as well as the out buildings located on Parcel "C," would be demolished in connection with the construction of the BMW dealership. Mr. Doyle stated that the site plan had minimal traffic impacts on to Route 7, that the sight distances in both the easterly and westerly directions were adequate, that all servicing of BMW products would be done entirely within the building, that product display of motorcycles was shown on the site plan, that there were no wetlands on the property, that the property was primarily bedrock and that the building would be built on a slab without foundation, that the proposed drainage report showed the primary drainage to the rear of the property, and that drainage from the front parking area would be directed to the storm sewer located along Route 7, that the storm water drainage report concludes that post-construction runoff would be less than existing pre-construction conditions, that a lighting plan had been prepared and submitted, that the proposed signage was in compliance with Town code, that all setbacks for structures as well as the front parking lot complied with Town code requirements, that the esthetics of the building will fit into the overall character of the Town of Brunswick, and Mr. Doyle offered that the applicant also has a BMW motorcycle dealership in New Hampshire, and that he had been awarded a curb beautification award for that location, that the site was served by public sewer and water, and that the use of the property for the BMW dealership would provide a substantial increase in tax base for the Town over its current use. Member Oster inquired whether the front parking lot complied with the setback requirements for the Town. Mr. Doyle stated that the building was in compliance with the 30' setback from the front property line as required in the Town code, and that the front parking lot complied with the 10' setback for parking lots from the front property line, and also further complied with the 7' setback from the

side property lines for parking lots. Chairman Malone inquired whether only motorcycles would be sold out of this location, and no other vehicles. Mr. Doyle stated that only motorcycles would be sold, and no cars would be sold out of this location. The applicant confirmed this as well. Mr. Doyle also stated that the vegetation plan showed a vegetative screen to the rear of Parcel "A," so as to provide a buffer to proposed Parcel "B" which is in the residential zone. Mr. Doyle also stated that the only use on Betts Road adjacent to this location was Marshall's Body Shop, and that residences on Betts Road were further to the north, so that traffic from the BMW dealership would not impact the residences on Betts Road. Chairman Malone inquired as to the noise generated by testing and preparing the motorcycles for sale. Max Stratton stated that unlike other motorcycles, BMW motorcycles were constructed to be very quiet, and were in fact quieter than most cars. Mr. Doyle stated that there were four lifts proposed in the service area of the building, and that they were all in the interior of the structure, that there were no floor drains proposed, but rather collection of all fluids within containers for appropriate handling and disposal. Member Czornyj asked whether the dealership would be testing motorcycles on Betts Road so as to impact residences. Mr. Stratton stated that Betts Road would not be used for preparing or testing motorcycles, since they needed to use Route 7 to get up to highway speed. Chairman Malone inquired about the merchandise display area in the front. Mr. Doyle-- confirmed that the proposed concrete pad in the front of the building was for the display of two motorcycles, with the balance of the concrete pad being designated for customer parking. A concrete pad is necessary for motorcycles, since the kick stand for motorcycles has the potential for digging into the asphalt parking surface during the heat of the summer. Member Tarbox opined that the submissions provided a good plan, that the dealership would be good for the

community, but that he was concerned about the parking lot being directly on the shoulder of Route 7, giving the appearance that the Route 7 corridor is nothing more than a series of parking lots. Mr. Doyle responded by stating that the parking lot was not directly on Route 7, that it did have green space between the parking lot and the shoulder of Route 7, that the building and parking lot could not be moved further to the rear of the property given elevation concerns and the fact that most of this property is bedrock, and that the applicant would keep the green space in front of the parking lot in acceptable condition. Further, Mr. Doyle stated that a landscaping plan could be provided to add additional landscaping in the front of the parking lot. Chairman Malone and Member Tarbox stated that additional vegetation in the front of the parking lot along Route 7 would be a good addition to the site plan. Member Esser stated that the Route 7 curb cut for the access road should take into account that Parcel "C" would be utilized as commercial property, and that this access road could also be potentially used in the future to access Parcel "B." Mr. Reese responded that the proposed curb cut was a 24' wide commercial curb cut in compliance with NYS DOT regulations. Member Esser then stated that the location of an existing storm water catch basin along Route 7 should be considered, since the location of the proposed access road resulted in the storm water catch basin being directly in the middle of the road. Member Kestner stated that this could be remedied by moving the proposed access road within the 75' easement planned for Parcel "C" so that the storm water catch basin would not end up in the middle of the street. Member Esser concurred that relocating the access road to eliminate any impact to the storm drain was appropriate. Mr. Doyle then requested from the Planning Board permission to receive a demolition permit from the Building Department for the immediate demolition of the farm house on Parcel "A," as well as a grading permit to begin

testing and analysis of the site for construction purposes. Mr. Doyle confirmed that no top soil would be removed from the site in connection with these investigatory activities. In connection with this, a plan for relocating top soil on the site during this investigation process was prepared and had been submitted to the Town. Attorney Gilchrist stated that such site investigatory activities were exempt from SEQRA and that the applicant should be allowed to proceed with building demolition and limited grading for pre-construction investigatory activities, but that the request was appropriately made to the Superintendent of Utilities and Inspection. Mr. Kestner agreed that the site investigatory activities for pre-construction were appropriate from an engineering perspective, since no material was leaving the site; appropriate silt fences were planned to be installed, and that a stock pile area had been delineated on the proposed plan. Member Tarbox requested that a schematic be prepared showing the elevation and aesthetics of the building from the Route 7 corridor. Mr. Reese stated that such a schematic would be submitted. Chairman Malone determined that a public hearing would be held in connection with the site plan application. A public hearing will be scheduled for February 5, 2004, commencing at 7:15 p.m.

The next item of business on the agenda was the site plan and construction activities for the DUNKIN DONUTS located on Route 7. Appearing on behalf of Dunkin Donuts were a representative of ABD Engineers, as well as Ivo Garcia, president of Brunswick Donuts, LLC. Chairman Malone framed the issue as follows: The Planning Board had previously approved the site plan application of Brunswick Donuts, LLC for the construction of a Dunkin Donuts facility on Route 7. The site plan review process included not only the building itself, but detailed discussion concerning a retaining wall as well as drainage facilities on the property. During the

construction phase of this project, the owner and his contractors failed to comply with the approved site plan, failed to construct the retaining wall in compliance with the approved site plan, and failed to construct all necessary drainage catch basins and detention locations. Both Mr. Kreiger and Mr. Kestner had been on the construction site repeatedly, and had repeatedly informed the owner that he was failing to comply with the approved site plan and ordered that the construction be done in accordance with the approved site plan. The Applicant failed to adhere to this direction. Instead, the owner had appeared in front of the Town Board, requesting a temporary CO and the filing of a performance bond or other escrow to complete construction on the site under a proposed amended site plan. The Town and the owner could not agree on an appropriate escrow amount, and the Town Board directed the owner to appear before the Planning Board on the issue of compliance with the existing site plan as well as consideration of the amended site plan. Mr. Kestner reviewed the list of items of non-compliance with the existing approved site plan, including the height and drainage features associated with the retaining wall, the failure of the owner to construct three drainage catch basins, and the failure of the owner to construct the retention basin to the rear of the building for further storm water retention. Mr. Kestner explained to the Board that the owner now wanted to divert the storm water run-off in the area of the retention wall, both to the rear of the property and the front of the property. Further, the owner seeks to redesign the drainage design for the rear of the property, as well as redesign the drainage pattern for the front of the property. Supervisor Herrington was in attendance and offered the following comment. The Town considers this to be a serious non-compliance issue, particularly in light of the fact that both Mr. Kreiger and Mr. Kestner had made repeated inspections of the construction and had directed compliance with the approved

site plan. Member Esser stated that he feels the owner needs to comply with the approved site plan in all respects, including the retaining wall and all drainage features, since the Planning Board had taken considerable time and effort in reviewing the original drainage proposal. Further, Member Esser stated that he felt that the retaining wall should be taken down, and that the Applicant should be required to reconstruct the wall in compliance with the approved plan under the direct supervision and inspection of the Town Building Department and Town Engineer. Member Esser stated that the owner's engineer had clearly made changes to the plan during the construction phase in the field, that the engineer had never contacted the Town prior to making these changes, and that the engineers had only spoken with the Town after the retaining wall, as originally constructed, had collapsed during a storm event. The Board inquired of Attorney Gilchrist as to appropriate procedure. Attorney Gilchrist stated that the request of the owner was now to seek approval of an amended site plan, with particular regard to the proposed drainage plan. On an application for amendment to an approved site plan, a complete site plan application needs to be submitted, this application needs to be forwarded to the Rensselaer County Department of Economic Development and Planning in compliance with the General Municipal Law, that adjacent property owners should be contacted as to the proposed amendment, and that the application should go through formal review by the Planning Board. The owner stated that he would like to have the ability to open this store under a temporary CO while the review process on the proposed amendment to the site plan is ongoing. Attorney Gilchrist inquired of Mr. Kestner as to whether he had prepared any estimate as to construction costs to complete the drainage features as approved on the original site plan. Mr. Kestner stated that he had not calculated that amount, but rather he had calculated construction costs associated

with the revised drainage features. Attorney Gilchrist stated that this amount was inappropriate since the revised drainage features had not been reviewed or approved by the Planning Board, and rather, Mr. Kestner should prepare an estimate of construction costs for completion of construction of the drainage features as originally approved on the site plan. Currently, the only approval of the Town of Brunswick for this facility concerning drainage features was that as depicted on the original site plan, and in order for the applicant to obtain a temporary Certificate of Occupancy, he must escrow an amount for anticipated construction costs to complete the drainage features as approved on the original site plan, not as proposed on a revised site plan. Mr. Kestner said that he could prepare such an estimate. Mr. Kreiger stated that he had inspected the building and the remainder of the property, and that the same were in compliance with the approved site plan. With respect to the request for a temporary CO, Attorney Gilchrist opined that the same would be appropriate if the owner filed an appropriate escrow to cover all anticipated construction costs associated with construction of the drainage features as currently approved under the original site plan, as well as the owner naming the Town of Brunswick as an additional insured under the owner's comprehensive general liability policy during the term of the temporary CO, which should not exceed six months. Further, Mr. Kestner stated that the owner must agree to adequately maintain all parking and driving areas on the site, with all necessary sand and salt, given the lack of construction of all storm water and other drainage features on the site. The owner was agreeable to this approach. Attorney Gilchrist reiterated the requirements of the Town with the owner, so that no misunderstanding occurred regarding the necessary filings with the Town. First, the owner must file an appropriate escrow amount, to be determined by Mr. Kestner in consultation with the Town Board, for all anticipated construction

costs for the completion of construction of all detention features as depicted on the original approved site plan. Second, the owner must name the Town of Brunswick as an additional insured on its comprehensive general liability policy. Both the necessary escrow as well as the Certificate of Insurance must be filed with the Town prior to the issuance of a temporary Certificate of Occupancy, which should not exceed a duration of six months. The issuance of the temporary Certificate of Occupancy was within the province of the Department of Utilities and Inspection, and that Mr. Kreiger should confirm with Attorney Gilchrist the receipt of the necessary escrow following confirmation of the same with Mr. Kestner as well as the receipt of the appropriate certificate of insurance. The owner, Mr. Garcia, was in agreement with those requirements. Further, with respect to the application for amended site plan, all necessary application documents for amendment to the approved site plan must be filed, and the matter reviewed by the Planning Board under full site plan review requirements. This matter will be tentatively placed on the Planning Board agenda for the February 5, 2004 meeting pending receipt of all necessary application documents by Mr. Garcia.

The next item of business on the agenda was the site plan application of the BRUNSWICK GROUP, for the construction of an additional parking area for the strip mall located on Route 7 to be west of the Silver Strawberry building. Appearing on behalf of the application was Ken Baer, one of the principals of the Brunswick Group. Mr. Baer explained that since this strip mall had been constructed, a parking problem exists, particularly for customers of the tenants during the 5:00-8:00 p.m. weekday time slot. Therefore, the applicant seeks to construct additional parking to the rear of the strip mall, so that employees of the tenants could park to the rear of the building, leaving the remaining parking areas to the front of the



building for customers. The issue associated with this project will be the removal of a significant amount of bedrock which exists to the rear of this building, and the members of the Planning Board inquired of Mr. Baer as to bedrock removal and appropriate elevations for all parking areas to the rear of the building. Mr. Baer stated that he proposed to have a driveway to the east of the building leading to the proposed rear parking area, and that appropriate parking areas with necessary turnaround areas would be constructed. Member Czornyj inquired as to access to the rear of the building over the adjacent property of Faschetti, since the driveway to the rear parking lot appeared to go over the property line of the Brunswick Group. Mr. Baer explained that he had an easement for access from Mr. Faschetti. Mr. Czornyj stated that the easement should be examined in connection with the application to insure that the Brunswick Group had the legal right to use the proposed driveway. Chairman Malone then reviewed the documents submitted on the application depicting the site plan. The site plan was merely a sketch, did not meet the site plan requirements of the Town Code, and was not stamped by a licensed professional engineer. Conceding this point, Mr. Baer still requested some time of concept approval for the site plan. Chairman Malone refused to allow the Board to consider even concept approval of the site plan, given the lack of a complete site plan application before the Board. Chairman Malone directed the applicant to have a site plan application in compliance with Town Code requirements submitted to the Planning Board before the Board acted. This matter will be tentatively placed on the Board's agenda for its February 5, 2004 meeting pending receipt of a complete site plan application.

The next item of business on the agenda was a site plan application by ROBERT POLLOCK for amendment to Phase I and construction of Phase II of the BRUNSWICK PLAZA

located at 720 Hoosick Road. Appearing on behalf of the application were Robert Pollock and Tom Brewer, P.E. Mr. Brewer presented to the Board the proposed site plan, and gave a general overview. Phase II of the Brunswick Plaza is located near the intersection of Route 7 and McChesney Avenue, and represents the last phase of construction for the Brunswick Plaza. On Phase II, the applicant proposes to construct a 9,400± square foot commercial building, plus realign the internal access road for ingress and egress on McChesney Avenue. The Applicant further seeks to amend Phase I of the previously-approved site plan in a location to the rear of the Pollock's store, to demolish the existing lumber storage building and replace it with a second 9,400± square foot commercial building, and finally to create a new storage building to the rear of the Phase I portion of the Plaza. Further, the applicant seeks to relocate the seasonal display merchandise area for the Pollock's store from the front of the building along Route 7, and reconstruct the seasonal display area to the side of the existing Pollock's store. The former seasonal display area to the front of the building would be replaced by additional parking. Mr. Brewer stated that the entire Brunswick Plaza, including the construction of the additional commercial buildings in Phase II and Phase I, still maintains the necessary 23% green space requirements under the PDD approved for this location. On further discussion of the Board, it was determined that this site plan will be forwarded to the Rensselaer County Department of Economic Development and Planning in compliance with the General Municipal Law, and the matter will be placed on the Planning Board's agenda for its February 19, 2004 meeting for further discussion.

One item of new business was discussed.

Application for major subdivision has been received from COBBLESTONE

ASSOCIATES for a proposed 36-lot subdivision on Tambul Road on a 147 acre parcel. This matter will be placed on the Planning Board's agenda for its February 5, 2004 meeting for further discussion.

The proposed minutes of the December 18, 2003 meeting were discussed. Upon motion of Member Oster, seconded by Member Esser, the minutes were approved 6-0 as written.

The **index** for the January 15, 2004 meeting is as follows:

1. Morris - site plan - public hearing on DEIS;
2. Ginsburg - site plan - approved with conditions;
3. Troy City Garage - site plan - approved;
4. Rensselaer - site plan - adjourned without date;
5. Roden - waiver of subdivision - approved;
6. Ecker - waiver of subdivision - 2/19/04;
7. Berkshire Properties of NY, LLC - site plan and waiver of subdivision - 2/5/04;
8. Dunkin Donuts - amendment of approved site plan - 2/5/04;
9. Brunswick Group - site plan - 2/5/04;
10. Pollock - site plan - 2/19/04; and
11. Cobblestone Associates - major subdivision - 2/5/04

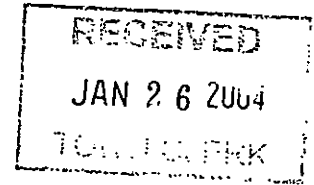
The proposed agenda for the February 5, 2004 meeting currently is as follows:

1. Berkshire Properties of NY, LLC - public hearing 7:15 p.m.;
2. Dunkin Donuts - amendment to site plan;
3. Brunswick Group - site plan; and
4. Cobblestone Associates - major subdivision.

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809



## NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN** that a public hearing will be held by the Planning Board of the Town of Brunswick to be held on Thursday, February 5, 2004, at 7:15 p.m. at the Brunswick Town Hall, 308 Town Office Road, Brunswick, New York, to allow public comment on a site plan application submitted by Berkshire Properties of New York, LLC to construct and operate a motorcycle dealership on property located on NYS Route 7 at its intersection with Betts Road. The application includes the demolition of existing structures and construction of a new commercial building, with access proposed directly onto NYS Route 7 and Betts Road. Copies of the site plan application, as well as all other application materials, are available at the Brunswick Town Hall, and are available for public inspection during regular business hours. All interested persons will be heard at the public hearing.

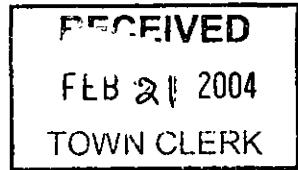
DATED: January 21, 2004  
Brunswick, NY

THE PLANNING BOARD OF THE  
TOWN OF BRUNSWICK  
By: Shawn Malone, Chairman

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809



## MINUTES OF THE PLANNING BOARD MEETING HELD February 5, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, KEVIN MAINELLO, RUSSELL OSTER, DAVID TARBOX, and JOSEPH WETMILLER.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

A public hearing was held concerning the site plan application of BERKSHIRE PROPERTIES OF NEW YORK, LLC concerning property located on NYS Route 7 and Betts Road. Chairman Malone opened the public hearing at 7:15 p.m., and the Notice of Public Hearing was read into the record. Chairman Malone explained the procedure to use at the Public Hearing, and directed the Applicant to give a brief presentation of the site plan to any interested members of the public. Appearing on behalf of the Applicant was William Doyle, Esq., as well as Scott Reese, of Erdman Anthony, and Max Stratton, principal of BERKSHIRE PROPERTIES. Attorney Doyle presented a brief overview of the proposal for the property, which included building and parking layout, ingress and egress, lighting, vegetation, set-backs, and surrounding land uses. Chairman Malone opened up the floor to receipt of comment from any member of the public. Nobody from the public offered any comment. Chairman Malone closed the public hearing.

Thereupon, Chairman Malone opened the regular meeting of the Planning Board.

The first item of business on the agenda was the site plan application of BERKSHIRE PROPERTIES OF NEW YORK, LLC, for which the public hearing had just been held. Chairman Malone inquired of Mr. Kestner whether the requested changes had been made to the site plan. Mr. Kestner stated that all requested changes to the site plan had been made, which include the relocation of the access road on NYS Route 7 to eliminate any impact to an existing stormwater catch basin, and the addition of vegetation near the parking lot along the front property line adjacent to NYS Route 7. Mr. Kestner confirmed that the site plan was in compliance with Town Code, and that acceptable plans for stormwater management, lighting, and grading had been submitted in support of the application. Mr. Kestner confirmed that all engineering issues have been addressed and satisfied on the site plan application. Mr. Kreiger confirmed that a response from the Rensselaer County Department of Economic Development and Planning had been received concerning the General Municipal Law §239-m referral, and that the County determined that there were no county-wide impacts and that local consideration shall prevail. Member Oster inquired whether the access road off NYS Route 7 remained within the 75' easement on the adjacent commercial lot. Mr. Reese confirmed that the access road remained within the 75' easement, and that an additional 15' was added to the access area along NYS Route 7 in order to move the access roadway from the existing stormwater catch basin. Upon inquiry as to whether the realigned access road posed any problems in terms of future use, either for the adjacent commercial lot or for the residential area to the rear of the subject lot, Mr. Kestner stated that there would not be any access issues nor engineering concerns about the alignment of a future access drive for the adjacent commercial lot or access road for the residential area to the rear of the subject lot. Member Czornyj inquired whether the setbacks for a corner lot had been

maintained, and Mr. Reese confirmed that all code requirements for setbacks for a corner lot are adhered to. Thereupon, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which was seconded by Member Wetmiller. The motion carried 7-0, and a negative declaration adopted under SEQRA. Member Czornyj thereupon made a motion to approve the site plan as revised under map date 2-5-04, which motion was seconded by Member Oster. The motion was carried 7-0, and the site plan approved. Further, Member Czornyj then made a motion to approve the application for waiver of subdivision to divide the parcel on which the commercial building will be constructed from the rear of the parcel located within the agriculture-residential district, which motion was seconded by Member Esser. The motion was approved 7-0, and the waiver of subdivision approved as well.

The next item of business on the agenda was the amendment to site plan of DUNKIN DONUTS. The application for amendment has not yet been received by the Building Department, and Mr. Kreiger was directed to follow-up with DUNKIN DONUTS as to the status of such application. This matter is adjourned without date pending Mr. Kreiger's discussion with Mr. Garcia of DUNKIN DONUTS.

The next item of business on the agenda was the site plan application of the BRUNSWICK GROUP, for construction of a parking lot to the rear of the existing Brunswick Plaza. The Applicant has requested that this matter be adjourned to the February 19, 2004 meeting.

The next item of business on the agenda is the major subdivision application of COBBLESTONE ASSOCIATES for property located on Bulson Road and Tambul Lane. Appearing on behalf of the Applicant were James Dunn of Scarano Dunn, LLP, Chip Kroneau, and Lawrence Howard, Esq. The Applicant presented a concept of the subdivision application,

which seeks approval of 40 lots on 147 acres. The Applicant explained that there is two primary areas proposed. First, the Applicant seeks to extend the existing Winfield Estates cul-de-sac off of Bulson Road to add four residential lots to the existing layout. Second, the Applicant seeks to create 36 residential lots off of a loop road to be constructed off Tambul Lane, with the loop road to be approximately 4300' in length, including a proposed cul-de-sac off of the loop road. The Applicant explained that the proposed lots vary in size, with the goal of maintaining a fair amount of undisturbed land. A wetland regulated by the New York State Department of Environmental Conservation exists on the property, and totals approximately 36 acres. In general, the Applicant explained that the wetland will be contained within one of the proposed residential lots, resulting in one lot being approximately 45 acres in size. The Applicant further explained that the average density per lot is 3.6 acres, with the one lot proposed for 45 acres, certain lots being 10± acres in size, and the balance of the lots being various sizes. The Applicant stated that the property was once farmed but is not currently in agricultural use. The Applicant stated that the New York State Department of Environmental Conservation has delineated the wetland on the property, and that NYSDEC requested that the wetland be located within one of the residential lots for maintenance purposes (proposed Lot #17). Member Czornyj inquired how many lots are existing presently on the Winfield cul-de-sac. The Applicant stated that 11 lots exist along the Winfield cul-de-sac, and with the 4 proposed additional lots a total of 15 lots would exist. The Planning Board then instructed the Applicant that Town Code limits the number of lots off a cul-de-sac at a total of 12, but that the Town had adopted a Local Law permitting additional lots off an existing cul-de-sac, subject to approval by the Town Board. Therefore, the Planning Board directed the Applicant to apply to the Town Board for waiver of the limitation on the number of residential lots off an existing cul-de-sac. Attorney Gilchrist



stated that the Environmental Assessment Form filed with the application will need to be revised to identify the Town Board as an involved agency for SEQRA purposes. Chairman Malone then went through several concerns that he had with the application. Chairman Malone stated that a total of 40 additional residential lots on this property was excessive, given the excessive grades and slope in the area, very difficult access onto Bulson Road and most particularly Tambul Lane, and additional traffic on Tambul Lane particularly at its intersection with Tamarac Road. On a very simplified analysis, an average of two cars per lot proposed for the loop road off Tambul Lane would result in 72 additional cars on Tambul Lane, which would put an already difficult intersection with Tamarac Road under more pressure. Mr. Dunn responded that the intersection of Tambul Lane and Tamarac Road meets NYSDOT sight distance requirements, and the additional traffic from this application would not require a change in level of service at that intersection. Chairman Malone questioned that statement. Member Esser also stated that the addition of 40 residential lots, including the associated traffic, would significantly change the rural character of the area. Mr. Dunn responded that Tamarac Road now has a number of private driveways off of it, and that this proposal will address the need for a neighborhood community in the area, rather than a number of separate and unrelated lots. Member Oster disagreed with that assessment, stating that the development in that area had resulted in single family homes being consulted on large parcels of land. Mr. Dunn responded that he has fielded a number of requests for smaller, subdivided lots in a subdivision community, and that the Town of Brunswick had a need for this type of development. Member Czornyj inquired about the existing topography, including a number of significant ravines. Mr. Dunn stated that these ravines would remain, but that drainage culverts would be constructed to allow for the access road to be built off Tambul Lane. Mr. Kestner stated that the proposed stormwater management plan called for 24" culvert

pipe being installed underground in locations as deep as 18' and as long as 110', and that the stormwater management plan appeared to be very preliminary in nature. Member Czornyj asked who would maintain these drainage pipes and culverts. Mr. Kestner stated that the Town would likely to maintain them under easement from the property owner. Mr. Kestner inquired of Mr. Dunn whether he had confirmed the sight distance issue at the intersection of Tambul Lane and Tamarac Road through any study or analysis. Mr. Dunn stated that they had performed such an analysis, and would supply the data on the application. Member Oster inquired whether the Applicant had adequately considered all of the traffic from this proposal off Tambul Lane being added to the intersection of Tambul Lane and Tamarac Road. Mr. Dunn stated that he believed a portion of the traffic would impact that intersection, but that a portion of the traffic would also utilize Bulson Road for ingress and egress. Member Oster also had a concern about the quality of the road in the subdivision leading onto Tambul Lane, which is a very narrow road which may not be able to handle the amount of traffic coming out of this proposed subdivision. Member Oster also said the intersection of Tambul Lane and Tamarac Road is very narrow, with existing structures (a barn and a house) not allowing the widening of that intersection without demolition. Member Oster also had concerns regarding impact of these homes, including the concentration of homes, on the wetlands at the base of the slope. Members Esser and Czornyj had concerns over the amount of piping for drainage purposes, and the necessary easements and Town maintenance of these structures. Member Czornyj noted that the depth of some of these drainage structures were as much as 18', and that the Town does not own equipment sufficient to maintain these proposed structures. Member Czornyj also stated that all of these residential lots had proposed

wells for potable water purposes, and that impact to existing ground water quantity was a significant concern. Member Wetmiller also had significant concern about the traffic impacts from this proposal, particularly at the intersection of Tambul Lane and Bulson Road. Member Wetmiller noted that Tambul Lane has become a feeder road for traffic during the morning rush hour, seeking to avoid the significant traffic backup along Route 2 near Tamarac School. Also, Member Wetmiller thought there was an existing problem with the intersection of Bulson Road and Route 2, given that the road is narrow, steep and that sight distance has always been a problem at that location. Chairman Malone concurred that the topography generally in this area is very difficult. Member Oster also had concerns about water supply given the proposed number of individual wells. Member Oster also raised concern over the impact of this project, particularly pesticides, onto the existing wetlands, and the impact of the number of homes proposed on the character of the area. Chairman Malone stated that with the number concerns already raised, the Board would likely require a Full Environmental Impact Statement on the application. Mr. Dunn and Attorney Howard countered by suggesting a conditioned negative declaration, based upon review and comments by the Planning Board. Attorney Gilchrist inquired whether the property, given its agricultural history, is within an Agricultural District under the New York State Agriculture and Markets Law. Mr. Dunn was not sure. Attorney Gilchrist stated that this issue needed to be clarified, since this project would be a Type 1 action under SEQRA if this property were located in an Agricultural District, and if so, a conditioned negative declaration would be illegal under SEQRA. The Applicant stated that they would clarify whether the property was within an Agricultural District. Attorney Gilchrist then stated

that the Board, regardless of whether the action was classified as Type 1 or unlisted under SEQRA, has raised a significant number of potential environmental impacts, which would require the adoption of a positive declaration and preparation of a Full Environmental Impact Statement. Mr. Kestner also inquired whether the earlier approvals on Winfield Estates would have any bearing on the current application, particularly any restrictions that may have existed on that development. Attorney Gilchrist stated that a review of the underlying record on Winfield Estates must be completed. Mr. Dunn stated that in the event earlier restrictions impacted the current proposal, the Applicant would seek to have those restrictions eliminated. Member Oster stated that the earlier proposal for the Second Phase of the Winfield Estates Subdivision called for 23 homes, and that this Applicant seeks to have approval for 40 lots. In Member Oster's opinion, this is a significant difference from the earlier application on Winfield Estates. Member Oster also inquired what the proposed square footage of the homes were for these lots. Both Mr. Dunn and Mr. Kroneau stated that the houses would range in size from 1800 - 3000 square feet. Attorney Gilchrist then stated that for compliance with SEQRA review procedure, lead agency coordination would need to be conducted with at least the Town Board, and any other agencies which would qualify as an involved agency under SEQRA. Accordingly, clarification on the Agricultural District issue on the property as well as amendment to the Environmental Assessment Form ("EAF") must be completed by the Applicant so that the Planning Board can conduct proper lead agency coordination. Member Oster noted that there may be a small private family cemetery on the property and that this issue needed to be investigated. Member Tarbox asked about the status of the old farmhouse structure on the property, and whether there were any

remnants of a septic system or tanks on the property. Mr. Dunn did not have any information on that issue. The Applicant was directed to amend the EAF according to the comments received tonight, and submit the amended application and EAF for further review.

An application for waiver of subdivision was received from KEVIN KRONEAU concerning SANDYCHERRY HILL SUBDIVISION, Lots #7 and #8. The Applicant seeks to split approximately 0.81± acres from the existing Lot #7, and add that property to existing Lot #8 and merge the same into Lot #8. Upon review of the submitted map, a wetlands boundary line was depicted. The Members of the Planning Board inquired as to the status of the wetlands delineation on the property by the U.S. Army Corps of Engineers, since the Board was reminded that a Stop Work Order had been issued by the Army Corps for construction on Lot #7. The Applicant confirmed that a Stop Work Order had been issued, and that the Applicant was engaged in negotiation with the Army Corps on the final wetlands delineation. Upon further discussion, it was determined that additional information on the federal wetlands delineation was required prior to action by the Planning Board.

Mr. Kreiger noted that the following applications were scheduled for further discussion at the February 19 meeting:

Ecker - waiver of subdivision;

Pollock - site plan;

Rensselaer Honda - site plan (petroleum storage tank installation).

The proposed minutes of the January 15, 2004 meeting were reviewed. With a correction of one typographical error on p. 18 (correction of "Member" Kestner to "Mr." Kestner), Member Esser made a motion to adopt the Minutes, which motion was seconded by Member Tarbox. The

motion was carried 7-0 and the minutes were adopted with the typographical correction.

The **index** for the February 5, 2004 meeting is as follows:

1. Berkshire Properties of NY, LLC - site plan and waiver of subdivision - approved;
2. Dunkin Donuts - site plan - adjourned without date;
3. Brunswick Group - site plan - 2/19/04;
4. Cobblestone Associates - major subdivision - adjourned without date; and
5. Sandcherry Hill Subdivision - waiver - adjourned without date.

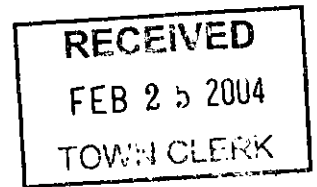
The proposed agenda for the February 19, 2004 meeting as currently proposed is:

1. Brunswick Group - site plan;
2. Ecker - waiver of subdivision;
3. Rensselaer Honda - site plan; and
4. Pollock - site plan.

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809



## MINUTES OF THE PLANNING BOARD MEETING HELD February 19, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, KEVIN MAINELLO, RUSSELL OSTER, and DAVID TARBOX.

ABSENT were FRANK ESSER and JOSEPH WETMILLER.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the site plan application of BRUNSWICK GROUP. No one was present on behalf of the Applicant, and the matter was adjourned without date.

The next item of business on the agenda was the waiver of subdivision application of ECKER. No one was present on behalf of the Applicant, and the matter was adjourned without date.

The next item of business on the agenda was the site plan application of RENSSELAER HONDA. No one was present on behalf of the Applicant, and the matter was adjourned without date.

The next item of business on the agenda was the site plan application of ROBERT POLLOCK for an amendment to Phase I and the construction of Phase II of the BRUNSWICK PLAZA located at 720 Hoosick Road. Appearing on behalf of the application were Robert Pollock and Tom Brewer, P.E. Mr. Brewer reviewed a revised sketch plan showing more definitive green space, both as to Phase II and the overall Brunswick Plaza. Mr. Kestner had a

question as to the elevations on the site plan, most particularly the drop in elevation from McChesney Avenue to the new buildings proposed for both Phase I and Phase II. Mr. Brewer indicated that the elevations had not yet been placed on the site plan, but that the existing storm drainage system will be utilized, that the new building proposed for Phase II will be at a higher elevation than Phase I, and that change in slope would be handled through site grading. Member Oster had a question regarding green space, and specifically the potential addition of green space once NYSDOT has completed its realignment of McChesney Avenue. Mr. Brewer confirmed that with the road realignment, a triangular piece of property will be created between the Pollock property and the realigned McChesney Avenue, but that this property would in all likelihood be owned by the County and could be maintained as green space by the County. Member Czornyj inquired whether the drainage directed to the rear of the property would continue to be directed to the existing detention basin, even given the increased runoff from construction on Phase II. Mr. Brewer responded that the drainage would be directed to the existing detention basin to the rear of the property, and that when that original detention basin was designed, it was designed for stormwater runoff for all future phases of construction. Mr. Kestner raised the issue of the total square footage of the buildings in the Brunswick Plaza. Mr. Kestner reviewed the Findings Statement adopted under SEQRA for the original approval of Brunswick Plaza, which limited the total square footage of buildings in the plaza to 152,000 square feet. The Findings Statement is unclear whether this square footage includes only leasable area (wall to wall), or whether the total square footage also included awning area. Mr. Brewer responded that the Applicant interprets the Findings Statement as including only leasable area, and that the total leasable area in the Brunswick Plaza including the proposed modifications to Phase I and construction of



Phase II is 150,000 square feet. Chairman Malone inquired whether the facade on the new buildings would have the same look as the existing buildings in the Brunswick Plaza. Mr. Pollock responded that the exact design of the buildings had not yet been addressed, but that the general construction would be masonry with split faced block consistent with the balance of the plaza. Upon further inquiry by Chairman Malone, Mr. Pollock said that the buildings may look like the building housing Edward Jones (Phase IV), or may have an awning like the Pollock's Home Center (Phase I). Chairman Malone wanted to make sure that the facade was finalized and presented to the Planning Board so that no issue arose during construction similar to that which was addressed by the Board and Pollock concerning Phase IV. Member Czornyj asked whether all four sides of the building proposed for Phase II would have the split block finish since it will be visible from all four sides. Mr. Pollock responded that the building proposed for Phase II would be finished on all four sides, but that the additional building proposed for Phase I would be finished only on the sides visible to the parking areas, and that the back of the building down the alleyway would merely be painted cinder block consistent with the other buildings in Phase I. Member Tarbox inquired as to the back of the building of Phase II facing McChesney Avenue, and whether there would be any windows or doors rather than just a masonry wall. Mr. Pollock stated that there would be doors with a landscaping plan for the area facing McChesney Avenue. Mr. Kestner stated that additional information should be set forth on the site plan, including topography/elevations, with additional information on drainage and lighting. Also, Chairman Malone confirmed that he wanted a visual depiction of what the buildings would look like, including proposed building materials. Mr. Kestner also confirmed that the proposal includes both "Retail 1" and "Retail 2" uses as defined under the original approval, and that the parking plan is in compliance with these proposed uses; however, Mr. Kestner stated that the Board

should retain the right to review the adequacy of parking in the event tenants changed in the future. Chairman Malone then inquired as to the new storage building proposed for the rear of the property, when the modification to Phase I is constructed. Mr. Pollock responded that a prefabricated metal storage building was proposed to replace the existing storage building. As to the design and look of the buildings, Mr. Pollock stated that his goal was to attract a mix of tenants to the plaza, and that he needed quality buildings in order to attract tenants. Member Oster inquired as to the projected time-table for the construction. Mr. Pollock stated that this had not yet been finalized, as he is in negotiations with perspective tenants, but that he would like to construct in phases with the proposed building in Phase II on the corner of McChesney to be constructed first, and then move to the modifications to Phase I with a new storage building and a new retail space. Mr. Kestner responded that the Applicant should be prepared to present to the Board a plan to make sure all sequences of work are phased in properly, and that all proposed infrastructure, most particularly drainage, are constructed such that each construction phase will work. Mr. Kreiger noted that if a rear door is planned for the back of the building adjacent to McChesney Avenue, then a sidewalk will need to be installed around the building as well. Mr. Brewer stated that a sidewalk is already shown on the sketch plan. Mr. Kestner confirmed that the total green space in Phase II meets the 35% minimum, and that as to the total green space for the Brunswick Plaza, the Findings Statement adopted as part of the original approval required a minimum of 23% green space. The site plan as submitted has a calculated total green space of 23.03%, which needs to be confirmed by Mr. Kestner. Member Oster inquired whether any areas on the site could be added to the green space in the event Mr. Kestner's calculations show a shortage of green space. Mr. Brewer responded that there is room to eliminate a few parking spaces since the plan calls for more than the minimum required parking spaces, but that the

Applicant did not want to eliminate parking. The Rensselaer County Department of Economic Development and Planning concluded its review under General Municipal Law §239-m, and determined that there were no countywide impacts, and deferred to local consideration. This matter will be placed on the agenda for further action at the April 1, 2004 meeting, subject to receipt of the requested additional information and updated site plan.

Chairman Malone inquired whether any person was present on behalf of either BRUNSWICK GROUP, ECKER, or RENSSELAER HONDA. Representatives of Ecker and Rensselaer Honda had arrived.

Chairman Malone entertained the waiver of subdivision application of ECKER. Appearing on behalf of the Applicant was Joseph Ecker, 65 Coons Road, Troy. Mr. Ecker explained that he wanted to divide 13 acres off of his property to transfer to his son for the construction of a single family home. Chairman Malone informed Mr. Ecker that in the event his son wanted to do any further subdivision, he must come back to the Planning Board for further review. Mr. Ecker confirmed this. Upon review of the submitted plan, it was found by the Board to be in full compliance with Town Code. Thereupon, Member Oster made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Chairman Malone. The motion was approved 5-0, and a negative declaration adopted. Member Oster then made a motion to approve the waiver of subdivision application, which motion was seconded by Member Czornyj. The motion was approved 5-0, and a waiver of subdivision application approved.

Chairman Malone then entertained the site plan application of RENSSELAER HONDA. Appearing on behalf of the Applicant was Jim Connors of Chazen Engineering. Mr. Connors reviewed the concerns raised by the Planning Board at its January 15, 2004 meeting, which was

later followed up by Michael Herrington, Town Building/Fire Code Inspector, under letter dated January 23, 2004. Chazen Engineering has responded to these concerns in writing under letter dated February 19, 2004. In particular, as to the fire suppression system raised by both the Planning Board and Inspector Herrington, Chazen finds an apparent conflict in the New York State Building Code as to its requirement, and has requested an interpretation from the New York State Department of State. That determination from the Department of State remains pending. Mr. Connors then reviewed the proposal in terms of secondary containment and the tank's specifications, providing 110% secondary containment as part of the tank specifications. Mr. Connors then explained that as part of the installation, Chazen is proposing an additional containment system comprised of a collection and discharge system to drain into the existing on-site stormwater detention basin. Chazen is proposing to install a check valve at the outlet to the detention basin that would be closed during fuel filling operations to prevent any discharge from the basin to the adjacent stream during bulk deliveries or vehicle fueling. Mr. Connors characterized this system as being redundant in terms of fuel containment. Chairman Malone took issue with this characterization, and stated that while the tank specifications itself had secondary containment, no containment existed when the hose and nozzle system is being used, and the only containment in terms of spills from the hose and nozzle was collection and discharge directly into the stormwater detention basin. Mr. Connors requested that the Board review Chazen's February 19<sup>th</sup> correspondence, as it was their position that the letter fully addressed the containment requirements and provisions. Member Tarbox said that if there was a fuel release that made its way to the detention basin, there is nothing in the detention basin to

hold the gasoline and that it would be released to the stream or groundwater. Mr. Connors responded that such an event would likely occur only if the double walled fuel storage tank failed, and that any spills from the hose and nozzle system would likely be collected within a 400 gallon detention area before it made its way to the stormwater detention basin. Mr. Connors explained that a 11' x 22' concrete apron will be constructed for filling operations, and that it will be constructed such that it will pitch toward its center with a center drain for surface drainage. While the drain will daylight to the existing detention basin, it will have an emergency shutoff valve which will be closed when any filling operations are conducted. In the event of an accidental spill during filling operations, the slab has the ability of containing in excess of 400 gallons of petroleum product. Accordingly, before any release of petroleum to the stormwater detention basin could occur, the spill would need to be in excess of 400 gallons. It is unlikely, according to Mr. Connors, that such an event would occur absent a catastrophic failure of the fuel storage tank. Mr. Connors explains that the storage tank specifications include a double walled containment system, and that the likelihood of catastrophic failure is remote. Chairman Malone opined that the proposal worked in theory, but that he doubted the emergency shutoff would be used every time a car was being filled on site, thereby creating the potential of fuel discharge directly to the stormwater detention basin. Additionally, Chairman Malone stated that if the New York State Department of State determined that the fire suppression system and canopy system was not a requirement under State Code, the Board would take that into account. However, Chairman Malone noted that the Board still had a safety concern regarding fire suppression when there were a number of vehicles, each with gas tanks, in close proximity to this fuel filling area,

and if there was a fire on site there was a potential for a catastrophic event. Further, Attorney Gilchrist noted that while the Department of State may interpret the State Code as not requiring the fire suppression system, the Planning Board still needed to comply with SEQRA, and that the issue of a fire suppression system could be viewed as an appropriate mitigation measure under SEQRA. Member Oster inquired whether the fire lane to this filling lane was adequate. Mr. Kreiger confirmed that there must be direct access to the fuel filling area, which may include mandatory signage and pavement striping. Mr. Kreiger confirmed that the site plan as submitted does meet requirements, but that the access area would need to be kept open. Member Oster raised a concern because this was the area of car display and car storage, and saw the potential for stacking of cars impacting the fire lane access. Member Oster asked whether this area was accessible from the rear of the property. Mr. Kestner said there was access to the rear, but was not sure whether this was accessible by fire fighting equipment, and that this issue needed to be further investigated. Mr. Kestner also noted that a similar above-ground tank system was in use at the Frear Park maintenance building, and that the Frear Park tank did have a fire suppression system installed. Mr. Connors confirmed that Chazen needed to wait until it received the Code interpretation from the Department of State, and then it would make final revisions to the proposed site plan. In the event the Department of State did interpret the Code to require the fire suppression system, Chazen would need to review the economic implications of that with RENSSLAER HONDA. In the event the Department of State determines the fire suppression system is not required by State Code, it will finalize its site plan without the fire suppression system and submit it for consideration by the Board. The Planning Board tentatively placed this

matter on the agenda for the March 4, 2004 meeting pending receipt of a supplemental submission by Chazen.

Chairman Malone inquired as to the status of the waiver of subdivision application on the SANDCHERRY HILL SUBDIVISION. Attorney Gilchrist reminded the Board that at its last meeting an issue arose concerning the investigation by the U.S. Army Corps of Engineers as to any federal wetlands on the site. As reported in correspondence from the Army Corps of Engineers, it has been determined that no federal wetland jurisdiction exists on the property relevant to the waiver of subdivision application (lot line adjustment between Lots 7 and 8), and therefore this matter could move forward before the Planning Board. A letter has been sent to the Applicant, and the Board awaits a final submission on the waiver of subdivision application.

One item of new business was discussed. A preliminary submission has been received by Dean Heer of David Heer Realty Inc., on behalf of David Provost, for a proposed 14 lot subdivision off Norman Lane. Currently, Provost maintains a private roadway off Norman Lane on which three homes exist. Provost now proposes to upgrade the private roadway to a public road, and add an additional 11 building lots for a total of 14 lots off of the public road. This road is currently a cul-de-sac, and the upgrade to a public road is also proposed to be a cul-de-sac. Additionally, this property is directly adjacent to the municipal boundary with the Town of Pittstown. While it does not appear that any of the proposed building lots are in the Town of Pittstown, Norman Lane, which leads to the current private roadway of Provost, lies within the Town of Pittstown and has existing homes off of Norman Lane in the Town of Pittstown. Many questions and issues were raised during discussion of the Planning Board, including coordination with the Town of Pittstown, which municipality would maintain Norman Lane (part of which

exists within the Town of Pittstown and part of which, under the proposed upgraded of private road to a public road, would lie in the Town of Brunswick), the number of proposed lots off a cul-de-sac road, the length of a dead-end road, the traffic impacts on Norman Lane in the Town of Pittstown, fire district issues, SEQRA coordination issues, and also issues concerning topography of the property. Chairman Malone stated that he would review these general issues with Mr. Heer, in order to allow both he and Mr. Provost to consider the application before a full submission is made.

Chairman Malone inquired of Mr. Kreiger whether a revised site plan had been submitted by DUNKIN DONUTS. Mr. Kreiger stated that he had not yet received any application for amended site plan approval from DUNKIN DONUTS. The Board confirmed that if an amended site plan application is not submitted and reviewed by the Board, then Mr. Garcia, principal of this Dunkin Donuts franchise, must construct all features on the site in accordance with the original approved site plan. Chairman Malone inquired of Mr. Kreiger as to the duration of the temporary C.O. Mr. Kreiger stated that the temporary C.O. expires on June 1. The Board directed Attorney Gilchrist to forward a letter to Mr. Garcia concerning the status of the application for amended site plan review.

The minutes of the February 5, 2004 meeting were reviewed. Upon motion by Member Czornyj, seconded by Member Oster, the Minutes were approved as written.

The **index** for the February 19, 2004 meeting is as follows:

1. Brunswick Group - site plan - adjourned without date;
2. Ecker - waiver of subdivision - approved;
3. Rensselaer Honda - site plan - 3/4/04;



4. Pollock - site plan - 4/1/04;
5. Sandcherry Hill Subdivision - waiver - adjourned without date; and
6. Provost - major subdivision sketch plan - adjourned without date.

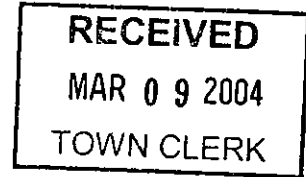
The proposed agenda for the March 4, 2004 meeting as currently proposed is:

1. Rensselaer Honda - site plan.

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809



## MINUTES OF THE PLANNING BOARD MEETING HELD March 4, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, KEVIN MAINELLO, RUSSELL OSTER, DAVID TARBOX and JOSEPH WETMILLER.

ABSENT was FRANK ESSER.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The only item of business on the agenda was the site plan application of RENSSELAER HONDA. No one was present on behalf of Rensselaer Honda, and the matter was adjourned until the March 18 meeting.

The minutes of the February 19, 2004 meeting were reviewed. Upon motion of Member Oster, seconded by Member Czornyj, the Minutes were approved as written (6-0 vote).

A number of new items of business were discussed.

The first item of new business discussed was a major subdivision application by PIGLIAVENTO BUILDERS, as Applicant, for property owned by WILLIAM and NANCY BRAGIN. The property is located at 809 Farm-to-Market Road (Route 351), and totals 44± acres. The major subdivision application seeks 12 residential lots off a cul-de-sac, each lot with private water and septic. A Full Environmental Assessment Form was submitted on the application. Upon review, the Planning Board Members had several questions, including stormwater impact, private driveway standards, topography and grades of the site, and Agricultural District issues. Mr. Kestner will review the major subdivision application and plat.

This matter will be placed on the agenda for the March 18, 2004 meeting.

The second item of new business discussed was a proposal by UMRAN SARACOGLU for the construction of a new convenience store and canopy/pump island station for the USA Fuel Facility located at 560 Hoosick Street. This matter is currently before the Zoning Board of Appeals on applications for area variances, and will not be addressed by the Planning Board until the Zoning Board action is complete.

The third item of new business discussed was a site plan application by STEWARTS SHOP CORP. for its store located at 2 Brick Church Road (corner of Route 278 and Tamarac Road). The applicant has not yet submitted a formal site plan, and therefore this matter will be placed on a future Planning Board agenda upon receipt of the same.

The fourth item of new business discussed was a waiver of subdivision application received from KAREN and DAVID SMITH, as Applicants, for property owned by MARJORIE RODEN, located at 79 White Church Road. The Applicant seeks to have 6± acres divided from an existing 72.42± acre parcel for the construction of a single family residence. The Planning Board members noted that Marjorie Roden had received approval for waiver of subdivision from this same parcel in approximately January 2004, and the Board will consider whether this application should be considered a minor subdivision or continue to be processed as a waiver of subdivision application. Certain Planning Board members wanted to visit the property. This matter will be further discussed at the March 18 meeting.

The fifth item of new business discussed was a concept plan for a subdivision on property owned by RIESER, located on Town Office Road. Harold Berger, representing RIESER, requested that this matter be placed on the Planning Board's March 18 meeting for purpose of

concept plan review.

Concerning the site plan application of RENSSELAER HONDA for the installation of an above-ground petroleum storage tank, Mr. Kestner reported that he had researched the issue of fire suppression with Northeast Petroleum Technologies Group, which recommended a fire suppression system for the proposed tank installation at Rensselaer Honda. Chairman Malone stated that the matter was still pending for interpretation of the New York State Fire Code by the New York State Department of State, at the request of Rensselaer Honda, and that this matter will move forward after the Department of State has rendered its interpretation. However, Chairman Malone inquired whether the Town could still consider and require a fire suppression system even if the Department of State interprets the New York State Fire Code as not requiring fire suppression in this instance. Attorney Gilchrist noted that the specific issue of fire safety is a statutory consideration which the Planning Board must undertake under Section 4(A)(10) of the Brunswick Site Plan regulations, as well as a legitimate issue under the State Environmental Quality Review Act (SEQRA). Attorney Gilchrist further stated that while an interpretation by the Department of State must be considered by the Board, the Board still has its statutory obligation to consider the adequacy of fire suppression on this specific application, and that a regulatory basis for requiring fire suppression exists under the Town's site plan regulations in the event the Board determines fire suppression is appropriate on this application.

The **index** for the March 4, 2004 meeting is as follows:

1. Rensselaer Honda - site plan - 3/18/04;
2. Bragin - major subdivision - 3/18/04;
3. Saracoglu - site plan - adjourned without date;
4. Stewarts Shop Corp. - site plan - adjourned without date;

5. Roden - waiver of subdivision - 3/18/04; and
6. Rieser - subdivision concept plan - 3/18/04.

The proposed agenda for the March 18, 2004 meeting is as follows:

1. Rensselaer Honda - site plan;
2. Bragin - major subdivision;
3. Roden - waiver of subdivision; and
4. Rieser - subdivision concept plan.

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809

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## MINUTES OF THE PLANNING BOARD MEETING HELD March 18, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, KEVIN MAINELLO, RUSSELL OSTER, DAVID TARBOX and JOSEPH WETMILLER.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the site plan application of RENSSELAER HONDA. No one was present on behalf of Rensselaer Honda, and the matter was adjourned without date.

The next item of business on the agenda was a major subdivision application by PIGLIAVENTO BUILDERS, of Schenectady, as Applicant, for property owned by WILLIAM and NANCY BRAGIN. Appearing on behalf of the application was Linda Stancliff, landscape architect of Erdman Anthony & Associates. Ms. Stancliff presented a preliminary subdivision plat for a 12 lot subdivision off Route 351, just south of Route 2, with a single point of entry cul-de-sac, with a minimum lot size of 1.3± acres. Ms. Stancliff stated that she performed some preliminary analysis of sight distances, which has about 590' to the north and over 1300' to the south. Ms. Stancliff stated that ASHTO requires 525' for a 60 mph speed limit. Chairman Malone confirmed with Ms. Stancliff that the sight distances on this project onto Route 351 were in excess of minimum required sight distances. Ms. Stancliff also explained that her firm did preliminary stormwater calculations, and it looks like there would be four catch basins planned to

comply with Phase II Stormwater Management regulations. The highest elevation is a little over 640' feet. Chairman Malone inquired whether Ms. Stancliff had a chance to talk with Mr. Kestner. Mr. Kestner stated that he explained the sight distance requirements to Ms. Stancliff. Mr. Kestner further stated that Erdman Anthony inquired whether the Town wanted a "winged gutter" on the road. In that regard, Mr. Kestner spoke with Mr. Eddy, the Highway Superintendent, and the thought is that since the road is on a 10% grade that they would want the road to have a "winged gutter" detoured into a catch basin. Mr. Eddy was present, and Chairman Malone inquired of him whether he had a chance to take a look at this road. Mr. Eddy stated that he had not seen it yet. Chairman Malone stated that this would be a pretty lengthy cul-de-sac. Ms. Stancliff stated that the cul-de-sac would be 1000' and is designed at a 10% grade. Mr. Kestner stated that the Town regulation provide that stormwater along a road cannot be carried more than 500' feet without a catch basin. Mr. Kestner explained that a stormwater basin will need to be constructed somewhere along the proposed road, and then a stormwater management plan must show where the water goes from there. Mr. Kestner explained that the stormwater report should show the various catch basins for the project, and show where the water is going to meet SPDES requirements. Mr. Kestner explained that the State is taking a more proactive enforcement of the stormwater regulations, and the Town will be required to ensure compliance in its site plan and subdivision reviews. Member Czornyj inquired how many driveways will come off the cul-de-sac. Mr. Eddy expressed a concern as to where snow should be plowed on the cul-de-sac. Mr. Kestner explained that he would look into how the cul-de-sac should be designed to accommodate the snow plowing, and then the applicant will provide the details in the stormwater report. A discussion was held regarding the basin placement and drainage options

with respect to the cul-de-sac (i.e. need a place to stack snow, if the snow is stock-piled in the middle of the cul-de-sac). Ms. Stancliff reported that the next requirement for the Applicant was to get onto the site to perform test pits for proposed septic systems, and also to drill either one or two wells for purposes of determining yield for potable water. Ms. Stancliff stated that once the site information was collected, then final locations for proposed septic systems can be designed, and then in turn the Stormwater Management Plan can be prepared based on anticipated site construction activities. Ms. Stancliff also reported that the proposed house locations on the preliminary plat are preliminary only, subject to change based on the site specific information for septic and wells. Ms. Stancliff requested that the public hearing be scheduled in connection with the subdivision application. Chairman Malone and Mr. Kestner stated that the Applicant should have its Stormwater Management Plan prepared prior to scheduling the public hearing, as members of the public would be interested in how the stormwater and drainage would be handled. Also, Member Wetmiller and Member Czornyj stated that the Applicant should figure out what ultimately is being done with the pond on site, as that would most likely be an issue at the public hearing as well. Ms. Stancliff stated that she would be able to have that information prepared and submitted to the Board for its review at the April 1 meeting, and would then like the public hearing scheduled for April 15. Chairman Malone stated that the Board would review the supplemental information at its April 1 meeting, and then determine whether the application was in a form ready for public hearing. This matter will be placed on the agenda for the April 1 meeting for further discussion.

The next item of business on the agenda was the waiver of subdivision application by MARJORIE RODEN for property located on White Church Road. Appearing on behalf of the Applicant was David Smith, the grandson of Marjorie Roden, who seeks to purchase the lot



sought to be divided off the Roden property under the waiver application. The members of the Board inquired of Mr. Smith as to proposed driveway locations, grades, and projected construction schedules. Further, the Board informed Mr. Smith that more information needed to be set forth on a map for the Board's review on the application, which will include site dimensions, road frontage, lot size, proposed driveway location, proposed well and septic location, all in compliance with the Town's subdivision regulations under the waiver provisions. Chairman Malone noted that the submission did not need to be stamped by a Professional Engineer, but that more information is required for the Board to review than had been submitted by Roden on this application to date. Mr. Smith understood the requirements, and was provided a list of the requirements for waiver applications under the Town's Subdivision Regulations. Upon further discussion, the Board informed Mr. Smith that they did not have any objection to the concept presented, but merely needed more information on a map so that an informed decision could be made. Mr. Smith asked for time to prepare the further submission, since he did not have any immediate construction plans. Mr. Smith inquired whether this matter could be placed on an agenda in a few months, and the Board indicated that this was not a problem. Mr. Smith stated that he would contact Mr. Kreiger when an additional map was prepared, and that this matter would then be placed on an agenda for further action. This matter is adjourned without date.

The next item of business on the agenda was a concept plan for subdivision by RIESER as presented by Harold Berger, P.E. No one was present on behalf of the Applicant, and the matter was adjourned without date.

Three items of new business were discussed.

The first item of new business was a waiver of subdivision application by REGINALD

TEDESCO, for property located on Skyview Road, off Route 142. Mr. Tedesco owns a 4 acre parcel, and seeks to cut off a 1 acre parcel to be transferred to his daughter. A survey is being prepared for the application, and Mr. Tedesco requested that this matter be placed on the agenda for the April 1 meeting. A question was raised as to whether Skyview Road was a Town road, as certain questions arose as to whether the road is an official town road. Mr. Eddy, Superintendent of Highways, reported that the Town has been maintaining Skyview Road over the years, but was not sure whether it was an official town road. Further discussion was held concerning the turn-around at the end of Skyview Road, and whether a turn-around needed to be upgraded in connection with this application. Chairman Malone instructed Mr. Krieger to inform Mr. Tedesco of these issues, and be prepared to discuss these issues at the April 1 meeting.

The next item of new business discussed was a site plan application by Stewarts for its store located off Route 278 and Tamarac Road. Stewarts seeks to provide additional parking at this location. The Planning Board discussed the issue of green space on the site plan, whether the green space met minimum requirements, and that this information needed to be placed on the site plan. Further, Mr. Kestner stated that he could confirm the green space calculations if he is provided a CAD drawing and disc by the Applicant. Member Esser confirmed that the Applicant should provide a CAD disc to Mr. Kestner for this calculation. Member Tarbox inquired as to the location of septic system on this site, and whether this proposed additional parking impacted the septic location. Upon further discussion, Chairman Malone directed Mr. Kreiger to inform the engineer for Stewarts to contact Mr. Kestner concerning site plan map requirements. This matter is tentatively place on the agenda for the April 1 meeting.

The third item of new business discussed was a proposal by LEE KING and GERALD BORNT for the placement of a seasonal vendor cart in the Agway parking lot located on Route

7. This seasonal vendor cart would sell both frozen and prepared food. Appearing concerning this proposal was Lee King. Mr. King explained that a food concession trailer had been designed and built, and that the operation was conducted at the Troy Riverfront Farmers' Market during 2003. For 2004, Mr. King and Mr. Bornt would like the ability to place their mobile food concession trailer in the Agway parking lot for a 3-month period, namely June, July and August. Mr. King stated that electric, water, and wastewater issues would be provided by Agway under an agreement with Agway. The Board had many questions concerning this proposal. Chairman Malone noted that since this was a proposed change of use for this parking lot area, a site plan, at a minimum, would be required. Further, the Planning Board recalled that the Agway site plan was approved after a PDD was approved by the Town Board, and putting a food concession trailer in the parking lot raises questions about compliance with the approved PDD. Further, the proposal raises issues concerning traffic and safety, whether the area devoted to food concession would impact the required number of parking spaces for the Agway Store, whether the septic system designed for the Agway store was sufficient for this type of food concession, how the electric and water service would be run from the Agway store to a food concession trailer located in the parking lot, and several issues concerning compliance with Rensselaer County Health Department regulations for food service as well as water and septic. The Board recognized the primary issue to be compliance with an approved PDD, and referred Mr. King to the Town Board and Attorney Cioffi to confirm whether this type of use is even permitted under the approved PDD for this location. This matter is therefore adjourned without date before the Planning Board.

The minutes of the March 4, 2004 meeting were reviewed. Upon motion of Member Czornyj, seconded by Member Tarbox, the Minutes of the March 4, 2004 meeting were approved as written (7-0 vote).

The **index** for the March 18, 2004 meeting is as follows:

1. Rensselaer Honda - site plan - adjourned without date;
2. Bragin - major subdivision - 4/1/04;
3. Roden - waiver of subdivision - adjourned without date;
4. Rieser - subdivision concept plan - adjourned without date;
5. Tedesco - waiver of subdivision - 4/1/04;
6. Stewarts - site plan - 4/1/04; and
7. King/Bornt - site plan - adjourned without date.

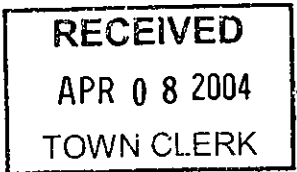
The proposed agenda for the April 1, 2004 meeting is as follows:

1. Bragin - major subdivision;
2. Tedesco - waiver of subdivision;
3. Stewarts - site plan; and
4. Pollock - site plan.

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809



## MINUTES OF THE PLANNING BOARD MEETING HELD April 1, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, KEVIN MAINELLO, RUSSELL OSTER, DAVID TARBOX and JOSEPH WETMILLER.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the major subdivision application of BRAGIN, property owner and PIGLIAVENTO BUILDERS. Appearing on behalf of the Applicant was Linda Stancliff of Erdman Anthony. This project is located off Route 351. Ms. Stancliff explained certain revisions which have been made to the subdivision plat, including minor relocation of the cul-de-sac to better align with topography; an increase in diameter of the cul-de-sac from 60' to 65' for increased snow storage, while maintaining a grass median for a more residential appearance; the relocation of homes on some of the lots to meet the 150' private driveway limitation; and placement of a number of catch basins, culverts, and detention basins for purposes of stormwater management. Ms. Stancliff has prepared a Stormwater Management Report, which analyzes the one-year, ten-year, and one hundred-year storm events. This report has been provided to Mark Kestner for his review. Ms. Stancliff explain in a general sense the Stormwater Report, concluding that the one-year storm event will generate surface water that will be retained on-site, and that the ten-year and one hundred-year storm events will generate surface water which will be temporarily retained on-site in detention basins and then discharged

off-site through existing and proposed drainage features. Mr. Kestner stated that he had reviewed the revised plat, but that he had just received the Stormwater Report and needs the opportunity to review the stormwater calculations. Mr. Kestner raised the issue of what party will own and maintain the stormwater facilities proposed on site, including culverts and detention basins, specifically whether it will be owned and maintained by the Town or privately owned and maintained by the property owner with the Town receiving an easement. This issue will need to be addressed before final action on the subdivision plat. Member Wetmiller inquired as to the use of the existing on-site pond. Ms. Stancliff explained that the on-site pond already has an existing overflow area, and that the on-site pond will be used as temporary storage during the ten-year and one hundred year storm event. Ms. Stancliff explained that there are a total of three proposed drainage systems from this location, two of which discharge to the Quackenkill Creek through existing water courses, and the third flowing toward Route 351 using existing storm culverts. The Board again discussed the issue of ownership and maintenance of the stormwater detention facilities, including issues of expense for maintenance. This matter is scheduled for a Public Hearing for April 15, 2004 at 7:15 p.m.

The next item of business on the agenda was the waiver of subdivision application by TEDESCO for property located on Skyview Drive. Appearing on behalf of the Applicant was Mrs. Tedesco, Lisa Cellucci, and Mark Danskin. Mrs. Tedesco owns approximately 3.5 acres at the end of Skyview Drive, and seeks to have approximately one acre divided off to transfer to her daughter Lisa Cellucci. Member Czornyj recused himself from action on the application as he owns property adjacent to the proposed subdivision. Member Czornyj did comment that he had concerns regarding the location of water and septic on the proposed lot in relation to his property,

and that a minimum of 200' separation is required between any proposed septic system and his well location. Member Czornyj also had concerns about drainage onto his property, as well as an area of discarded items on or near the location of the new proposed lot. Mr. Danskin acknowledged the separation requirements for the location and design of a new septic disposal system on the proposed new lot, and that the same would be designed accordingly. Chairman Malone raised the issue of whether Skyview Drive is a public road or private road. This issue must be clarified since Skyview Drive is a single lane dirt road which is not in compliance with current Town road specifications. In the event it is determined that Skyview Drive is a private roadway, the application will present the situation of a proposed residential lot without direct access to a public roadway in violation of current Town regulations. Mr. Danskin handed up to the Board certain information on the status of Skyview Drive, including historic maps, a hand written letter (undated), as well as the deed into Tedesco from 1987. Further, Mr. Danskin stated that the Town has been maintaining Skyview Drive for quite some time, including plowing during the winter. In addition, the Town recently constructed a turn-around area at the end of Skyview Drive with the permission of the adjacent property owner, Torian. It does not appear that the road that was ever dedicated or deeded to the Town. This issue must be thoroughly researched, including factual investigation and legal research, before the application may be acted upon. This matter is tentatively placed on the agenda for further discussion at the April 15, 2004 meeting, subject to the investigation concerning the status of Skyview Drive.

The third item of business on the agenda was a site plan application by STEWARTS for its store located at 2 Brick Church Road. Appearing on behalf of the application was Tom Lewis, real estate manager for Stewarts. Mr. Lewis explained that Stewarts originally proposed the addition of a gas island at this location in an effort to relieve the traffic congestion and

stacking of cars at the gas pumps. That application was submitted to the Zoning Board of Appeals, which denied the application but conceded that traffic congestion at this location was a problem. Accordingly, Stewarts has submitted a site plan application to the Planning Board with a proposed plan for additional parking. Under the submitted site plan, as explained by Mr. Lewis, Stewarts proposed to add additional angled parking areas to the east of the existing gas pump island proximate to Tamarac Road and Route 278. The proposal was to reduce the green space area in the front of the store to provide for additional parking. The additional parking spaces were each 9'x18', designed to be angled parking. Mr. Kestner stated that he had visited the site, and found that under the proposed angled parking, people backing out of these parking spots would interfere with the traffic flow at the gas pumps. Alternatively, Mr. Kestner stated that cars were currently parking in this area in a parallel parking fashion, and did not appear to be interfering with traffic flow at the gas pump. Mr. Lewis stated that they had looked at several options for additional parking, including parallel parking in front of the gas pumps. However, Mr. Lewis stated that to provide additional area for such parallel parking, additional green space needed to be removed so that the total green space for the site fell below 35%. Chairman Malone noted that this was a very difficult site because of a lack of parking area, and given the difficulty of the site, the site plan regulations do allow a variance to the 35% green space requirement on a case by case basis. Upon further discussion, the Board deemed the alternate of parallel parking as opposed to angled parking to be preferable, even though the green space fell below 35%. Mr. Lewis was directed to have a revised site plan prepared depicting the parallel parking, and Mr. Kestner also requested that the site plan include contours, drainage, and new landscaping proposal. Mr. Lewis stated that the revised site plan would be prepared and submitted initially to Mr. Kestner for review. This matter has been tentatively placed on the agenda for the May 6,



2004 meeting, subject to completion of the site plan by the Applicant.

The next item of business on the agenda was the site plan application of POLLOCK for the BRUNSWICK PLAZA. The Applicant has requested that this matter be adjourned until the April 15, 2004 meeting.

Four items of new business were discussed.

The first item of new business discussed was waiver of subdivision application by KEN and JODI MAXWELL for property located at 617 Tamarac Road. Maxwell currently owns 39.1 acres at this location, and is building a house on it. Maxwell seeks to have the house and 4.5 acres divided off the 39.1 acres for homestead purposes. Both the new proposed lot, plus the remaining lands of Maxwell have sufficient road frontage and sight distances on Tamarac Road. This matter will be placed on the agenda for the April 15, 2004 meeting.

The second item of new business discussed was a waiver of subdivision application by HENRY REISER for property located at 176 Town Office Road. Mr. Reiser was in attendance. Mr. Reiser owns approximately 67 acres at this location, and seeks to divide 2.5 acres and transfer the same to the adjacent property owner, Meskoskey, who resides at 168 Town Office Road. Meskowskey will then merge the 2.5 acres into his existing parcel, thereby not creating an additional building lot. Upon further discussion, the Members of the Board were prepared to act upon the application. Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Chairman Malone. The motion was approved 7-0, and a negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the waiver of subdivision application subject to the condition that the divided parcel be transferred to the adjoining property owner Meskowskey, and that Meskowskey merge the 2.5 acre parcel into his existing parcel, and further submit the revised deed to the Planning Board showing that the

divided parcel has been merged into his existing lot. Member Oster seconded that motion subject to the state condition. The motion was carried 7-0, and the waiver of subdivision approved subject to the stated condition.

The third item of new business discussed was a waiver of subdivision application by JOSEPH MCMANN, 996 Tamarac Road. Mr. McMann seeks to divide less than .25 acre from his existing parcel, and transfer the same to his adjoining property owner, Ann Marie Juneau, 1004 Tamarac Road. Ms. Juneau has constructed a driveway, a portion of which was mistakenly constructed on property of McMann due to very irregular property lines. McMann seeks to divide a small portion of his property for transfer to Juneau to correct this situation. Upon review, the Board determined that the subdivision plan should be amended to include an additional small triangular piece of property to be transferred by McMann to Juneau to even out the property line, and directed Mr. Kreiger to have the Applicant make such amendment to the proposed subdivision. This matter will be placed on the agenda for action at the April 15, 2004 meeting.

The fourth item of new business discussed was a waiver of subdivision application by MOODY for property located on Garfield Road. This matter will be placed on the April 15, 2004 agenda for further action.

The proposed minutes of the March 18, 2004 meeting were reviewed. Upon motion of Member Czornyj, seconded by Member Esser, the Minutes were approved as written by a 7-0 vote.

The **index** for the April 1, 2004 meeting is as follows:

1. Bragin - major subdivision - 4/15/04;
2. Tedesco - waiver of subdivision - 4/15/04;
3. Stewarts - site plan - 5/6/04;
4. Pollock - site plan - 4/15/04;
5. Maxwell - waiver of subdivision - 4/15/04;
6. Rieser - waiver of subdivision - approved with condition;
7. McMann - waiver of subdivision - 4/15/04; and
8. Moody - waiver of subdivision - 4/15/04.

The proposed agenda for the April 15, 2004 meeting is currently as follows:

1. Bragin - major subdivision - Public Hearing;
2. Tedesco - waiver of subdivision;
3. Pollock - site plan;
4. Maxwell - waiver of subdivision;
5. McMann - waiver of subdivision; and
6. Moody - waiver of subdivision.

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809

## NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN** that a public hearing will be held by the Planning Board of the Town of Brunswick to be held on Thursday, April 15, 2004, at 7:15 p.m. at the Brunswick Town Hall, 308 Town Office Road, Brunswick, New York, to review the subdivision plat submitted by Pigliavento Builders for property owned by William and Nancy Bragin, pursuant to Article VI of the subdivision regulations of the Town of Brunswick, relative to a proposed 12-lot subdivision of property located off Route 351, immediately south of Route 2. Copies of the subdivision plat and related application materials are available at the Brunswick Town Hall, and are available for public inspection during regular business hours. All interested persons will be heard at the public hearing.

DATED: April 5, 2004  
Brunswick, NY

THE PLANNING BOARD OF THE  
TOWN OF BRUNSWICK  
By: Shawn Malone, Chairman

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809

RECEIVED

APR 28 2004

TOWN CLERK

## MINUTES OF THE PLANNING BOARD MEETING HELD April 15, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, KEVIN MAINELLO, RUSSELL OSTER, and DAVID TARBOX.

ABSENT was JOSEPH WETMILLER.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

A Public Hearing was held on the major subdivision application of PIGLIAVENTO BUILDERS for property owned by WILLIAM and NANCY BRAGIN; located off Route 351 south of Route 2. Attorney Gilchrist read the Notice of Public Hearing into the record. Appearing on behalf of the Applicant was Linda Stancliff, of Erdman Anthony. Ms. Stancliff presented an overview of the project, explaining the lot layout, road system, and stormwater management features. Chairman Malone then accepted comments from interested members of the public. Sandy Monahan, 161 White Church Road, explained that her property is adjacent to the proposed subdivision site. Ms. Monahan questioned how 12 lots could be fit on this property when, on a prior 3-lot subdivision application for the same property, the Board had said the topography of this site was not conducive to additional development. Ms. Monahan also stated that the additional 12 lots were not consistent with the rural character of the area, and this was not consistent with the Town's overall planning goal of maintaining the Town's rural nature. Ms. Monahan also noted that traffic was a concern on Route 351. Chairman Malone commented that the current Phase II Stormwater Management Regulations require much more extensive

stormwater management on this site, which could support additional building lots on the property. Mr. Kestner stated that the Stormwater Management Plan submitted on the application shows a total of 5 stormwater catchment areas, and that 4 out of 5 of these catchment areas reduce stormwater runoff after construction, and that the 5<sup>th</sup> catchment area increases runoff only slightly. Mr. Kestner also stated that the proposed road in the subdivision does meet Town standards. Monique Duvall, 185 White Church Road, inquired whether any of these divided lots could be resubdivided to increase the density. Attorney Gilchrist stated that subdivided building lots are generally not able to be resubdivided, and that a potential resubdivision usually occurs when one large parcel remains after initially subdividing a smaller area on the property, almost in the nature of a phased subdivision. Attorney Gilchrist also noted that a condition could be placed on subdivision approval eliminating any future subdivision of any lot. Member Oster also stated that the Town has a limit on the number of lots off a cul-de-sac road of 12 lots, and that this proposal was for the full 12 lots. Ms. Duvall also asked whether any buffer around the perimeter of this site would be maintained so that there would be a vegetative buffer between this subdivision and the current homes surrounding the site. Chairman Malone noted that there was no restriction on a lot owner from cutting down trees on his lot, but that an appropriate buffer could be established as a condition to subdivision approval. Robert Duvall, 185 White Church Road, inquired as to the Stormwater Management Plan, noting that the creek near this site leading to White Church Road always overflows in the spring, and could not handle any more water. Ms. Stancliff responded that the flooding condition of which Mr. Duvall speaks is already an existing condition, and that under the project's proposed Stormwater Management Plan, new retention basins will actually improve conditions by holding water back on this site. Sandy

Monahan, 161 White Church Road, inquired whether the Applicant would merely be selling lots, or building homes on the site. Mike Pigliavento of Pigliavento Builders responded that his company would be constructing homes on the sites, and that one spec house would be built nearest Route 351, and that the balance of the homes on the site would be built only when they went to contract. Mr. Pigliavento also noted that he does not clear cut his building lots, and only clears for a 30' envelope around the house. Hearing no further comments, Chairman Malone closed the public hearing on the Pigliavento major subdivision application.

Chairman Malone then opened the meeting for regular business.

The first item of business on the agenda was the major subdivision application of PIGLIAVENTO BUILDERS for property owned by WILLIAM and NANCY BRAGIN. Ms. Stancliff noted that an amendment needs to be made to the Environmental Assessment Form, since this property is within 500' of an Agricultural District. Ms. Stancliff handed up to the Board an Agricultural Data Statement as well. This Statement will be sent to the owners of the agricultural property within 500' of this project. Mr. Kestner stated that he had a chance to further review the plans, and that he is requiring a wetland delineation on proposed Lot #1; the road entrance of Route 351 needs to be referred to the New York State Department of Transportation for comment; the downstream culvert under the Bragin and Wingate properties along Route 351 needs to be further investigated; the proposed Stormwater Management Plan does conflict in part with the proposed septic plan, and that Erdman Anthony will need to amend the plans accordingly; the proposed stormwater management features should be extended within each building lot to go farther to the rear of the properties behind the proposed homes in order to eliminate any wet conditions around the building footprints; an existing 60' right-of-way on the Bragin property creates a concern, as it may create another building lot. On that issue, Mr.

Kestner stated that a 60' right-of-way does present a question, and possibly that needs to be merged into the remaining lands of Bragin. This issue needs to be further examined by the Applicant and the Board. Mr. Kestner also stated that the proposed depths of water in the retention ponds on site are approximately 3' to 4' , and such depths may be too high; as an alternative, the Applicant may need to enlarge the ponds in order to decrease the depth of water in them. Ms. Stancliff indicated that the application materials and plans will be revised accordingly, and further that Erdman Anthony will be obtaining site specific information concerning soils and groundwater as well. This matter has been tentatively placed on the agenda for further discussion for the May 6<sup>th</sup> meeting, subject to receipt of revised plans by the Applicant.

The next item of business on the agenda was the waiver of subdivision application by TEDESCO for property located on Skyview Drive. In attendance on behalf of the Applicant was Mark Danskin. The issue remaining on this application is the status of Skyview Drive as a public road. Mr. Danskin confirmed that upon review of records at the Rensselaer County Clerk's Office, there has been no transfer of a deed by a prior or current owner to the Town of Brunswick of the road bed. Attorney Gilchrist discussed generally the issue of the creation of a public highway by use under the New York Highway Law, and that this matter needs to be further analyzed in consultation with the Town Attorney. This matter has been tentatively placed on the May 6, 2004 agenda subject to consultation with the Town Attorney.

The next item of business on the agenda was the site plan application of ROBERT POLLOCK relative the BRUNSWICK PLAZA EAST (Marketplace). Appearing on behalf of the Applicant was Greg Beswick, as well as Robert Pollock. Mr. Beswick explained that a drainage plan, lighting plan, and landscaping plan has been submitted to support the application.



It was noted that this application has already been forwarded and reviewed by the Rensselaer County Department of Economic Development & Planning, which concluded that local considerations shall prevail. Mr. Beswick explained that the Applicant seeks to have seasonal display at the Pollock store currently located in the front of the building along Route 7, moved to the easterly sidewalk along the building. The Applicant seeks to do this since the seasonal display area in the front parking lot will be replaced by additional parking. Chairman Malone noted that any seasonal display items need to be kept away from all entrances and emergency doors for safety purposes, and that pedestrians have free access from the building in case of emergency. Member Esser inquired as to the width of the sidewalk along the Pollock store. Mr. Beswick stated that the sidewalks are 10' wide. Member Esser stated that any seasonal display should be limited to a width of 5', which then allows a 5' walk area for pedestrians. Member Oster noted that some items of display already exist along the sidewalk on the side of the Pollock store, and saw no problem with allowing reasonable extension of seasonal display in that area. Member Tarbox noted that this should be limited to seasonal display items, not permanent storage areas. Mr. Kestner generally reviewed the Stormwater Management Plan submitted on the application. Mr. Kestner further inquired concerning the elevation of the proposed Phase II building located between the existing Pollock Store and McChesney Avenue. Mr. Beswick stated that the finished floor elevation of the Phase II building will be below the elevation of McChesney Avenue, and that the Applicant was designing the roof of this building in an effort to cover all HVAC units so they would not be visible from McChesney Avenue. These plans are still being prepared. Mr. Kestner inquired as to loading areas to the rear of the Phase II building along McChesney Avenue. Mr. Beswick explained that there will be a maximum of five tenants in this proposed building and that five doors will exist to the rear of that proposed Phase II

building along McChesney Avenue, and that a road would not be built behind this building but rather be limited to a 3' sidewalk for a better appearance from McChesney Avenue. Mr. Beswick also noted that all internal intersections on the site plan will have stop signs for appropriate traffic flow. On that issue, Member Esser noted that parking in front of the proposed Phase I-A building presents a potential safety issue with people backing out near one of the internal intersections. Member Esser suggested that the elimination of a few parking spaces in that area may eliminate the problem. Mr. Beswick responded that the Applicant did not want to lose any parking spaces in that area, but rather would want the opportunity to further examine traffic flow issues in that area and come up with an alternate proposal for the Board. Mr. Kestner also noted that the sewer tie-ins must be shown on the site plan. The issue of holding a public hearing was discussed. It was the consensus of the Board that a public hearing should be held on this application, and has tentatively been scheduled for the May 20 meeting. This matter will also be placed on the May 6 agenda for further discussion concerning revisions to the plan to be prepared by Mr. Beswick.

The next item of business on the agenda was a waiver of subdivision application by KENNETH MAXWELL for property located at 617 Tamarac Road. Maxwell currently owns 39.1 acres at this location, and is building a house on it. Maxwell seeks to have the house and 4.5 acres divided from the remaining 39.1 acres for homestead purposes. Both the new proposed lot, plus the remaining lands of Maxwell, have sufficient road frontage and sight distances on Tamarac Road. This property is located within 500' of an Agricultural District. The owner of the property within the Agricultural District is Herrington Farms. Philip Herrington was in

attendance at the meeting, and noted that he has no objection to the proposed subdivision waiver. Upon further discussion, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Oster. The motion was approved 6-0, and a negative declaration adopted. Member Tarbox then made a motion to approve the waiver of subdivision, which motion was seconded by Member Esser. The motion was approved 6-0, and the waiver of subdivision approved.

The next item of business on the agenda was the waiver subdivision application by JOSEPH MCMANN, 996 Tamarac Road. Mr. McMann seeks to divide .14 acres from his existing parcel, and transfer the same to his adjoining property owner, Anne-Marie Juneau, residing at 1004 Tamarac Road. Anne-Marie Juneau was in attendance. In constructing her home, Ms. Juneau's contractor mistakenly constructed a part of her driveway on the property of McMann due to very irregular property lines. McMann seeks to divide a small portion of his property for transfer to Juneau to correct this situation. Upon further discussion, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Oster. The motion was approved 6-0, and a negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the waiver of subdivision application conditioned on the merger of the .14 acre of parcel into the existing parcel of Juneau. This motion was seconded by Member Oster. The motion was approved 6-0, and the waiver of subdivision application approved with the stated condition.

The next item of business on the agenda was the waiver of subdivision application by MOODY for property located on Garfield Road. This property was the subject of a prior

subdivision, where one area was left off the MOODY parcel until it had been tested by an environmental consultant, given the existence of an above-ground oil tank on the property. The oil tank has been removed, and the site was tested. It was determined by the retained environmental consultant that the site did not have any oil contamination. Accordingly, MOODY seeks to have that parcel also added to his lot. Upon further discussion, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Tarbox. The motion was approved 6-0, and a negative declaration adopted. Member Esser then made a motion to approve the waiver of subdivision subject to the condition that the divided lot be merged into Moody's existing parcel. With the stated condition, Member Oster seconded the motion. The motion was approved 6-0, and a waiver of subdivision application approved with the stated condition.

The next item of business on the agenda was a concept site plan by GALLIVAN for property located at 215 Oakwood Avenue. Mr. Gallivan discussed a concept site plan which showed the addition of a building to the rear of this commercial site to house an auto shop. The Planning Board generally discussed the application, and had no significant objection to the proposal. However, the Board did inquire of Mr. Gallivan as to the status of completion of the landscaping on the property which was required under the site plan for this site. Mr. Gallivan confirmed that some of the landscaping had been completed but not all. The Board indicated that the completion of the landscaping plan on his existing site plan should be addressed in connection with this proposed site plan. Mr. Gallivan did not object. Mr. Gallivan will now have a formal site plan prepared for the application, and this matter has been tentatively placed

on the May 6 agenda subject to the receipt of the site plan.

The next item of business on the agenda was the waiver of subdivision application for SAND CHERRY HILL subdivision Lots 7 and 8. Appearing on behalf of the applicant was James Dunn of Scarano Dunn Associates. This application seeks to adjust a lot line between Lots 7 and 8 of Sand Cherry Hill subdivision. This matter had been discussed some time ago, and adjourned pending review by the Army Corps of Engineers concerning federal wetland issues. In the interim, the Army Corps of Engineers determined that no federal jurisdiction exists on the site, and the subdivision map has been corrected to show the proposed modified lot line between Lots 7 and 8. The issue concerning the escrow for the road in this subdivision was discussed. Attorney Gilchrist explained that the Applicant had two options: first, the escrow could be released when the road had been built and accepted by the Town; or second, the escrow will remain in place as a condition of any additional building permits for the project. Upon further discussion, Member Oster made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Czornyj. The motion was approved 6-0, and a negative declaration adopted. Member Czornyj then made a motion to approve the waiver of subdivision subject to the condition that the escrow for road construction be maintained, which motion was seconded by Member Tarbox. The motion was approved 6-0, and a waiver of subdivision application approved subject to the stated condition.

The next item of business on the agenda was a waiver of subdivision application by HEWITT for property located on Fitting Lane. Hewitt owns approximately 120 acres on Fitting Lane, and seeks to divide 6.55 acres for transfer to John Olden for purposes of constructing a home. An issue concerning whether Fitting Lane was a public or private road was also raised on

this application and the matter has been adjourned subject to consultation with the Town Attorney. This matter has been tentatively placed on the agenda for further action at the May 6 meeting.

The Planning Board inquired of Mr. Kreiger whether any amended site plan application had been submitted by DUNKIN DONUTS. Mr. Kreiger confirmed that an application for an amended site plan approval had not been submitted, although he had been contacted by the engineer for the project shortly after Mr. Kreiger had sent him a note concerning the issue. The temporary Certificate of Occupancy for this location expires June 1, 2004. This matter will continue to be monitored by the Planning Board.

Two items of new business were discussed.

The first item of new business was an application for a waiver of subdivision has been submitted by CINDY WILSON for property located at 80 Carols Grove Road. This matter will be placed on the May 6<sup>th</sup> agenda, subject to receipt of full plans in support of the application.

The second item of new business discussed was the site plan application of MATT DONLON for property located at 718 Hoosick Road. Mr. Donlon seeks to have a Nextel store as his tenant in the space formerly occupied by Jessie James Tatoo. This matter will be placed on the May 6<sup>th</sup> agenda, pending receipt of a full site plan application.

The Board reviewed the proposed minutes of the April 1, 2004 meeting. Upon motion of Member Oster, seconded by Member Czornyj, the Minutes were approved as written by a vote of 6-0 vote.

The **index** for the April 15, 2004 meeting is as follows:

1. Pigliavento Builders - major subdivision - 5/6/04;
2. Tedesco - waiver of subdivision - 5/6/04;
3. Pollock - Brunswick Plaza East site plan - 5/6/04;
4. Maxwell - waiver of subdivision - approved;
5. McMann - waiver of subdivision - approved with condition;
6. Moody - waiver of subdivision - approved with condition;
7. Gallivan - site plan - 5/6/04;
8. Sand Cherry Hill Subdivision - waiver of subdivision - approved with condition;
9. Hewitt - waiver of subdivision - 5/6/04;
10. Dunkin Donuts - amended site plan - adjourned without date;
11. Wilson - waiver of subdivision - 5/6/04; and
12. Donlon - site plan - 5/6/04.

The proposed agenda for the May 6, 2004 meeting is currently as follows:

1. Pigliavento Builders - major subdivision;
2. Tedesco - waiver of subdivision;
3. Pollock - Brunswick Plaza East site plan;
4. Gallivan - site plan;
5. Hewitt - waiver of subdivision;
6. Wilson - waiver of subdivision; and
7. Donlon - site plan.

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809

RECEIVED

MAY 18 2004

CLERK

## MINUTES OF THE PLANNING BOARD MEETING HELD May 6, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, JOSEPH WETMILLER, RUSSELL OSTER, and DAVID TARBOX.

ABSENT were FRANK ESSER and KEVIN MAINELLO.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the major subdivision application of PIGLIAVENTO BUILDERS for property owned by WILLIAM and NANCY BRAGIN located on Route 351. Appearing on behalf of the Applicant was Linda Stancliff of Erdman Anthony. Ms. Stancliff explained that a wetlands delineation had been completed for the project, and that approximately one (1) acre of federal wetlands under the jurisdiction of the U.S. Army Corps of Engineers exists in an area of this project near Route 351, resulting in the reconfiguration of the subdivision from 12 lots to 11 lots. The Applicant has also changed the configuration of proposed ponds on site for stormwater detention. The Applicant acknowledges that an existing 60' right-of-way on the remaining lands of BRAGIN will be merged through deed merger into the remaining lands of BRAGIN such that the 60' right-of-way will be extinguished. Ms. Stancliff also explained that compliance with the nationwide general permit for construction activities will be completed and submitted to the Army Corps of Engineers. Further, Ms. Stancliff explained that the application for a curb cut will immediately be submitted to the New York State Department of Transportation ("NYSDOT"), and that the NYSDOT approval will be



coordinated with the Planning Board review of the subdivision. Ms. Stancliff also has prepared a revised Full Environmental Assessment Form noting the NYSDOT permit requirement as well as the federal wetlands compliance issues. Chairman Malone inquired of Mr. Kestner whether he had a chance to review the revised plans. Mr. Kestner confirmed that he had met with Ms. Stancliff to review the plans and offered the following comments. First, Mr. Kestner thought additional rip-rap was required around the ponds for construction purposes. Next, Mr. Kestner stated that one access point from the on-site ponds needed to be constructed for safety, in terms of a gentle slope, which would allow a child to easily walk out of the pond area. Next, Mr. Kestner opined that the stormwater swales proposed for that site be lengthened so that no stormwater run-off would impact the existing homes surrounding this property. Mr. Kestner confirmed that NYSDOT notification was required. Mr. Kestner reviewed with the Board the proposed lot reconfiguration due to the presence of federal wetlands, which reduced the total number of lots from 12 to 11. Member Czornyj inquired whether the NYSDOT approval process needed to be completed before the Planning Board could act on the subdivision application. Attorney Gilchrist responded that the Planning Board could require NYSDOT approval prior to acting upon the subdivision application, or in the alternative, any action on the subdivision application could be expressly conditioned upon NYSDOT approval and no building or grading permits should be issued by the Town until such NYSDOT approval was acquired. Mr. Kestner confirmed that NYSDOT would like to be able to comment on the proposal prior to any approval by the Planning Board, so that he would recommend no action by the Board on the application until such time as NYSDOT has addressed the curb-cut application. Chairman Malone inquired as to the status of the Town's policy on future ownership and maintenance of stormwater

detention facilities planned for this project. Attorney Gilchrist reviewed this issue, explaining that the Town Board would be considering this issue further at its next Town Board meeting. Member Oster inquired whether any further resubdivision of any lot on the subdivision is planned, since local law allows a total of 12 lots off a cul-de-sac, and this proposal has now been reduced to 11 lots. Ms. Stancliff responded that while theoretically a total of 12 lots could be established off this cul-de-sac, she had analyzed this plat in terms of location of potential lots, houses, wells, septic, as well as grading issues, and compliance with necessary lot size and setbacks, and concluded that there was no room on this site for an additional lot. Member Czornyj concluded that while the subdivision regulations might allow an additional lot, site limitations did not allow a twelfth lot on the site. Ms. Stancliff concurred with that conclusion. Chairman Malone inquired whether any of the Board members had any additional questions on the application. Hearing none, Chairman Malone inquired of Mr. Kestner whether all the issues he had raised had been adequately addressed. Mr. Kestner confirmed that the issues he had raised had been adequately addressed by the Applicant, but that the issues of NYSDOT approval and stormwater management facilities remained opened and needed to be resolved prior to any action by the Board on the application. Chairman Malone inquired whether the Highway Superintendent had been satisfied in terms of the road layout. Mr. Kestner confirmed that Mr. Eddy had been consulted, and that the Applicant had already redesigned the road layout to address Mr. Eddy's comments. Chairman Malone reviewed with Ms. Stancliff the necessity of filing a bond for road construction costs as a condition to any subdivision approval and as a condition to the issuance of any building permits. Ms. Stancliff understood this requirement and would review that with the Applicant. Chairman Malone confirmed that the Planning Board needed further communication from the Town Board in terms of future ownership and

maintenance of the Stormwater Management Facilities, and to further confirm that the Applicant would be contacting NYSDOT in terms of curb cut approval for the proposed road. This matter has been placed on the agenda for the May 20 meeting for further action.

The next item of business on the agenda was the waiver of subdivision application by TEDESCO for property located on Skyview Drive. Appearing on behalf of the Applicant was Mark Danskin. Chairman Malone raised the issue of the status of Skyview Drive as a public roadway, and requested Attorney Gilchrist to review the issue. Attorney Gilchrist stated that an investigation into the matter has been conducted, and the maintenance of Skyview Drive by the Town of Brunswick, principally in terms of snow plowing, gravel, construction of ditches, tree trimming, and construction of a turn-around area at the end of Skyview Drive, has occurred for a total period in excess of 10 years, and therefore Skyview Drive constitutes a public highway by use under the New York Highway Law. Further, Attorney Gilchrist stated that the Highway Law provides that the public has an easement over the traveled way, and the extent of that easement is only over those areas actually used and maintained by the public. Further, Attorney Gilchrist stated that the law provides the title to the roadbed remains in the private property owner, here Torian. However, the law does provide that the public easement over the roadbed constitutes a public highway by use, and therefore the Tedesco property does have frontage on a public highway. Next, Attorney Gilchrist explained that the burden is on the Applicant to show that two lots which comply with all applicable Town regulations can be configured at the end of Skyview Drive, and the Board directed Mr. Danskin to prepare a plan showing the proposed additional lot in a manner consistent with applicable Town standards. Member Oster inquired whether there was adequate area at the end of Skyview Drive where it intersects with the property of Tedesco for the placement of two driveways. Mark Danskin confirmed that he will

start to design those lots and will submit the plan as soon as it is completed. Member Tarbox wanted to confirm that the width of the public highway by use is only on that part of the road actually maintained or used by the public. Attorney Gilchrist stated that it was the legal opinion of the Town that the public easement extends only to the area actually used and maintained by the Town, which in terms of Skyview Drive is as little as 15' in width in some locations. The Board recommended to Mr. Danskin that he meet with Mr. Eddy at the site to determine the full extent of the public road at the end of Skyview Drive as it intersects the lands of Tedesco, so that the appropriate plan for these lots can be made. This matter has been adjourned without date pending submission of a plan by Mr. Danskin.

The next item of business on the agenda was the BRUNSWICK PLAZA EAST site plan application by POLLOCK. Appearing on behalf of the application were Greg Beswick and Robert Pollock. Mr. Beswick handed up the revised site plan and revised Full Environmental Assessment Form for the project. Mr. Beswick also handed up a written narrative reviewing all of the proposed amendments to the site plan. Mr. Beswick reviewed the following changes:

Sheet 4

1. Modified intersection to be 12' wide, one-way in with "One Way" signs and "Do Not Enter" sign.
2. Stop signs at all intersections.
3. Add concrete stairs, 2'-4" sidewalk extension and concrete curb at north end of Home Center.

Sheet 5

1. Sanitary sewer connection for Phase 2 Building to new sanitary manhole SA-42. Applicant met with Jeff Brown, Engineer for DOT, for the reconstruction of NYS Rte 7. Brown said this sanitary sewer is scheduled for installation in September. Town will have to approve this connection and notify NYSDOT so Brown can have the manhole cored.

2. Add additional stub-out at sanitary manhole SA-42. This stub will also need Town approval and Brown will have to be notified so he can have the manhole cored.
3. Add sanitary manhole at rear of Phase 1A Building and add 1¼" PVC (SDR21) force main to storage building for future grinder pump should Applicant decide to put a bathroom in the storage building.
4. Add trench drains at new wall and sidewalk at north end of Home Center.

#### Building Floor Plan and Elevations

1. Floor plan showing potential layout of a maximum of 5 retail spaces.
2. Buildings to have 10' wide EFIS canopies with EFIS gable located as shown. Gable roof will be standing seam metal roofing. Canvas Canopies will be installed over all rear doors.
3. Phase 2 Building will have split face block around entire perimeter; color of block to match Phase 3A Building. Phase 1A Building will have split face block on front and southeast side, with standard block on rear of building; color of split face block to match Home Center Building.
4. Applicant is presently working with Niagara Mohawk to see if they will allow Applicant to construct a Connector Building (400 to 600 s.f.), between the Phase 1A Building and the existing Home Center, over existing electrical and gas utilities. Should NIMO approve this request Applicant will incorporate their requirements in the final site plan and revise the parking calculations accordingly.
5. Applicant is presently obtaining quotes for pre-engineered storage buildings. Applicant does not anticipate that the Storage Building will be larger than the 5,200 s.f. building shown on the site plan. Applicant will incorporate any change in building configuration and/or size on the final site plan.

#### Section "A-A" (McChesney Ave. To Phase 2 Building).

1. Top of building wall - 500.86 which is approximately 6' above the centerline elevation of McChesney Ave. Roof top HVAC units will be hidden as much as possible. In any event, the roof top units will not be

visible as other existing commercial properties in the vicinity of this project.

Storm Water Pollution Prevention Plan (Permit #GP-02-01)

On April 30, 2004, Applicant met at the site with representatives of DEC. Because this project includes new construction, plus "reconstruction" of previously disturbed areas, DEC is presently reviewing the project to determine what the water quality requirements will be for this project. Applicant will incorporate DEC requirements in the final site plan.

Mr. Kestner inquired as to the specific location for the proposed seasonal display at the Pollock Home Center. Mr. Beswick explained that the seasonal display proposed for the entire length of the Pollock Home Center on the east side, with a total width of seasonal display of 5', leaving a 5' sidewalk area for pedestrian traffic. Member Tarbox inquired whether the seasonal display would include items like the pallets of stone, mulch, etc. which are currently be stored on the side of the existing lumber storage building. Mr. Pollock explained that this would be the type of items presented as seasonal display, there will simply be not as much quantity as currently exists on the side of the lumber storage building. Member Tarbox wanted to confirm that this area was for seasonal display only, and not for storage of material. Chairman Malone confirmed that the key issue in terms of the seasonal display was emergency access, and the Board cannot approve a plan which created an unsafe condition either in terms of sidewalk traffic or access to and from the building. Further, Chairman Malone stated that if any seasonal display items were stored in a location outside that depicted on the site plan, the matter would become an enforcement issue, and Mr. Kreiger would need to investigate. Mr. Kestner commented that the use of the split face block on all sides of the proposed Phase 2 Building and on the front and southeast side of the

proposed Phase 1A Building was important from an aesthetic impact perspective. Chairman Malone concurred that issue was important to the Planning Board, and that the appropriate construction materials be used so that a repeat of the problems associated with the Phase 3A Building did not occur. Mr. Kestner confirmed that the proposed elevations of the Phase 2 Building did address the sight line issue from McChesney Avenue, and the issues of the HVAC systems on the roof of the proposed Phase 2 Building had been addressed to the maximum extent practicable. Member Oster inquired whether the minimum green space requirements had been met. Mr. Kestner confirmed that he has independently calculated the green space on the project, and that the minimum 23% green space for the entire project has been met, as well as the minimum green space requirements for each phase of the project. Member Wetmiller inquired whether the proposed connector building between the existing Pollock's Home Center and the proposed Phase 1A Building presented a problem. Mr. Beswick said that if discussions with Niagara Mohawk concluded that the building should not be constructed, it will be eliminated from the site plan. Attorney Gilchrist also confirmed that all issues associated with the preparation of the Stormwater Pollution Prevention Plan with NYSDEC needs to be resolved prior to action on the site plan as well. Chairman Malone reiterated that the Board was pleased that all of the issues raised had been adequately addressed by the Applicant on the site plan revisions, and that the Applicant is on notice that any construction performed under this site plan must be in full compliance with any approved site plan. The Applicant confirmed this, and stated that the construction issues associated with the Phase 3A Building would not be repeated. Upon discussion, the Board concluded that a public hearing on this site plan would be

appropriate, and scheduled that public hearing to be held on May 20 at 7:15 p.m.

The next item of business on the agenda was the site plan application of SEAN GALLIVAN for property located at 215 Oakwood Avenue. Mr. Gallivan handed up a site plan as well as a schematic of the proposed 30'x40' addition to the existing auto repair shop on the site. Mr. Gallivan generally reviewed the site plan, which showed compliance with required parking spaces, as well as minimum green space. The proposed roof line of the addition is consistent with the existing building, and lighting will be consistent with the existing building. Mr. Gallivan has depicted a total construction area on the existing site plan for the construction of the proposed addition, without any activity outside the area depicted. This application has been made by Mr. Gallivan because his existing tenant in the auto repair shop needs more space, and Mr. Gallivan wants to expand the existing building for that use. Member Wetmiller inquired as to the location of the septic field on the site, and whether the addition would have any impact on that. Mr. Gallivan identified the location of the septic field on the site, which was far removed from the area of the proposed building expansion. Chairman Malone confirmed that no work on automobiles would occur outside the proposed building, with all work occurring within the enclosed structure. Chairman Malone also noted that all landscaping required under the original site plan for this location must be completed by Gallivan as soon as possible. Member Czornyj inquired whether the berm depicted on the original site plan to the rear of the property had been completed. Mr. Gallivan stated that the berm had been constructed, but not fully landscaped according to the original proposal. This landscaping will likewise be completed as soon as possible. Upon further discussion, Member Wetmiller made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Oster. The motion



was carried 5-0, and a negative declaration adopted. Thereupon, Member Oster made a motion to approve the site plan for the proposed building expansion, which motion was seconded by Member Wetmiller. The motion was approved 5-0, and the site plan approved.

The next item of business on the agenda was the waiver of subdivision application by HEWITT for property located on Fitting Lane. No one appeared on behalf of the Applicant, and this matter was adjourned without date.

The next item of business on the agenda was a waiver of subdivision application submitted by CINDY WILSON for property located on Carrols Grove Road. Ms. Wilson currently owns 7.44 acres on which one residential unit sits. Ms. Wilson seeks to divide the property into a 2.18 acre parcel on which the residential unit sits, and transfer that to her brother. Ms. Wilson then will retain a 5.26 acre parcel which houses a pole barn, and on which she will construct a new home. While there is adequate frontage for each lot on Carrols Grove Road, Member Wetmiller raises the issue of adequate sight distance for a driveway on each lot onto Carrols Grove Road. Mr. Kestner will review the issue of sight distances in that location. Further, it is determined that this property is within an Agricultural District, and therefore an Agricultural Data Statement needs to be prepared and forwarded to owners of property within the Agricultural District for this non-agricultural use of property. The Applicant will prepare the Agricultural Data Statement, which will then be forwarded to the relevant property owners. This matter has been placed on the agenda for further action at the May 20 meeting.

The next item of business on the agenda was the site plan application of MATT DONLON for property located at 718 Hoosick Road. Appearing on behalf of the Application was Matt Donlon and Emil Baker of NEXTEL. Mr. Donlon seeks to have Nextel as a tenant for

his commercial space located at 718 Hoosick Road. Mr. Donlon explained that the existing building will be utilized with no change to the footprint nor parking. The new tenant will utilize the existing sign. Mr. Donlon noted that he had already been in contact with the engineer for NYSDOT on the Route 7 reconstruction project, and discussions about relocation of the sign will be undertaken following the completion of the Route 7 reconstruction project. Member Wetmiller inquired whether any additional traffic would be generated as a result of this tenant. Mr. Baker explained that on average, approximately 30-50 sales occur out of his stores per month, therefore, this is not a high volume use. Mr. Baker has one employee, and therefore only one vehicle for employees in the parking area. Mr. Baker stated that the store would be open on a 6-day week basis. Mr. Donlon confirmed that there were no changes to the footprint of the building, and no changes to the existing parking scheme. Chairman Malone concluded that there were no physical changes to the building nor parking area, but that this was merely a new tenant going into an existing lease space. Mr. Donlon confirmed that was correct. Chairman Malone also noted there would be no impact to traffic or on-site parking. Member Czornyj thereupon made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Chairman Malone. The motion was carried 5-0, and a negative declaration adopted. Chairman Malone then made a motion to adopt the site plan as presented, which motion was seconded by Member Czornyj. The motion was approved 5-0, and the site plan approved.

The next item of business on the agenda was the site plan application by RENSSELAER HONDA for the installation of an above-ground fuel storage tank. This matter had previously been adjourned pending an opinion from the New York State Department of State ("NYSDOS"), on application by Rensselaer Honda's consulting engineers, Chazen Engineering, as to whether

under applicable code, a fire suppression system and/or a canopy was required for the above-ground storage tank installation. The NYSDOS issued a Memorandum Decision on April 1, 2004, which in turn was forwarded to the Planning Board. According to the NYS DOS, by Cheryl A Fischer, P.E., Assistant Director for Code Interpretation, a canopy system is not required for the proposed fuel tank at Rensselaer Honda, but a fire suppression system is required under the Fire Code of New York State. Member Wetmiller then opined that regardless of a canopy system, Rensselaer Honda's site plan called for the discharge of all liquids, including stormwater and any fuel spillage, by discharge pipe directly to the wetland and creek. At a minimum, Member Wetmiller thought that an oil/water separator should be required on the discharge system, regardless of whether a canopy covered the fueling area or not. Member Tarbox concurred, saying that even if stormwater was shed away by canopy, and a fuel spillage still could potentially discharge directly into the wetlands and creek. Chairman Malone directed Mr. Kestner to contact Chazen Engineering to discuss these issues. Further, Chairman Malone noted that even though the NYSDOS did not require a canopy for purposes of compliance with the Fire Code of New York State, the Planning Board could still examine the issue of requiring a canopy for purposes of SEQRA compliance and site plan review compliance. This matter has been placed on the May 20 agenda for further discussion.

The next item of business on the agenda was the site plan application of STEWARTS for property located at Route 278/Tamarac Road. Stewarts has revised its proposed site plan according to Planning Board comments, and this matter will be placed on the agenda for the May 20 meeting. Mr. Kestner will confirm the green space calculation that has been made by Stewarts on this site plan.

Three items of new business were discussed.

The first item of new business discussed was a waiver of subdivision application by MILDRED SCHMIDT for property located at 321 Farm-to-Market Road. The property currently totals 146 acres. Schmidt seeks to divide 139.1 acres for transfer to Capital District Farms Inc. with an intended use of continuing farming. The Board raised the issue of access for each parcel created by a waiver, and would further investigate that issue. This matter has been placed on the agenda for the May 20 meeting.

The second item of new business discussed was a waiver of subdivision application by PAUL DZEMBO for property located on Dater Hill Road. Dzembo currently has 46.62 acres, and seeks to divide off 2 additional lots, one 2.0 acres and the second 2.2 acres. The Board noted that this was not appropriately reviewed as a waiver application, but must be revised to comply with the minor subdivision application requirements. This matter will be tentatively placed on the May 20 agenda pending receipt of a complete minor subdivision application; otherwise this matter has been adjourned without date pending receipt of a completed minor subdivision application.

The third item of new business discussed was a waiver of subdivision application by RICHARD FILM for property located on Pinewoods Avenue. Film currently owns 17.64 acres, and seeks to divide 4 acres off to create an additional building lot. The Board noted that this property had been a subject of a prior waiver of subdivision in 2001. Further, the Board noted that the proposed lot has access only on a road noted on the application map as a "public road" but that the same had never been built. Investigation needs to be made as to whether this road constitutes a duly created public roadway. Otherwise, the proposed lot has no frontage on a

public road. Mr. Krieger will contact Mr. Film to inform him of this issue. The Board will require the Applicant to submit additional information as to whether a "public road" was properly created, or remains private property. This matter has been adjourned without date.

Member Czorny noted that the BRUNSWICK PLAZA adjacent to the Silver Strawberry Building had a new tenant in one of the lease spaces. It was Mr. Czornyj's understanding that the site plan approval for this strip mall required Planning Board approval prior to any tenant entering one of the lease spaces, due primarily to the parking situation at that location. A deli has opened for business in one of the leased spaces, apparently without any building permit or Certificate of Occupancy to open. Mr. Krieger will investigate that issue, and require the property owner to submit a site plan application for tenant approval in compliance with the original site plan approval.

Mr. Bernie Barber was in attendance at the meeting, and requested the opportunity to provide comment on the pending MORRIS site plan to the Planning Board. Chairman Malone informed Mr. Barber that the Planning Board was still in the process of completing the SEQRA process on the site plan application, and that the Board would then move forward and complete the site plan review process. Mr. Barber expressed extreme frustration over this process, and inquired as to the status of the site plan application. Attorney Gilchrist informed Mr. Barber that the Applicant was completing the preparation of a Final Environmental Impact Statement ("FEIS"), and that the FEIS should be submitted shortly, and that the matter will likely be addressed at the May 20 meeting. Further, Attorney Gilchrist explained that the Planning Board would then need to review the FEIS for completeness, and determine whether to accept the FEIS as complete. If the FEIS is deemed complete and accepted, the Board then will prepare and

adopt a Findings Statement to complete the SEQRA process. At that point, the Planning Board may move forward with addressing the site plan, and complete its review of the site plan application. Chairman Malone also noted that the Planning Board has tried to allow the members of the public full opportunity for review and comment on the Application, holding a public hearing in connection with the Environmental Impact Statement process. The Morris site plan application will be placed on the agenda for the May 20 meeting.

The minutes of the April 15, 2004 meeting were reviewed with one typographical error ("Carols Grove Road" amended to "Carrols Grove Road"). A motion was made by Member Czornyj to approve the minutes, which motion was seconded by Member Oster. The motion was carried 5-0 and the minutes adopted with the noted typographical correction.

Attorney Gilchrist reviewed with the Board Local Law No. 3 for the year 2004 adopted by the Town Board, as well as two resolutions adopted by the Town Board pertaining to parks/recreation fees on future site plan and subdivision applications. Upon discussion, the Board requested Attorney Gilchrist to prepare a general summary of the Local Law and resolutions, and direction as to how the Board should comply on future applications. Attorney Gilchrist will review this matter with the Board at the May 20 meeting.

The **index** for the May 6, 2004 meeting is as follows:

1. Pigliavento Builders - major subdivision - 5/20/04;
2. Tedesco - waiver of subdivision - adjourned without date;
3. Pollock - Brunswick Plaza East site plan - 5/20/04;
4. Gallivan - site plan - approved;
5. Hewitt - waiver of subdivision - 5/20/04;

6. Wilson - waiver of subdivision - 5/20/04;
7. Donlon - site plan - approved;
8. Rensselaer Honda - site plan - 5/20/04;
9. Stewarts - site plan - 5/20/04;
10. Schmidt - waiver of subdivision - 5/20/04;
11. Dzembo - waiver of subdivision - 5/20/04 (tentatively, if application revised to minor subdivision); and
12. Film - waiver of subdivision - adjourned without date.

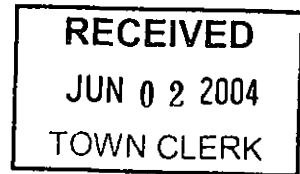
The proposed agenda for the May 20, 2004 meeting is currently as follows:

1. Pollock - Brunswick Plaza East site plan - public hearing (7:15 p.m.);
2. Morris - site plan (SEQRA)
3. Pigliavento Builders - major subdivision;
4. Hewitt - waiver of subdivision;
5. Wilson - waiver of subdivision;
6. Donlon - site plan;
7. Rensselaer Honda - site plan;
8. Stewarts - site plan;
9. Schmidt - waiver of subdivision; and
10. Dzembo - minor subdivision (if application modified).

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809



## MINUTES OF THE PLANNING BOARD MEETING HELD May 20, 2004

PRESENT were MICHAEL CZORNYJ, JOSEPH WETMILLER, RUSSELL OSTER, FRANK ESSER, KEVIN MAINELLO and DAVID TARBOX.

ABSENT was CHAIRMAN SHAWN MALONE.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

A Public Hearing was held with respect to the site plan application by ROBERT POLLOCK for BRUNSWICK PLAZA EAST. Member Czornyj read the notice of public hearing into the record. Appearing on behalf of the Applicant were Robert Pollock and Greg Beswick. Mr. Beswick gave an overview of the site plan for members of the public. Member Czornyj inquired whether any members of the public wanted to provide any comment. Mrs. Holmes and her son, Vincent Holmes, residing at 105 McChesney Avenue, offered comment that the project would increase traffic on McChesney Avenue, which already has a significant traffic problem between Route 7 and the rear entrance to the WalMart plaza. Mr. Holmes commented that McChesney Avenue is too narrow in this section, that it cannot handle the current traffic volume, and that this proposal will increase traffic problems on McChesney Avenue. Mr. Holmes also commented that this proposal could also add additional tractor trailers on McChesney which creates a further traffic concern. Theresa Pascucci, residing on Route 7 opposite the Pollock's Home Center, commented that this project would add more commercial locations along the Route 7 corridor, and questioned why her property (zoned residential) was



not commercial as well, and raised concern that the impacts from the current commercial use along Route 7 would eliminate the opportunity for her property to be used for commercial purposes. Mr. Kestner informed Ms. Pascucci that the Town is currently updating its master plan and Zoning Code, and that comments concerning the zoning district in which her property is placed is properly directed to the Town Board which is currently working on the Zoning Code update. Further discussion was held by both Ms. Pascucci and Mrs. Holmes concerning the commercial development in general along the Route 7 corridor, and how the commercial development impacts the residential properties. Hearing no further comments, Member Czornyj closed the Public Hearing.

Member Czornyj then opened the regular business meeting for the Planning Board.

The first item of business on the agenda was the site plan application of ROBERT POLLOCK for BRUNSWICK PLAZA EAST. Mr. Beswick informed the Board that Mr. Pollock has decided to use split face blocks on three sides of proposed Building 1A, leaving only that wall facing the alleyway between the existing commercial spaces with standard block and all other walls visible to the public to be constructed with split face block. Mr. Beswick also reported that he has not received any return communication from Niagara Mohawk ("NIMO") concerning the connector building between the existing Pollock's Home Center and the proposed Building 1A, and that he was currently in discussion with the New York State Department of Environmental Conservation ("NYSDEC") concerning compliance issues. Mr. Kestner also wanted to make sure that the proposed display area along the Pollock's Home Center sidewalk be clearly delineated on the site plan. Mr. Beswick requested that this matter be placed on the June 3, 2004 agenda for further discussion, pending receipt of information from NYSDEC and NIMO.

The second item of business on the agenda was the site plan application of MORRIS. Appearing on behalf of the Applicant was Mark Millspaugh, P.E., of Sterling Environmental P.C., environmental consultant to Morris and Forrest Mayer. Member Czornyj requested Attorney Gilchrist to review the procedural status of the matter under SEQRA. Attorney Gilchrist reviewed the SEQRA procedural status, including the Planning Board's acceptance of the Draft Environmental Impact Statement ("DEIS"), the Planning Board entertaining a Public Hearing on the DEIS, and further receipt of written comments, the Planning Board's transmission of those comments to the Applicant's consultant, and the Applicant's consultant having prepared the Final Environmental Impact Statement ("FEIS") and responsiveness summary to the comments received on the DEIS. Mr. Millspaugh had submitted the FEIS and responsiveness summary to the Planning Board as lead agency under SEQRA, with copies to Mr. Kestner and Attorney Gilchrist. Mr. Millspaugh reviewed the content of the proposed FEIS. The members of the Planning Board thereupon stated that they needed additional time to review the FEIS document to determine whether it was complete, and adequately addressed and responded to the comments received on the DEIS. Mr. Kestner also raised the issue that the Applicant needed to further address the sight distance issue on the western side of the existing access road off Route 7, and directed that the Applicant must contact the Regional Engineer of the New York State Department of Transportation ("NYSDOT") to address that issue. The Applicant agreed to contact NYSDOT to discuss the sight distance issue to the west of the access road, and come up with various mitigation measures to address the sight distance issue. Bernie Barber, in attendance at the meeting, supported the requirement that the Applicant coordinate on the sight distance issue with NYSDOT. This matter has been adjourned without date, pending the Applicant's communication with NYSDOT, and the Planning Board Members' review of the

FEIS for completeness.

The next item of business on the agenda was the major subdivision application of PIGLIAVENTO BUILDERS for property owned by BRAGIN on Route 351. At the request of the Applicant, this matter has been adjourned to the June 3<sup>rd</sup> meeting.

The next item of business on the agenda was the waiver of subdivision application by HEWITT for property located on Fitting Lane. Appearing on the application was John Ogden, potential purchaser of the proposed subdivided lot. Mr. Hewitt was not in attendance. Attorney Gilchrist reviewed the status of Fitting Lane as a public highway by use under the provisions of Highway Law §189. A fact investigation was conducted, and it has been determined that the Town has been plowing or otherwise maintaining Fitting Lane for a period in excess of 10 years, thereby making the roadway a public highway by use under the provisions of Highway Law §189. Attorney Gilchrist then explained that under applicable law, Mr. Hewitt retains fee ownership to the roadbed, but that the public has a right to use the roadway under a public easement. The extent of that public easement corresponds with the areas actually maintained by the Town for the period in excess of 10 years. Accordingly, the proposed lot to be created at the end of Fitting Lane under the current waiver application does have frontage on this public highway by use. Further, upon discussion, Mr. Ogden was agreeable to coordinating with the Town Highway Department for the construction of a turn-around area at the end of Fitting Lane for Town Highway vehicle use. However, this raised the issue of the existing lot line of the residential lot existing on the opposite side of Fitting Lane, and whether Mr. Hewitt had transferred that lot with a property line to the center of the road, to the shoulder of the road, or to a different right-of-way line. That information was not clear on the face of the current waiver application. Further, Attorney Gilchrist reviewed with the Planning Board and Mr. Ogden that it

is the policy of the Town in this situation that the Planning Board will condition the creation of this lot upon the upgrade of Fitting Lane by Mr. Hewitt for any additional lots to be proposed with access onto Fitting Lane. On this issue, Attorney Gilchrist explained that it was within the Planning Board's discretion to consider whether Fitting Lane was adequate enough to handle any additional residential lots and anticipated traffic therefrom, and that no formula existed as to whether a certain number of lots required road upgrades. Attorney Gilchrist further explained that with public highways by use under the New York Highway Law, the private property owner (in this case Hewitt) retained fee ownership to the roadbed, thereby allowing the Planning Board to condition any future lots upon the upgrade of the road since the property owner owns the roadbed. In these cases, as further explained by Attorney Gilchrist, the Town does not own the roadbed through any deed transfer, but rather merely retains an easement for public use over the roadway. Member Tarbox said that the issue should be analyzed in the context of this waiver application, and Mr. Hewitt should be present for that discussion, since it may impact the future use of his property. Mr. Kestner also raised the question of adequate access for emergency vehicles. Mr. Kestner also stated that the lot line for the proposed lot under this waiver application should take into account the necessity to upgrade the road in the future, so that adequate area has been created to widen Fitting Lane to Town specifications at some point in the future. It was decided that Mr. Hewitt, Mr. Ogden, Mr. Kestner and Mr. Eddy would meet at the property to discuss these issues, and that the matter will be scheduled for the June 3, 2004 meeting for further discussion, at which time Mr. Hewitt was requested to be present.

The next item of business on the agenda was the waiver of subdivision application by Cindy Wilson for property located on Carols Grove Road. The Applicant did complete the Agricultural Data Statement, which was forwarded to the owners of agricultural district property

within 500' of the proposed lot. No comments had been received by these property owners. Mr. Kreiger also confirmed that adequate sight distances were present on Carols Grove Road from this proposed lot. Member Czornyj noted that he needed to recuse himself from any action on this application, as Ms. Wilson has approached him concerning the construction of a modular home on the proposed lot. Hearing no further discussion, Member Wetmiller made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Oster. The motion was approved 5-0, and a negative declaration adopted. Member Wetmiller then made a motion to approve the waiver of subdivision application, which motion was seconded by Member Mainello. The motion was approved 5-0, and the waiver of subdivision application approved.

The next item of business on the agenda was the site plan application of RENSSELAER HONDA for the installation of an above-ground petroleum bulk storage tank. Appearing on behalf of the Applicant was Joel Bianchi of Chazen Engineering, engineering consultants for Rensselaer Honda. Mr. Bianchi reviewed the opinion of the New York State Department of State ("NYSDOS") that a canopy was not required per State Code, but that fire suppression was necessary. The appropriate fire suppression equipment has been added to the site plan. Mr. Bianchi also handed up design specifications for fire suppression equipment from the manufacturer. Mr. Bianchi then reviewed the recommendation of the Planning Board that an oil/water separator be added to the proposal, and that he was in the process of preparing cost estimates on the oil/water separator installation for review by Rensselaer Honda. The Members of the Planning Board and Mr. Kestner concurred that it was the consensus of the Board that an

oil/water separator should be required on this site plan given the fuel tanks proximity to wetlands and a stream. In terms of lighting, Mr. Bianchi said that the fuel dispensing area was in a location that would be adequately lit by existing exterior lights to the Rensselaer Honda building, and further that the fueling would generally be limited to 7:00 a.m. - 4:00 p.m. Mr. Bianchi indicated that he would verify the existing exterior building lights and whether they were adequate to light the area of the fuel storage tank. Discussion was held on the issue of the tank connected to the oil/water separator, and whether that tank would be tied into existing utility along Route 7, or would be a stand-alone tank on a schedule to be periodically pumped out. Mr. Bianchi indicated that he would be looking into both options, and reviewing them with Rensselaer Honda. On the issue of a stand-alone tank to be periodically pumped, the Planning Board Members suggested that since the tank would be collecting stormwater as well, it made sense to add a canopy over the fuel dispensing area to shed rainwater even though it may not be required by code. Mr. Bianchi inquired whether the Board would be satisfied merely with the installation of a canopy in the absence of an oil-water separator. The consensus of the Board members was that an oil water separator would be required, and that the installation of a canopy was up to the Applicant. This matter has been placed on the agenda for the June 3<sup>rd</sup> meeting for further discussion.

The next item of business on the agenda was the site plan application of STEWARTS for extension of parking areas at their store located at the intersection of Route 278 and Tamarac Road. All of the comments made by the Planning Board have been incorporated into the site plan. Mr. Kestner has confirmed that the new site plan maintains a minimum 35% green space,

provides a landscaping plan, and does provide adequate storm catch basins for the new parking area. Member Tarbox noted that he would recuse himself on any action on the application as he has a business relationship with Stewarts. Upon further discussion, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Oster. The motion was approved 5-0, and a negative declaration adopted. Thereupon, Member Oster made a motion to approve the site plan, which motion was seconded by Member Wetmiller. The motion was approved 5-0, and the site plan approved.

The next item of business on the agenda was a waiver of subdivision application by SCHMIDT for property located on Farm-to-Market Road. Appearing on behalf of the Applicant was John Darling, Esq. Attorney Darling explained that the Applicant sought to divide 1.58 acres from the existing farm property for use as homestead purposes, with the balance of the property transferred to Capital District Farms Inc. The Board inquired whether there was adequate road frontage on Farm-to-Market Road for both the 1.58 acre lot as well as the remaining agricultural property, particularly given the grade of Farm-to-Market Road in that area. Mr. Kestner stated that there is adequate frontage on Farm-to-Market Road, and that an access-way onto the farm property could be located on the Farm-to-Market Road in an area that provided safe ingress and egress. However, the existing driveway to the farm property is over the 1.58 acre homestead parcel, and it was anticipated that the driveway would continue to be used to access the farm property. The Board, upon further discussion, determined that even though a driveway was not proposed for the farm land presently, adequate road frontage did exist on the public Farm-to-Market Road so that a driveway could be constructed in the future if

needed. The Planning Board inquired whether an easement was necessary over the existing driveway on the 1.58 acre parcel, and whether the Planning Board should require this as a condition to the approval. Upon further discussion, it was determined that since the farm property had adequate frontage on the public road, a requirement that an easement be given over the 1.58 acre homestead parcel should not be required as a condition to approval, but rather should remain a private issue between the private property owners. However, the record is made clear that in the event there is a dispute between these parcels in the future, the agricultural property will need to construct its own driveway for ingress and egress directly onto Farm-to-Market Road, and that there is adequate road frontage for that situation. Thereupon, Member Tarbox made a motion to adopt a negative declaration under SEQRA, which motion was seconded under Member Esser. The motion was approved 6-0, and the negative declaration adopted. Member Wetmiller then made a motion to approve the waiver of subdivision application, which motion was seconded by Member Tarbox. The motion was approved 6-0, and the waiver of subdivision application approved.

The next item of business on the agenda was the waiver of subdivision application for DZEMBO for property located on Dater Hill Road. Appearing on behalf of the Applicant was Attorney John Darling, Esq. Initially, this Applicant sought to divide two lots out of his existing parcel, and the Planning Board required the submission of a minor subdivision application. The Applicant has now revised the application to seek only one lot (2 acres) out of his existing 42.62 acre parcel, for transfer to his daughter. The Planning Board Members informed the Applicant, through Attorney Darling, that in the event the Applicant seeks to divide the second lot any time within the next seven years, that application will need to conform with the minor subdivision



application standards. Member Oster inquired whether there was adequate sight distance from the proposed lot onto Dater Hill Road, since there was a very tight corner depicted on the map. Mr. Kreiger confirmed that the corner in that location was very tight. Accordingly, the Applicant was directed to investigate the sight distance issue onto Dater Hill Road, and Member Czornyj requested that the sight distance information be placed directly on the map. This matter has been placed on the agenda for further action at the June 3, 2004 meeting.

The next item of business on the agenda was a waiver of subdivision application by RICK FILM for property located on Pinewoods Avenue in proximity to Cole Lane. The Applicant seeks to divide off one parcel for purposes of constructing a residence. Mr. Film had two proposed lots, one with direct access onto Pinewoods Avenue, and a second lot which would access Pinewoods via a private right-of-way. The Board explained the prohibition against creating a land locked parcel with no direct access to a public roadway, and therefore suggested that the lot with direct access onto Pinewoods Avenue would be appropriate. However, Mr. Film then explained the overview of the property in question, and the fact that his brother Scott Film had already created a landlocked lot and built a house on it, and that his only access onto Pinewoods was over a private right-of-way. Upon further inquiry, it appears that the Scott Film parcel had been reviewed in 2000, and a building permit issued for that lot in 2002. An investigation as to the Planning Board review of that subdivision will be made to determine whether any conditions were placed on that approval which would impact the creation of an additional lot on the property. Further, the Board is requiring the Applicant to analyze the sight distance and proposed driveway location on the proposed lot directly on Pinewoods, given the grade of Pinewoods in that location. This matter will be tentatively placed on the June 3 agenda

for further action.

Two items of new business were discussed.

The first item of new business discussed was a waiver of subdivision application submitted by HENRY BREED for property located at the corner of Tamarac Road and Lockrow Road. The Applicant currently has a 7.69 acre parcel, and seeks to divide a 1.79 acre lot from that for construction of a single family residence. This matter will be placed on the agenda for the June 3, 2004 meeting.

The second item of new business discussed was a major subdivision application by RIESER for property located off Town Office Road. The Applicant seeks to construct 12 lots off a cul-de-sac road. This matter will be placed on the June 3, 2004 agenda for further discussion.

The Planning Board discussed the status of the DUNKIN DONUTS SHOP on Route 7, and whether the Applicant had submitted an application for amended site plan approval. Mr. Kreiger has confirmed that an application for amendment to the site plan has not been submitted. A temporary Certificate of Occupancy had been issued to this facility with an expiration date of June 1, 2004. In addition, security had been posted by the owner of this facility in an amount to construct all facilities at this location as depicted and approved in the original site plan. Finally, the Town of Brunswick has been named as an additional insured on this facility's general liability policy. The owner of this facility had been advised in writing, both by Attorney Gilchrist and by Mr. Krieger, that the temporary Certificate of Occupancy would expire on June 1, 2004 unless an application for amendment to the approved site plan was received and reviewed by the Planning Board prior to that date. The owner of this facility has failed to comply with those conditions. The members of the Planning Board were adamant that

enforcement action should be conducted concerning this matter. As of June 1, 2004, this facility will not have a Certificate of Occupancy. The Planning Board Members were of the opinion that a demand should be made to the Applicant to complete all construction in accordance with the original approved site plan, and failure to do so will result in default of the security posted with the Town, and the Town should thereafter take the security and complete the construction in accordance with the approved site plan. Closure of the facility due to failure to have a Certificate of Occupancy is also an option. This matter will continue to be monitored by the Planning Board.

Member Czornyj also inquired as to a new deli which has opened in the Brunswick Plaza across from Feather's Furniture, and whether an appropriate building permit and/or Certificate of Occupancy had been applied for and been received from the Town. Mr. Kreiger confirmed that neither a building permit application or Certificate of Occupancy application had been received, and that he would investigate the situation.

The minutes of the meeting held May 6, 2004 were reviewed. Upon motion of Member Oster, seconded by Member Tarbox, the minutes were approved as written by a 6-0 vote.

The **index** for the May 20, 2004 meeting is as follows:

1. Pollock - Brunswick Plaza East site plan - 6/3/04;
2. Morris - site plan - adjourned without date;
3. Pigliavento Builders - major subdivision - 6/3/04;
4. Hewitt - waiver of subdivision - 6/3/04;
5. Wilson - waiver of subdivision - approved;
6. Rensselaer Honda - site plan - 6/3/04;

7. Stewarts - site plan - approved;
8. Schmidt - waiver of subdivision - approved;
9. Dzembo - waiver of subdivision - 6/3/04;
10. Film - waiver of subdivision - 6/3/04;
11. Breed - waiver of subdivision - 6/3/04; and
12. Reiser - major subdivision - 6/3/04.

The proposed agenda for the June 3, 2004 meeting is currently as follows:

1. Kronau - Sand Cherry Hill Subdivision - road bond estimate;
2. Pollock - Brunswick Plaza East site plan;
3. Pigliavento Builders - major subdivision;
4. Hewitt - waiver of subdivision;
5. Rensselaer Honda - site plan;
6. Dzembo - waiver of subdivision;
7. Film - waiver of subdivision;
8. Breed - waiver of subdivision; and
9. Reiser - major subdivision;

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809

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## MINUTES OF THE PLANNING BOARD MEETING HELD June 3, 2004

PRESENT were CHAIRMAN SHAWN MALONE, JOSEPH WETMILLER, FRANK ESSER, KEVIN MAINELLO and DAVID TARBOX.

ABSENT were MICHAEL CZORNYJ and RUSSELL OSTER.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the SAND CHERRY HILL SUBDIVISION. Appearing on this matter was KEVIN KRONAU, owner. This matter was on the agenda for the recommendation of the Planning Board as to an amount for a road bond, ultimately to be established by the Town Board. Mr. Kronau handed up an estimate for completion of required infrastructure on this project, which includes top coat paving, installation of a dry well in the stormwater discharge area, and complete ditching on the east side of the road to the existing catch basin. This estimate totals \$13,520.00, and was reviewed and approved by Doug Eddy, Town of Brunswick Highway Superintendent. Mr. Eddy was in attendance at the meeting, and concurred with the estimated amounts. Attorney Gilchrist reviewed a proposed Bonding Security Agreement for the roads and related infrastructure, which the Planning Board could recommend be finalized and required by the Town Board and Town Supervisor for this project. Attorney Gilchrist provided a form contract of the Bonding Security Agreement to the Applicant for review as well as to each Planning Board member. Attorney Gilchrist reviewed each section of the proposed Bonding Security Agreement with the Applicant and Planning Board members.

Chairman Malone confirmed that Mr. Eddy was in agreement with the estimated amounts for infrastructure completion, and Mr. Eddy confirmed that he was in agreement with the same.

Upon further discussion, a motion was made by Member Wetmiller to recommend to the Town Board that the Performance Bond in this matter be established per the estimate of \$13,520.00, as well as the completion and execution of the Bonding Security Agreement as proposed. Member Esser seconded this motion, and the motion was approved 5-0. The Planning Board instructed Attorney Gilchrist to forward the proposed Bonding Security Agreement to the Town Board and Town Attorney for further action subject to this recommendation.

The next item of business on the agenda was the BRUNSWICK PLAZA EAST site plan application by ROBERT POLLOCK. At the request of the Applicant, this matter has been adjourned until the June 17 meeting.

The next item of business on the agenda was the major subdivision application of PIGLIAVENTO BUILDERS for property owned by BRAGIN. Appearing on behalf of the Applicant was Linda Stancliff, of Erdman Anthony. Ms. Stancliff explained that the subdivision plat had been revised to address the comments of Mr. Kestner regarding the drainage swales in the subdivided lots. Ms. Stancliff further explained that the Army Corps of Engineers had reviewed the site for any federal jurisdiction over wetlands, and determined that no federal jurisdiction exists. Chairman Malone requested that Ms. Stancliff confirm that in writing with the Army Corps of Engineers, and provide a copy of that writing to the Town for the record on this matter. Ms. Stancliff further stated that she had submitted plans to the New York State Department of Transportation ("DOT") for a curb cut permit onto Route 351, and that she was still awaiting comments from DOT. Ms. Stancliff further explained that the Applicant agreed to

prepare a Homeowner's Association for the ownership and maintenance of the stormwater management facilities on the property, and that a maintenance agreement will be prepared in connection with the Homeowners Association. Ms. Stancliff further stated that updated stormwater calculations confirmed compliance on the various storm events for this project. Chairman Malone inquired of Mr. Kestner as to whether he had a chance to review the most recent submittals. Mr. Kestner explained that he had only received these submittals this evening and would need further time to review them in detail. Chairman Malone informed Ms. Stancliff that this matter would be held over to the June 17 meeting, pending receipt of further information on the Army Corps of Engineers' review of federal wetlands, DOT comments on the curb cut permit application, and proposed maintenance agreement and homeowners association creation for the stormwater detention facilities. This will also allow Mr. Kestner adequate time to review the updated plat. This matter will be scheduled for the June 17<sup>th</sup> meeting for further action.

The next item of business on the agenda was the waiver of subdivision application by JOHN HEWITT for property located on Fitting Lane. Appearing on the application were John Hewitt and John Ogden, prospective purchaser of the subdivided lot. Mr. Ogden confirmed that both he and Mr. Hewitt had met at the property with Doug Eddy, Town Highway Superintendent, for the purpose of discussing the construction of a turn-around at the end of Fitting Lane. An acceptable "T" turn-around was discussed and Mr. Eddy confirmed that adequate area existed to construct an acceptable turn-around at the end of Fitting Lane. The Planning Board requested Attorney Gilchrist to review the status of Fitting Lane as a public highway by use. Attorney Gilchrist explained that Fitting Lane has become a public highway by use, pursuant to New York Highway Law §189, as the fact investigation in this matter confirmed that the Town had plowed and otherwise maintained Fitting Lane for a period in excess of 10

years. However, as further explained by Attorney Gilchrist, title to the roadbed remains in private ownership, in this case Mr. Hewitt, while the public maintains an easement over the road surface. Further, Attorney Gilchrist explained that the Town retained the authority to require the owner to upgrade the road as a condition to any further subdivision of the property along Fitting Lane. Chairman Malone again confirmed with Mr. Hewitt that the Planning Board may require him to upgrade Fitting Lane in the event he sought to further subdivide any additional lots. Mr. Hewitt understood this, and agreed with that approach. The issue for the Planning Board to determine on any future application for subdivision is whether Fitting Lane, in its current condition, was adequate to handle projected traffic and other impacts from any additional lots, and whether Fitting Lane was adequate for emergency access to any additional lots. Such issue would be addressed on any further application for the property along Fitting Lane, to which Mr. Hewitt understood and agreed. As to the waiver of subdivision application before it, the Planning Board, upon further discussion, determined that a 60' setback from the property line of the existing lot on the opposite side of Fitting Lane should be established for the front property line of the proposed Ogden lot, in order to maintain an adequate area in the event Fitting Lane required upgrade in the future, which may include widening of the road. Additionally, the Planning Board determined that any approvals should be conditioned on acceptance of the turnaround at the end of Fitting Lane by the Town Highway Superintendent. Both Mr. Hewitt and Mr. Ogden were agreeable to these conditions. Thereupon, Chairman Malone made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Wetmiller. The motion was approved 5-0, and a negative declaration adopted. Member Esser then made a



motion to approve the waiver of subdivision application subject to the following conditions:

1. The front property line of the proposed Ogden lot be set at a line 60' from the existing front boundary line of Purcel; and
2. Acceptance of the turn-around to be constructed at the end of Fitting Lane by the Town Highway Superintendent.

Chairman Malone also wanted to again confirm that any future application for subdivision may be subject to the requirement that Fitting Lane be upgraded by the private owner. With these stipulations and understanding, Member Tarbox seconded the motion to approve. The motion was carried 5-0, and a waiver of subdivision application approved with the stated conditions.

The next item of business on the agenda was the site plan application of RENSSELAER HONDA for the installation of an above-ground petroleum bulk storage tank. Appearing on behalf of the Applicant was Joel Bianchi of Chazen Engineering. Mr. Bianchi explained that the application now included a 1000 gallon tank with an oil/water separator that is connected to the proposed loading area center drain. The oil/water separator will be monitored monthly by the Rensselaer Honda staff and emptied on an as-needed basis. Mr. Bianchi also stated that the area of the proposed fuel tank is in close proximity to an existing utility pole, which has a pole mounted security light. This light provides ample lighting in the area of the proposed fuel tank and filling area. Mr. Bianchi stated that these updates to the application had been filed with the Town on June 3, and provided to Mr. Kestner on June 3 as well. Chairman Malone inquired whether Mr. Kestner had adequate time to review the updated application. Mr. Kestner stated that he did not have a chance to yet review the material. Chairman Malone also noted that none of the Board Members had a chance to review the updated information as well. The Applicant was agreeable to adjourning this matter to the June 17 meeting to allow adequate time to have the updated information reviewed both by the Board members and Mr. Kestner. This matter will be

placed on the agenda for further action at the June 17 meeting.

The next item of business on the agenda was the waiver of subdivision application by DZEMBO for property located on Dater Hill Road. Appearing on behalf of the Applicant were Attorney John Darling, Esq. and Bill Darling. Bill Darling had prepared the survey on this application, and reviewed with the Board Members the applicable sight distances for the proposed driveway location onto Dater Hill Road. Upon discussion, Mr. Kestner confirmed that he considered the sight distances onto Dater Hill Road adequate for this application, subject to the driveway location as depicted on the survey. Chairman Malone confirmed with John Darling that if Mr. Dzembo sought to divide any further lots from this land, the application must be treated as a minor subdivision application. John Darling confirmed that he had reviewed this with Mr. Dzembo, and that he agreed. Member Wetmiller then made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Chairman Malone. The motion was approved 5-0, and a negative declaration adopted. Member Mainello then made a motion to approve the waiver of subdivision subject to construction of a driveway in the location depicted on the submitted survey. With that stated condition, Chairman Malone seconded the motion. The motion was approved 5-0, and the waiver of subdivision application approved subject to construction of a driveway in the location depicted on the submitted survey.

The next item of business on the agenda was a waiver of subdivision application by RICK FILM for property located on Pinewoods Avenue. Appearing on the application was Rick Film. Mr. Film reviewed that while he initially sought approval of a lot without direct frontage onto Pinewoods Avenue; he was now agreeable to seeking approval of a lot with frontage along

Pinewoods Avenue. Further, Mr. Film has proposed a driveway location directly onto Pinewoods Avenue. However, Mr. Film indicated he had spoken with Fred Howard, County Highway Engineer, and that from the County's viewpoint, it was preferable that Mr. Film use an existing driveway adjacent to his proposed lot rather than constructing a new driveway, since an existing guard rail would need to be moved for the new driveway location. Member Wetmiller stated that it would be acceptable for Mr. Film to use the existing, adjacent driveway for access, but the Planning Board needed confirmation from the County that a driveway could be constructed from this proposed lot directly onto Pinewoods Avenue in the future, if needed. Mr. Kestner stated that Mr. Film should be able to get a letter from the County Highway Department stating that a driveway permit could be issued for this location, subject to relocation of a guardrail. Mr. Film confirmed that he would obtain such a letter from the County Highway Department. Chairman Malone then stated he required a more detailed map on the application, which shows all of the existing property owned by the Film family, including the lot divided by Scott Film in 2001 as well as the proposed lot to be divided under this application. Attorney Gilchrist reviewed the regulations for map requirements on waiver applications in order to ensure that Mr. Film submits a map in compliance with the same. The Board confirmed on the driveway issue that while Mr. Film need not construct the driveway presently, the Board needs confirmation from the County that an acceptable driveway could be constructed for this lot in the future. This matter will be placed on the agenda for the June 17 meeting, subject to the receipt of a more detailed map.

The next item of business on the agenda was a waiver of subdivision application by

HENRY BREED for property located at the intersection of Tamarac Road and Lockrow Road. Appearing on behalf of the Applicant was Paul Engster, Esq. Mr. Engster explained that Mr. Breed's parents purchased this property in 1966 as two parcels, a Parcel "A" and Parcel "B". Mr. Breed's parents then transferred the property to him in 1996, but merging those two parcels through one deed. Mr. Breed now seeks to divide off Parcel "B" as it originally existed, in order to market Parcel "B". The same metes and bounds description as used in the 1966 deed is proposed for this subdivision. Chairman Malone confirmed that the existing home and related buildings all are located on Parcel "A", and that Parcel "B" was merely vacant land. Attorney Engster confirmed that all of the buildings are located on Parcel "A", and that Parcel "B" was vacant property. Member Tarbox noted that the proposed Parcel "B", as an individual lot, did not have adequate frontage on Tamarac Road if that was considered the front property line, but did have adequate frontage and lot width if the front of the lot was on Lockrow. Attorney Engster agreed to the stipulation that the front of the parcel must face Lockrow Road in order to have the lot comply with width requirements. Member Tarbox then made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Esser. The motion was approved 5-0, and a negative declaration adopted. Member Mainello then made a motion to approve the waiver application, subject to the stipulation that the front property line of the lot must face Lockrow Road. Chairman Malone seconded the motion. The motion was approved 5-0, and the waiver application approved subject to the stated condition.

The next item of business on the agenda was the major subdivision application of RIESER for STONES EDGE WEST, located at 176 Town Office Road. Appearing on behalf of

the Applicant were Henry Rieser and Harold Burger, P.E. Mr. Burger presented the concept plan to the Planning Board. Mr. Burger reviewed the proposed lot layout and proposed cul-de-sac road, totaling approximately 60 acres. Mr. Burger explained that this was part of the larger Stones Edge project, the east section of which was approved in approximately 1995. The east section of this project is accessed from the Moonlawn Road. Mr. Burger further explained that approximately 35 acres of this site is currently open area with a New York State Department of Environmental Conservation protected wetland. The concept plan provided a 60' right-of-way from the proposed access road to this 35 acre open area, consistent with a 60' right-of-way which was part of the Stones Edge East project. The Board Members were concerned as to whether this 35 acre area could be deemed an additional building lot, and upon question by Mr. Kestner, both Mr. Burger and Mr. Rieser conceded that at least one and possibly two homes could be constructed in the open area. Mr. Burger offered that at least two options existed: First, the plat could specifically state that the 35 acre area was not a building lot, or second, since Mr. Rieser currently owns and resides at Lot 11 of this proposed subdivision, the 35 acre area could be merged into his existing lot, thereby eliminating the right-of-way from the proposed access area. Mr. Rieser explained that he wanted to be able to access the 35 acre area for his own use, and did not want to otherwise have 35 acres land locked. As long as he owned the property of Lot 11, he would have access to the 35 acre open area. The Board also confirmed that elimination of the 60' right-of-way off the cul-de-sac would eliminate any issue as to the allowable number of lots off the cul-de-sac. Attorney Gilchrist then reviewed several issues that will need to be included in the application materials for review by the Board, in compliance with the subdivision regulations. Attorney Gilchrist also noted that a stormwater pollution prevention plan in

compliance with stormwater regulations for construction activities must be included, and DEC wetland and buffer zone should be noted on the plat as well. Attorney Gilchrist noted that a Full Environmental Assessment Form should be completed and submitted. Attorney Gilchrist also reviewed road construction requirements and bonding requirements, including the proposed form Bond Security Agreement. Attorney Gilchrist also reviewed the necessity of park and recreation area or, in lieu of dedicating an areas as park land, payment of a recreation fee on the application. The Applicant understood that the application must be supplemented, and that this was only a concept plan at this point. Mr. Burger confirmed that a survey and topographical information will be obtained shortly. This matter has been adjourned without date, pending further submissions by the Applicant.

One item of new business was discussed.

A site plan application is expected from the BRUNSWICK MEDICAL BUILDING located on Route 2 opposite the sports fields, for installation of a new parking area to address an existing parking problem at the facility. The owner is in the process of obtaining survey information, and anticipates filing a full site plan application shortly. The Applicant has requested that this matter be placed on the agenda for the June 17 meeting.

The proposed minutes of the May 20, 2004 meeting were reviewed. Upon motion of Member Tarbox, seconded by Member Wetmiller, the minutes were approved 5-0, and the minutes adopted as written.

The **index** for the June 3, 2004 meeting is as follows:

1. Sand Cherry Hill Subdivision - recommendation as to bond;
2. Pollock - Brunswick Plaza East site plan - 6/17/04;

3. Pigliavento Builders - major subdivision - 6/17/04;
4. Hewitt - waiver of subdivision - approved with conditions;
5. Rensselaer Honda - site plan - 6/17/04;
6. Dzembo - waiver of subdivision - approved with conditions;
7. Film - waiver of subdivision - 6/17/04;
8. Breed - waiver of subdivision - approved with condition;
9. Reiser - major subdivision - adjourned without date; and
10. Brunswick Medical - site plan - 6/17/04.

The proposed agenda for the June 17, 2004 meeting is currently as follows:

1. Pollock - Brunswick Plaza East site plan;
2. Pigliavento Builders - major subdivision;
3. Rensselaer Honda - site plan;
4. Film - waiver of subdivision; and
5. Brunswick Medical - site plan.

# Manning Board

TOWN OF BRUNSWICK

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Troy, New York 12180-8809

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JUN 23 2004  
TOWN CLERK

## MINUTES OF THE PLANNING BOARD MEETING HELD June 17, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, JOSEPH WETMILLER, KEVIN MAINELLO, RUSSELL OSTER and DAVID TARBOX.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the BRUNSWICK PLAZA EAST site plan by ROBERT POLLOCK. Appearing on the application were Greg Beswick and Robert Pollock. Mr. Beswick reported that the proposed connector building between the existing Pollock's Home Center and proposed Building 1A has been approved by Niagara Mohawk to be constructed over electric conduit. Mr. Beswick explained that the connector building will be used to house Robert Pollock's offices, and has been increased in size from 400 square feet to 1140 square feet. Mr. Beswick then explained that the increase in size of the connector building has resulted in a decrease in size in the proposed Building 1A from 9,444 square feet to 8,944 square feet. Mr. Beswick further explained that the storage building, originally proposed at 5,200 square feet, is now proposed to be replaced with two (2) 2,400 square foot mini-storage buildings, for a total of 4,800 square feet. Mr. Beswick explained that Mr. Pollock intended to use these storage buildings for storage of material for the Pollock Home Center; however, Mr. Beswick further explained that in the event Mr. Pollock does not use all of the available storage area, there is the possibility that the remaining storage areas may be leased to the general public. In that case, Mr.



Beswick explained, the storage of hazardous materials by the public will not be permitted. Mr. Beswick reviewed the revisions to the overall square footage, which has been reduced from the previously-proposed 24,488 square feet to the currently-proposed 24,328 square feet, for a reduction of 160 square feet. Mr. Beswick further stated that the green space and parking requirement tables have been revised. The total green space for this commercial center still meets the required 23% for this location. The required parking spaces have been revised from 535 to 537, although the total parking spaces at this commercial center will remain unchanged at 588 total spaces. To address comments during the public hearing on truck traffic exiting onto McChesney Avenue, Mr. Beswick stated that while a "no trucks" sign presently exists on the road exiting the site onto McChesney Avenue, the sign is in poor condition and not readable. Mr. Pollock committed to replacing the sign, prohibiting trucks exiting the commercial center onto McChesney Avenue. Mr. Beswick reviewed the Stormwater Pollution Prevention Plan ("SPPP") prepared for this site, which in significant part has added a pocket pond to meet current stormwater prevention requirements. Mr. Beswick explained that the existing detention basin will be modified by installing a sediment forebay (water depth 4') and a micropool (water depth 4.3'). Chairman Malone stated that the change from the single storage building to the 2 mini-storage buildings was a significant change, especially in light of the option of allowing the public to use the units as self-storage units. Chairman Malone noted that while Mr. Pollock's current intent may be to use these buildings as storage for the Home Center, it is likely that these units will be offered for lease to members of the public. This raised questions in Chairman Malone's mind as to appropriate building structure, adequate area for traffic flow and parking, lighting, as well as restrictions on the use of the units, both in terms of materials to be stored, as well as

hours of operation. Mr. Beswick stated that the buildings are proposed to be 12' high with a 10' door, with wall-pack lighting to be installed. Mr. Beswick also stated that there would be one point of access with a gate to be controlled by a keypad for tenants, and one point of exit, also with a gate. Chairman Malone inquired whether there would only be one-way traffic in between the storage buildings, and whether there was adequate room if two cars wish to park side by side or if a truck was used for delivery of material to be stored. The Planning Board members observed that there were no detailed plans for the self-storage units submitted for review, and that the Board has required substantial additional information on previous applications for public self-storage units. Chairman Malone noted that the operation of public self-storage units would be like a separate business on the property, generating a lot of additional activity, and that the Planning Board needed to make sure that the proposal was appropriate for this location. Mr. Pollock responded that he intended to use these storage units for the Home Center only, and that making them open to the public for lease was an option down the road. Mr. Pollock stated that the two storage buildings fit his current needs for the Home Center better than one large storage building, and that he intended to use these storage buildings only for himself, but that he was agreeable on appropriate conditions on the use of any storage units by the public. Mr. Kestner noted that on prior applications for self-storage units, the Board has requested a proposed lease for the self-storage units which conditions the use of the units by the public. Upon further discussion, Mr. Pollock stated that he would be in agreement to limit the use of the storage units to the Pollock Home Center only, and that if he intended to allow the public to lease units for storage, he would need to return to the Planning Board for an amendment to the site plan. The Board inquired of Attorney Gilchrist whether such a condition could be attached to the site plan. Attorney Gilchrist stated that site plan approval could be conditioned on limiting the use of the

storage buildings to the Pollock Home Center, and that an amendment to the site plan would need to be obtained from the Planning Board prior to Pollock allowing any members of the public to lease the storage units. However, Attorney Gilchrist stated that as a practical matter, in the event Mr. Pollock intended to offer these units for lease at any time in the future, it made economic sense to build these units in a manner that would satisfy any concerns the Planning Board may have for storage units that are open to the public. Mr. Pollock agreed that this was a practical approach, and stated that he would investigate previous conditions attached to self-storage units by the Planning Board on prior applications before construction of these units on his site. The Planning Board directed Mr. Pollock to the self-storage units previously approved at Cherry Hill Apartments for guidance. Chairman Malone inquired of the Board whether any other issues concerning this site plan remained. Hearing none, Chairman Malone inquired of Mr. Kestner whether the site plan met all engineering requirements. Mr. Kestner stated that the Stormwater Pollution Prevention Plan was adequate, that the site plan was approvable from an engineering perspective, and that the Applicant had addressed all of the prior comments that the Planning Board had raised in terms of traffic flow and building construction. Thereupon Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Oster. The motion was approved 7-0, and a negative declaration adopted. It is noted for the record that full SEQRA review, including preparation of an Environmental Impact Statement, had already been prepared for the Brunswick Plaza, which anticipated the construction of the units under the current site plan. Member Czornyj then made a motion to approve the site plan subject to the following condition:

1. The two self-storage buildings are limited to use by the Pollock Home Center only, and that a map note would be added to the site plan limiting the use of the

self-storage buildings accordingly, and that Pollock must obtain an approved amendment to the site plan prior to allowing members of the public to lease any of the units in the self-storage buildings.

Member Esser seconded the motion with the stated condition. The motion was approved 7-0, and the site plan approved with the stated condition.

The next item of business on the agenda was the major subdivision application of PIGLIAVENTO BUILDERS for property owned by BRAGIN on Route 351. Appearing on behalf of the Applicant was Linda Stancliff, of Erdman Anthony. Ms. Stancliff explained that the subdivision now identified the properties to be dedicated to the Homeowners' Association for the ownership and maintenance of the stormwater detention basins, and that the Applicant's attorney was in the process of preparing the documents for the creation of the Homeowners' Association. The stormwater detention basins will be deeded to the Homeowners' Association, together with easements allowing the Homeowners' Association access to the detention basins for future maintenance. Ms. Stancliff further stated that the subdivision plat will be corrected to eliminate the 60' right-of-way that currently exists on the retained land of BRAGIN, and that the retained parcels of Bragin will be merged into one deed. Ms. Stancliff also explained that she had received a letter from the New York State Department of Transportation ("DOT") concerning the curb-cut permit for the roadway. DOT made a comment that the methodology used by Erdman Anthony to calculate sight distance was not the correct methodology used by DOT, and that when using the DOT methodology, the sight distances are not adequate, and that the road should be moved approximately 30' to the south. Erdman Anthony has responded to this letter by explaining to DOT that moving the road 30' to the south would impact more wetland areas. Ms. Stancliff reported that she discussed this issue with DOT, and that DOT may consider this in determining whether to require the road to be moved. The DOT curb-cut issue therefore is

unresolved, and the Planning Board required final resolution of the DOT issue before acting upon the application. Ms. Stancliff also provided a copy of a letter sent to the U.S. Army Corps of Engineers, confirming no federal jurisdiction over the wetlands on the property. Ms. Stancliff inquired whether the Board would entertain a preliminary approval, but Chairman Malone indicated that the Board would not be in a position to act upon the application until the DOT issue was resolved. Ms. Stancliff stated that in order for the Applicant to get equipment onto the property to take soil samples and drill wells, an access road would need to be cut in. Attorney Gilchrist stated that if the access road were cut in at the location where the proposed roadway is presently located, such activities could be deemed commencement of construction of the road prior to completion of the SEQRA process and subdivision review process on the application. Further, Attorney Gilchrist stated that as a practical matter, in the event DOT insisted that the roadway be moved, the Applicant would be spending funds to cut in a road in a location that would ultimately need to be changed. The Applicant understood these issues and agreed not to commence any construction activities on the property until the DOT issue was resolved. This matter has been placed on the agenda for the July 1, 2004 meeting.

The next item of business on the agenda was the site plan application of RENSSELAER HONDA for the installation of an above-ground petroleum bulk storage tank. Appearing on the application was Joel Bianchi of Chazen Engineering. Mr. Bianchi stated that all of the requested information of the Planning Board on this application had been submitted. In addition, after review with Rensselaer Honda, Mr. Bianchi reported that Rensselaer Honda decided not to add a canopy over the filling area, and include only the oil water separator and 1000 gallon collection tank. Chairman Malone noted that he thought the installation of a canopy makes practical sense.

since it would shed rainwater from collection in the 1000 gallon storage tank, but did not think it was mandatory on this application in light of the installation of the oil water separator and the 1000 gallon storage tank. However, Chairman Malone noted that this would require regular inspection and maintenance by Rensselaer Honda of the oil water separator and storage tank, and more frequent pumping and emptying of the tank. Chairman Malone inquired of Mr. Kestner whether all issues had been addressed. Mr. Kestner stated that all issues raised by the Board had been addressed, including tank specifications, overfill and leak protection, concrete filling area with a drainage pipe leading to the oil water separator and storage tank, adequate lighting, inclusion of adequate fire suppression equipment, and sign-off by the Fire District. Member Czornyj inquired as to the petroleum bulk storage maintenance requirements. Mr. Bianchi stated that Rensselaer Honda personnel would need to regularly inspect and maintain the petroleum bulk storage tank, and also that State regulations require the same. Attorney Gilchrist stated that the regulations of the New York State Department of Environmental Conservation apply to the above-ground petroleum bulk storage tanks, and that regular inspections must occur, inspection and maintenance records need to be kept, and inventory records must be maintained. Member Czornyj also inquired as to inspection of the 1000 gallon storage tank and the oil water separator. Again, Mr. Bianchi stated that the Rensselaer Honda personnel would need to regularly inspect and maintain the oil water separator and storage tank, including a regularly schedule to pump out the storage tank. Mr. Kestner also stated that the Town could require notification and receipt when the storage tank is maintained and pumped out. The Board generally discussed requiring a regular maintenance schedule for the oil water separator and the storage tank, and the requirement that Rensselaer Honda maintain records of the inspection and maintenance program

which would be available to Town personnel upon request. Member Mainello also inquired whether the pipe leading from the filling area to the storage tank was proposed to be PVC plastic or iron. Mr. Bianchi noted that the current plan was for PVC pipe, but that the Applicant was willing to upgrade to an iron pipe. The members of the Board, along with Mr. Kestner, concurred that the underground pipe should be upgraded to iron. Mr. Kestner also confirmed that the fire suppression system was UL approved. Chairman Malone inquired whether the Board had any further questions on the application. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Chairman Malone. The motion was approved 7-0, and a negative declaration adopted. Thereupon, Chairman Malone made a motion to approve the site plan subject to the following conditions:

1. The site plan must be amended to change the underground pipe from the filling area to the oil water separator and storage tank from PVC plastic to iron.
2. Rensselaer Honda must have a regular inspection and maintenance program for the oil water separator and storage tank to be conducted on a quarterly basis, and records must be maintained concerning the maintenance and inspection program and available to Town personnel for review upon request.
3. Rensselaer Honda consents to an annual inspection by Town personnel of the petroleum bulk system, including the oil water separator and storage tank.
4. All records maintained by Rensselaer Honda for compliance with New York State Department of Environmental Conservation petroleum bulk storage regulations must be made available to Town personnel upon request.

This motion with stated conditions was seconded by Member Esser. The motion was approved.

7-0, and the site plan approved with the stated conditions.

The next item of business on the agenda was a waiver of subdivision application by RICK FILM for property located on Pinewoods Avenue. Upon request of the Applicant, this matter is adjourned to the July 1, 2004 meeting.

The next item of business on the agenda was a site plan application by BRUNSWICK MEDICAL for its facility located on Route 2. Upon request of the Applicant, this matter is adjourned to the July 1, 2004 meeting.

The Board entertained a minor subdivision application filed by JEAN GINSBURG for property located on Town Office Road. Appearing on behalf of the Applicant were Stewart Ginsburg and Len McDermott, P.E. The Applicant owns a total of 83.36 acres, from which she seeks to divide a 7.3 acre lot for construction of a single family residence. The Planning Board had recently approved a waiver of subdivision to create a building lot off Town Office Road, directly adjacent to the 7.3 acre lot proposed in this minor subdivision application. The proposed lot has adequate frontage directly onto Town Office Road, and sight distances do not pose a problem as the County has already issued a curb cut permit to the adjacent subdivided lot at the same approximate location. Upon further discussion, it was determined that the application was complete, and the Board was prepared to act. Member Czornyj made a motion to adopt a negative declaration under SEQRA, which was seconded by Chairman Malone. The motion was approved 7-0, and a negative declaration adopted. Chairman Malone then made a motion to approve the minor subdivision application, which motion was seconded by Member Czornyj. The motion was approved 7-0, and the minor subdivision application approved.

The Board discussed the waiver of subdivision application by TEDESCO for property at



the end of Skyview Drive. The Board is requiring a revised lot layout on this application, which will include location of the tile field on the existing Tedesco property, well location on the adjoining property, as well as a proposed house, driveway, well and septic location on the proposed new lot. This information will be transferred to the Applicant's engineer. This matter will be placed on the Board's July 1 agenda.

Mr. Krieger and Mr. Kestner advised the Board that an amended site plan had been submitted by the engineers for DUNKIN DONUTS. A full application for an amended site plan approval has not yet been filed. Mr. Kestner received the amended site plan map on June 17. Mr. Kestner generally reviewed the proposed changes on the site plan, and stated that he needed time together with Mr. Krieger to review the proposed changes. It was noted for the record that DUNKIN DONUTS will need to pay full application fees for the application for amendment to their site plan, plus all applicable recreation fees on the new application. Mr. Kestner also stated that he had required the engineer for DUNKIN DONUTS to retain a soils engineer to certify the retaining wall construction. This matter will be placed on an agenda when a full amended site plan application is submitted.

The proposed minutes of the June 3, 2004 meeting were reviewed. A correction on page 2 was made to note that Mr. Kronau agreed with the bond estimate for the Sand Cherry Hill Subdivision, Member Czornyj made a motion to approve the minutes as corrected, which motion was seconded by Member Wetmiller. The motion was approved 7-0, and the minutes adopted.

The **index** for the June 17, 2004 meeting is as follows:

1. Pollock - Brunswick Plaza East site plan - approved with conditions;
2. Pigliavento Builders - major subdivision - 7/1/04;

3. Rensselaer Honda - site plan - approved with conditions;
4. Film - waiver of subdivision - 7/1/04;
5. Brunswick Medical - site plan - 7/1/04;
6. Ginsburg - minor subdivision - approved;
7. Tedesco - waiver of subdivision - 7/1/04; and
8. Dunkin Donuts - amended site plan - adjourned without date.

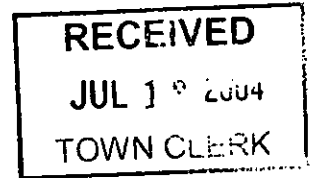
The proposed agenda for the July 1, 2004 meeting currently is as follows:

1. Pigliavento Builders - major subdivision;
2. Film - waiver of subdivision;
3. Brunswick Medical - site plan; and
4. Tedesco - waiver of subdivision.

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809



## MINUTES OF THE PLANNING BOARD MEETING HELD July 1, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, JOSEPH WETMILLER, KEVIN MAINELLO and DAVID TARBOX.

ABSENT was RUSSELL OSTER.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the major subdivision application of PIGLIAVENTO BUILDERS for property owned by BRAGIN on Route 351. Appearing on behalf of the Applicant was Linda Stancliff, of Erdman Anthony. Ms. Stancliff handed up to the Board a letter from the New York State Department of Transportation ("NYSDOT"), dated June 29, 2004, by Blake Buckner, Assistant Resident Engineer, stating that NYSDOT has reviewed the revised plans for the subdivision and finds the proposed roadway to be within NYSDOT standards. Ms. Stancliff also handed up a letter from Attorney Donald Zee, attorney for the Applicant, who will be preparing the necessary documentation for the creation of the homeowners' association for the stormwater management facilities for this project. The letter from Attorney Zee noted that the homeowners' association will have access to the stormwater management facilities by means of easements. Member Mainello questioned whether the Town will also obtain easements for access to these stormwater facilities. Chairman Malone noted that this was up to the Town Board and the Town Attorney as to how the Town wishes to handle these facilities on this and future applications, and Attorney Gilchrist will confer with the Town

Attorney on that issue. Mr. Kestner noted that he had reviewed all of the plans and submissions to date, and that the application was in a form satisfactory for preliminary subdivision approval, subject to final engineering detail on the plans, and also Town Board approval for a variance on the road width under the Public Improvement Ordinance of the Town, as well as approval of the homeowners' association documentation. Chairman Malone and Member Mainello inquired of Mr. Kestner whether the stormwater management facilities were adequate. Mr. Kestner stated that this project will not impact off-stream properties in terms of stormwater, and that adequate stormwater detention facilities, including basins and a pond, have been incorporated into the project. Chairman Malone noted that the biggest issue concerning the project was the stormwater detention facilities, and that the Applicant had adequately addressed that issue. The Board then reviewed the Long Environmental Assessment Form, Part 2. While the Board determined that this project will result in a physical change to the project site, they deemed the impact to be small, and did not present a significant environmental impact. The Board determined that the proposed action will not affect any water body designated as protected. The Board determined that the proposed action will not affect air quality. The Board determined that the proposed action will not affect any threatened or endangered species. The Board determined that the proposed action will not affect agricultural land resources. The Board determined that the proposed action will not affect aesthetic resources. The Board determined that the proposed action will not impact any site or structure of historic, prehistoric or paleontological importance. The Board determined that the proposed action will not affect the quantity or quality of existing or future open spaces or recreational opportunities. The Board determined that the proposed action does not affect any critical environmental area. The Board determined that while this

action will increase traffic, the impact on existing transportation systems is small, and does not present a significant environmental impact. The Board determined that the proposed action will not affect the community's sources of fuel or energy supply. The Board determined that the proposed action will not result in objectionable odors, noise, or vibration. The Board determined that the proposed action will not affect public health and safety. The Board determined that the proposed action will not affect the character of the existing community. Following such review, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Wetmiller. The motion was approved 5-0 (Esser abstaining), and a negative declaration adopted. Thereupon, Member Czornyj made a motion to grant preliminary subdivision approval subject to the following conditions:

1. Final engineering details on the plans must be submitted and reviewed to the satisfaction of the Town Consulting Engineer;
2. Homeowners' Association for the maintenance of the stormwater detention facilities must be created, and reviewed and approved by the Town Attorney and Town Board;
3. Execution of a road maintenance agreement; and
4. Performance bond for infrastructure construction.

Member Wetmiller seconded the motion with the stated conditions. The motion was approved 5-0 (Esser abstaining), and preliminary subdivision approval with stated conditions was adopted.

The next item of business on the agenda was a waiver of subdivision application by RICK FILM. Upon request of the Applicant, this matter is adjourned to the July 15, 2004 meeting.

The next item of business on the agenda was a site plan application by BRUNSWICK MEDICAL for property located on Route 2. Mr. Kreiger reported that a complete site plan

application had not yet been filed, and this matter has been adjourned without date.

The next item of business on the agenda was a waiver of subdivision application by TEDESCO, for property located on Skyview Drive. At the request of the Applicant, this matter has been adjourned to the July 15 meeting.

Two items of new business were discussed.

The first item of new business discussed was an application by GALLIVAN for subdivision of property which GALLIVAN is obtaining from Saint Peter's Cemetery. This parcel is located both in the City of Troy as well as the Town of Brunswick. GALLIVAN requires subdivision approval in order to complete the transfer of title for the land from Saint Peter's Cemetery. GALLIVAN must file a complete subdivision application with the Town, and this matter will need to be coordinated with the City of Troy Planning Board. This matter has been adjourned without date.

The next item of new business discussed was an application by DUNKIN DONUTS for amendment to its site plan. This matter is still being reviewed by Mr. Kreiger and Mr. Kestner, and will be placed on the agenda for further discussion at the July 15 meeting.

Mr. Kestner reported as to activities at the Max BMW facility on Route 7. Mr. Kestner reports that the owner seeks to keep an existing shed on the site, which under the approved site plan was slated for demolition. Also, the owner has installed a chain linked fence which had not been depicted on the approved site plan. Mr. Kestner informed the owner that he needed to file an application to amend the existing site plan to show these additional features.

The minutes of the June 17, 2004 meeting were reviewed. Upon motion by Member Czornyj, seconded by Chairman Malone, the minutes were approved as written by a 6-0 vote.

The **index** for the July 1, 2004 meeting is as follows:

1. Pigliavento Builders - major subdivision - preliminary subdivision approval with conditions;
2. Film - waiver of subdivision - 7/15/04;
3. Brunswick Medical - site plan - adjourned without date;
4. Tedesco - waiver of subdivision - 7/15/04;
5. Gallivan - subdivision - adjourned without date; and
6. Dunkin Donuts - application to amend site plan - 7/15/04.

The proposed agenda for the July 15, 2004 meeting is as follows:

1. Film - waiver of subdivision;
2. Tedesco - waiver of subdivision; and
3. Dunkin Donuts - amendment to site plan.

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809

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TOWN CLERK

## MINUTES OF THE PLANNING BOARD MEETING HELD July 15, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, JOSEPH WETMILLER, KEVIN MAINELLO, RUSSELL OSTER and DAVID TARBOX.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the waiver of subdivision application by RICK FILM for located off Pinewoods Avenue Extension. Rick Film appeared on the application. Mr. Film handed up a survey depicting the lot sought to be created, as well as the remaining lands of Film. The proposed lot directly abuts Pinewoods Ave. Ext., and has adequate road frontage. The Planning Board had requested Mr. Film obtain a Rensselaer County curb cut approval for construction of a driveway. Mr. Film handed up a letter from Rensselaer County by Fred Howard, stating that the County would approve a curb cut and driveway installation, however a guard rail would need to be modified when the driveway is installed. Chairman Malone reviewed the letter from Rensselaer County. It is understood that Mr. Film will be utilizing an existing driveway leading to his brother's lot; however, the Board wanted to make sure that in the event a driveway needed to be installed on this proposed lot, Rensselaer County would approve a curb cut and driveway installation directly onto Pinewoods Ave. Ext. The Planning Board reviewed the survey, noting the proposed lot met zoning requirements as well as road frontage, and further reviewed the County approval for any future driveway installation.



Chairman Malone inquired whether the Board had any additional questions or comments. Hearing none, Member Czornyj made a motion to approve a negative declaration, which motion was seconded by Member Wetmiller. The motion was approved 7-0, and a negative declaration adopted. Member Esser then made a motion to approve the waiver of subdivision application subject to approval by Rensselaer County Health Department, which motion was seconded by Member Czornyj. The motion was approved 7-0, and the waiver of subdivision application was approved with the stated condition.

The next item of business on the agenda was a waiver of subdivision application by TEDESCO for property located on Skyview Drive. Appearing on behalf of the application was Mark Danskin. Mr. Danskin handed up a revised plat with two sheets. Sheet 1 showed the lot layout, totaling 1.52 acres, with a 25' road frontage along Skyview Drive. Sheet 2 showed Rensselaer County Health Department approval for water and septic, and depicted a house and driveway location on the new lot, as well as the well and septic location, and also showed the existing wells and septic within 250' of the proposed lot. Member Czornyj recuse himself from action on this application, as he owns property adjacent to the proposed lot. Mr. Czornyj inquired of Mr. Danskin whether any drainage would flow onto his property from this new lot. Mr. Danskin stated that the house and driveway portion of the lot drain towards Skyview Drive, and the back of the lot will remain grass and a treed buffer, which will allow infiltration of surface water. Therefore, Mr. Danskin stated that there will be no additional drainage off-site from this new lot, whether onto the land of Czornyj or otherwise. Member Oster inquired whether the public highway by use over Skyview Drive goes all the way to the gate fronting the Tedesco driveway, so that the proposed driveway to the new lot would likewise have direct

access to the public highway. The investigation into this matter showed that the maintenance of Skyview Drive did proceed to the gate, as depicted on the subdivision plat, Sheet 1; therefore, the proposed driveway does have access directly onto a public highway. Mr. Kestner confirmed that Mr. Eddy, Highway Superintendent, was aware of the survey work performed by Mr. Danskin. Member Wetmiller stated for the record that the well and septic must be built in the locations depicted on Sheet 2 of the subdivision plat. The Board inquired as to whether an as-built drawing would be prepared once the well and septic had been installed. Mr. Danskin answered that an as-built drawing needed to be prepared for the Rensselaer County Health Department. The Board determined that a condition of an approval of this application would be the submission of the as-built drawing to the Town Building Department as well. Upon further discussion, the Board determined that the proposed lot met all zoning requirements, has adequate frontage directly onto a public highway by use, maintains adequate setback for water and septic, and the Applicant has provided all of the requested information on the subdivision plat. Thereupon, Member Mainello made a motion to adopt a negative declaration pursuant to SEQRA, with Member Tarbox seconding the motion. The motion was approved 6-0 (Member Czornyj abstaining), and a negative declaration adopted. Thereupon, Member Oster made a motion to approve the waiver of subdivision application subject to the condition that an as-built drawing of the water and septic be submitted to the Town Building Department. Member Wetmiller seconded that motion. The motion was approved 6-0 (Member Czornyj abstaining), and the waiver of subdivision application approved with the stated condition.

The next item of business discussed was the status of the DUNKIN DONUTS application for amended site plan approval. Mr. Kreiger and Mr. Kestner confirmed that the new plan had been filed with the Town, and that Dunkin Donuts requested to be placed on the agenda for the

August 5 meeting. Mr. Kestner generally reviewed the proposed revisions to the site plan, primarily in terms of stormwater maintenance. Mr. Kestner indicated that he would review the proposed site plan in detail prior to the August 5 meeting. The issue of the retaining wall at this site was also discussed, and the Board concurred that Dunkin Donuts must retain a licensed engineer to certify the construction of the retaining wall, and that the retained engineer for Dunkin Donuts must be present at the August 5 meeting.

The next item of business on the agenda was the major subdivision proposal by Cobblestone Associates for property located off Bulson Road and Tambul Lane. Appearing on behalf of the Applicant was James Dunn. This Applicant had previously appeared before the Board with a proposal to create 40 building lots for the subject property. Mr. Dunn stated that since the Board had many questions concerning the number of lots, the Applicant has revised its plan to reduce the number of lots. Chairman Malone noted that not only did the Board have questions and concerns regarding the density of the application, but that many residents in the area also raised concerns. Mr. Dunn explained that the Applicant went back to the original Winfield Estates subdivision review in 1987, which included a Phase I and Phase II of construction. Mr. Dunn stated that under the proposed Phase II of construction for the Winfield Estates subdivision, the road off Bulson Road was to be extended and connected to Tambul Lane, with additional lots created off the road extension near Tambul Lane. Mr. Dunn explained that the Applicant now wants to use the Phase II construction of the Winfield Estate subdivision as a base-line for its proposal. Accordingly, Mr. Dunn explained that the Applicant now seeks to add an additional three (3) lots off the existing cul-de-sac off Bulson Road into Winfield Estates, and create a new cul-de-sac off Tambul Lane with 17 building lots, plus one additional lot for the 33 ± acres of wetlands on the site. Mr. Dunn stated that while the proposal has been scaled

down, it is in compliance with the original Winfield Estates Phase II construction proposal. Mr. Kestner stated that using the original Winfield Estates review as a base-line raised questions, since the original proposal was to have the road be maintained as a private road to be owned and maintained by the homeowners of Winfield Estates. Mr. Kestner stated that in approximately 1991, the homeowners of Winfield Estates requested that the Town take over the road and the road was in fact taken over by the Town. This proposal seeks to add additional building lots off the existing cul-de-sac off Bulson Road, plus also add a second cul-de-sac road off of Tambul Lane, to become a public roadway. The Board noted that both cul-de-sacs will result in non-compliance with the Subdivision Regulations limiting the number of building lots off a cul-de-sac to ten (10), and therefore will require a waiver application to the Town Board concerning the number of lots. Chairman Malone inquired as to the procedure on the number of lots. Attorney Gilchrist indicated that the application has been received and the number of lots have been reviewed by the Board. Given that both cul-de-sacs propose building lots in excess of ten (10), this matter must be referred to the Town Board and the Applicant must make application to the Town Board for a waiver on the number of lots off the cul-de-sac. In the event the Town Board grants the waiver, the application will return to the Planning Board for subdivision review. In the event the Town Board denies the application or otherwise modifies the plat, the Applicant will need to revise the subdivision plat accordingly. Attorney Gilchrist raised the issue of compliance with SEQRA on the application, and that a coordinated environmental impact review seemed appropriate between the Planning Board and the Town Board, since both Boards will need to act upon the application. The Board considered the number of lots to be of primary importance, and suggested that the Town Board may wish to consider taking lead agency under SEQRA so that the Town Board had adequate information to make the decision as to the number of lots to be allowed. The history of this site included concerns regarding adequate groundwater for potable

purposes, as well as traffic concerns. These issues are appropriately investigated under SEQRA, and the Town Board should have this information prior to making any determination on the waiver application. The Planning Board also had concern about making any recommendation to the Town Board on the waiver application prior to having this additional information before it. Member Tarbox also noted for the record that the property was currently being actively farmed, and impact on agricultural resources needs to be considered. Member Tarbox also noted for the record that he was opposed to having a wetland transferred to a conservancy, thereby taking the property off the tax rolls. This matter will be adjourned for further discussion at the August 5 meeting.

One item of new business was discussed. An application for waiver of subdivision for property located on White Church Lane owned by RODEN has been received. This matter was previously considered by the Board, and request for additional information on the map was required. The map has now been completed and submitted to the Building Department. This matter will be placed on the agenda for the August 5 meeting.

The minutes of the July 1, 2004 meeting were reviewed. Upon motion by Member Wetmiller, seconded by Member Oster, the minutes were approved 7-0 as written.

The **index** for the July 15, 2004 meeting is as follows:

1. Film - waiver of subdivision - approved with condition;
2. Tedesco - waiver of subdivision - approved with condition;
3. Dunkin Donuts - amendment to site plan - 8/5/04;
4. Cobblestone Associates - major subdivision - 8/5/04; and
5. Roden - waiver of subdivision - 8/5/04.

The proposed agenda for the August 5, 2004 meeting is as follows:

1. Dunkin Donuts - amendment to site plan;
2. Cobblestone Associates - major subdivision; and
3. Roden - waiver of subdivision.

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809

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## MINUTES OF THE PLANNING BOARD MEETING HELD August 5, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, JOSEPH WETMILLER, KEVIN MAINELLO, RUSSELL OSTER and DAVID TARBOX.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the major subdivision application of COBBLESTONE ASSOCIATES for property located off Bulson Road and Tambul Lane. Appearing on behalf of the Applicant was Jim Dunn. Mr. Dunn handed up a revised SEQRA Long Environmental Assessment Form; a revised map for lot layout; a letter from the Office of Parks, Recreation, and Historic Preservation; a letter from the New York State Department of Environmental Conservation; and information concerning a traffic study which had been performed for this location by Transportation Concepts, including trip counts during the school year. Mr. Dunn explained that while the data had been obtained by Transportation Concepts, the full traffic report had not yet been completed. Mr. Dunn was handing up a summary prepared by Transportation Concepts concerning the traffic data. Mr. Dunn said that the full Traffic Report will be delivered to the Planning Board prior to its next meeting. Chairman Malone accepted these documents, and informed Mr. Dunn that the Board and its consulting engineer will need time to review them. Further, Chairman Malone suggested that the Applicant meet with him and the Planning Board attorney so that the Applicant fully understands the procedural process and

necessary approvals which this project must complete before the Town of Brunswick. This matter has been placed on the agenda for the August 19 meeting.

The next item of business on the agenda was that application for amended site plan by DUNKIN DONUTS. No one was present on the application.

The next item of business on the agenda was a waiver of subdivision application by RODEN for property located on White Church Road. Dave Smith appeared on the application, and handed up a survey for the Board's review. The survey depicted a driveway location off White Church Road, with a proposed house location. Mr. Smith explained that while the driveway location was final, he had not yet determined the exact location of the house, and had placed merely a proposed house location in the survey. The Board discussed that the parcel sought to be divided totaled 8.20 acres. Member Czornyj noted for the record that the Applicant had complied with the Board's request to provide more detail on the survey, as well as establishing a final location for a driveway. Member Wetmiller confirmed for the record that the driveway location was final, but that the exact house location was still to be determined. Chairman Malone made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Czornyj. The motion was approved 7-0, and a negative declaration was adopted. Thereupon, Member Czornyj made a motion to approve the waiver of subdivision application subject to compliance with the survey showing a final driveway location, which motion was seconded by Member Esser. The motion was approved 7-0, and the application approved.

The next item of business on the agenda was a site plan application by USA GAS for its facility located on Hoosick Street. The Applicant explained that this has been submitted to the



Planning Board at this time for a concept review only, as the project remains before the Zoning Board of Appeals on an application for area variances. It is anticipated that a decision will be made by the Zoning Board of Appeals at its next meeting. The Applicant explained that on the site currently is a one-pump island which is uncanopied, plus a small building. The proposal is to install a new pump island with full canopy, as well as a new and larger building toward the rear of the site. The Applicant is coordinating its project with the Route 7 redevelopment project. The new proposal will include a larger building which will house a convenience store. The proposal has a total of six (6) parking spaces and the Town Code requires only five (5). The Applicant explained that there are two area variances pending before the ZBA. First, the Applicant needs a variance on the rear setback for the placement of the new building, with the Zoning Code requiring a 30' setback to the rear property line, and the building is proposed for 25' from the rear property line. Second, the Applicant stated that the canopy planned for the pump island is deemed an accessory structure, which according to the Zoning Code requires a 75' setback from the front property line. The Applicant explained that the canopy over the pump islands is planned for 10' from the front property line. The Zoning Board of Appeals has already held public hearings in connection with each variance application, and a decision is expected shortly. Chairman Malone inquired whether the pump island will still be a full service facility, since he understood that the station is currently a full service gas station. The Applicant stated that he intended to continue to operate the pump islands as a full service facility. The Applicant explained that they had added landscaping to the proposed site plan in consideration of comments received at the public hearings before the Zoning Board of Appeals. Specifically, the owner of the residential property to the rear of this site, Madigan, was concerned about light spillage going directly onto her property. To address this, the Applicant has included a proposed

berm with plantings at the rear of the property line. Chairman Malone inquired as to the current hours of operation for the facility. The Applicant stated that the operating hours are 6 a.m. to 10 p.m., and that they intended to keep these in place. Chairman Malone suggested that a possible condition to any site plan approval would be hours of operation so that residential properties to the rear facility would not be impacted during night-time hours. The Applicant stated that his overall plan was to upgrade the facility with a new building which would allow more floor space, and also update the pumps with a canopy system inclusive of lighting and fire suppression. The Applicant stated that the site plan had green space of 38%, while the Code requires only 35%. The Applicant explained that it was his plan to construct a new building behind the existing building, and to have the facility remain open while that building was being constructed. The Applicant would close the facility temporarily while the new pump islands were being installed. It was the Applicant's plan to utilize the existing petroleum underground storage tanks, and merely install the new pump island and canopy. The Applicant stated that the canopy would have a similar setback from Hoosick Street that both the King Fuels and Mobil stations have in close proximity. Chairman Malone stated that the Applicant must be aware that the Planning Board will be very sensitive to any impacts to the residential properties to the rear of this site, and that care would be taken to make sure that these properties were not impacted. Member Esser inquired what the Applicant planned for the rear wall of the new building. The Applicant explained that they were investigating split faced block. Member Esser said that the rear of the building must have an attractive look, not merely painted cinder block, since this was facing existing residential properties. Member Czornyj agreed with this observation. The Applicant stated that they were looking at various building options for the exterior, and that they were willing to have the same exterior block finished on all four exterior walls of the building if

that was a requirement of the Planning Board. Mr. Kestner inquired as to the proposed lighting for the facility. The Applicant stated that they were investigating security lighting in the back of the store, but that they wanted to ensure that there was no light spillage onto residential properties. Mr. Kestner said that he would need to review the entire lighting plan for the facility. Member Czornyj inquired as to any proposed fencing to the rear of the property. The Applicant explained that there was an existing fence to the rear of the property on the Madigan property, and that it was an existing stockade fence. Mr. Kreiger explained that in the meetings before the Zoning Board of Appeals, the difference in elevation between the USA Gas property and the Madigan property was explored, since the Madigan property was at a lower elevation. The concern was that even with a stockade fence on the Madigan property, light spillage, particularly from cars, would still go over the stockade fence and impact the Madigan property. To address that comment, the Applicant stated that they are planning to construct a berm to the rear of the USA Gas parcel to be 3'-4' in height, with a row of 6' evergreens on top of the berm. Chairman Malone stated that the landscape plan would need to be looked at carefully, since the Board would be very sensitive to the residential properties to the rear of this site. Also, Chairman Malone said that because of the proximity to residential properties, not only would the landscaping plan be examined, but the lighting plan as well as the exterior of the rear of this building will be reviewed carefully by the Planning Board. Member Tarbox asked if there were any doors planned for the back of the building. The Applicant stated that they did not anticipate any doors on the rear of the building, which would keep down any noise or activity to the rear of the site. Chairman Malone asked where the air conditioning units were planned for the new building. The Applicant explained that they were looking to locate the air conditioning units on the roof of the building, behind a proposed parapet on the front of the building. Member Esser inquired as to the height of the proposed parapet, because the air conditioning units should not be

seen from the front of the building, nor from the Route 7 corridor. Mr. Kestner suggested that the Applicant provide the Planning Board with cross-section through this proposed lot, which will include both the building as well as the berm and landscaping to the rear of the lot and the Madigan property. The Planning Board concurred that this would be useful in its review.

Member Czornyj inquired as to the drainage plan for the site. The Applicant explained that it intended to maintain the current drainage patterns on the site, which drains toward the Hoosick Street storm drains. Member Czornyj then said that if sheet drainage is planned toward the front of the lot, the Board would make sure that no water would be flowing off and impacting the residential properties to the rear of the site. The Applicant stated that they were just beginning to start specific building designs, and that a more definite plan for the building will be ready for the next Planning Board meeting. This will include the option of a flat roof or pitched roof, roof drains, and stormwater flow on the site. Member Esser inquired whether any pole lighting was planned for the site. The Applicant stated that it was planning to use only the lighting on the underside of the canopy, and was determining whether that provided adequate lighting for the pump island. The Applicant does not want to install additional pole lighting at the site. Mr. Kestner inquired as to the status of the existing petroleum underground storage tanks at the site. The owner explained that the tanks were installed in the early 1970s, but were upgraded in 1987. The owner explained that the tanks were single wall metal tanks but had a lining installed on the tanks in 1987 according to NYSDEC regulations, that he has periodic tightness testing performed on the tanks, and that he maintains petroleum inventory records. Mr. Kestner and the Planning Board members required the Applicant to supply all the information the owner has concerning the underground tanks in compliance with NYSDEC regulations. Member Wetmiller asked

whether a concept drawing of the building could be prepared by the next Planning Board meeting. The Applicant stated that it was his intention to have that prepared for the next Board meeting. Mr. Kestner asked whether any satellite dish was proposed for the roof of this building. The Applicant stated that no satellite dishes would be installed. Member Czornyj said that an important issue were the roof drains for this facility, and how that would impact the existing drainage patterns. Member Wetmiller also stated that the drains off the canopy system were also an issue, since a lot of water would be focused to one area in very close proximity to Route 7. Chairman Malone also stated that the Board was concerned about the status of the existing petroleum underground storage tanks, and that these issues needed to be examined when the Board received further information. This matter will be placed on the agenda of the Board for its August 19 meeting.

The Board noted that there still was no appearance from any representative of DUNKIN DONUTS. Member Esser stated that he thought the Town should take the escrow money which had been placed on deposit, hire a contractor and complete the site according to the original site plan. Member Czornyj also said he still had concerns about the construction of a retaining wall on site. Mr. Kreiger stated that he had spoken with the owner of DUNKIN DONUTS, Evo Garcia, on today's date and that Mr. Garcia stated that he would be attending this evening's meeting. Mr. Kestner also reminded the Board that he had spoken with the engineering firm for DUNKIN DONUTS on this project immediately after the last Board meeting, and informed the engineer that an appearance at tonight's Board meeting was required.

One item of new business was discussed. Mr. Bady is proposing a waiver of subdivision for property located at the intersection of Green and Genessee Street, in order to obtain a 10'

strip of land from his neighbor. Apparently, Mr. Bady is already maintaining this portion of his neighbor's property, and seeks to obtain title to it. The neighbor is agreeable to sell the 10' strip to Bady if approved by the Planning Board. Upon review of the application, the Board questioned whether the division of this 10' strip created setback and lot size compliance issues on the neighbor's lot. The Board stated that the Applicant should be aware that the Town cannot approve a subdivision resulting in setback and lot size violations, and that the Applicant must ensure that compliance with all Code requirements are met. If not, this application may likewise require a variance from the Zoning Board of Appeals. Mr. Kreiger will alert the Applicant as to these issues.

Member Mainello raised an issue concerning the HEATHER RIDGE SUBDIVISION located off Route 2. It is noted that Mr. Mainello owns one of the lots in this subdivision. Apparently, a builder has purchased the remaining lots in the subdivision, and is in the process of adding fill to one of the lots. The lot on which the fill is being placed is very wet, and the remaining lot owners are concerned about flooding and drainage problems which may result from the filling activity. The lot owners are inquiring whether the change in grade on this lot is in compliance with the approved subdivision plat and whether this requires Planning Board review. That issue will be examined. Mr. Mainello also raised the point that the Army Corps of Engineers has been contacted as to whether any of the wet areas on this lot are federal wetlands. This matter will continue to be monitored. Member Esser opined that the Town should be requiring an escrow from the Applicant/Developer on all larger projects and infrastructure installation to allow the Town to hire a review engineer which can be on site at the developer's expense.

At this point, Evo Garcia, owner of DUNKIN DONUTS, arrived at the meeting. Mr. Garcia was on his own, and did not bring a licensed professional engineer. Mr. Kestner reviewed the revised site plan in terms of stormwater detention and drainage, and stated that he had calculated the stormwater flows under the revised plan and that they had equivalent volumes as to the original plan. Mr. Kestner did state that the Planning Board required an engineer to certify the construction of the retaining wall, and that such certification had not yet been received. Member Esser also stated that he did not like the fact that Mr. Garcia was now planning to construct a 10' x 12' shed where the earlier detention basin should have been built, resulting in the revised stormwater plan. Mr. Garcia said that he was not trying to do anything improper, but that his contractors had run into significant shale in the rear of the property and they did not want to build a detention basin that would improperly infiltrate and create an open water problem. Member Czornyj asked Mr. Kestner whether the revised stormwater plan and whether the revised drainage plan would work on this site. Mr. Kestner stated that the stormwater calculations have equivalent volumes, and that the new plan was sufficient. Mr. Kestner also reminded the Board that there was a sewer odor from the storm drains on this site, and that the owner needed to investigate this issue to determine whether there was any connection between the storm drains and the sewer drains. Mr. Garcia stated that he was currently having that investigated. In terms of the retaining wall, Mr. Garcia asked what the Planning Board wanted. Chairman Malone stated that the Planning Board had been quite clear that they were requiring a certification from a licensed professional engineer that the retaining wall had been built according to the specifications, and that it was safe. Member Esser stated that the approved plans and specifications for the retaining wall required compaction tests every 3' lift during

construction. Mr. Garcia stated that no compaction testing had been done because the material behind the wall was all shale. The Board inquired whether the wall had been anchored to soil as set forth in the approved specifications. Mr. Garcia said that there was no soil to anchor the wall and that it had been pinned directly into the shale. Member Czornyj then said that the wall had not been built according to the approved specifications. Mr. Garcia was adamant that the wall was safe, that it had been through a harsh winter, and that there was no problem with the wall currently. Chairman Malone stated that Mr. Garcia's statements notwithstanding, the Planning Board was requiring that statement to be made by a licensed professional engineer. Mr. Garcia said that if this was a liability issue, he would agree to take all responsibility for the wall and protect the Town from any liability. The Board stated that while that may still be a condition on any action on the revised site plan, the Town was still required to issue a Certificate of Occupancy for this facility, including the construction of that retaining wall in compliance with approved plans and specifications. The Planning Board was adamant that Mr. Garcia appear at the next Planning Board meeting with a professional engineer licensed in the State of New York to address the structural integrity and safety of the retaining wall. Mr. Garcia showed the Planning Board a letter from his contractor (S&S Construction) which stated that the contractor had built the retaining wall according to manufacturers specifications. While this was important information, the Planning Board repeated to Mr. Garcia that he needed to attend the next Planning Board meeting with a licensed professional engineer to address the retaining wall issues. This matter will be placed on the agenda for the August 19 meeting.

The minutes of the July 15, 2004 meeting were reviewed. Member Czornyj noted that page 2 of the proposed minutes indicated that the lot on the Tedesco application had already



received Rensselaer County Health Department approval. Upon further review, it is noted for the record that the water and septic plan for the TEDESCO lot had been reviewed by the Rensselaer County Health Department on July 6<sup>th</sup> and that a permit had not been issued by the Rensselaer County Health Department until July 20<sup>th</sup>. Member Wetmiller also noted that a correction on page 5 of the proposed minutes was required to change the number of allowable lots off a cul-de-sac from "ten" to "twelve". Subject to such corrections, Member Czornyj made a motion to approve the minutes, which motion was seconded by Member Esser. The motion was approved 7-0, and the minutes adopted as amended.

The **index** for the August 5, 2004 meeting is as follows:

1. Cobblestone Associates - major subdivision - 8/19/04;
2. Dunkin Donuts - amended to site plan - 8/19/04;
3. Roden - waiver of subdivision - approved;
4. USA Gas - site plan - 8/19/04; and
5. Bady - waiver of subdivision - adjourned without date.

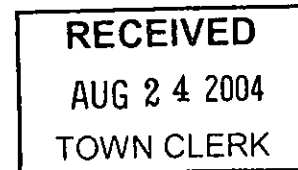
The proposed agenda for the August 19, 2004 meeting is as follows:

1. Cobblestone Associates - major subdivision;
2. Dunkin Donuts - revised site plan; and
3. USA Gas - site plan.

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809



## MINUTES OF THE PLANNING BOARD MEETING HELD August 19, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, JOSEPH WETMILLER, KEVIN MAINELLO, RUSSELL OSTER and DAVID TARBOX.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the COBBLESTONE ASSOCIATES major subdivision application. Appearing on behalf of the application were Kevin Kronau and James Dunn. Mr. Dunn explained that at the last Planning Board meeting the Applicant had handed up a revised Long Environmental Assessment Form ("Long EAF"), a conceptual map of the lot layout and road system, a summary letter from the Applicant's traffic consultant on traffic patterns, and letters from New York State Department of Environmental Conservation ("NYSDEC") and the Office of Parks, Recreation, and Historic Preservation ("OPRHP"). Mr. Dunn stated that the full traffic report was now available, and supplied one copy to the Board. Mr. Dunn stated that he would supply additional copies for each of the Board members. Chairman Malone noted on the record that both he and Attorney Gilchrist had met with Mr. Kronau and Mr. Dunn to review the procedure on this application before the Planning Board. Attorney Gilchrist explained that the Long EAF listed additional involved agencies on this application for the purpose of SEQRA review, including the Town of Brunswick Town Board and NYSDEC. Attorney Gilchrist explained that a coordinated environmental impact review

under SEQRA was appropriate on the application, and that the first thing that needed to be done was lead agency designation. Accordingly, Attorney Gilchrist will forward lead agency designation notices to both the Brunswick Town Board and NYSDEC, and a lead agency will need to be designated. The Planning Board determined that it sought to be lead agency on the application, and would so advise in the lead agency designation notice. Further, Attorney Gilchrist explained that once a lead agency was designated, a determination of environmental significance would need to be made on the application materials. Chairman Malone inquired of the Board Members as to whether there were any immediate concerns that the Applicant would need to consider and address. Member Esser stated that he was concerned that the remaining lands designated as one large lot, including the wetlands, would be eliminated from the tax base once transferred to a conservancy group. Member Esser thought that this land should be retained in private ownership, and kept on the tax rolls. Further, Member Esser stated that he had a concern regarding the number of lots and density. Specifically, Member Esser had concerns with the number of lots off a cul-de-sac, both in terms of road width and access of these lots to a public road. Mr. Dunn responded that the cul-de-sac was planned as a boulevard, with a road width of 20' on each side of the boulevard entering the cul-de-sac road, and then a 24' wide road after the boulevard ended. Mr. Dunn explained that he designed the road according to the NYSDOT highway design manual. Member Tarbox stated that he had concerns regarding the intersection of Tambul Lane and Tamarac Road, as it already is a safety concern without adding more cars. Member Tarbox also had a concern about the density of the project, and that it may be out of character with the surrounding area. Mr. Dunn stated that while adding 24 total lots would create more density than currently exists, the Applicant sought to create a neighborhood-

type atmosphere, rather than very large lots with houses spread very far apart. Mr. Dunn stated that the design was to create a neighborhood atmosphere, while restricting the balance of the land as open space. The Applicant was even willing to deed restrict the remaining land to keep it forever wild. Mr. Dunn did state the prior Winfield Estates approval in the late 1980s envisioned more lots over this same land than is currently being proposed. Mr. Dunn stated that nearly 50% of this property would remain undeveloped under the current plan. Mr. Kronau stated that the property was zoned A-40, which could potentially have more lots than proposed for this property. Mr. Kronau opined that if the character of that area should remain open and undeveloped, then it should be zoned that way rather than A-40. Member Mainello also raised a concern about the number lots off the cul-de-sac, and was concerned that approving this number of lots above the code limit of 12 would be setting a precedent. Mr. Kronau stated that his other project in the Town, Spring Landing, has 32 lots off a boulevard cul-de-sac, and that this had been approved by the Town. Mr. Kronau also stated that this type of denser development along a shorter road and keeping larger areas open and undeveloped under the project design, benefitted the Town by providing residential tax base without lengthy roads requiring on-going maintenance. Member Oster stated that he did not like the boulevard design on the road because of maintenance issues after the road is dedicated; specifically, who maintains the vegetative portion of the boulevard after the road has been dedicated. Mr. Kronau stated that the Town would be responsible for maintenance of the vegetated area of the boulevard after the dedication, but that it would entail nothing further than mowing grass similar to maintenance already performed by the Town on the shoulders of roads. The Board members questioned whether the Town should be maintaining vegetated boulevards, and noted that this was a current problem in other locations in the Town. Member Czornyj concurred that the wetland area should remain part of a private lot so as to

remain on the tax rolls. Member Tarbox stated that he felt the Army Corps of Engineers should be notified on this project concerning the wetland. Mr. Dunn stated that when the freshwater wetland was already mapped by NYSDEC, the Army Corps generally deferred to NYSDEC for regulation. Member Tarbox stated that contacting the Army Corps on this application should be done any way, to which Mr. Dunn concurred and stated he would contact the Army Corps.

Member Oster concurred that he also had a concern about the number of lots off the cul-de-sac, and concerned that approving this additional number of lots off the cul-de-sac would be setting a precedent. Mr. Kronau responded that he was attempting to compromise by having reduced the number of lots from his original proposal, and that a cul-de-sac road provided the best design for the reduced number of lots. Member Oster also noted that traffic was going to be a big concern on the project, and that Mr. Kronau and Mr. Dunn may want to consider talking to the neighbors prior to any public hearing to be conducted by the Planning Board. The Board directed Attorney Gilchrist to send out the SEQRA lead agency designation notices, and this matter has been tentatively placed on the agenda for the Board's September 16 meeting.

The next item of business on the agenda was the application for amended site plan approval by DUNKIN DONUTS. Appearing on behalf of the application was Tom Andress, P.E., of ABD Engineers. Mr. Andress handed up a letter dated August 5, 2004, in which he stated, as a licensed professional engineer, that the retaining wall at this site meets all the requirements of the site plan approval for construction methods. Member Wetmiller felt that the August 5 letter from Andress was vague. Member Esser questioned whether the Andress August 5 letter was accurate, since the requirements of the site plan notes required soil testing to be performed when the wall was being constructed. Mr. Andress confirmed that the soil compaction tests had not been performed during construction, since the contractor had

encountered considerable rock behind the wall during construction. Member Esser questioned Mr. Address as to his opinion why the retaining wall collapsed during construction. Mr. Address stated that the collapse had occurred because the wall had not been completed at a time when a considerable rainfall event occurred, and that the drainage pipe installed behind the wall had become plugged and buried with backfill, further contributing to the collapse of the wall during construction. Mr. Address stated that the drainage pipe had now been properly opened and placed, and that the retaining wall, in his professional opinion, is structurally sound and has not shown any structural deficiencies during the spring and summer of 2004 during significant rainfall events. Chairman Malone inquired of Mr. Kestner whether he had any concerns regarding the structural integrity of the retaining wall. Mr. Kestner stated that he did have a concern, since he was informed by the construction contractor that he did not have building plans when he was constructing the retaining wall, and that inspections of the wall during construction, particularly the drainage and backfill behind the wall, had not been performed. Further, Mr. Kestner stated that he did not have any knowledge as to whether the entire length of the retaining wall had been properly anchored. Chairman Malone then inquired of Mr. Address as to whether he was providing his professional opinion that the wall was properly constructed according to manufacturer specifications, and that the full length of the retaining wall was structurally sound. Mr. Address stated on the record that, in his opinion as a licensed professional engineer, the retaining wall met all of the requirements for proper construction, and that the wall was structurally sound and safe. Toward that end, the Planning Board required Mr. Address to apply his professional license and stamp to his August 5, 2004 letter for the Town's records, which Mr. Address provided. After further discussion, Chairman Malone noted for the record that Mr. Address was providing his opinion as a licensed professional engineer in the State of New York that the retaining wall is structurally sound and built according to accepted construction

specifications, that Mr. Andress has provided his opinion through a stamped and sealed opinion for the Town's records. Further, Chairman Malone stated for the record that the Planning Board would require the Applicant to provide to the Town an Indemnification and Hold Harmless Agreement concerning the retaining wall, and that the Applicant must maintain the Town of Brunswick as an additional insured on the facility's general liability policy, and that the Applicant file with the Town an annual insurance certificate noting the Town as an additional insured. Mr. Andress stated that the Applicant would agree to these conditions. Additional items discussed included the sewer odor which continued to come from the storm drains in the front of the property, and Mr. Andress stated that he was still investigating the cause of that odor. The revisions to the stormwater management plan on the revised site plan were reviewed by Mr. Kestner, who stated that the revised stormwater calculations were acceptable. The revised site plan also shows a proposed 10' x 12' storage shed to the rear of the building in the area which had originally been designated as a retention area. Mr. Andress stated that the storage shed would be used for general storage, and would not be refrigerated. Further, Mr. Andress stated that it would be a prefabricated shed, mostly likely of wood construction. Member Esser stated that he would like information as to the exterior of the shed, and that in his opinion it should be of the same material as the exterior of the existing building. The Planning Board members concurred. Mr. Kestner stated that it would be helpful for the Board if the Applicant would supply a drawing or picture of the proposed shed, including specifications as to the construction material. Mr. Andress stated that he would supply that information. It was also discussed by the Planning Board that all of the site improvements under the amended site plan should be completed by the Applicant within 45 days of approval, and that the Town should not let this matter pend any

further than that timeframe. Mr. Andress stated that 45 days would be more than adequate time in which to complete all of the site improvements. This matter has been placed on the agenda for the Board's September 2 meeting, at which point the schematic of the proposed shed will be presented to the Board, and final amended site plan will be presented with Mr. Andress' stamp and seal.

The next item of business on the agenda was the site plan application of USA GAS. There was no appearance by the Applicant. Mr. Kreiger noted for the record that the Brunswick Zoning Board of Appeals ("ZBA") had approved the area variances for this application. Mr. Kreiger noted that the approval of the area variances by the ZBA was subject to the following conditions:

1. The applicant shall construct a three (3) foot earthen berm containing vegetative screening in a saw-toothed pattern on each side of the proposed new building to shield the residences located to the rear from the headlights of those using the gas station.
2. The applicant shall place vegetative screening along the rear of the lot to further shield the residences located to the rear from the headlights of those using the gas station.
3. The handicapped parking and employee parking spaces shall be located on the West side of the lot.
4. The existing tool/storage shed on the premises shall be removed.
5. There shall be no outdoor storage or product displays.
6. The lights on the gas pump island canopy will be adjusted to cast downward.
7. There shall be no signs on the gas island canopy.
8. The lights on the canopy will be turned off each night at 10:00 p.m.



9. The applicant will ensure that fuel tanker trucks filling the underground gasoline tanks will only do so during the gas station's regular business hours and will face Hoosick Road or Gateway Plaza when so doing.
10. The site shall substantially comply in all respects to a plat entitled Proposed Site Modifications, USA Gas, Inc., NYS Route 7, prepared by Ranieri + Bossolini Associates LLP, dated February 20, 2004 bearing latest revision date 6/30/04, which plat was forwarded to the Town of Brunswick under cover letter dated July 12, 2004. In the event that the Planning Board, in the context of its site plan review, is unable to approve a site plan which substantially conforms to the said plat, and/or the above conditions, this matter shall be referred back to this Board for further proceedings.

This matter has been tentatively placed on the agenda for the Board's September 2 meeting, subject to check with the Applicant as to whether they are ready to proceed.

Four items of new business were discussed.

The first item of new business discussed was a site plan application by GASTON and SUE ROBERT for property owned by LARRY KRONAU on Route 2 opposite Tamarac School. Appearing on the application were Sue Robert, Larry Kronau and Wally Bryce. Sue Robert explained that she and her husband Gaston, run a business called "Shed Man", which sells sheds and gazebos. The Roberts are looking to site a display area for sheds and gazebos on the subject property. The site plan anticipates a future sales office, but that the present plan is merely to have the property as a display area only. The business would have a site sales manager, who would be responsible for maintenance of the property and keeping the property presentable. Chairman Malone inquired as to hours of operation of the business. Mrs. Robert explained that the business currently operates at two other locations, on Route 20 leading to Pittsfield, and also on Route 22 in New Lebanon. The New Lebanon location is their principal location, and the

hours of operation are from 9 a.m. - 5:30 p.m. However, Mrs. Robert noted that the site is open for people to look at the sheds and gazebos after 5:30 p.m., although there is no sales person on site. Chairman Malone inquired as to lighting. Mrs. Robert explained that there is a lighting plan shown on the site plan, but that this was not out of character for this particular location given the Cobble Pond Farms facility immediately next door, and the school property across the street. Mrs. Robert also explained that there would be one sign at this location, and that brochures would be available for people looking at the sheds and gazebos. Member Esser inquired whether this business had encountered any loitering problems. Mrs. Robert said that they had not had any problems at their other locations. Member Wetmiller inquired whether there was adequate room on this site for trucks to deliver the sheds and gazebos. Mrs. Robert explained that there was adequate room for a truck to drop the sheds and gazebos in one location, and that the company would then relocate the sheds and gazebos onto the site in their display areas. Member Czornyj stated that he was familiar with this business at its Route 22 location, and commented that the lot was very clean and presentable. Member Tarbox inquired whether the access road leading to ARC building is part of this lot, or part of the lot on the ARC property. Mr. Kronau explained that the road is owned by ARC, but that this lot has an easement for access over that road. Chairman Malone stated that if this business wanted to site a permitted sales office, they would need to come back before the Planning Board for amendment to its site plan. Mrs. Robert agreed. Member Tarbox inquired whether the parking area shown on the site plan would be paved, or remain gravel. Mrs. Robert stated that they plan to keep the parking area as gravel. Attorney Gilchrist noted that this plan must be forwarded to the Rensselaer County Department of Economic Development and Planning under the General Municipal Law, since it

is within 500' of a state highway. This matter has been tentatively placed on the agenda for the Board's September 2 meeting, pending receipt of comment from the County.

The second item of new business discussed was a site plan application by NEXTEL to co-locate a cell on the tower located at 805 Hoosick Road. Mr. Kreiger noted that the Zoning Board of Appeals had approved the co-location by NEXTEL on that tower, and that the ZBA had retained its own independent engineer to confirm the structural integrity of the tower to support a sixth location. This matter will be placed on the September 2 agenda.

The next item of new business discussed was an application by NEXTEL to site a new tower at the Callanan quarry on Route 2 in Cropseyville. This matter is still pending before the Zoning Board of Appeals. This matter has been tentatively placed on the agenda for the September 2 meeting.

The next item of new business discussed was a site plan application by JOHN and LINDA STANCLIFF for a proposed nursery and garden center on Route 7 opposite the Tarbox Farm. The application seeks both site plan approval and waiver of subdivision. This application will be forwarded to the Rensselaer County Department of Economic Development and Planning as well as the New York State Department of Transportation for comment. This application will be placed on the September 2 agenda.

The minutes of the August 5 meeting were reviewed. One correction was made to note the absence of Russell Oster. Subject to that amendment, Member Tarbox made a motion to approve the minutes as written, which motion was seconded by Member Czornyj. The motion was approved 7-0, and the minutes adopted as amended.

The **index** for the August 19, 2004 meeting is as follows:

1. Cobblestone Associates - major subdivision - 9/16/04;
2. Dunkin Donuts - amended site plan - 9/2/04;
3. USA Gas - site plan - 9/2/04;
4. Robert - site plan - 9/2/04;
5. Nextel - site plan (805 Hoosick Road) - 9/2/04;
6. Nextel - site plan (Callanan Quarry) - 9/2/04; and
7. Stancliff - site plan and waiver of subdivision - 9/2/04.

The proposed agenda for the September 2, 2004 meeting is as follows:

1. Dunkin Donuts - revised site plan;
2. USA Gas - site plan;
3. Robert - site plan;
4. Nextel - site plan (805 Hoosick Road);
5. Nextel - site plan (Callanan Quarry); and
6. Stancliff - site plan and waiver of subdivision.

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809

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SEP 14 2004

TOWN CLERK

## MINUTES OF THE PLANNING BOARD MEETING HELD September 2, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, JOSEPH WETMILLER, KEVIN MAINELLO, RUSSELL OSTER and DAVID TARBOX.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the revised site plan application of DUNKIN DONUTS for property located on Route 7. Appearing on behalf of the application was Tom Address, P.E., of ABD Engineers. Mr. Address explained to the Board that the storage shed which the owner had previously sought to have included in the revised site plan has been eliminated. Further, Mr. Address stated that the owner agreed to the condition that all work required under the revised site plan would be completed within 45 days of the date of any approval. Attorney Gilchrist reviewed with the Board the condition that the owner execute an Indemnification Agreement with the Town of Brunswick concerning any potential liability associated with the retaining wall, which the Applicant has agreed to prepare and submit to the Town for review and final execution by the owner. Attorney Gilchrist further reviewed with the Board the issue of requiring the owner to continue to name the Town of Brunswick as an additional insured on its commercial general liability policy, and whether the Town had the legal authority to require such insurance for a perpetual duration. Upon further discussion, the Planning Board was satisfied that an Indemnification Agreement would be executed by the owner

to protect the Town of Brunswick from any liability issue concerning the retaining wall.

Thereupon, Member Esser made a motion to adopt a negative declaration pursuant to SEQRA on the revised site plan, which motion was seconded by Member Czornyj. The motion was approved 7-0, and a negative declaration adopted. Member Esser then made a motion to approve the revised site plan subject to the following conditions:

1. Final review, approval and execution of an Indemnification Agreement by the owner and operator of the property naming the Town of Brunswick as the indemnified party, subject to review and approval by the Town Attorney and the Town Board; and
2. All work required under the revised site plan must be completed within 45 days of the date of this approval.

Member Czornyj seconded that motion with conditions. The motion was approved 7-0, and the revised site plan approved subject to the stated conditions.

The next item of business on the agenda was the site plan application of USA GAS for its facility located on Route 7. Appearing on behalf of the Applicant was Francis Bossolini. Mr. Bossolini stated that the variances had been obtained from the Town of Brunswick Zoning Board of Appeals, subject to several conditions (see Minutes of August 19, 2004). Mr. Bossolini went through several issues, including landscaping, building design, underground storage tank information, and canopy lighting. With respect to landscaping, Mr. Bossolini explained that an earthen berm had been added to the rear of the property to address concerns of residences located to the rear of the site, with proposed landscaping on the top of the berm. Mr. Bossolini handed the Board a cross-section of the western portion of the property, with the Madigan residential

property noted on the western rear of the property. The Applicant is seeking to reduce any impact to the Madigan property, including headlight spillage, with the use of the berm and landscaping. The site plan shows that the western rear of the property will be limited to employee and handicap parking. Also, the Applicant agrees to a condition of 10 p.m. closing time to further reduce the light spillage. In terms of building design, Mr. Bossolini presented a schematic of the proposed building exterior, which shows a masonry brick or architectural equivalent on all four sides of the building. Further, there are no doors to be included on the rear of the building, further reducing any activity or light spillage onto the rear residential properties. Mr. Kestner confirmed that the front of the proposed new building is immediately behind the rear wall of the existing building. Mr. Bossolini explained that it was the intent of the owner to construct the new building while the existing building is continuing to be used, and that the facility would be shut down only for a small period of time while the old building was taken down and the new pump islands and canopies were installed. The proposed site plan shows a bathroom on the east side of the building, facing the adjacent commercial strip mall. The schematic of the building shows a flat roof with a parapet to hide any roof units. Mr. Bossolini explained that the condensate water from any roof units will be collected and piped down to a dry well to be installed at the rear of the property, the size of which will be submitted for review by Mr. Kestner. In terms of underground storage tanks, Mr. Kestner had reviewed information submitted by the Applicant and has determined that the tanks are registered with NYSDEC and appear to be in compliance according to State records. Mr. Bossolini explained that the Applicant will be using the same underground storage tanks, and merely installing new pump islands and the canopy. The Applicant stated that if any modification was necessary on the NYSDEC registration, it would do so. In terms of canopy lighting, Mr. Bossolini explained that

a flatlense was proposed for the underside of the canopy, with the light being focused downward with minimal light spillage. Once specifications are obtained for this type of flatlense light, photometric calculations will be prepared and submitted to Mr. Kestner for review. Mr. Kestner stated that calculations should be made as to existing conditions as well as proposed conditions using the new flat lense. Mr. Kestner inquired as to proposed lighting on the exterior of the new building. Mr. Bossolini stated that a light would be installed at the front entrance way only, and there is no planned lighting to the rear of the building or the rear of the property. Mr. Czornyj inquired whether a light would be necessary for the bathroom entrance on the east side of the building. Mr. Bossolini stated that if building code required a light, the minimum amount of light would be used in that area. Mr. Bossolini explained that the existing sign at this location would be replaced in compliance with the Town Sign Law, and that there is no signage proposed for the canopy. Mr. Bossolini stated that there is 38% green space on this site under the proposed site plan. Mr. Bossolini also stated that the proposed site plan does take into account the new NYSDOT curbcuts and islands as part of the Route 7 reconstruction. Member Esser inquired as to the proposed roofline for the new building, and the fact that a mansard roof is proposed only for the front and sides of the building, not the rear of the building which faces the residential areas. Member Esser felt that the rear residences would be looking directly at air conditioning units on the roof of the building. Member Czornyj felt that the mansard roof should be installed on all four sides to hide the roof units, which would be a benefit to the neighbors to the rear of the property. The remaining Board Members as well as Mr. Kestner concurred with this. Mr. Bossolini said that the addition of that mansard on all four sides of the roofline would increase expense, and that the units could be relocated to the ground at the rear of the building, which would then be shielded by the berm and landscaping planned for the rear property line. The



Board Members requested the Applicant to further investigate this issue and come up with proposals for consideration by the Board. Mr. Bossolini also stated that he was currently working on a stormwater plan for this location, and that it will be submitted to Mr. Kestner for review. Mr. Kestner also stated that the landscaping on the earthen berm on the rear property line must create an effective screen when planted, not after a period of time for growth. The landscaping must be planted in such a way that it creates an effective screen for the rear residential properties immediately upon construction. Member Czornyj suggested that the Applicant put the proposed vegetation types on the site plan for consideration by the Board. Chairman Malone also suggested that the Applicant show the actual proposed building on the site plan, not a general building area as currently depicted. Member Tarbox also stated that the site plan should show a sidewalk area around the proposed building. Member Czornyj also wanted to see proposed drainage patterns shown on the site plan. Member Wetmiller also suggested that the bathroom entrance be from the inside of the building, not from an exterior door to the side of the building. Mr. Bossolini stated that the Applicant would take that under advisement. This matter is placed on the agenda for the September 16 meeting for further consideration.

The next item on the agenda was the site plan application of ROBERT for property located on Route 2 across from Tamarac School. Appearing on behalf of the application was Sue Robert and Wally Bryce. The Applicants plan to have a shed and bungalow display area on this 2-acre site. This matter had been extensively reviewed at the August 19, 2004 meeting, with the lone issue of receiving response to the referral to Rensselaer County. The Rensselaer County referral has been received, which states that local consideration shall prevail. The Board being satisfied that it had thoroughly reviewed the application, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Chairman Malone. The motion was approved 7-0, and a negative declaration adopted. Member Czornyj then made a

motion to approve the site plan, which motion was seconded by Member Esser. The motion was approved 7-0, and the site plan approved.

The next item of business on the agenda was the site plan application of NEXTEL for the wireless communication tower located at 805 Hoosick Road. Appearing on behalf of the application was Colleen Biseglia, of NEXTEL. Ms. Biseglia stated that the Zoning Board of Appeals had approved the additional installation on this tower after thorough engineering review. The Zoning Board of Appeals had retained an engineering consultant to evaluate the structural integrity of the tower to support the installation of the additional antenna. The engineer for NEXTEL as well as the engineering consulting for the Zoning Board of Appeals confirmed that the tower could support the additional NEXTEL installation, and the matter was approved by the Zoning Board of Appeals. NEXTEL now seeks site plan approval for the installation of a 12' x 20' building and enclosure at the base of the tower. Mr. Kestner has reviewed the application, and stated that the new building would be built next to the existing Verizon building and would be structurally and functionally similar to the shelters already located at the base of the tower. Chairman Malone confirmed that there are no full-time employees at this location. Ms. Biseglia stated that like the other carriers at this location, the NEXTEL facility will be unmanned with only periodic inspection. Member Esser opined that these towers should be constructed in such a manner that one large building existed at the base of the tower rather than a series of individual sheds, and that the tower itself should be built so that all of the cables are housed within one cable tray. Ms. Biseglia explained that each wireless communication provider has different equipment, and that the equipment is proprietary in a very competitive market. Ms. Biseglia explained that the equipment varies widely by provider. Member Czornyj asked whether any

additional providers could locate equipment on this tower. Ms. Biseglia said that their engineering review was limited to the addition of the NEXTEL equipment, and the current engineering data did not support any additional carriers at that location. Chairman Malone asked Mr. Kestner whether there were any remaining issues on the site plan for this location. Mr. Kestner said that there was no outstanding issue, and that he saw no problems with the application. Thereupon, Member Wetmiller made a motion to adopt a negative declaration pursuant to SEQRA, which motion was seconded by Member Oster. The motion was approved 7-0, and a negative declaration adopted. Chairman Malone then made a motion to approve the site plan, which motion was seconded by Member Czornyj. The motion was approved 7-0, and this NEXTEL site plan was approved.

The next item of business on the agenda was a site plan application by NEXTEL for the construction of a new wireless communication tower in the Callanan Quarry, located off Route 2. Ms. Biseglia was presenting a concept site plan, as this matter was still pending before the Zoning Board of Appeals. Ms. Biseglia stated that the Zoning Board of Appeals was continuing to examine the propagation study, aesthetic impact issues, as well as alternate views of the tower, consideration of different tower types (the monopole v. lattice), as well as impact of blasting at the Callanan Quarry upon tower operations. Ms. Biseglia stated that the tower was being designed for a total of five (5) carriers and two (2) EMS antennae. Upon discussion, the Members of the Planning Board concurred that, in their opinion, a monopole construction was preferable to a lattice wireless communication tower, although final determination is within the jurisdiction of the Zoning Board of Appeals. Member Tarbox inquired whether the tower was planned for the highest elevation in the Callanan Quarry. Ms. Biseglia stated that the tower was

located in the area of highest elevation, but also in an area that is not being actively mined. Member Esser repeated his opinion that one building should be constructed at the base of the wireless communication towers, in which multiple carriers could place their equipment. Again, Ms. Biseglia stated that the equipment did vary widely, and that the equipment itself was proprietary in a very competitive market. The Board also commented that a stockade fence around the base of the tower might be preferable to a chain link fence so as to screen all of the separate buildings at the tower base. Chairman Malone stated that while this might be a good idea in theory, it should be remembered that this proposed location is within the middle of a quarry. This matter will be held in abeyance pending further action by the Zoning Board of Appeals.

The next item of business on the agenda was the site plan application and waiver of subdivision application by JOHN and LINDA STANCLIFF for the operation of a nursery and garden center on property located on Route 7. Linda Stancliff reviewed the site plan, which calls for the relocation of an existing timber framed barn, construction of two greenhouses, creation of a front display area off Route 7, an area containing exterior storage bins for mulch, top soil and stone, construction of a parking lot, on a total site consisting of 8.25 acres. Chairman Malone inquired whether there was any equipment stored on the property in connection with the business. John Stancliff explained that there was a tractor and front-end loader, but nothing more extensive than that. Chairman Malone inquired as to any deliveries of material to the site. John Stancliff stated that deliveries would be made with larger trucks, and that these trucks would enter the location through the main entrance and parking area, but exit the site using the emergency access road on the eastern side of the property. Member Wetmiller inquired whether

the business was seasonal in nature. John Stancliff stated that it was a seasonal business, with the highest volume occurring in spring. The business would probably not operate in the winter, although it may be open to the holiday season for the sale of trees and holiday plants. Linda Stancliff stated that design of the entrance road and parking area was adequate to handle even times of high volume, and that any additional overflow parking would be accommodated on the site, with no cars parking on the shoulder of Route 7. Linda Stancliff explained that there would be less than one acre of disturbance on the site, and that one retention basin was planned for the front of the property to handle any storm water runoff. Member Wetmiller confirmed that the parking lot and access road area would be constructed with filter fabric with gravel. Mr. Kreiger reviewed a current letter received from NYSDOT, and furnished that letter to the Stancliff's for review and response. Member Oster inquired whether there were adequate sight lines at the entrance and exit to the parking area. Mr. Kestner and the Members confirmed that there was approximately 2000' of unobstructed sight line in both directions. Mr. Kreiger reviewed the response from Rensselaer County on the required referral, which response stated that local considerations shall prevail. The Board also reviewed the waiver of subdivision, with the Applicant seeking to combine several parcels of land to create one new parcel, which also requires the division of one lot to create the new parcel. The Board inquired whether the waiver of subdivision was creating a land-locked parcel for which no direct access to a public road was provided. Upon further discussion of both the Board and the Applicants, it was determined that the counsel for the Applicants and Attorney Gilchrist would confer on the subdivision and merger issue to obviate any land-locked parcels being created. This matter will be placed on the Planning Board agenda for the September 16 meeting.

Two items of new business were discussed.

The first item of new business discussed was an application for major subdivision by PAUL BOUCHARD for property located on Denise Drive off Oakwood Avenue. A major subdivision application has been received, as well as a Full Environmental Assessment Form. The Planning Board generally reviewed the application, and raised issues concerning the number of lots off a cul-de-sac road, water line location, as well as sewage line issues. This matter will be placed on the agenda for the September 16 meeting for further discussion.

The second item of new business discussed was a subdivision application by PETER GIBSON for property on Route 7 across from Carrols Grove Road, on land totaling approximately 3.0 acres. Gibson intends to remove approximately 5 cabins located on the property, and subdivide the property for residential units. A complete subdivision application has not yet been received, and this matter is held in abeyance pending receipt of a complete application.

The minutes of the August 19, 2004 meeting were reviewed. Upon motion of Member Czornyj, seconded by Member Oster, the minutes were approved as written by vote of 7-0.

The **index** for the September 2, 2004 meeting is as follows:

1. Dunkin Donuts - revised site plan - approved with conditions;
2. USA Gas - site plan - 9/16/04;
3. Robert - site plan - approved;
4. Nextel - site plan (805 Hoosick Road) - approved;
5. Nextel - concept site plan (Callanan Quarry) - adjourned without date;
6. Stancliff - site plan and waiver of subdivision - 9/16/04;

7. Bouchard - major subdivision - 9/16/04; and
8. Gibson - subdivision - adjourned without date.

The proposed agenda for the September 16, 2004 meeting is as follows:

1. USA Gas - site plan;
2. Stancliff - site plan and waiver of subdivision;
3. Bouchard - major subdivision;
4. Morris - site plan
5. Bragin - major subdivision.

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809

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TOWN CLERK

## MINUTES OF THE PLANNING BOARD MEETING HELD September 16, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, JOSEPH WETMILLER, KEVIN MAINELLO, RUSSELL OSTER and DAVID TARBOX.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the site plan application of USA GAS for property located on Route 7. Appearing on behalf of the Applicant was Francis Bossolini. Mr. Bossolini presented a revised plan for the roof of the proposed building, which now provides for a gable roof with no flat area on the roof. The drainage from the roof will be routed through gutters to a 6' dry well to be constructed at the rear of the property. Mr. Kestner commented that he had reviewed the specifications for the roof line and dry well, and determined that the dry well had sufficient capacity to handle prospective run-off from the roof. Mr. Bossolini reviewed the landscaping plan for the rear of the property which calls for 6' arbor vitae in a saw-tooth pattern to be planted on the top of the 3' earthen berm, which will provide a full landscaped buffer between the commercial site and residential properties to the rear. Mr. Kestner has also reviewed the full landscaping plan, and finds it acceptable. Mr. Bossolini explained that final specifications for the canopy lighting were being prepared, but stated that in no instance would the light exceed 30 foot-candles, and there would be no light spillage off-site from the canopy lighting. Mr. Bossolini requested that the Applicant be allowed to submit photometric



calculations at the time of building permit application, and Mr. Kestner commented that this would be acceptable as long as the Applicant prepared calculations for both pre- and post-construction conditions, with particular attention to light spillage to the rear residential properties. Mr. Bossolini stated that the site plan had been revised to provide for an accurate building footprint on the site plan. Member Czornyj commented that the revised building location appeared to have the rear wall of the existing building in the same location as the front wall of the proposed new building. Mr. Bossolini stated that was accurate, and that the Applicant seeks to start construction on the proposed new building while the existing store remains open, and close down only for the minimum amount of time required to complete construction on the the new building and change over to the new pump and canopy area. Member Wetmiller questioned whether the run-off from the canopy over the pump island through a downspout would provide a satisfactory condition, particularly in times of colder weather when icing may occur. Mr. Kestner reviewed the drainage calculations, and explained that the total volume of run-off has not changed since both the pre- and post-construction area are impervious surfaces, with the only change being the concentration of the run-off in one area due to the downspout collecting the rainwater from the canopy area. Mr. Kestner commented that this is a standard drainage technique for canopy areas over pump islands, and that conditions could be adequately maintained through appropriate de-icing in times of colder weather. Mr. Bossolini commented that the design could incorporate two (2) downspouts from the canopy area rather than one (1), so that the drainage would at least be put in two directions rather than one. Member Esser commented that the run-off from the canopies could be directed to the dry well to the rear of the property; however, Mr. Bossolini stated that the Applicant did not want to put any additional run-

off to the rear of the property, and proposed to keep the drainage for the canopy area in the direction of Route 7. Member Oster questioned the landscaping plan to the rear of the property, and whether the Applicant planned on removing any existing vegetation, including a good-sized maple tree which is present on the back of the property. Mr. Bossolini stated that the Applicant would not be removing any existing vegetation, only supplementing the rear vegetation line with the berm and plantings. Mr. Kestner also commented that the 3' berm would start at the perimeter of the leaf canopy at the existing maple tree, and that the existing vegetation would remain in place. Member Esser inquired as to the type of fence proposed around the perimeter of the on-site dumpster. Mr. Bossolini stated that the Applicant would be installing a 6' high stockade fence, including a gate in the front so that all four sides would be enclosed around the dumpster. Member Czornyj inquired about the change in grade to the rear of the property in the area of the additional employee and handicap parking spaces. Mr. Bossolini commented that the grade is changed slightly to direct stormwater run-off toward the front of the property, and that the Applicant did not want to introduce any additional run-off to the rear of the property. Mr. Kreiger commented that Rensselaer County Department of Economic Development and Planning had provided its comment under the General Municipal Law referral that local considerations shall prevail. Member Esser inquired as to the sidewalk around the side of the building to the area of the door to the restroom facility. Mr. Bossolini responded that in consideration of one of the comments of the Planning Board, the Applicant was still investigating whether an exterior door or interior door was preferable to the bathroom facility. In the event the exterior door was maintained, Mr. Bossolini stated that the site plan would indicate continuation of the sidewalk from the front of the building around the side to the bathroom entrance. Member Esser also commented that the final site plan should show the gutters from the roof line connected to the

proposed dry well to the rear of the property. The Planning Board stated that a condition to final approval would be the submission of a complete as-built drawing of the site prior to the issuance of a final Certificate of Occupancy. Chairman Malone inquired whether any of the Board had additional questions concerning the site plan. Hearing none, Chairman Malone inquired of Mr. Kestner whether all of the engineering issues had been satisfied. Mr. Kestner responded that all of the comments raised by the Planning Board had been adequately addressed by the Applicant. Member Czornyj then made a motion to adopt a negative declaration pursuant to SEQRA, which motion was seconded by Member Oster. The motion was approved 7-0, and a negative declaration adopted. Member Czornyj then made a motion to approve the site plan subject to the following conditions:

1. Compliance with all conditions set by the Zoning Board of Appeals with respect to the area variances granted on this property;
2. Pre-construction and post-construction photometric calculations to be submitted with respect to the canopy lighting prior to the issuance of any building permit for this site;
3. Final site plan to show two (2) downspouts to be installed off the canopy;
4. No existing vegetation is to be removed from the rear property line adjacent to residential properties, and full compliance with the landscaping plan as submitted;
5. A 6' high stockade fence is to be installed around the dumpster, including a gate in the front to fully enclose the dumpster;
6. Final site plan is to show extension of sidewalk to the eastern side of the building in the event the door to the restroom facility is exterior, rather than an entrance from the interior of the building;

7. Final site plan is to depict gutters from the building roof line connected to the dry well at the rear of the property;
8. The Applicant consents to a closing time for all commercial operations of 10 p.m. so as to reduce impact to residential properties to the rear of the site;
9. Strict compliance with submitted building design, including masonry brick or architectural equivalent on all four sides of the commercial building;
10. Compliance with all required modifications to underground storage tank registrations with New York State Department of Environmental Conservation;  
and
11. Submission of a complete as-built drawing for this property to the Superintendent of Utilities and Inspections prior to the issuance of any final Certificate of Occupancy for this property.

Member Esser seconded that motion, with conditions. The motion was approved 7-0, and a conditional final site plan approval issued on the application.

The next item of business on the agenda was the site plan and waiver of subdivision applications by STANCLIFFE for property located on Route 7. This project is the proposed botanical barn and garden center for property opposite the Tarbox farm on Route 7. Appearing on behalf of the application was Linda and John Stancliffe. Ms. Stancliffe advised the Board that the Applicant had met with NYSDOT regarding its comments on the access off Route 7. Ms. Stancliffe explained that there has been a revised entrance way off Route 7 and revised parking area to take into account NYSDOT comments and recommendations. There is now a 24' wide single entrance way off Route 7, with a revised parking area and driveway area which adequately provides for a driveway distance to allow the stacking of four (4) car lengths in the area exiting onto Route 7. The revised driveway entrance as well as parking area has been submitted to

NYSDOT for final review and permit issuance. NYSDOT also recommended that the emergency entrance/exit have a gate, as well as a movable barrier at the area of the main parking area to the emergency exit, so as to avoid any confusion as to traffic flow. These comments have been incorporated into the plan. On the site plan, Chairman Malone inquired of Mr. Kestner whether there were any further comments that the Applicant needed to address. Mr. Kestner confirmed that the sight distances were adequate for the entrance/exit onto Route 7, that the comments of NYSDOT had been addressed and incorporated on the site plan, and that there were no further outstanding engineering issues on the site plan. Chairman Malone inquired of Attorney Gilchrist whether any issues remain on the waiver of subdivision application in terms of the plan to merge separate parcels together, and whether any landlocked parcel would be created thereby. Attorney Gilchrist reviewed the deeds which had been prepared by the Applicant's attorney, which show the merger of several parcels owned by Tarbox which will surround this proposed commercial site, which merger does not result in the creation of any landlocked parcel or property. Further, Attorney Gilchrist reviewed the deed from Tarbox to Stancliffe for the creation of the 8.25 acre parcel on which the site plan is presented. Therefore, Attorney Gilchrist advised the Board that the waiver of subdivision will not create any landlocked parcel, and that the deeds have been drawn to avoid such a result. Attorney Gilchrist did want to confirm the descriptions in the merger deed with the survey prepared on the application. Chairman Malone inquired whether there were any further questions or comments from the Planning Board. Hearing none, Member Czornyj made a motion to adopt a negative declaration with respect to both the site plan and the waiver of subdivision application, which motion was seconded by Member Wetmiller. The motion was approved 6-0 (Member Tarbox abstaining), and a negative

declaration adopted. Thereupon, Member Esser made a motion to approve the site plan subject to issuance of the NYSDOT Permit, which motion was seconded by Chairman Malone. The motion was approved 6-0 (Member Tarbox abstaining), and the conditional site plan approval granted. Chairman Malone then made a motion to approve the waiver of subdivision, subject to the condition that the remaining Tarbox parcels be merged as presented in the proposed deed reviewed by Attorney Gilchrist, and that no landlocked parcel be created by this waiver of subdivision, and that Attorney Gilchrist have final review of the descriptions in the merger deed with the survey submitted on the application. Member Czornyj seconded that motion with conditions. The motion was approved 6-0 (Member Tarbox abstaining), and the conditional approval of the waiver of subdivision application granted.

The next item of business on the agenda was the BRAGIN major subdivision for property located off Route 351. The specific issue presented is the width of the proposed cul-de-sac road. Appearing on behalf of the Applicant was Linda Stancliffe and Wayne Bonesteel, P.E., of Erdman Anthony. On this major subdivision application, the Applicant seeks to construct a 24' wide roadway for vehicular travel (hereinafter "travelway"), with 3' paved gutters on each side. The Applicant asserts that this proposal is in compliance with the street and roadway ordinance of the Town of Brunswick, or in the alternative, requests a waiver on the road width issue. Chapter 131 of the Town Code provides:

Section 131-14(B): Streets shall have a minimum width of sixty (60') feet with a paved width of thirty (30') feet. This width shall be measured from lot line to lot line.

Section 131-18: Prior to acceptance by the Town, all streets shall be constructed according to the typical Section on file in the Office of the Town Superintendent of Highways.

- A. ... the width of the subgrade shall be equal to the final pavement width, including gutters, of thirty (30') feet....
- E. ... the width of the pavement, with gutters, shall be thirty (30') feet. The Planning Board and/or the Town Superintendent of Highways may require additional widths to meet special circumstances.”

The Town Street and Roadway Ordinance also provides a highway cross-section for town roads which depicts a 30' travelway with 3' drainage ditches on each side of the travelway. In attendance at the meeting was Doug Eddy, Superintendent of Highways. Both Mr. Kestner and Mr. Eddy stated that the Town has always interpreted its Code to require a thirty (30') foot wide travelway. Mr. Kestner and Mr. Eddy also performed a site inspection to advise the Board on the road width issue. Mr. Eddy stated that he was concerned about a 24' wide travelway on this particular road, given its proposed final grade of 10%. Mr. Eddy's main concern was the ability to safely plow the road in the winter; and have adequate room for the Town equipment, in the event snow plows started to slide going up the 10% grade road. Mr. Eddy was concerned that a 24' wide travelway would not provide adequate room for the snow plow equipment in the event of icy or slippery conditions, and that a risk was presented that plows would be sliding off the road. Further, Mr. Eddy was also concerned about the side slope on the proposed road at the entranceway off Route 351, and as it proceeded upgrade. Mr. Eddy stated that the side slopes on the road presented a further safety concern, because if snow plows did slide off the road there was not an adequate shoulder since the side slopes may be too steep. Mr. Eddy concluded that he

would like to see a road wider than 24' for this location as well as a more gradual side slope due to the safety concerns. Alternatively, rather than increasing the side slope, Mr. Eddy suggested the use of guardrails along the portion of the roadway directly off Route 351 and as the road proceeded upgrade. Mr. Eddy stated he would agree to a 28' travelway plus 3' gutters on each side, together with a more gradual side slope or construction of guardrails. Mr. Bonesteel responded that the grade of the proposed road for the first 200' off Route 351 is very gradual before the increase in grade starts, and that in his professional opinion a 24' wide travelway was sufficient. Mr. Bonesteel also added that this proposed road was not a through road, but rather a cul-de-sac, and that significant traffic on the road was not anticipated. Ms. Stancliffe also stated that the entrance of this road off Route 351 will be constructed in an area of federal wetlands, and that if side slopes needed to be increased this would require more fill, which raises a wetlands compliance issue. Member Oster inquired as to the full length of the cul-de-sac road. Mr. Bonesteel and Mr. Kestner responded that this was a 1200' road plus the cul-de-sac at its conclusion. Mr. Kestner again reviewed the Code requirements for the Town, including the provision that the Highway Superintendent has the authority to require a wider travelway if he feels the need to do so given site conditions. Member Czornyj stated that while he understood Mr. Eddy to say that he would accept a 28' travelway, he also thought Mr. Eddy was being accommodating to the Applicant, and Mr. Czornyj felt no reason to vary the 30' travelway requirement under the Town Code. Ms. Stancliffe stated that the Code seemed to indicate that only a 24' travelway was required, with 3' gutters on each side, which the Applicant had originally proposed. Chairman Malone responded that Mr. Eddy has already stated that a minimum 28' travelway would be required with 3' gutters on each side, which was only a 2' wide variance from



the 30' Town Code requirement. Mr. Bonesteel responded that he felt a 30' travelway plus 3' gutters on each side of the road was excessive for this subdivision, since only 11 lots were proposed. Chairman Malone responded that while a 30' wide travelway might appear excessive for an 11 lot subdivision, this road was at a 10% grade which presented safety concerns from the Town's perspective. Member Czornyj pointed out that the Applicant is requesting a 24' wide travelway, Mr. Eddy is stating that he could accept a 28' travelway, but that Member Czornyj feels that the full 30' wide travelway was appropriate for this location given the grade of the road. Upon further discussion, the Planning Board did state that the Street and Roadway Ordinance set forth in the Town Code should be clarified to eliminate any issue concerning the width of the travelway as opposed to the total width of pavement including gutters, but that given the safety concerns expressed by the Highway Superintendent, the Planning Board felt that the full 30' travelway plus 3' gutters on each side of the travelway should be required for this location. Chairman Malone made a motion to recommend to the Town Board that the requested waiver from the 30' wide travelway requirement under the Town Code be denied on this application based on the following factors:

1. The Planning Board interprets the Street and Roadway Ordinance to require 30' wide travelway plus 3' gutters on each side of the road, and recommends that the Town enforce its highway specifications;
2. While certain existing public roads in the Town of Brunswick may not have a full 30' wide travelway, all new roads proposed for the Town of Brunswick should be in full compliance with the highway specifications set forth in the Town Code;

3. The Town Highway Superintendent has identified public safety concerns regarding a 24' wide travelway given the 10% grade of the proposed roadway;
4. Adequate area exists on this property to construct a 30' wide travelway with 3' wide gutters; and
5. The only hardship identified by the Applicant with regard to constructing a 30' wide travelway plus 3' wide gutters was economic in that road construction costs would be significant on this project, which the Planning Board felt was an inadequate justification for varying the Town Code and Highway Specifications.

The Planning Board voted unanimously to relay this recommendation to the Town Board in connection with the Applicant's request for a variance.

The next item of business on the agenda was the site plan application of MORRIS for the log distribution facility located on Route 7. Attorney Gilchrist alerted the Board that this application has pended for several weeks without further submission by the Applicant to complete the SEQRA process, and recommended that the Planning Board forward a letter to the Applicant to require the Applicant to submit the additional material to complete the SEQRA process in a timely manner, and thereupon the Planning Board will act upon the site plan. The Planning Board unanimously agreed to have Attorney Gilchrist forward that letter to the Applicant, so that this application could be processed to completion.

The next item of business on the agenda was the major subdivision application by BOUCHARD for property located off Denise Drive. There was no appearance on the application.

Chairman Malone and Mr. Kestner advised the Board that they had visited this site on September 16, 2004 and stated that road work on the proposed cul-de-sac already appeared to be started. Mr. Kreiger stated that he was unaware of this fact and would inspect the site immediately. The Planning Board also noted that the application for the new cul-de-sac road did not provide for a 30' wide travelway with 3' gutters, and given the recent discussion concerning the BRAGIN subdivision, full compliance with the Town highway specifications will be required on this application. Further, although work appeared to have already started on the cul-de-sac portion of the proposed road, the Planning Board was of the opinion that the road should be extended and the cul-de-sac relocated on the property, and that the Applicant should be so advised prior to any further activities on the property. Mr. Kestner also reiterated his comment regarding the sewage disposal system, which includes grinder pumps and discharge of sanitary wastewater through private property to the City of Troy sewer system. Mr. Kestner also raised concern regarding stormwater compliance on the property. This matter will be placed on the agenda for the October 7, 2004 meeting, pending additional submissions by the Applicant. Mr. Kreiger will also inspect the property in terms of code compliance. Mr. Kestner will forward an initial comment letter to the Applicant's engineer.

Mr. Kreiger reported that he had received a request from James Dunn concerning the COBBLESTONE ASSOCIATES SUBDIVISION off Bulson Road and Tambul Lane, requesting that this matter be placed on the October 7, 2004 meeting agenda. The Cobblestone application will be placed on the October 7 agenda.

Four items of new business were discussed.

The first item of new business discussed was a waiver of subdivision application by

OGDEN for property located at the end of Fitting Lane. This property had been the subject of a waiver of subdivision approval during the Spring of 2004 upon application by HEWITT. The Hewitt waiver of subdivision was approved to create a large lot for Ogden at the end of Fitting Lane, but subject to several conditions including the construction of a turn-around at the end of Fitting Lane in coordination with Superintendent Eddy for a snowplow turn-around area, the creation of a 60' utility right-of-way from the Ogden property line, and that Fitting Lane must be upgraded to meet current Town specifications in the event Hewitt sought to subdivide any additional lots for this property. Mr. Ogden reported that he had constructed a significant turn-around area at the end of Fitting Lane in coordination with Superintendent Eddy so that snowplows had adequate area to turn around. Mr. Ogden reported that the 60' utility right-of-way had been created and reflected in his deed. Mr. Ogden also reported that Hewitt had significantly upgraded the width of Fitting Lane, as well as eliminating a slight grade in the road as well. Mr. Ogden now appears before the Board seeking to divide his lot into two lots to help defray certain construction costs, and that he was agreeable to having a condition that no further subdivision of this original Ogden lot be allowed. Member Czornyj inquired whether the turn-around area which had been constructed was a full cul-de-sac. Mr. Ogden stated that the turn-around area was 60' deep with a 30' turning radius, but was not constructed as a full cul-de-sac. Member Czornyj was concerned that the property was being subdivided in a piece-meal fashion, particularly in light of the effort of the Planning Board to address the highway by use status of Fitting Lane. Chairman Malone noted that this application must be treated as a minor subdivision, not a waiver given the recent waiver application by Hewitt. Several of the Planning Board members stated that they would like to visit the property to see the work which has been done on Fitting Lane as

represented by Mr. Ogden, which would help them review Mr. Ogden's current application. This matter has been placed on the agenda for the October 7 meeting for further discussion.

The next item of new business was a waiver of subdivision application by HENRY REISER for property located off Town Office Road. This property had been the subject of a major subdivision application, which has now been withdrawn by Mr. Reiser. Mr. Reiser is planning to transfer the majority of the property slated for residential lots under his prior major subdivision application to the owner of the adjacent Misty Hills property, but retain a portion of his property for the construction of a new single-family residence around the on-site pond. Accordingly, Mr. Reiser has withdrawn the major subdivision application, but has now filed a new waiver of subdivision application to create the new building lot around the pond, which he proposes to have access from the cul-de-sac off Moonlawn Road constructed as part of Phase I of his overall subdivision project. The Planning Board noted that the current application must be submitted as a minor subdivision application, given Reiser's earlier waiver of subdivision approval to transfer a certain portion of property to Meskosky. The Planning Board also had questions regarding the number of residential lots which would result from this application off the cul-de-sac road situated off Moonlawn Road. The Planning Board also had questions regarding the resulting building lot, and whether adequate room existed around the pond for the construction of a single-family home. The Planning Board also had questions regarding compliance with freshwater wetlands regulations in connection with the new building lot. This matter will be placed on the agenda for the October 7 meeting for further discussion.

The next item of new business discussed was a site plan application submitted by DOMINICK MASELLI for property located at 689 Hoosick Road. Mr. Maselli has purchased the

former Sycaway Body Shop Garage located to the rear of the Maselli Deli on Hoosick Street, and has submitted a site plan for the use of that building by a carpet cleaning business. The Planning Board initially noted that the site plan submitted on the application was not complete, and that an Environmental Assessment Form had not been submitted on the application. Further, the Planning Board was concerned about the inadequate area for parking, as well as the storage of chemicals in connection with the carpet cleaning business. This matter will be placed on the agenda of the October 7, 2004 meeting for further discussion.

The fourth item of new business discussed was a waiver of subdivision application submitted by HERRINGTON PROPERTIES LLC for property located on McChesney Avenue. The Applicant seeks to divide 13.75 acres from existing farm property to be transferred to Brunswick Associates. This matter will be placed on the agenda for the October 7, 2004 meeting for further discussion.

The minutes of the September 2, 2004 meeting were reviewed. Upon motion of Member Oster, seconded by Member Czornyj, the minutes were approved 7-0 without change.

The **index** for the September 16, 2004 meeting is as follows:

1. USA Gas - site plan - approved with conditions;
2. Stancliffe - site plan and waiver of subdivision - approved with conditions;
3. Bragin - major subdivision - recommendation on road waiver application;
4. Morris - site plan - adjourned without date;
5. Bouchard - major subdivision - 10/7/04;
6. Cobblestone Associates - major subdivision - 10/7/04;
7. Ogden - waiver of subdivision - 10/7/04;

8. Reiser - waiver of subdivision - 10/7/04;
9. Maselli - site plan - 10/7/04; and
10. Herrington Properties LLC - waiver of subdivision - 10/7/04.

The proposed agenda for the October 7, 2004 meeting is as follows:

1. Bouchard - major subdivision;
2. Cobblestone Associates - major subdivision;
3. Ogden - minor subdivision;
4. Reiser - minor subdivision;
5. Maselli - site plan; and
6. Herrington Properties LLC - waiver of subdivision.

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809

RECEIVED

OCT 21 2004

TOWN CLERK

## MINUTES OF THE PLANNING BOARD MEETING HELD October 7, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, JOSEPH WETMILLER, KEVIN MAINELLO, RUSSELL OSTER and DAVID TARBOX.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the major subdivision application of BOUCHARD. There was no appearance on the application. This matter has been adjourned without date.

The second item of business on the agenda was the major subdivision application of COBBLESTONE ASSOCIATES. There was no appearance on the application. This matter has been adjourned without date.

The next item of business on the agenda was the minor subdivision application of OGDEN for property located on Fitting Lane. There was no appearance on the application. This matter has been adjourned without date.

The next item of business on the agenda was the minor subdivision application of HENRY REISER for property off Oak Tree Lane. Reiser seeks to divide his remaining property into two (2) lots; the first being property on which his home is situated which is planned to be transferred to an adjoining property owner (Misty Hills Farm), and the second lot to be the remaining 30 acres to be retained by Reiser on which he seeks to build a new home. Reiser



handed to the Board a revised subdivision plat, which depicted the new proposed lot line being the wetland buffer line. Chairman Malone inquired of Mr. Kestner as to whether he had any questions on the revised plat. Mr. Kestner confirmed the lot count off Oak Tree Lane, which is a cul-de-sac off Moonlawn Road. Under Reiser's original subdivision creating Oak Tree Lane, the two (2) corner lots which have frontage both on Oak Tree Lane and Moonlawn Road were not counted in the total lot count off the cul-de-sac, since both lots had direct access onto Moonlawn Road. This proposal by Reiser will add a twelfth building lot to Oak Tree Lane, which is within the subdivision standards. This last 30 acre building lot will have sole access off Oak Tree Lane, without access from any other public roadway. It is also noted that the 30 acres consists of approximately 10 buildable acres, with the remainder being a pond and associated wetlands. Reiser acknowledged that the driveway to a future home on the 30 acre lot must be built through wetlands, and that he will need a freshwater wetlands permit from NYSDEC. Member Czornyj noted that he had made a visit to the site, and acknowledged the need for a driveway through the wetland area. Mr. Kestner raised the issue that the property to be transferred to Misty Hills should be merged into Misty Hills property so as not to create another building lot. Reiser noted that the property to be transferred to Misty Hills already has a home on it, and that the home itself is already a separately assessed lot from the balance of the property to be transferred to Misty Hills. Therefore, the Board determined that the parcel on which the house sits that constitutes a separate taxable parcel will remain a separate parcel when transferred to Misty Hills, but the balance of the land to be transferred to Misty Hills (approximately 25 acres) must be merged into Misty Hills property so as not to create another building lot. Reiser acknowledged this requirement. Chairman Malone inquired whether the Board members had any further questions

regarding the application. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Chairman Malone. The motion was approved 7-0, and a negative declaration adopted. Member Czornyj then made a motion to approve the application, subject to the following conditions:

1. Rensselaer County Health Department approval;
2. Freshwater Wetlands Permit from NYSDEC for driveway construction prior to issuance of Building Permit;
3. The 25 acres of open land to be transferred to Misty Hills must be merged into Misty Hills existing parcel; and
4. The map for approval had a last revision date of 10/4/04.

Member Wetmiller seconded the motion with conditions. The motion was approved 7-0 and conditional final approval issued.

Chairman Malone noted that MR. OGDEN appeared on the subdivision application for property on Fitting Lane. The Board resumed discussion of the Ogden application. Chairman Malone and Mr. Kestner noted that they had visited the site, and Member Czornyj noted that he had also went out to take a site visit. Mr. Kestner discussed the regrading of Fitting Lane which has apparently been performed by Mr. Hewitt, and also the construction of the T-turnaround at the end of Fitting Lane between the parcel owned by Mr. Ogden and the parcel owned by Purcell. Mr. Ogden noted that the T-turnaround had only been rough-graded, but that filter fabric had been put down. Member Czornyj noted that he thought that the T-turnaround was not adequate, and thought that a full cul-de sac should be built at the end of the road before any further lots are approved for development off Fitting Lane. Mr. Ogden stated that Mr. Eddy, Superintendent of Highways, had been out to look at the T-turnaround and that Mr. Eddy thought that its

construction was adequate. Member Czornyj remained in his opinion that a T0turnaround is not adequate for additional lots and that a full cul-de-sac should be constructed, and noted that Mr. Eddy was not present at the meeting and should be present at the next meeting to further discuss the issue of the turnaround. Mr. Kestner also noted that Mr. Eddy did relay his concern regarding any further lots being developed off Fitting Lane given the current condition of Fitting Lane. Chairman Malone also noted for the record that this issue of additional lots off Fitting Lane was fully discussed on the earlier Hewitt approval creating the Ogden lot, and that all parties were aware that Fitting Lane needed to be upgraded to full Town specifications before any further lots would be allowed off Fitting Lane. As discussed during the Hewitt application, Fitting Lane is a public highway by use, but does not currently meet full Town specifications. The Board was clear that before any further lots would be approved off Fitting Lane, Mr. Hewitt would need to upgrade Fitting Lane to meet Town specifications. Chairman Malone noted that the T-turnaround was discussed and approved as part of the Hewitt application creating the Ogden lot, subject to approval by Mr. Eddy during construction. However, Ogden now seeks to subdivide his own lot to create an additional building lot off Fitting Lane, which presents the question as to whether the T-turnaround is sufficient for this additional building lot. It is noted that the end of Fitting Lane and the T-turnaround had been constructed within a 60' right-of-way which still remains in Hewitt ownership, and that both Ogden and Hewitt were advised of the need to upgrade Fitting Lane before any future lots could be approved. There was also discussion as to whether a full cul-de-sac could be constructed within the 60' right-of-way owned by Hewitt. Member Mainello also raised the issue of the possibility that Purcell could subdivide her parcel, creating further concern regarding the adequacy of Fitting Lane. Ogden indicated that he would do further work on the map to determine whether a full cul-de-sac could be constructed within

the right-of-way, which may result in a relocation of his driveway off Fitting Lane. Chairman Malone and Mr. Kestner will meet with Mr. Eddy at the site and the matter will be placed on the agenda for the October 21 meeting for further discussion.

The next item of business on the agenda was the site plan application of MASELLI for property located on Route 7. Dominick Maselli appeared on the application. The property subject to the application was a former body shop behind Maselli's Deli, which Mr. Maselli has now purchased and cleaned up. Mr. Maselli seeks to have a tenant in the building who will operate a carpet cleaning business. The Board discussed the application, under which Mr. Maselli's tenant seeks to only store equipment and vehicles consisting of two (2) vans and one (1) truck. There are no planned customers at this store, and no retail sales. There is no planned carpet cleaning in the building or on the premises, merely a garage type location to house the vehicles and cleaning equipment. The tenant will not store any cleaning chemicals on the site. The applicant does seek to have a sign for his business which will need to comply with the Town's sign law. Upon further discussion, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Tarbox. The motion was approved 7-0, and a negative declaration adopted. Member Czornyj then made a motion to approve the site plan subject to the following conditions:

1. The property is to be used solely for the storage of equipment and vehicles;
2. No retail sales will be conducted at the site, and no customers will be visiting the site;
3. No carpet cleaning is to be conducted in the building or on the premises, and no storage of carpets is to be conducted on the premises;
4. No cleaning chemical storage in the building or on the premises;
5. No more than five (5) cars to be parked on the site at any one time;

6. Compliance with Town sign law.

Member Tarbox seconded the motion with conditions, the motion was approved 7-0, and the site plan approved subject to the stated conditions.

The next item of business on the agenda was the waiver of subdivision application by HERRINGTON PROPERTIES LLC for property located on McChesney Avenue Extension. Appearing on behalf of the Applicant were William Doyle, Esq. and Ken Herrington. Attorney Doyle explained that Herrington Properties bought this property from Bonesteel in 2000. The parcel is on both sides of McChesney Avenue Extension. Herrington seeks to divide the 13.75 acres on the south of McChesney Avenue Extension for transfer to Brunswick Associates. The remaining 240 acres on the north side of McChesney Avenue Extension will remain with Herrington and is currently being farmed. Chairman Malone noted that the 13.75 acres to be transferred to Brunswick Associates needs to be merged into the Brunswick Associates parcel so as not to create an additional building lot, and that if Brunswick Associates sought to do anything with this property, it would need to come before the Planning Board with a new application. The Board noted that the 13.75 acres sought to be transferred to Brunswick Associates is within an Agricultural District, and therefore an Agricultural Data Statement will need to be prepared on the application. The Applicant acknowledged that the Agricultural Data Statement had not yet been prepared, but will be filed immediately with the Board. This matter has been placed on the agenda for the October 21, 2004 meeting for further action.

The next item of business on the agenda was the waiver of subdivision application by CANISTRO and CASEY for property located at the end of Wood Hill Lane. Appearing on the application were Jack Casey, Esq. and Mike Casey. The Applicant seeks to divide a 24 acre

parcel at the end of Fitting Lane into a 1.5 acre lot, with a remaining 22 acres of vacant land. This matter had been the subject of a conditional subdivision approval by the Brunswick Planning Board in 1991. Under the 1991 conditional approval a cul-de-sac needed to be created at the end of Wood Hill Lane, and a drainage easement needed to be transferred to the Town. While the cul-de-sac was constructed at the end of Wood Hill Lane, the drainage easement was never transferred to the Town, and the approved plat had never been stamped or signed or recorded in the Rensselaer County Clerk's Office. The current Applicant merely seeks to create the same two (2) lots, and to renew the approval which had been obtained in 1991. Attorney Casey noted that while the metes and bounds description for the drainage easement had been prepared in 1991, the easement had never been transferred to the Town. Mr. Kestner noted that both he and Chairman Malone and Mr. Kreiger had visited this site, and noted that the cul-de-sac had been constructed as an extension of Wood Hill Lane. Mr. Kestner also noted that stormwater catchments had been installed along the cul-de-sac, and a fire hydrant had been installed as well. Chairman Malone inquired whether the cul-de-sac had been deeded to the Town and dedicated as a public road. Attorney Casey produced a deed for the cul-de-sac that had been transferred to the Town and recorded in the Rensselaer County Clerk's Office. It appears from the record that the Town did take title to the road but had never been transferred the drainage easement under the 1991 approval. Mr. Kestner noted that the Town has been maintaining the cul-de-sac since it was built in 1991. Chairman Malone informed the Applicant that the easement for the drainage culvert as well as detention basin did need to be transferred to the Town, but the Applicant needs to be clear on this record that the ownership and maintenance responsibility for the drainage culvert and detention basin remained with the owner of the 22 acre lot, not with the Town.

Ownership and maintenance of the stormwater facilities is to remain and be in the responsibility of the private property owner, and the easement transferred to the Town is for access only.

Attorney Casey understood this condition, and stated that he would prepare the access easement for review by the Town Attorney and acceptance by the Town Board. Member Czornyj inquired whether the house which had been constructed on the 1.5 acre parcel met the 25' setback requirement. Upon further discussion, it was determined that Mr. Kreiger would inspect the property to confirm that the setbacks meet compliance. Upon further discussion, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Oster. The motion was approved 7-0, and a negative declaration adopted. Member Oster then made a motion to approve the waiver application subject to the following conditions:

1. Rensselaer County Health Department approval;
2. The drainage culvert and detention basin are to remain in private ownership and be the responsibility of the private property owner;
3. An easement for access only must be transferred to the Town, subject to review by the Town Attorney as to form and acceptance by the Town Board;
4. The setback compliance of the home on the 1.5 acre lot will be confirmed by the Building Department.

Member Czornyj seconded the motion with conditions. The motion was approved 7-0, and conditional approval of the waiver application was adopted.

The next item of business on the agenda was an application to amend the site plan approval of POLLOCK for the Brunswick Plaza East site plan. The Board had received an

application from Brewer Engineers, by Greg Beswick, which amended the size of the connector building for Phase IA of the Brunswick Plaza East site plan from 1,140 square feet to 1,200 square feet. Mr. Beswick noted that the parking spaces required under Town Code are still adequate for this 60 square foot increase in the connector building. Upon further discussion, and noting that there are no other amendments or changes to the site plan other than the 60 square foot increase in the size of the connector building in Phase IA, Member Wetmiller made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Chairman Malone. The motion was adopted 7-0, and a negative declaration adopted. Thereupon, Member Wetmiller made a motion to approve the amendment to the site plan to increase the size of the connector building only, which motion was seconded by Chairman Malone. The motion was approved 7-0, and the amendment to the site plan approved.

Chairman Malone noted that Linda Stancliff of Erdman Anthony was present. Ms. Stancliff was present representing BRAGIN and Pigliavento Builders for the major subdivision located off Route 351. Ms. Stancliff had appeared at the September 16 meeting on the issue of the width of the proposed access road to the subdivision. Ms. Stancliff wanted to confirm with the Planning Board that if the Applicant constructed the access road to provide a 30' wide paved carriage way with 3' paved gutters on each side of the carriage way, such proposal would be in compliance with Town Code and would not require a waiver from the Town Board. Chairman Malone confirmed that a 30' wide paved carriage way with 3' paved gutters on each side is in compliance with Town Code. Ms. Stancliff stated that the Applicant had agreed to construct the road according to these Code requirements, and requested that the application be placed on the agenda for the October 21 meeting for final subdivision approval.



Two items of new business were discussed.

The first item of new business discussed was a waiver of subdivision application by JAMES MELLEEE for property located on Dusenberry Lane. This application is in the nature of a lot line adjustment. The Board noted that a full waiver application plus sketch plan or a map needs to be submitted on the application. This matter will be placed on the October 21 agenda pending receipt of all required application materials.

The next item of new business discussed was the site plan application of NEXTEL for a wireless communication facility in the Callanan Quarry located off Camel Hill Road. Mr. Kreiger informed the Board that the application was likely to be acted upon by the Zoning Board of Appeals at its October 18 meeting, and the Applicant sought to be placed on the Planning Board agenda for the October 21 meeting.

Chairman Malone noted that the site work at the Dunkin Donuts finally appears to be proceeding, as construction materials were delivered to this site. While the Planning Board's approval of the amended site plan required completion of the work within 45 days, Chairman Malone noted that as long as the materials have been delivered to the site and the work was proceeding diligently, substantial compliance with the condition was met, subject to continuing site inspections by Mr. Kreiger during the construction.

The minutes of the September 16, 2004 meeting were reviewed. Upon motion of Chairman Malone, seconded by Member Wetmiller, the minutes were approved as written.

The **index** for the October 7, 2004 meeting is as follows:

1. Bouchard - major subdivision - adjourned without date;
2. Cobblestone Associates - major subdivision - adjourned without date;

3. Ogden - minor subdivision - 10/21/04;
4. Reiser - minor subdivision - approved with conditions;
5. Maselli - site plan - approved with conditions;
6. Herrington Properties LLC - waiver of subdivision - 10/21/04;
7. Canistro/Casey - waiver of subdivision - approved with conditions;
8. Pollock - Brunswick Plaza East - site plan amendment - approved;
9. Bragin/Pigliavento Builders - major subdivision - 10/21/04;
10. Mellee - waiver of subdivision - 10/21/04; and
11. Nextel - site plan - 10/21/04.

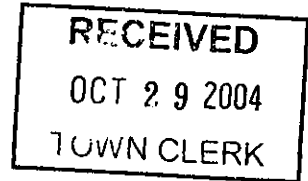
The proposed agenda for the October 21, 2004 meeting is as follows:

1. Morris - site plan;
2. Ogden - minor subdivision;
3. Herrington Properties LLC - waiver of subdivision;
4. Bragin/Pigliavento Builders - major subdivision;
5. Mellee - waiver of subdivision; and
6. Nextel - site plan.

# Planning Board

TOWN OF BRUNSWICK

308 Town Office Road  
Troy, New York 12180-8809



## MINUTES OF THE PLANNING BOARD MEETING HELD October 21, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, JOSEPH WETMILLER, RUSSELL OSTER and DAVID TARBOX.

ABSENT was KEVIN MAINELLO.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the waiver of subdivision application of HERRINGTON PROPERTIES LLC for property located on McChesney Avenue Extension. Appearing on behalf of the application were William Doyle, Esq. and Ken Herrington. The last issue to address on this application was the service of the Agricultural Data Statement upon owners of Agricultural District property within 500' of the proposed subdivision. Leonard and Ruth Dunkin have been served with the Agricultural Data Statement, and were present at the meeting. Attorney Doyle presented an overview of the Application, which seeks to divide 13.75 acres on the south side of McChesney Avenue Extension for transfer to Brunswick Associates, while retaining the remaining agricultural property on the north side of McChesney Avenue Extension for agricultural purposes. The 13.75 acres on the south side of McChesney Avenue Extension is divided by a strip owned by Niagara Mohawk, and the Applicant will be transferring the property on both sides of the Niagara Mohawk strip to Brunswick Associates. Mr. and Mrs. Duncan had no objection to the application. Chairman Malone inquired whether any of the Board Members had any remaining questions regarding the application. Hearing none, Member

Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Esser. The motion was approved 6-0, and a negative declaration adopted. Thereupon, Member Oster made a motion to approve the waiver of subdivision application subject to the following two (2) conditions:

1. Both pieces of property located adjacent to the Niagara Mohawk strip must be transferred to Brunswick Associates; and
2. The parcels to be transferred to Brunswick Associates must be merged into the property currently owned by Brunswick Associates so as not to create any new building lots.

Member Esser seconded the motion subject to these conditions. The motion was approved 6-0 and the application approved subject to the stated conditions.

The next item of business on the agenda was the major subdivision application of PIGLIAVENTO BUILDERS for property located off Route 351. Appearing on behalf of the Applicant were Linda Stancliff of Erdman Anthony, Donald Zee, Esq., and representatives of Pigliavento Builders. The Applicant is seeking final approval on the subdivision application. The Applicant has agreed to construct the access road in full compliance with Town specifications; specifically, the road will have a 30' wide paved carriage way with 3' wide paved gutters on each side. This detail has been added to the final plat. Also, the final plat has included filter fabric detail and guardrail detail for road construction. Mr. Kestner stated that he had reviewed the final plat submitted to the Town and finds it in approvable form. Mr. Kestner also stated that the Applicant had received a highway permit from New York State Department of Transportation, a copy of which is to be supplied by the Applicant to the Town. Mr. Kestner

also suggested that the Planning Board condition any approval on limiting hours of construction work on the project, possibly from 7:00 a.m. - 6:00 p.m. The status of the Homeowners Association was discussed by Attorney Zee. Attorney Zee stated that he had prepared the Covenants, Restrictions and By-Laws for the Homeowners Association, that estimates for both annual and long-term maintenance of the stormwater detention facilities had been prepared, and that the package will be submitted to the Planning Board for review by Attorney Gilchrist. Attorney Gilchrist inquired of Attorney Zee as to the form of the Homeowners Association which the Applicant will be creating. Attorney Zee explained that the application will be made to the Attorney General's Office under form CPS-7, that the application is technically complete upon submission, and that a "no action" letter should be received from the Attorney General's Office within 30-45 days after submission of the application. Chairman Malone reviewed the requirement of the security for road installation by the Applicant, explaining that the Town had historically required half cash, half bond as performance security for the road construction to be posted by the Applicant prior to issuance of any building permit. The Applicant consented to this approach. The Board inquired of the road crossing through the wetland area directly off Route 351. Ms. Stancliff provided a copy of a Water Quality Certification obtained from DEC for the road construction, which was reviewed by Attorney Gilchrist. The DEC Water Quality Certification was found to be in order, and a copy will be supplied to the Town. Ms. Stancliff explained that the application for water and septic approval to the Rensselaer County Health Department had been made, and that the Applicant was still waiting for County Health Department approval. Mr. Kestner stated that the Applicant should escrow \$3,600 with the Town for engineering oversight during construction. The Applicant consented. The Applicant then request an immediate permit to begin road construction. An extended discussion was held

between the Board and the Applicant concerning the issuance of a Building Permit and/or Work Permit for road construction prior to satisfaction of all conditions to be attached to final approval. Attorney Gilchrist advised the Board that it had no jurisdiction to pass on the question of Building Permit issuance, which was a determination to be made by the Building Department upon consultation with the Town Board and/or Town Attorney. The Board then discussed conditions to be attached to final approval. Chairman Malone stated that the conditions should include Rensselaer County Health Department approval for water and septic, a performance bond or other security satisfactory to the Town Board for infrastructure construction, \$3,600 escrow to be posted by the Applicant for engineering oversight during construction, a copy of the NYSDOT and NYSDEC Permits, hours of construction limited to 7:00 a.m. - 7:00 p.m., and submission of the Homeowner Association application to the New York State Attorney General's Office. The Members of the Board were in general agreement with these conditions. Thereupon, Member Tarbox made a motion to grant final subdivision approval on this application subject to the following conditions:

1. Rensselaer County Health Department approval for water and septic;
2. Performance bond and/or other security acceptable to the Town Board for infrastructure construction;
3. Applicant to fund an engineering escrow in the amount of \$3,600 for engineering oversight during construction;
4. Applicant to submit copies of NYSDOT and NYSDEC Permits to the Town;
5. Hours for construction activities to be limited to 7:00 a.m. - 7:00 p.m.; and
6. Submission of all necessary application materials for the Homeowner Association by the Applicant to the New York State Attorney General's Office and approval of

the same by the Attorney General.

Member Czornyj seconded the motion with the stated conditions. The motion was approved 6-0, and a conditional final approval granted.

The next item of business on the agenda was the subdivision application by OGDEN for property located on Fitting Lane. Appearing on the application were John Ogden and John Hewitt. Chairman Malone advised the Board that he had met on the site with Mr. Ogden, Mr. Hewitt, Mr. Kestner, Mr. Kreiger, and Mr. Eddy and Mr. Dougherty of the Town Highway Department, to discuss the condition of Fitting Lane and the T-turnaround or cul-de-sac at the end of Fitting Lane. Rather than constructing a T-turnaround, the Applicant is now making a proposal to construct a cul-de-sac at the end of Fitting Lane, 80' in diameter. Further, Mr. Ogden is proposing to flare his driveway off of this cul-de-sac on both sides so as to provide additional turning area for trucks. Mr. Eddy reviewed the proposal and determined that the cul-de-sac will provide adequate area for turning Town trucks including snow plows. Also, the design of the cul-de-sac will be in the nature of a "P", with the curved radius adjacent to the Ogden property. The straight side of the cul-de-sac will be adjacent to the Purcell property, which will provide an area to extend the cul-de-sac onto the Purcell property in the event Purcell sought to subdivide in the future. Mr. Ogden also stated that he will construct the cul-de-sac using geotexture filter fabric and 12" of crusher run, subject to the review and approval of Highway Superintendent Eddy. Member Oster then confirmed that the lot sought to be subdivided from the Ogden parcel meets all necessary setbacks and road frontage. Mr. Kreiger confirmed that the lot complies with zoning requirements. Mr. Ogden also confirmed that he had already received Rensselaer County Health Department approval for water and septic on the proposed lot. Chairman Malone inquired of the remaining Board Members as to whether any Member had an issue with the proposed cul-de-sac. Hearing none, Member Czornyj made a motion to adopt a negative

declaration under SEQRA, which motion was seconded by Chairman Malone. The motion was approved 6-0, and a negative declaration adopted. Member Czornyj then made a motion to approve the waiver of subdivision application subject to the condition that the cul-de-sac be completed in accordance with the plans discussed at this meeting, and subject to final construction review and approval by Highway Superintendent Eddy. Chairman Malone seconded the motion with the stated condition. The motion was approved 6-0, and the waiver application approved subject to the stated condition.

The next item of business on the agenda was the site plan application by NEXTEL for the construction of a monopole wireless communications tower at the Callanan Quarry. Mr. Kreiger informed the Planning Board that the necessary permit for the application had been issued by the Zoning Board of Appeals at its October 18, 2004 meeting. The approval was reviewed by Attorney Gilchrist. The Board requested the NEXTEL representative to describe the tower. The tower will be a 150' monopole wireless communications facility, with area to provide five (5) carriers and two (2) emergency or EMS antenna. The site plan application included the monopole and a 12' x 20' shelter and fenced area at the base of the tower, plus access roadway. An additional photo array was also presented with a viewshed from Carrols Grove Road. The Board inquired whether the blasting, processing, and other activities at the Callanan Quarry would have any impact on the monopole structure. The NEXTEL representative and Mr. Kreiger confirmed that the Zoning Board of Appeals had retained an independent review engineer, who had concluded that the quarry activities would not have a negative impact on the tower structure or function. Chairman Malone noted for the record that the ZBA, prior to issuing its approval for the tower installation, had retained an independent professional engineer to review the



application, and that based on the ZBA's review engineering recommendation, the ZBA had approved the application. Chairman Malone stated that the Planning Board would rely on the expert conclusions drawn by the review engineer of the ZBA. Thereupon, Member Czornyj made a motion to approve a negative declaration, which motion was seconded by Chairman Malone. The motion was approved 6-0, and a negative declaration adopted. Thereupon, Member Oster made a motion to approve the site plan, which motion was seconded by Member Wetmiller. The motion was approved 6-0, and the site plan application approved.

The next item of business on the agenda was the site plan application of MORRIS for the log distribution facility operated by Forrest Mayer on Route 7. Appearing on behalf of the Applicant was Mark Millspaugh, P.E. of Sterling Environmental Engineering, and Christine Morris. Attorney Gilchrist reviewed the status of the SEQRA review on this application. The Applicant has submitted its FEIS to the Planning Board. The Board has determined that the FEIS is incomplete. The remaining issue which the Planning Board required the Applicant to address was comment from the New York State Department of Transportation as to the access to this facility off Route 7. Mr. Millspaugh reviewed a letter he received from NYSDOT, and his response thereto which he had filed with NYSDOT. Mr. Millspaugh has not yet received a final response from NYSDOT concerning access issues. The access issues include adequate sight distance, signage, and truck stacking area at the entrance off Route 7. The Board determined that the appropriate course was to obtain a final letter from NYSDOT before accepting the FEIS and concluding the SEQRA process. Accordingly, this matter has been adjourned without date pending receipt by the Applicant of a final determination concerning access issues from NYSDOT. Member Czornyj commented that in his recent review of the site, it appeared that

materials were being stored on the site in areas identified on the proposed site plan as green space. While the final site plan has not yet been acted upon, Member Czornyj commented that Mr. Mayer should conduct facility operations in accordance with his proposed site plan. In this regard, the Planning Board Members thought that appropriate setback markers should be installed at the site at adequate height in order to delineate storage areas from green space areas. Mr. Millspaugh stated that he would review that comment with Mr. Mayer. This matter has been adjourned without date, pending receipt by the Applicant of a final determination by NYSDOT.

The next item of business on the agenda was the waiver of subdivision application by KENNELLY for property located on Dusenberry Lane. Appearing on the application was James Kennelly and his surveyor. Mr. Kennelly explained that the New Ark International Ministries owns two parcels at the end of Dusenberry Lane. One parcel includes a house, with the remaining land being vacant property. The driveway extending from the end of Dusenberry Lane to the house traverses both the vacant land parcel as well as the house parcel. Thus, it appears on the map that there is an existing parcel on which the house sits that does not have direct access or frontage onto a public road. This has not become an issue since both parcels are currently in common ownership. However, Mr. Kennelly seeks to purchase the vacant land parcel from New Ark International Ministries, which will result in the house parcel being in separate ownership and thus land-locked without access to the public road. The Planning Board stated that the use of a common driveway is not favored by the Town, and that building lots are now required to have frontage directly onto a public road. The application is before the Planning Board because the New Ark Ministries seeks to enlarge the house parcel to 7 acres prior to transferring the vacant land parcel to Mr. Kennelly. After extended discussion concerning the road issue, Mr. Kennelly

will be preparing a revised map showing the extension of the full 60' right-of-way at the end of Dusenberry Lane onto the vacant parcel, including extension of Dusenberry Lane for dedication to the Town as a public roadway. This is planned to cure the lack of frontage of the house lot. This matter has been placed on the agenda for the November 4 meeting for further discussion.

The next item of business on the agenda was the major subdivision application of PAUL BOUCHARD for property located off Humiston Avenue. Appearing on behalf of the Applicant were Paul Bouchard, F. Redmond Griffin, Esq., and Eugene Billodeau, P.E. Attorney Griffin handed up a letter executed by Hall, the adjoining property owner, confirming Hall's consent to the drainage plan which includes drainage of surface water along the rear of the Hall property. On this issue, the Planning Board will require proof of an easement granted by Hall to Bouchard for such drainage. Extensive discussion was held concerning the location of the proposed cul-de-sac at the end of Denise Drive, a current private road providing access to the existing Bouchard lots. Mr. Bouchard stated that the previous waiver of subdivision granted by the Planning Board included the requirement that each Bouchard lot have direct access to the cul-de-sac by an area of sufficient width to construct a separate driveway if necessary. Because of this, Mr. Bouchard did not want to extend the length of Denise Drive and construct a new cul-de-sac, since the existing location of the cul-de-sac serves the remaining Bouchard lots adequately. Also, Mr. Bouchard argued that the extension of Denise Drive and the construction of a new cul-de-sac would eliminate green space on the property. Mr. Kestner reiterated that he requested the Applicant to evaluate extending Denise Drive and constructing a new cul-de-sac, and that the only response received from the Applicant in writing was that the Applicant chose not to do so. Mr. Kestner would like a full evaluation of the alternate road design. Further discussion ensued concerning

the proposed sewage system to service the six (6) new proposed lots. Mr. Bouchard explained that the sewage system for the existing Bouchard lots consists of a pressure system which extends over private property and connects to the City of Troy sewer system. Mr. Bouchard proposes to connect the new six (6) lots to this pressure system. Mr. Kestner stated that the Town does not encourage the use of pressure systems, nor the location of sewer lines over private property. Mr. Kestner would like the applicant to analyze locating the sewer line along the right-of-way of the proposed road and then after along Humiston Ave. to connect to the City sewer system. Alternatively, Mr. Kestner will require an area to be graded along the sewer line on private property so that easy access by the Town could be achieved, together with an easement for access. The Board also discussed the issue of the number of lots off a cul-de-sac road, and whether the computation of total lots extended beyond the Town boundary and included lots existing in the City of Troy off Humiston Ave. Attorney Gilchrist will research that issue. This matter has been placed on the agenda for the November 18 meeting for further discussion.

Two items of new business were discussed.

The first item of new business discussed was a waiver of subdivision application by DUNHAM and OUDERKIRK for property located on Dater Hill Road. This matter has been placed on the agenda for discussion at the November 4 meeting.

The second item of new business discussed was a waiver of subdivision application by ROBERT DAYTON for property on Lord Avenue. Mr. Dayton seeks to divide a 180' x 150' building lot off his existing parcel. Member Czornyj noted that the topography at that location is quite hilly, and this issue should be discussed by the Planning Board. This matter has been placed on the Board's November 4 meeting agenda for further discussion.

The minutes of the October 7, 2004 meeting were reviewed. Page 4 of the Minutes are amended to require Fitting Lane to be upgraded in the event any property owner along Fitting Lane seeks to further subdivide the property, not limited to Mr. Hewitt. Page 7 of the Minutes are amended to change "Fitting Lane" to "Woodhill Lane". The Minutes are also amended to change "MELLE" to "KENNELLY" with respect to the Dusenberry Lane waiver application. With such corrections, Member Czornyj made a motion to adopt the Minutes. Chairman Malone seconded the motion. The motion was approved 6-0, and the minutes adopted as amended.

The **index** for the October 21, 2004 meeting is as follows:

1. Herrington Properties LLC - waiver of subdivision - approved with conditions;
2. Pigliavento Builders/Bragin - major subdivision - conditional final subdivision approval;
3. Ogden - waiver of subdivision - approved with conditions;
4. Nextel - site plan - approved;
5. Morris - site plan - adjourned without date;
6. Kennelly - waiver of subdivision - 11/4/04;
7. Bouchard - major subdivision - 11/18/04;
8. Dunham - waiver of subdivision - 11/4/04; and
9. Dayton - waiver of subdivision - 11/4/04.

The proposed agenda for the November 4, 2004 meeting is as follows:

1. Kennelly - waiver of subdivision;
2. Dunham - waiver of subdivision;
3. Dayton - waiver of subdivision; and

4. United Development Group - Carriage Hill Estates site plan and subdivision concept plan.

# Planning Board

TOWN OF BRUNSWICK  
308 Town Office Road  
Troy, New York 12180-8809

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## MINUTES OF THE PLANNING BOARD MEETING HELD November 4, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, KEVIN MAINELLO, JOSEPH WETMILLER, RUSSELL OSTER and DAVID TARBOX.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the waiver of subdivision application by KENNELLY for property located off Dusenberry Lane. Appearing on the application were James Kennelly and his surveyor. The issue on this application was whether one of the resulting subdivided lots in this application had adequate frontage on a public road. In order to address that issue, the Applicant has agreed to extend the end of Dusenberry Lane and create a cul-de-sac which will provide adequate frontage for both of the resulting lots directly onto Dusenberry Lane. Mr. Kestner has reviewed the proposal and finds it adequate from an engineering perspective. The Applicant has requested that he be allowed to construct the road extension and cul-de-sac through the gravel phase only while he constructs his home, but agrees to put final pavement on the road and dedicate it to the Town in compliance with Town specifications and requirements prior to the issuance of a Certificate of Occupancy. This approach was acceptable to the Planning Board and Mr. Kestner. Also, the existing house on one of the resulting lots currently has a driveway location which continues to traverse the property to be transferred to Mr. Kennelly before it intersects the proposed cul-de-sac. Mr. Kennelly has requested permission to

leave the existing driveway in place, provide an easement to the owner of the house over the lands of Kennelly, but relocate that driveway prior to the issuance of a Certificate of Occupancy to Kennelly so that the driveway's entire length prior to its connection to the cul-de-sac is on the lot owned by the existing homeowner. This was also acceptable to the Members of the Planning Board. Chairman Malone noted for the record that both he and Mr. Kestner had inspected the site as well. Chairman Malone inquired whether any Board Members had further questions on this application. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Oster. The motion was approved 7-0, and a negative declaration adopted. Member Czornyj then made a motion to approve the waiver of subdivision application subject to the following conditions:

1. The Dusenberry Road extension and cul-de-sac must be built through the gravel phase prior to the issuance of a building permit to Kennelly for the construction of a residence, and that the Dusenberry Road extension and cul-de-sac must be paved and dedicated to the Town pursuant to specifications and requirements prior to the issuance of a Certificate of Occupancy to Kennelly;
2. Kennelly must relocate the driveway on the existing homestead lot so that its entire length is on the homestead lot as it intersects with the new cul-de-sac prior to the issuance of any Certificate of Occupancy to Kennelly; and
3. Rensselaer County Health Department approval for water and septic.

Member Esser seconded the motion with the stated conditions. The motion was approved 7-0, and the waiver application approved subject to the stated conditions.

The second item of business on the agenda was the waiver of subdivision application by



DUNHAM for property located on Dater Hill Road. Appearing on the application was Attorney Paul Engster. Mr. Engster explained that the application was made both by DUNHAM and OUDERKIRK, owners of adjacent property on Dater Hill Road. Dunham seeks to divide 5 acres off his existing lot, and Ouderkirk seeks to divide 13.10 acres from its lot, to be combined to create one 18.10 acre lot for transfer to Fitzgerald for the construction of a single family residence. Member Tarbox inquired whether the property is located in an agricultural district. It was determined that this property is in an agricultural district, and an Agricultural Data Statement will need to be prepared and properly noticed prior to Planning Board action on the application. An Agricultural Data Statement form was provided to Attorney Engster. Member Tarbox also inquired whether the resulting Ouderkirk parcel had frontage on a public road, since the entirety of the Ouderkirk frontage on Dater Hill Road was being transferred to Fitzgerald. The Board determined that the Ouderkirk property also had frontage on Wiegner Road, providing adequate access for this parcel onto a public road. Member Czornyj inquired whether there was adequate sight distances for the resulting building lot onto Dater Hill Road. The Applicant will supply that information to the Board. Mr. Kestner also stated that the driveway location should be identified on the map, and the sight distances measured from the proposed driveway location. This property has been surveyed, and Mr. Kestner inquired whether any stakes had been placed in the field to determine the lot corners of the proposed lot, so that he could look at the parcel in the field. Attorney Engster stated that if the lot stakes were not already in place, he would arrange to have them put in place so that the field inspection could occur. This matter will be placed on the November 18 agenda for further consideration.

The next item of business on the agenda was the waiver of subdivision application by ROBERT DAYTON for property on Lord Avenue. Mr. Dayton seeks to divide a 180' x 150'

building lot off his existing parcel on Lord Avenue. The resulting lot complies with all zoning setback requirements for house location. While the property has significant grades in certain locations, it was determined that a driveway meeting Town specifications can be constructed on the lot. Dayton indicated that while preliminary plans had been drawn for water and septic, they had not yet been submitted to the Rensselaer County Health Department. Hearing no further discussion, Chairman Malone made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Esser. The motion was approved 7-0 and a negative declaration adopted. Chairman Malone then made a motion to approve the waiver of subdivision subject to Rensselaer County Health Department approval for water and septic. Member Czornyj seconded that motion with condition, and the motion was approved 7-0. The Application was approved subject to the stated condition.

The next item of business on the agenda was the CARRIAGE HILL ESTATES PROJECT by UNITED DEVELOPMENT CORPORATION. Appearing on the matter were Michael Uccellini and Jeff Smetana of United Development Corp. The purpose of the presentation by Mr. Uccellini and Mr. Smetana was to provide a concept overview of the Carriage Hill Estates Application, which is currently pending before the Brunswick Town Board on a PDD Application. Ultimately, this application will need to be reviewed by the Planning Board for subdivision approval and site plan approval following action by the Town Board on the PDD Application. Mr. Uccellini and Mr. Smetana provided the concept overview for the project, and general discussion concerning the project design was held. Attorney Gilchrist explained the procedural status of the application before the Town Board, as well as the coordinated review which is anticipated between the Town Board and the Planning Board on this application.

There were no new items of business discussed.

Mr. Kreiger reported that the drainage improvements which were undertaken at the DUNKIN DONUTS facility were completed according to design specifications. Attorney Gilchrist explained that the Applicant had negotiated an Indemnification Agreement with the Town, and that Attorney Gilchrist was waiting for the executed Indemnification Agreement from Mr. Garcia's attorney for signature by the Town, and ultimate recording of the agreement in the Rensselaer County Clerk's Office. Attorney Gilchrist noted that no Certificate of Occupancy should be issued by the Town until such time as the Indemnification Agreement is fully signed and recorded in the Rensselaer County Clerk's Office.

The minutes of the October 21, 2004 meeting were reviewed. A typographical correction on Page 1 is made changing "Dunkin" to "Duncan". Subject to the typographical correction Chairman Malone made a motion to adopt the Minutes of the October 21 meeting, which motion was seconded by Member Czornyj. The motion was approved 7-0, and the minutes adopted.

The **index** for the November 4, 2004 meeting is as follows:

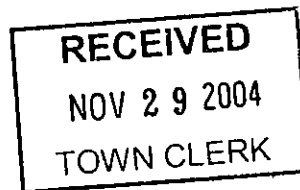
1. Kennelly - waiver of subdivision - approved with conditions;
2. Dunham - waiver of subdivision - 11/18/04;
3. Dayton - waiver of subdivision - approved with condition; and
4. United Development Group - Carriage Hill Estates site plan and subdivision concept plan - adjourned without date.

The proposed agenda for the November 18, 2004 meeting is as follows:

1. Dunham - waiver of subdivision;
2. Bouchard - major subdivision.

# Planning Board

TOWN OF BRUNSWICK  
308 Town Office Road  
Troy, New York 12180-8809



## MINUTES OF THE PLANNING BOARD MEETING HELD November 18, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, KEVIN MAINELLO, JOSEPH WETMILLER, RUSSELL OSTER and DAVID TARBOX.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the waiver of subdivision application by DUNHAM for property located on Dater Hill Road. Appearing on behalf of the application was Attorney Paul Engster. This matter had been discussed at the November 4, 2004 meeting, at which time it was determined that an Agricultural Data Statement needed to be completed and submitted on the application. Attorney Engster had completed the Agricultural Data Statement, and the same had been mailed to adjacent property owners and owners of property within 500' of the subject property. No comments had been received from any of the recipients of the Agricultural Data Statement. Also, at the November 4 meeting the issue of the sight distance from the proposed lot onto Dater Hill Road was raised. In response, the corners of the proposed lot had been staked at the property, as well as a proposed driveway location. Further, calculation of sight distance was performed and submitted to the Planning Board for review. Mr. Kestner had reviewed both the sight distance calculations and the staked driveway location in the field, and determined that the sight distances in both directions onto Dater Hill Road met applicable NYSDOT standards. Chairman Malone and Mr. Kestner had reviewed the staked property lines

in the field. Chairman Malone inquired whether there were any further questions on the application. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Oster. The motion was approved 7-0, and a negative declaration adopted. Thereupon, Member Mainello made a motion to approve the waiver of subdivision application, subject to compliance with the proposed driveway location as denoted on the application. That motion was seconded by Member Oster. The motion was approved 7-0, and the waiver of subdivision application approved.

The next item of business on the agenda was the major subdivision application of BOUCHARD for property located on Denise Drive off Humiston Avenue. This matter has been adjourned upon request of the applicant to December 16, 2004. Chairman Malone noted that two (2) letters had been received on the application. First, a letter had been received from Paul Bouchard dated November 2, 2004, countersigned by Neil Bonesteel of the City of Troy Department of Public Utilities, concerning the proposed sewer system on the application. This letter had been forwarded to Mr. Kestner for review. Second, a letter from Paul Bouchard dated November 12, 2004, had been received by Shawn Malone. In his letter, Mr. Bouchard had explained why he had not appeared at a prior Planning Board meeting when this application was scheduled for discussion due to a miscommunication, and further spoke to issues concerning the roadway as proposed in the application. These letters have become part of the file on the application. Mr. Kestner spoke briefly concerning the proposed sewer system, including the location of the sewer line either across private property through an easement or relocating the proposed sewage line along the highway right-of-ways. Mr. Kestner would like to see the option of relocating the proposed sewer line along the highway right-of-ways, which would also allow

existing homeowners along Humiston Avenue to hook into the public sewer system. Also, both Mr. Kestner and Member Esser thought that topographical information should be prepared by the Applicant to determine whether a gravity feed system for the sewer line along the highway right-of-way would be functional, thereby eliminating the need for a pump system. The Board also discussed the proposed cul-de-sac at the end of Denise Drive, both in terms of compliance with road specifications as well as to the location of the cul-de-sac. It was determined that the proposed roadway as depicted on the application was both too narrow, as well as the cul-de-sac being too close to existing structures. Mr. Kestner will contact the Applicant's engineer to discuss both the highway width issue as well as the location of the cul-de-sac. This matter will be placed on the agenda for the December 16 meeting.

Two items of new business were discussed.

The first item of new business discussed was a waiver of subdivision application by DORIS ROARKE for property located at 330 Plank Road. Ms. Roarke owns 365 acres, and seeks to divide four (4) acres from that parcel for transfer to her son for the construction of a residence. This matter will be placed on the agenda for the December 2 meeting.

The second item of new business discussed was an application for major subdivision submitted by GORDON RESIDENTIAL DEVELOPMENT LP for property located at the intersection of Route 2 and Route 278, bounded by Langmore Lane and Longhill Road. The Applicant seeks to divide this parcel into 22 total lots, including 20 new residential lots, one (1) existing residential lot on which a house exists, and one (1) vacant non-building lot. This matter will be placed on the agenda for the December 2 meeting for further discussion.

Residents owning property near the proposed Carriage Hill Estates project were in attendance, presuming that the Carriage Hill project would be discussed. Chairman Malone

informed these residents that the Carriage Hill application was pending in front of the Town Board, which was in the process of reviewing the application under SEQRA. The Planning Board will be addressing the subdivision and site plan aspects of the project after the Town Board has completed its review.

The minutes of the November 4, 2004 meeting were reviewed. Member Esser made a motion to approve the Minutes as written, which motion was seconded by Member Oster. The motion was approved 7-0, and the November 4, 2004 minutes adopted.

The **index** for the November 18, 2004 meeting is as follows:

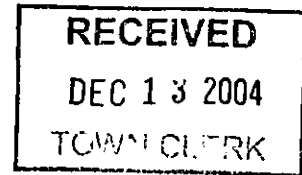
1. Dunham - waiver of subdivision - approved;
2. Bouchard - major subdivision - 12/16/04;
3. Roarke - waiver of subdivision - 12/2/04; and
4. Gordon Residential Development LP - major subdivision - 12/2/04;

The proposed agenda for the December 2, 2004 meeting is as follows:

1. Roarke - waiver of subdivision;
2. Gordon Residential Development LP - major subdivision.

# Planning Board

TOWN OF BRUNSWICK  
308 Town Office Road  
Troy, New York 12180-8809



## MINUTES OF THE PLANNING BOARD MEETING HELD December 2, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, KEVIN MAINELLO, JOSEPH WETMILLER, RUSSELL OSTER and DAVID TARBOX.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the waiver of subdivision application by JAMES ROARKE for property located on Plank Road. In attendance were James and Tim Roarke, together with their surveyor. Mr. Roarke seeks to divide 3.4 acres off his existing 65 acre parcel on the south side of Plank Road. The proposed lot has 170' of road frontage on Plank Road between Bently and Duncan. The sight distance on Plank Road is approximately 400-500' in both directions. The property is in an agricultural district; however, Mr. Roarke owns all of the adjacent property within 500' of the proposed lot. Member Czornyj noted that there was a pole barn/shed noted on the map on the property to be retained by James Roarke. Member Czornyj and Mr. Kreiger observed that the location of the pole barn/shed noted on the map seemed to be very close to the 25' setback requirement with respect to the new proposed lot. Upon measuring the distance to scale, Mr. Kreiger concluded that the pole barn/shed was in compliance with the setback requirements. Nonetheless, Mr. Roarke and his surveyor indicated that they would place the final line no closer than 25' from the pole barn/shed. Chairman Malone inquired whether there were any further questions or comments from the Board. Hearing none,



Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Esser. The motion was approved 7-0, and a negative declaration adopted. Next, Member Oster made a motion to approve the waiver of subdivision application, which motion was seconded by Member Wetmiller. The motion was approved 7-0, and the waiver application approved.

The second item of business discussed was the major subdivision application of GORDON RESIDENTIAL DEVELOPMENT LP for property located at the intersection of Route 2 and Route 278. In attendance for the Applicant was Linda Stancliff of Erdman Anthony. Ms. Stancliff presented a sketch plan of this subdivision proposal. The property totals 35 acres. The Applicant seeks to create 20 new residential lots on the property, and divide off the existing home directly at the intersection of Route 2 and Route 278 as its own residential lot. Also, the Applicant proposes to create one additional lot to be used exclusively for stormwater detention purposes at the intersection of Route 2 and Langmore Lane. The Applicant will create a Stormwater Management Plan which will include this lot for stormwater detention purposes, all of which will be owned by a proposed homeowners association for this subdivision. The proposed access to the subdivision includes the extension of Longhill Road off Langmore Lane to be looped through the proposed subdivision with a new entrance onto Route 2 between Langmore Lane and Route 278. Ms. Stancliff noted that all of the homes off Langmore Lane have only one access onto Route 2, and that this proposed road will provide another means of ingress and egress for the existing homes as well. Ms. Stancliff also noted that DEC wetlands on the property need to be further delineated. Ms. Stancliff acknowledged that stormwater management will be a critical component of this application, and that there will be at least two

catchment areas to detain stormwater. Member Wetmiller noted that it was important to be able to design a system which insured that no additional stormwater runoff would impact the existing homes on Langmore and Longhill. Chairman Malone inquired whether access to the proposed subdivision had been explored onto Buck Hill Road. Ms. Stancliff noted that Buck Hill Road was only 14' wide pavement, and that initial discussions with the Town Board on a prior PDD application indicated that access onto Buck Hill Road would not be favorable. Member Czornyj noted that there is a drastic grade in the rear yards of the three existing residential lots off Longhill Road adjacent to this property, and that particular attention needed to be made in that area. Ms. Stancliff noted that the Applicant needed to do additional topographical measurements in order to accurately depict this area, and that particular attention would be paid to that area. Ms. Stancliff noted that public water will be available to the new residential lots; however, there will be private septic for each lot. Ms. Stancliff noted that with respect to a prior PDD application which had been withdrawn, the New York State Department of Transportation ("NYSDOT") had provided comments on an access road onto Route 2, which comments would be taken into consideration in connection with the current application. The Board wanted to make sure that the Applicant forwarded the revised plans to NYSDOT for comment as well. Ms. Stancliff inquired whether a public hearing could be held at the sketch plan stage instead of at the preliminary approval stage, so that the Applicant could obtain comment prior to investing in the additional studies needed to prepare the preliminary plat. Chairman Malone noted that this was not possible, since the Planning Board will hold a public hearing only at the point when sufficient information and compliance with the preliminary subdivision plat requirements is submitted so that members of the public know what they are commenting on, and what the ultimate plan for the property is. In terms of the general consensus of the Board, Chairman Malone noted that a.

residential subdivision did seem an appropriate use of the property, although the stormwater management issue will be of critical importance to the Board's review. Mr. Kestner concurred, and stated that stormwater management would be examined closely. Member Mainello inquired as to the length of the proposed road. Ms. Stancliff stated that the road would be approximately 2900' in length. The Board noted that in its opinion, compliance with the road specifications under the Town Code would be required, including road width. The Board inquired as to the average lot size on the proposal. Ms. Stancliff stated that the current layout had the smallest lot at .94 acre and the largest lot at 2.9 acres, for an average of 1.2 acre per lot. Ms. Stancliff stated that the additional information necessary for the submission of the preliminary plat should be accumulated and submitted to the Board by the end of January. This matter will be adjourned without date pending additional submission by the Applicant.

Chairman Malone inquired of Mr. Kestner whether he had received an additional information from BOUCHARD or his engineer regarding the proposed Bouchard major subdivision. Mr. Kestner stated that he had not received any additional information from Mr. Bouchard or his engineer. Chairman Malone asked Mr. Kestner to follow up directly with Mr. Bouchard prior to the December 16 meeting.

Two items of new business were discussed.

The first item of new business discussed was an application by STEWARTS for its store located at the intersection of Route 278 and Tamarac Road. Stewarts seeks to add a storage shed approximately 8'x12' to the rear of the store. As this requires an amendment to the approved site plan to denote the storage shed, the Board indicated that a complete site plan application would need to be submitted. This matter is tentatively placed on the agenda for the December 16 meeting pending the receipt of a complete application and filing fees.

The second item of new business discussed was a waiver of subdivision application by HARRY D'AGOSTINO for property located on North Lake Avenue. Mr. D'Agostino seeks to divide a 4.23 acre parcel into two (2) lots for single family residential purposes. The Board noted that the front portion of this property along North Lake Avenue is wet, but there did appear to be ample room to the rear of the lots for single family home construction. This matter will be placed on the agenda for the December 16 meeting for further discussion.

Chairman Malone inquired of Attorney Gilchrist as to the status of the FORREST MAYER site plan application for the log distribution facility on Route 7, and the particular issue of the completion of the SEQRA process on the issue of NYSDOT comment on the access off Route 7. Attorney Gilchrist stated that he would contact Mr. Mayer's engineer and request that the final information be submitted so that this matter can be placed on the agenda for the first meeting of January, 2005.

The minutes of the November 18, 2004 meeting were reviewed. Upon motion of Member Oster, seconded by Member Esser, the Minutes were approved by a vote of 7-0 as written.

The **index** for the December 2, 2004 meeting is as follows:

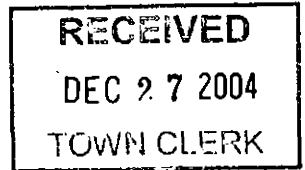
1. Roarke - waiver of subdivision - approved;
2. Gordon Development LP - major subdivision - adjourned without date;
3. Stewarts - amendment to site plan - 12/16/04; and
4. D'Agostino - waiver of subdivision - 12/16/04.

The proposed agenda for the December 16, 2004 meeting is as follows:

1. Bouchard - major subdivision;
2. Stewarts - amendment to site plan; and
3. D'Agostino - waiver of subdivision.

# Planning Board

TOWN OF BRUNSWICK  
308 Town Office Road  
Troy, New York 12180-8809



## MINUTES OF THE PLANNING BOARD MEETING HELD December 16, 2004

PRESENT were CHAIRMAN SHAWN MALONE, MICHAEL CZORNYJ, FRANK ESSER, KEVIN MAINELLO, JOSEPH WETMILLER, RUSSELL OSTER and DAVID TARBOX.

ALSO PRESENT were JOHN KREIGER, Superintendent of Utilities and Inspections and MARK KESTNER, consulting engineer to the Planning Board.

The first item of business on the agenda was the major subdivision application of BOUCHARD. Upon request of the Applicant, this matter is adjourned.

The second item of business on the agenda was a site plan application by STEWARTS for property located at the intersection of Route 278 and Tamarac Road. Appearing on behalf of the Applicant was Tom Lewis of Stewarts. Stewarts seeks to amend its current site plan to add an 8' x 12' shed to the rear of the building. Chairman Malone inquired whether the location of the shed on the amended site plan complies with setback requirements. Both Mr. Kestner and Mr. Krieger confirmed that the proposed location complied with setback requirements. Mr. Kestner did note that the addition of the storage shed reduced the green space on the site plan from the required 35% to 33.3%. Upon review of the proposed site plan, Members Czornyj and Esser noted that the shed was proposed in a location directly over the leach field. Chairman Malone and Member Czornyj then noted that the proposed shed was to be placed on a proposed concrete pad, and that Stewarts' plan called for the placement of a concrete pad over the leachfield. Mr. Lewis conceded that the engineer for Stewarts apparently had not considered the

leach field, or in the alternative, the engineer for Stewarts had considered the location of the leach field and determined that the placement of the concrete pad and shed was still appropriate. Mr. Lewis argued that if the leach field failed, it was still Stewarts' responsibility to correct it even if the shed is located on top of the leach field. Chairman Malone advised Mr. Lewis that the Planning Board would not approve any site plan that was not in compliance with Health Department regulations. Mr. Kestner stated that it is his understanding that Health Department regulations prohibited the placement of concrete or structures over the top of leach fields. Mr. Kestner suggested that Stewarts examine a possible relocation of the shed. Member Wetmiller inquired whether there were minimum separation requirements pursuant to fire code between the main building and the proposed shed. Mr. Krieger stated that the separation distances were dependant up the material to be stored in the shed. In terms of relocating the shed on the site, Chairman Malone and Member Esser inquired whether the coolers in the store had an exterior door to the rear of the building in the area of the proposed shed. In looking at the proposed site plan, the Board Members questioned whether the shed could be relocated from its proposed location given necessary setback requirements, any exterior door to the cooler, and the location of the leach field. Chairman Malone instructed Mr. Lewis to review the proposed site plan with the Rensselaer County Health Department for purposes of compliance with Health Code requirements, and then return to the Planning Board on the site plan. This matter has been tentatively placed on the agenda for the January 6 meeting.

The next item of business on the agenda is an application by HARRY D'AGOSTINO for a waiver of subdivision for property located on North Lake Avenue. Mr. D'Agostino owns approximately 4-acres, which he seeks to divide into two (2) lots, each approximately two (2)

acres in size. Upon review of the proposed subdivision map, Member Czornyj inquired whether the Applicant located any proposed driveways to the two lots. Member Czornyj inquired whether the Applicant would be able to locate two driveways off North Lake Avenue given the wet condition of the property directly adjacent to the public highway. Mr. Kestner stated that the property was not a DEC mapped wetland, and that the construction of two driveways would be under the .25 acre threshold for permit jurisdiction with the Army Corps of Engineers. Mr. Kestner did state that a Rensselaer County driveway permit would be required since North Lake Avenue is a county road. On that point, Member Czornyj noted that the proposed location of the driveways, including the sight distances in both directions for each proposed driveway, needed to be placed on the map. Upon further discussion, it was determined by the Board that the Applicant must show the proposed driveway locations on the map, and calculate the sight distances in both directions onto North Lake Avenue from the proposed driveway locations. Further, the Board would like the Applicant to review that information with the Rensselaer County Highway Department, and obtain an approval from the County for the two (2) proposed driveway locations prior to the Planning Board acting on the subdivision. The Applicant stated it would go to the County, and advise the Board as to when it is prepared to come back before the Planning Board for action on the waiver application.

The next item of business on the agenda is the major subdivision application of COBBLESTONE ASSOCIATES for property located on Bulson Road and Tambul Lane. Appearing on the application was Kevin Kronau and his attorney. Mr. Kronau provided the Planning Board with additional information under a memorandum dated December 14, 2004. Mr. Kronau advised the Board that interviews with neighboring property owners were on-going concerning comments on the proposed subdivision. Mr. Kronau further advised the Board that



two test wells had been drilled on the property, in locations at proposed Lots 6 and 13 on the proposed plat. Mr. Kronau stated that the results of the pump tests were very positive, and provided the Board with a test report and summary. Mr. Kronau then stated that the Applicant had met with the Army Corps of Engineers concerning any federal wetland jurisdiction on the site. Mr. Kronau stated that the Army Corps, by Brad Sherwood, has initially opined that the project was not impacting any wetland areas within federal jurisdiction. The Army Corps did express an interest regarding a ravine that traverses proposed Lots 23, 24 and 12, but Mr. Kronau stated that the layout does not impact these areas of the site. Mr. Kronau then discussed the proposed cul-de-sac off Tambul Lane, and indicated that the Applicant's research on both the road design as well as the number of lots serviced by the cul-de-sac road was on-going. Mr. Kronau did state that their initial research showed that the regulations concerning cul-de-sac roads varied widely from municipality to municipality. Mr. Kronau did state that he was continuing to explore a boulevard entrance off Tambul Lane, as had previously been constructed in his Spring Landing project. Mr. Kronau also raised the issue of required road width under the Town regulations, which provides for a 30' wide paved carriage way in addition to two 3' wide paved culverts on each side of the road. Mr. Kronau opined that such a road width was too wide for this rural area, resulted in more surface water run-off and salt run-off, was an expensive road to maintain once it was dedicated to the Town, and that such a wide road resulted in additional plowing and maintenance expense. Mr. Kronau stated that he would be seeking a variance from the Town road specifications concerning width, as well as a variance to allow more than 12 lots off a cul-de-sac road. Mr. Kronau also reminded the Board that the Applicant had prepared a traffic impact study for the proposed subdivision, prepared by Transportation Concepts, LLP in August, 2004. Given the information contained in the traffic report as well as the pump tests on

the two test wells, Mr. Kronau stated that the application could support a negative declaration under SEQRA. The Board inquired of Attorney Gilchrist as to the appropriate review standard under SEQRA. Attorney Gilchrist advised the Board that once a lead agency has been established for this application, that lead agency would need to review all of the information supplied on the application, inclusive of any additional technical studies, and make a determination of environmental significance under SEQRA. The determination of environmental significance is based on whether the lead agency concludes that there may be at least one potential significant environmental impact from the action, in which case it must issue a positive declaration and require the preparation of an Environmental Impact Statement, or whether the lead agency concludes that there are no potential environment impacts from the action or that the identified impacts are not significant, in which case a negative declaration is adopted and SEQRA is concluded. Attorney Gilchrist further advised that despite the submission of additional technical studies on the application, the lead agency is still required to make its determination of environmental significance, and a positive declaration may be adopted even with the additional technical information if the lead agency still determines that a potential significant environmental impact may result from the action. It is noted that a lead agency has not yet been established on this application. Chairman Malone also advised Mr. Kronau that the application had garnered attention from neighboring property owners, and that public involvement on the application may be significant. Mr. Kronau then requested that a public hearing be held by the Planning Board in order to gather comment from interested members of the public, which could be incorporated into the application at this early stage. The Planning Board thought a public hearing was a good idea, so that public comment could be received early on this application. Attorney Gilchrist stated that opening a public hearing on the

application at this early juncture would require consent of the Applicant to keep the public hearing open so that mandatory time-frames which otherwise apply following the close of a public hearing would be avoided. Mr. Kronau consented on the record to keeping the public hearing open in that regard. The members of the Planning Board felt it was a good idea to schedule a public hearing to receive public comment on this application that could be considered by the Applicant. Accordingly, this matter will be the subject of a public hearing to be opened on January 20, 2005 commencing at 7:00 p.m. That public hearing will remain open with the consent of the Applicant. The Planning Board also felt that the Superintendent of Highways, Doug Eddy, should be in attendance at that meeting to provide comment on the road width issue.

The Planning Board has scheduled the site plan application of MORRIS/MAYER for the log distribution facility located on Route 7 for further action at its January 6, 2005 meeting.

Mr. Kestner advised the Board that he had been contacted by NYSDEC Region 4 concerning compliance with stormwater regulations during the site plan and subdivision review by Planning Boards, and the request by Region 4 to meet with the Planning Board at one of its meetings to generally discuss the new regulations and compliance issues. The Board agreed to schedule that meeting with NYSDEC Region 4 for its January 6 meeting, commencing at 7:00 p.m.

The minutes of the December 2, 2004 meeting were reviewed. Upon motion of Member Czornyj, seconded by Member Oster, the Minutes were adopted as written by a vote of 7-0.

The **index** for the December 16, 2004 meeting is as follows:

1. Bouchard - major subdivision - adjourned without date;
2. Stewarts - site plan amendment - 1/6/05;

3. D'Agostino - waiver of subdivision - adjourned without date; and
4. Cobblestone Associates - major subdivision - 1/20/05.

The proposed agenda for the January 6, 2005 meeting is as follows:

1. Stewarts - amendment to site plan; and
2. Morris - site plan.