

PLANNING BOARD MINUTES

2007

Planning Board

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD January 4, 2007

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

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

The Planning Board first held a public hearing with respect to the minor subdivision application of Jackie Witbeck for property located on Kreiger Lane. The Notice of Public Hearing was read into the record. That Notice of Public Hearing had been published in The Record, posted on the Notice Board at Town Hall, placed on the Town website and Notices of the Public Hearing were sent to all adjacent property owners. Chairman Oster requested the Applicant to present the overview of the application. Jackie Witbeck reviewed the application, by which she seeks to divide off two lots from her property located on Kreiger Lane. The lots are approximately 2.5 ± acres in size. Each lot has adequate road frontage, and adequate sight distance. Ms. Witbeck explained that perc tests had been performed on the property, for purposes of septic plan preparation to be reviewed by the Rensselaer County Health Department. Chairman Oster then opened the floor for receipt of public comment. Tom Campbell, 6 Kreiger Lane, stated that he had no overall objection to the application. However, Mr. Campbell stated that Kreiger Lane is a single lane road, and that he is concerned with potential traffic on the road

with additional houses, that the Town should consider widening this road in the future, principally from a safety perspective but also to adequately manage any drainage. Walter Vassey, 48 Lockrow Road, stated that the issue of the width of Kreiger Lane had come up in the past with respect to the current homes at the time they were constructed, and that no one objected to the road width at that time, and there should be objection now. Chairman Oster inquired whether there were any further public comments. Hearing none, Chairman Oster closed the public hearing on the Witbeck minor subdivision application.

Thereupon, Chairman Oster opened the regular business meeting for the Planning Board.

Chairman Oster reviewed the agenda for the January 4, 2007 meeting. The Witbeck minor subdivision application will be discussed first. ITZ Security had submitted a site plan for consideration, but that matter had been postponed (discussed below). The Carriage Hill Estates PDD site plan and subdivision is likewise postponed, and will be entertained at the January 18, 2007 meeting. Brooks Heritage, LLC major subdivision will be discussed. Chairman Oster also noted that Member Esser had been reappointed to the Planning Board for an additional 7 year term, and that he had been reappointed as Chairman of the Planning Board for a one year term.

The minutes of the December 21, 2006 meeting were reviewed. Upon motion of Member Czornyj, seconded by Member Tarbox, the minutes were unanimously approved as written.

The first item of business on the agenda was the minor subdivision application by Jackie Witbeck for property located on Kreiger Lane. Chairman Oster noted that the additional information requested by the Planning Board had been submitted by Witbeck. First, actual sight distance measurements were provided from Harold Berger, P.E. Further, information on the National Grid powerline through the property had been submitted. While Witbeck thought there was an easement for the utility across this property, upon check at the Rensselaer County Clerk's

Office, there is no utility easement of record. This was checked both by Brian Holbritter, as well as Ms. Witbeck herself at the County Clerk's Office. As discussed at a previous meeting, Witbeck seeks to have these utility lines changed from overhead to underground, and would work with National Grid to relocate the buried utility lines along the proposed property line as much as possible. Chairman Oster acknowledged the comment regarding the width of Kreiger Lane. Attorney Gilchrist noted that Kreiger Lane is currently a public road, that it is a highway-by-use, and that given its character as a public road, the issue of the road width is pertinent only insofar as it becomes a traffic safety issue with respect to this proposed 2 lot subdivision. The record should reflect that the width of the road has been raised as an issue, which could be looked at by the Town of Brunswick in the future as part of its overall highway plan. Mr. Kestner noted that with respect to the National Grid utility, any proposed septic location would need to be reviewed and approved by the Rensselaer County Health Department, and that the Health Department would determine whether the proposed septic locations were too close to the existing utility lines on the lots. Mr. Kestner stated that he had reviewed the additional information and the underlying subdivision plat, and has determined that the Applicant has satisfied all requests for information by the Planning Board. Member Mainello inquired whether Witbeck owned land on both sides of Kreiger Lane. Ms. Witbeck stated that she did not, owning land only on one side of Kreiger Lane. Mr. Kestner suggested that the Applicant stipulate that if Kreiger Lane was widened in the future, there would be no objection by Witbeck or subsequent owners of these two subdivided lots. Member Czornyj inquired of Attorney Gilchrist as to how a highway-by-use would be widened in the future. Attorney Gilchrist stated that with highways-by-use, the width of the public right-of-way is measured by the actual use, including pavement, shoulders, drainage, and any brush clearing. In the event a highway-by-use is widened, consent

of the private owners of the adjoining property would need to be obtained, absent use of eminent domain powers by the Town. Further, consent of all owners along the roadway would need to be obtained for such a road widening project, absent municipal use of eminent domain powers. The Planning Board discussed on how best to address this issue of potential future widening of Kreiger Lane, although no plan to do any such widening project is now proposed. It was determined that this record should reflect that the issue of a potential future widening of Kreiger Lane had been discussed by the Planning Board, and that a map note should be placed on the subdivision plat indicating that Kreiger Lane is a public highway-by-use. This map note will at least place all future owners of these two subdivided lots on record notice that Kreiger Lane is a highway-by-use, rather than a municipally-owned public highway with full public right-of-way. The record should also reflect an agricultural data statement had been filed on the application, that the farm operation listed on that agricultural data statement had been contacted and has no objection to this application. Member Czornyj then made a motion to adopt a Negative Declaration under SEQRA, which motion was seconded by Member Wetmiller. The motion was approved 7/0, and a Negative Declaration adopted under SEQRA. Thereupon, Member Jabour made a motion to approve the minor subdivision application subject to the following conditions:

1. Rensselaer County Health Department approval for water and septic.
2. Addition of map notes to the subdivision plat listing out sight distances on Kreiger Lane, location of the utility lines on the lots, and that Kreiger Lane is a public highway-by-use.
3. Payment of all applicable fees, including park and recreation fee.

The motion was seconded by Member Jabour. The motion was approved 7/0, and the minor subdivision application approved subject to the stated conditions.

The next item on the agenda was the site plan application submitted by ITZ Security for property located on Route 7 (Old Trooper Barracks). ITZ Security seeks to use one of its offices for the receipt of Time Warner bill payments. However, the use of this location by ITZ Security is subject to a use variance having been issued by the Brunswick Zoning Board of Appeals. According to the Minutes of the July 21, 2003 Zoning Board of Appeals meeting, the ITZ Security site had been issued a use variance which provided the following condition:

That use variance is hereby granted to the Applicant to permit the use of the subject premises by ITZ Systems for low-voltage wiring contracting sales and service, as more fully described in the ITZ Systems company profile and daily operations description provided to the Board by the Applicant, and for no other use or purpose.

It was the opinion of the Planning Board that this condition limited the use of the site to ITZ's current operations, and did not allow any other use or purpose, including use of an office for receipt of Time Warner bill payments. The Planning Board directed the Applicant to address the scope of the use variance with the Zoning Board of Appeals, and adjourned any discussion or action upon the site plan subject to Zoning Board of Appeals action.

The next item of business on the agenda had been the Carriage Hill Estates PDD site plan and subdivision. Chairman Oster noted that this matter had been adjourned until the January 18, 2007. However, Chairman Oster noted that at the request of the Applicant, a meeting had been held with the Applicant on January 3, 2007 to address pending issues. Mr. Kestner and Attorney Gilchrist had attended that meeting. Mr. Kestner had informed the Board that the United Group had further revised its proposed parking layout, adding 29 additional spaces to the site plan, which would be presented and reviewed at the January 18, 2007 meeting. Also, Mr. Kestner informed the Board that United Group had a proposed layout for the interior of the clubhouse, and that this would be used to come up with a proposed occupancy limitation on any special

events, so that such information could be related to required parking. Mr. Kestner informed the Board that United Group appeared agreeable to the concept of limiting the use of the clubhouse to certain areas and occupancy limitations for special events. Mr. Kestner stated that United Group would be providing additional information directly to the Planning Board members one week prior to the January 18, 2007 meeting. Mr. Kestner also stated he had raised the concept of an overflow parking area on the overall project site with United Group, and that United Group would address this at the January 18, 2007 meeting. Mr. Kestner also informed the Board that the size of the sewer forcemain along Pinewoods was discussed, including pipe size, number of pipes, pumps, and overall economic investment by United Group, with United's proposal that it be able to recoup some of that investment in the event future development occurred and tied into this sewer line in the future. Mr. Kestner also informed the Board that he and Attorney Gilchrist had discussed with United Group the issues of performance bonds, engineering inspection escrow fees, bonding security agreements, road maintenance agreements, stormwater compliance, homeowner association documents, and proposed street names. Member Jabour inquired of Mr. Kestner as to the possibility of overflow parking areas on the site. Mr. Kestner stated that United Group was looking into this. Chairman Oster noted that the Planning Board had classified this clubhouse as a "clubhouse" under the Zoning Code for the purpose of requisite parking. Chairman Oster inquired of Attorney Gilchrist as to the impact of that determination. Attorney Gilchrist stated that while the Planning Board deemed this structure to be clubhouse, this application is an approved Planned Development District, with the Town Board directing the Planning Board to make a final determination on the requisite number of parking spaces for the senior apartments. In this regard, the Planning Board should take all information into account on the record, including the requisite parking spaces for a "clubhouse"

under the Brunswick Zoning Code, but also all information included in the Environmental Impact Statement, independent information obtained by the Planning Board (including ROUSE), and any other information that the Planning Board could compile on this issue of required parking for the senior apartment site plan. All of this information should be relied upon and considered by the Planning Board in making its determination as to the requisite number of parking spaces. Mr. Kestner repeated that the United Group would be submitting a clubhouse layout for the Planning Board's review, potentially including a "table and chair" layout for any special event. Attorney Gilchrist also noted that the Planning Board also needs to consider the subdivision plat, and should be prepared to discuss any issues the Planning Board had with respect to the subdivided lots for this project. Mr. Kestner noted that issues surrounding a sewer maintenance agreement between the Town of Brunswick, City of Troy, and Rensselaer County Sewer District was still outstanding, and that the interested parties would be meeting together on that issue. Member Mainello asked whether there was sufficient capacity in the proposed sewer forcemain for existing homes on Pinewoods Avenue to connect. Mr. Kestner stated that there was sufficient capacity, and that the Town could look to hooking up these homes in the future. Mr. Kestner then informed the Board that United Group was concerned regarding an Army Corps of Engineering Nationwide Wetlands Permit, which it states will expire on March 18, 2007. In this regard, the United Group would like to discuss with the Planning Board the option of constructing a construction road entrance off Pinewoods Avenue so that the work in that area, which will include work in wetlands area under the existing Nationwide Permit, could commence before March 18, 2007 so as to qualify the project for continuing regulation under the existing Nationwide Permit. This matter will be further discussed at the January 18, 2007 meeting.

The next item of business on the agenda was the major subdivision application of Brooks Heritage, LLC for property located on Dusenberry Lane. Jeff Brooks appeared on the application. Mr. Brooks informed the Planning Board that the Army Corps of Engineers had not yet signed its jurisdictional determination letter on the Federal Wetlands, and had requested that certain additional notes be added to the wetlands map. Mr. Brooks informed the Planning Board that the updated wetlands map had been submitted to the Army Corps of Engineers on January 4, 2007, and that the Corps should be issuing a jurisdictional determination letter or letter confirming the wetlands delineation by the week of January 8, 2007. Mr. Brooks requested that this matter be placed on the January 18, 2007 agenda for further discussion.

Chairman Oster wanted to note for the record that he had reviewed the work done at the Plum Blossom site, and it appears some of the work done at that site is at variance with the approved site plan. Chairman Oster said that the expansion of the parking lot to the east appeared to be closer to the Maselli lot line than on the site plan; that a retaining wall that had been depicted on the site plan has been removed; that two way traffic had not been marked in front of the building; that there appeared to be a different number of parking spots on the east side of the building from the approved site plan, and that there was probably the same variance on the west side; that the cut into the bedrock next to Maselli's appeared very steep, with the need for a fence or a guardrail; that the site work appeared to be more extensive than on the site plan, and that the greenspace calculations may be even lower than initially calculated. Mr. Kestner also noted that there is a dumpster positioned next to a residential neighbor at the property line, and that this should be addressed. Chairman Oster also noted that a "privacy wall" installed behind the restaurant was quite elaborate and substantial, that footings have been poured with reinforcing bars, that there was still a concrete mixer on site, and that concrete block

was being added to the top of the foundation. Mr. Kreiger stated that he would look into all of these issues, and that if there were problems in terms of compliance with the site plan, he would contact the owner and have him appear before the Planning Board to discuss site plan compliance. At this point, Member Mainello raised the issue of additional staff being added to the Building Department, and that the Planning Board should make a recommendation to the Town Board to increase Building Department staff to address these building compliance issues. The Planning Board generally concurred, and thought that additional staff to insure compliance with site plan and subdivision conditions should be considered by the Town Board.

Chairman Oster also noted that nothing had been received from Ginsburg concerning the amended site plan. Chairman Oster reviewed the letter prepared by Attorney Gilchrist and sent to Ginsburg concerning the requirements for the site plan, and further reviewed the letter prepared by Mr. Kestner sent to the Rensselaer County Health Department regarding the onsite septic issues. Member Wetmiller questioned what incentive there was for Ginsburg to act in a timely manner. Member Esser stated that the Town should consider ordering the storage building, which had been constructed this past summer, not to be used or otherwise occupied until this site plan issue was resolved. Chairman Oster reviewed the fact that Town officials had met directly with Ginsburg, and had made it quite clear that the extreme remedy in this situation was to tear down this storage building and everything else currently constructed which is not on an approved site plan. Following further discussion, the Planning Board was of the opinion that if Ginsburg does not submit any updated site plan information by the second meeting in February, the Planning Board would make a recommendation to the Town Board regarding enforcement options.

One item of new business was discussed. Mr. Kreiger informed the Board that he had been contacted by Al Zouky concerning the Welch Farm project, that preliminary subdivision plats would be prepared and submitted for distribution to the Board members before the January 18, 2007 meeting, and that he was requesting to be placed on the February 1, 2007 meeting agenda for further discussion.

Attorney Gilchrist informed the Board that he had been contacted by Attorney Paul Engster concerning the Provost subdivision. Mr. Engster had forwarded to Attorney Gilchrist a supplemental memorandum from the New York State Department of State concerning the Certificate of Occupancy issue for the structures located on the Provost property. The Board reviewed this memorandum, and had general discussion concerning it. One concept discussed was the requirement that the Building Code compliance issue, including the structural engineering reports, be listed as an expressed subdivision plat note. This will be further discussed at the January 18, 2007 meeting. Also, it appears that Mr. Provost has investigated historic maps concerning Town roads in the immediate area, and this may have an impact on his proposed road upgrades on this application. This matter has been placed on the January 18, 2007 agenda for further discussion.

The **index** for the January 4, 2007 Planning Board meeting is as follows:

1. Witbeck – minor subdivision – public hearing and conditional final approval;
2. ITZ Security – site plan – adjourned without date;
3. Carriage Hill Estates PDD site plan and subdivision – adjourned to 1/18/07;
4. Brooks Heritage, LLC – major subdivision – 1/18/07;
5. Plum Blossom – site plan compliance issues – adjourned without date;
6. Ginsburg – site plan – adjourned without date;

7. Zouky – Welch Farm major subdivision – 2/01/07; and
8. Provost – minor subdivision – 1/18/07.

The proposed agenda for the January 18, 2007 meeting is as follows:

1. Carriage Hill Estates PDD site plan and subdivision;
2. Brooks Heritage, LLC – major subdivision;
3. Provost – minor subdivision; and
4. Cobblestone Associates – major subdivision (pending receipt of final subdivision plat).

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

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

Chairman Oster reviewed the agenda for the January 18, 2007 meeting. The Carriage Hill Estates Planned Development District site plan and subdivision will be discussed. The Brooks Heritage major subdivision has been adjourned to the February 1, 2007 agenda at the request of the Applicant. The minor subdivision application by Provost will be discussed. The final subdivision plat on the Cobblestone Associates Subdivision has been adjourned to the February 1, 2007 agenda at the request of the Applicant.

The draft minutes of the January 4, 2007 Planning Board meeting were reviewed. A correction was noted at Page 4, where Member Czornyj seconded the motion to approve the Witbeck Subdivision, rather than Member Jabour. With this correction noted, the minutes were unanimously approved.

The first matter addressed by the Planning Board was the minor subdivision application by Provost. Paul Engster, Esq. appeared on behalf of the Applicant. Mr. Engster reviewed a Department of State letter dated December 12, 2006 concerning the Certificate of Occupancy

issue, and stated that it was his understanding the matter still pended before the Brunswick Building Department. Mr. Engster noted that the structural engineering reports for all the structures on the Provost property have already been submitted to the Building Department, and that the Department of State Memorandum of December 12, 2006 indicated that a structural engineering inspection report was an acceptable alternative to construction inspections if deemed satisfactory by the Building Inspector upon review. Chairman Oster confirmed that the issue of the Certificates of Occupancy was adequately addressed from the Planning Board perspective, and that the review of the proposed subdivision should proceed while the Building Department fully reviews the structural engineering reports and property inspections. Member Czornyj inquired whether Mr. Provost was continuing with review of previously-filed maps, or whether Provost was considering preparation of new maps. Mr. Engster stated that Provost was proceeding with the previously-filed maps. Member Czornyj asked whether the cul-de-sac to be constructed at the end of Norman Lane remained part of the application. Mr. Engster stated that the cul-de-sac remained part of the subdivision map. Member Czornyj then stated that the application must be deemed a major subdivision due to the construction of the cul-de-sac as part of the subdivision plan, and that the Brunswick Subdivision Regulations stated that any new road in connection with a subdivision classifies that subdivision as "major". Chairman Oster inquired whether there already was a cul-de-sac at the end of Norman Lane, and the only proposal was to improve the existing cul-de-sac. Mr. Kestner stated that there was only a minimal T-turnaround at the end of Norman Lane, not a full cul-de-sac. Mr. Engster stated that the Town of Pittstown maintains Norman Lane going into the Provost property, that it was Mr. Engster's understanding that the Highway Superintendents of Brunswick and Pittstown had already discussed which town would maintain the cul-de-sac, and that Pittstown was prepared to maintain the cul-de-sac even

though it will be situated in the Town of Brunswick, and Pittstown was going to work with Brunswick on the specifications of that cul-de-sac. Mr. Kestner inquired whether Norman Lane was owned by Pittstown, or merely a public right-of-way. Mr. Engster stated that it was his understanding that Pittstown maintains Norman Lane as a public highway, but was not sure as to ownership. Mr. Engster did state that Norman Lane is a public highway. Mr. Engster repeated that it was his understanding that Pittstown merely wanted to know what Brunswick wanted in terms of the specifications of the cul-de-sac. Member Czornyj reiterated that since the cul-de-sac is part of the subdivision application, the application must be deemed "major", and all of the detailed plat requirements for a major subdivision must be submitted. Chairman Oster then inquired whether Mr. Provost was looking into the existence of old road maps, and whether Mr. Provost would be arguing that he did not need to construct a cul-de-sac because of the existence of a public road or right-of-way. Mr. Kreiger confirmed that Mr. Provost did investigate with his office concerning old highway maps from several decades ago, which depict a road extending from Norman Lane and connecting to either Bald Mountain Road or Meyers Lane and Deepkill Road. It was Mr. Kreiger's understanding that Mr. Provost was investigating whether he could access his property entirely from Brunswick, and not from Pittstown over Norman Lane. Mr. Engster stated that to the best of his knowledge, Mr. Provost was looking back at old maps and historic title information, but in his opinion any roads which may have existed several decades ago have been abandoned for years, and could not support an argument that a public roadway existed in Brunswick to the Provost property. Member Wetmiller stated that he had spoken with others, and that any roads in that area had been officially abandoned in the late 1940's or early 1950's. Chairman Oster wanted to confirm that Mr. Provost was not going to pursue any argument that historic public roads connected his property to other public roads in Brunswick.

Mr. Engster stated that this theory was not being pursued. Member Czornyj then reiterated that the application is deemed a major subdivision. Mr. Engster stated that Mr. Provost was not clear that this application would be considered a major subdivision, but that Mr. Provost was concerned about the level of review given that the road he has constructed on his property is in better condition than Norman Lane, and that he should not be held to a higher scrutiny than the existing public roadway. Member Czornyj stated that the Planning Board will need to review the topography of the property at two foot intervals, and detail on the proposed cul-de-sac and driveways. Mr. Engster wanted to confirm that the Certificate of Occupancy issue was resolved from the Planning Board perspective, subject to Mr. Kreiger's review of the structural engineering reports and inspection of the property. Chairman Oster stated that was correct. Mr. Kestner wanted it reiterated that the Applicant had agreed to place a notation on the subdivision plat concerning the existence of the structural engineering reports and Certificate of Occupancy history. Mr. Engster stated that the Applicant had no objection to this. This matter has been placed on the February 15, 2007 agenda for further discussion.

The next item of business on the agenda was the Carriage Hill Estates Planned Development District site plan and subdivision. Several representatives of United Development Group (UDG) were present. Gregg Ursprung of Saratoga Associates began by reviewing the parking plan for the senior apartments. Mr. Ursprung started by reviewing the parking issue, stating that the parking plan had provided one space for each 178 senior apartment units, and that the Planning Board had determined that the clubhouse would require one additional parking space for every 2 additional "members" of the Homeowners Association, and therefore 53 additional parking spaces were required for the 105 single-family residential lots. The 178 senior units plus 53 additional parking spaces for the clubhouse membership resulted in initial

parking plan of 231 spaces. The Planning Board had raised concerns about the adequacy of the parking plan, particularly with respect to special event parking. Mr. Ursprung then reviewed the current revised parking plan, which has added 29 additional parking spaces, for a total of 260 spaces for the senior apartments and clubhouse. Chairman Oster reviewed his notes concerning parking calculations. Chairman Oster noted that there was one parking space for each of the 178 senior apartment units. Chairman Oster noted that there were 44 garages provided for 44 of the senior apartment units, which also allowed one car to be stacked in front of the garage as well. Chairman Oster used the 1.25 parking space per senior apartment unit ratio that had been required with the ROUSE project, and deemed the 44 garages plus stacking capability in front of the garages to meet the 1.25 space per unit ratio. Of the remaining 134 senior apartments that did not have a garage parking spot, 168 spaces would be required using the 1.25 ratio. Also, concerning the clubhouse parking requirements for the remaining 105 single-family residential lots, an additional 53 spaces will be required. When adding the 168 spaces plus 53 spaces, and also including the 44 garage spaces, a total of 265 spaces would be required using the 1.25 space per unit ratio and the "clubhouse" ratio of one parking space for every two members. In Chairman Oster's opinion, the revised parking plan providing for 260 spaces substantially complies with this calculation using the 1.25 space per senior unit ratio, and the current parking plan was acceptable to him. Chairman Oster requested additional opinion from the Planning Board members. Member Wetmiller stated that he did not have a problem with the total number of spaces at 260, but felt that the parking spaces should be designated to a specific senior unit, either through a numbering system or otherwise. Member Wetmiller was concerned that older folks with groceries or packages needed to be near the door to the apartment building, rather than having to park far away from their building and walk a great distance to get to their apartment.

Mr. Ursprung stated that the owners' experience with designating a specific parking space to a specific apartment unit was that it is difficult to enforce. James Quinn of UDG, Regional Property Manager for UDG managing 6 senior living sites, stated that in his experience it was very difficult to enforce or police the assigned parking spot plan. Mr. Quinn stated that UDG had never had an issue where seniors were required to park too far from the front door of the apartment building, and that UDG maintains staff to help residents with groceries or packages if needed. Mr. Quinn also stated that there were several entrances to the proposed apartment buildings, both in the front of the building as well as on each end. Chairman Oster offered that parking spots could be designated as "resident only" near the buildings, and other parking spaces further away from the buildings could be designated as "visitor only". Mr. Quinn stated that such approach does work at UDG's Diamond Rock facility, and that this could be a workable plan for Carriage Hill Estates. Chairman Oster then reviewed the site plan for the senior apartments and noted that a dumpster location had been sited along the entrance road leading to the senior apartments. Chairman Oster asked whether the residents needed to transport garbage from their apartment unit all the way to the dumpster location out near the entrance road. Mr. Ursprung stated that residents are not required to do this, that there is UDG staff to pick up waste at the individual apartment building and bring it to the dumpster location. Tim Haskins of UDG addressed this issue. Mr. Haskins explained that each apartment building has a trash room on the first floor, that UDG picks up the trash on a daily basis at each apartment building, that UDG staff then transports the waste to the dumpster location, that the dumpster will be fully screened with vegetation, and that the dumpster location had been put out by the entrance road in consideration of the fact that garbage trucks come early in the morning to empty the dumpsters, and that having the dumpsters out near the entrance roads eliminated the garbage trucks from

coming into the apartment community early in the morning, thereby eliminating noise, and also eliminating the need for a garbage truck to maneuver in an area where residents were parking. Member Czornyj noted that there were only 43 parking spaces near the clubhouse, and whether these spaces would be expressly designated for clubhouse use only. Mr. Haskins stated that the parking spaces are not normally designated at the clubhouse, except for handicap parking. Michael Uccellini of UDG stated that while UDG would install any signage required by the Planning Board, he was worried about too much signage being installed throughout the apartment community. Mr. Uccellini stated that UDG would alert all residents that the 43 spots located near the clubhouse were designed for clubhouse use, rather than installing signage. However, Mr. Uccellini did state that UDG would install whatever signage that may be required by the Planning Board. Mr. Uccellini stated that the new parking plan had been reviewed by the Eagle Mills Fire Department, and that Chief Welch had written the Planning Board stating that the revised parking plan was acceptable from the Fire Department's perspective. Member Jabour inquired as to how much on-site staff parking had been provided. Mr. Ursprung stated that there had been three spots designated for staff parking near the clubhouse. Member Jabour asked whether three parking spaces were sufficient for staff. Mr. Quinn of UDG stated that four full-time staff members would be at this location. Member Jabour asked whether spots at the clubhouse would be designated as handicapped spots. Mr. Ursprung indicated that handicap designated spots as required by the Americans with Disabilities Act would be signed and marked. Member Jabour stated that he felt 43 spaces near the clubhouse were inadequate. Member Mainello also thought that the clubhouse should have 53 spaces. Mr. Ursprung stated that for the vast majority of time, the clubhouse would not be used at maximum occupancy, and therefore the parking would not be used at maximum. Mr. Ursprung stated that there may be

times when the clubhouse was used to such an extent that people would need to park in the senior apartment area, but that such times would be rare. Corey Aldridge of UDG stated that he had prepared the narrative for the clubhouse parking plan. Mr. Aldridge stated that in the experience of UDG, the people living in the senior apartments would walk to the clubhouse. Mr. Aldridge reiterated that the senior apartments are not assisted living facilities, but are truly independent senior apartment units. In UDG's experience with this type of housing product, the senior tenants do walk to the clubhouse. Mr. Aldridge stated that if there was a large event with a higher number of people, UDG staff would manage the event and limit the number of attendees so that UDG's staff could handle the event. Fifty-three parking spaces at the clubhouse presumes that everyone in the carriage homes and estate lots would be at the clubhouse at one time, and that such a scenario is unlikely. Mr. Aldridge stated that UDG was also concerned about the parking issues raised by the Planning Board as UDG did not want a parking problem at this site. Mr. Aldridge stated that if special events caused problems in the future, UDG will limit events so that there are no ongoing parking problems. Mr. Aldridge did state that the current parking plan for Carriage Hill Estates provided a greater number of parking spaces at the clubhouse than UDG's other existing locations, and that UDG had not had any parking problems at their other locations. Member Jabour stated that for special events at the clubhouse, he could foresee cars for visitors, caterers, outside staff, and that he felt more parking spaces were needed for the clubhouse. Mr. Quinn offered a current experience for UDG, where 150 guests at another UDG facility attended an on-site event catered by an outside vender. In that instance, the caterer and three wait staff required only parking spot for 150 guests. Here, Mr. Quinn stated that with the size of the clubhouse and floor plan, UDG was expecting events of only 20-30 additional guests. Member Czornyj asked whether the number of guests at a special event could be limited

by the Planning Board. The Planning Board will investigate that issue. Mr. Quinn offered that in UDG's experience, the largest special event was a Thanksgiving party. UDG breaks up the Thanksgiving event into groups to be served at various times throughout the day. In UDG's experience, the Thanksgiving event staff requires only one or two additional vehicles at the site. Mr. Aldridge stated that the floor plan for the clubhouse had been submitted to the Planning Board for review, and that the layout of the room dictates the number of users. Mr. Aldridge stated also that with UDG's demographic and operational experience, the seniors were likely to use the clubhouse during the day, and the residents of the carriage homes and manor homes would use the clubhouse at night, further spreading out any use of the clubhouse throughout the day. Member Jabour noted that the floor plan for the clubhouse had a salon on the first floor. Mr. Quinn stated that the salon was not open to the public, that UDG brought in a person to cut hair either once every week or two weeks, and that the Carriage Hill residents had to make appointments, so that parking did not become an issue in connection with the salon. Mr. Kestner asked whether UDG had prepared a "table layout" for any special events or building/fire code analysis for total number of occupants. Mr. Haskins stated that UDG was not at a point of the clubhouse design to have building/fire code compliance review for total number of occupants, but that the general building layout had been prepared and provided to the Planning Board. Member Czornyj asked whether this was the largest clubhouse proposed for a UDG facility. Mr. Haskins stated that the total square footage was the largest, but that UDG's design for Carriage Hill was much more broken up than other clubhouses. Mr. Haskins stated that there was no great room on the side of the building, but rather the great room was in the center with smaller rooms on the sides of the building, which would result in constant traffic throughout the great room to get to the smaller side rooms, which should cut down on the use of the great rooms for parties or

special events. Chairman Oster acknowledged that UDG had spent a lot of time on the clubhouse building uses, that the Planning Board understood the function, but that the point of reviewing the parking issue was to ensure that there were adequate number of spaces on the site. In that regard, Chairman Oster again reviewed his calculations and deemed 260 total spaces to be adequate for this site. Again, Chairman Oster requested any further comments on the total number of 260 parking spaces. Member Jabour reiterated that he was not comfortable with 260 total spaces, would like to see a greater number of spaces directly at the clubhouse, and felt that it was unlikely that all of the seniors would walk to the clubhouse. Member Jabour thought that a minimum, 265 spaces should be required. At this point, Mr. Ursprung stated that there were other areas for overflow parking at the site, specifically at the community garden areas. Mr. Ursprung thought that if overflow parking was required for an extraordinary special event, UDG could arrange for parking at the community garden area and shuttle people back to the clubhouse. Member Jabour thought that this was a good idea, and became more comfortable with the total parking plan. Member Wetmiller stated that he was fine with the total number of parking spaces, but would like to see the requirement that signage be added for "resident only" and "visitor only". Member Esser thought that the parking plan was adequate, as did Member Mainello. Member Jabour was fine with the parking plan as long as the auxiliary parking near the community gardens was included. Member Czornyj felt that the parking plan was adequate. Chairman Oster then stated that there was consensus opinion that the current parking plan, with the notation that auxiliary parking was available at the community garden area, was acceptable. Chairman Oster then addressed other issues on the subdivision. Chairman Oster wanted to ensure that there was adequate vegetative screening between the walking paths and off-site residences. Mr. Haskins reviewed a plan which shows the walking trails in relation to off-site

residences, and notes that one walking trail is approximately 900 feet from the closest residence, and that a second walking trail is 600 feet at the closest point to off-site residences. Mr. Haskins felt that this plan satisfied the condition of the Town Board that adequate vegetative screening be provided for off-site residences from the walking trails. The Planning Board felt that the plan provided adequate vegetative screening with respect to the walking trails. Mr. Kestner reviewed a meeting held between UDG, Town of Brunswick, City of Troy, and Rensselaer County Sewer District concerning the extension of the sewer force main in the City of Troy. This issue is subject to further discussions. Chairman Oster raised the issue of the Army Corps of Engineers Nationwide Permits which had been issued for this project. Mr. Haskins explained that the current Nationwide Permits expire on March 18, 2007, and that UDG is requesting to start work under those Nationwide Permits in order to ensure compliance under the terms of the existing permits. In this regard, UDG is proposing to begin construction of the entrance off Pinewoods Avenue. Mr. Uccellini stated that if all final approvals have been obtained from the Planning Board, commencement of construction of this entrance road before March 18, 2007 should not pose any issue. However, if all Planning Board approvals are not completed, UDG would request approval to start the construction entrance off Pinewoods Avenue, proceed approximately 400 feet off Pinewoods Avenue to the first stream crossing, and construct a staging area at that point. The road entrance would be paved from Pinewoods to approximately 400 feet into the site, at which point a construction staging area would be prepared. Mr. Uccellini stated that UDG was retaining Rifenberg Construction to be the site contractor for this work. The Planning Board generally discussed starting construction in the event final approvals had not been completed by the March 18, 2007 date. Attorneys for the Planning Board and UDG are addressing that issue. Mr. Uccellini stated that there would be a specific construction plan

for this initial road work prepared for review by the Planning Board at its February 1, 2007 meeting. Members Jabour and Wetmiller wanted a specific plan on the extent of work being proposed, the location of the first stream crossing, and construction detail. Mr. Kestner stated that a specific construction plan would be available for review, that the extent of proposed work would be staked in the field, and that the Town would hold a pre-work conference in the field with the Applicant and contractor to ensure proper construction oversight. Mr. Uccellini stated that he had submitted proposed road names for the roads in the project, and that Attorney Gilchrist was reviewing whether the issue of naming the roads should be addressed by the Planning Board or the Town Board. Member Tarbox inquired whether all roads in the project would be dedicated to the Town. Mr. Uccellini stated that all roads would be dedicated to the Town, but not the entrance road and parking area in the senior apartments. Member Tarbox asked about the three homes being proposed directly off Pinewoods Avenue. Mr. Uccellini stated that the homes would be serviced by a private roadway directly off Pinewoods, that the Carriage Hill Homeowners Association would maintain the private roadway, and that this private roadway and house layout had been approved by the Town Board in the PDD Resolution. Member Tarbox asked how close one of the site roadways was to Shippey Lane. Mr. Uccellini stated that there was private property between the proposed roadway and Shippey Lane, and that UDG was not proposing any connection. Member Tarbox thought that Mr. Kestner should look at that issue with Mr. Ursprung. This matter has been placed on the February 1, 2007 agenda for further discussion.

Chairman Oster reviewed old business.

First, Chairman Oster noted that the preliminary subdivision plat for the Zouky property (Welch Farm) had been submitted, and that this matter was placed on the February 1, 2007

agenda. Chairman Oster inquired as to the status of the ITZ variance application at the ZBA. Mr. Kreiger noted that the application had been submitted to the ZBA, but that the ZBA had not yet acted. Chairman Oster noted that no information or site plan had been submitted from Ginsburg. Chairman Oster inquired as to the status of the Building Department review of the work being done at the Plum Blossom Restaurant. Mr. Kreiger noted that he had been in discussion with the owner, that the owner was getting quotes on the installation of a guardrail, and that the other construction issues were being addressed. This matter will be reviewed at the February 1, 2007 agenda.

Chairman Oster also noted that the proposed Sugar Hill Apartments PDD had submitted a new concept plan depicting 5 apartment buildings, that the Town Board was holding a public hearing on February 8, 2007 concerning the revised plan, and that the Planning Board needed to review its recommendation to determine whether there would be any changes to that recommendation given the new map. Mr. Kestner generally reviewed the new concept map, and generally discussed the updated Stormwater and Traffic Reports associated with the fifth building, as well as the Visual Analysis.

Mr. Kreiger reviewed several items of new business.

First, Mr. Kreiger reiterated that the subdivision plats on the Zouky application were available and he would distribute them to the Planning Board members. This matter will be addressed at the February 1, 2007 meeting.

Mr. Kreiger reviewed a minor subdivision application by Gervais for property located on Garfield Road. Mr. Kreiger noted that Gervais had recently received a waiver of subdivision which split the Gervais property into two lots, one with an existing house and one with vacant land. The current minor subdivision application was for further subdivision of the vacant parcel.

Member Czornyj noted that the property had fairly steep grades, and that the Planning Board would need information on topography and proposed driveway locations. Chairman Oster stated that Mr. Kreiger should inform Mr. Gervais to stake the proposed driveway locations and proposed lot corners so that the Planning Board members could review the property. This matter has been placed on the February 1, 2007 agenda for further discussion.

Mr. Kreiger noted that a new subdivision map had been submitted by Shudt, and that he had requested to be placed on the next available agenda. Chairman Oster stated that this matter will be placed on the February 15, 2007 agenda for further discussion.

Chairman Oster then noticed that Mr. Engelke, 463 Garfield Road, was in the audience and wanted to address the Planning Board. Chairman Oster allowed Mr. Engelke to address the Planning Board. Mr. Engelke generally spoke about his proposed "agri-tourism" efforts on his property, that the Town had required him to apply for a variance at the ZBA, that Mr. Engelke felt that he did not need a variance according to the New York State Department of Agriculture and Markets, that he was unclear what the appropriate process should be, and was inquiring with the Planning Board as to what Board he should make application to for his proposed "agri-tourism" efforts. Mr. Engelke handed up a packet of information for each Planning Board member. Chairman Oster noted that this matter would be reviewed by Attorney Gilchrist, in connection with Town Attorney Cioffi and the Law Firm of Girvin and Ferlazzo, which is handling litigation on behalf of the Town against Mr. Engelke for zoning violations on his property. Attorney Gilchrist will then follow up with Mr. Engelke concerning any submission made to the Planning Board.

The **index** for the January 18, 2007 Planning Board meeting is as follows:

1. Provost – major subdivision – 2/15/07;

2. Carriage Hill Estates PDD site plan and subdivision – 2/1/07;
3. Zouky (Welch Farm) – major subdivision – 2/1/07;
4. Gervais – minor subdivision – 2/1/07; and
5. Shudt – subdivision – 2/15/07.

The proposed agenda for the February 1, 2007 meeting is as follows:

1. Carriage Hill Estates PDD site plan and subdivision;
2. Brooks Heritage, LLC – major subdivision;
3. Cobblestone Associates – major subdivision;
4. Zouky (Welch Farm) – major subdivision; and
5. Gervais – minor subdivision.

Planning Board

TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD February 1, 2007

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

ABSENT was KEVIN MAINELLO.

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

Chairman Oster reviewed the proposed agenda for the meeting. Agenda items include the Carriage Hill Estates Planned Development District site plan and subdivision, the Brooks Heritage major subdivision, Cobblestone Associates major subdivision, Zouky major subdivision, and Gervais minor subdivision. Chairman Oster noted that the Highland Creek PDD subdivision plat submission will also be reviewed by the Planning Board to determine completeness for scheduling of a public hearing.

The minutes of the January 18, 2007 meeting were reviewed. Upon motion of Member Czornyj, seconded by Member Jabour, the minutes were unanimously approved as written.

The first item of business on the agenda was the Carriage Hill Estates PDD site plan and subdivision. Tim Haskins of United Development Group discussed the Applicant's plan to commence construction of a construction entrance off Pinewoods Avenue in the area of the proposed access road for purposes of compliance with the existing Army Corps of Engineers Nationwide Permit pertaining to road crossings and utility crossings in federal wetlands. Mr. Haskins stated that the terms and conditions of the existing Army Corps Nationwide Permits

would be modified on March 18, and in order for United Development Group to comply with the terms of the existing Nationwide Permit, it would need to start construction in the wetland area prior to March 18. Mr. Haskins stated that the work does not need to be completed, only commenced prior to the March 18 deadline. Toward that end, United Development Group has proposed the limited construction entrance off Pinewoods Avenue which would entail work within the federal wetland area covered by the Nationwide Permit. Mr. Haskins explained that the scope of work would be about one day, including 150 feet of road, including the installation of erosion control measures. The construction entrance would not be paved at this time, but rather crusher material would be placed in the work area. The area outside the crusher would then be seeded and mulched to stabilize it. United Development Group understands that in the event all final approvals for this project are not obtained, United Development Group would be required to restore the property to its original condition in this limited work area. Members Esser and Jabour asked that the area of the proposed work be staked in the field so that the Planning Board Members could see that area in the field. Member Czornyj concurred. Mr. Haskins stated that the stakes would be placed in the field, and that the general location of this construction entrance is immediately east of an existing fire hydrant on Pinewoods Avenue. Mr. Kestner asked whether the Planning Board wanted the full work area staked. The Planning Board requested that two stakes be placed at the construction entrance along Pinewoods Avenue, two stakes at the limit of disturbance where the silt fence would be placed, and one stake at the end of the road disturbance area where the crusher run would be placed. Chairman Oster stated that these stakes should be placed in the field for Planning Board Member review. Chairman Oster then inquired of Attorney Gilchrist as to legal issues associated with commencing work on the project prior to all final permits and approvals. Attorney Gilchrist stated that he had

discussed that issue with the Applicant's attorney, Philip Dixon, Esq., and that issue does not need to be addressed at this time since the Planning Board could continue and complete its review of the site plan and subdivision prior to the Nationwide Permit expiration deadline. The Planning Board should focus on continuing its review of the site plan and subdivision plat. In the event issues arose which would extend the Planning Board review of the site plan and/or subdivision plat, then the issue of commencing construction activities prior to all final approvals could be addressed. In this regard, Chairman Oster reviewed the status of the Planning Board review. Chairman Oster noted that the parking plan proposed for the senior apartments had been deemed acceptable by the Board. The vegetative plan and screening around the walking trails for the project had been deemed acceptable by the Planning Board. Chairman Oster noted that there are still outstanding issues concerning the specifications of the sewer force main on Pinewoods Avenue, as well as certain legal issues associated with that sewer line in the City of Troy. Chairman Oster noted that the road specifications and layout have been deemed acceptable by the Planning Board, but that Member Tarbox had raised an issue at the last meeting concerning a potential connection to Shippey Lane. Member Tarbox stated that he had had further discussions with Mr. Kestner concerning that connection, and that the potential road connections should not be pursued, and that he was satisfied with the proposed road layout. Member Tarbox did raise questions regarding driveway maintenance to the estate lots in the subdivision as well as the private road for three lots directly off of Pinewoods Avenue. Mr. Kestner stated that the private road as well as the driveways would be maintained by the Homeowners Association created in connection with the project. Chairman Oster inquired as to the status of the sewer line issues. Mr. Kestner reviewed that issue. Mr. Kestner reported that the Applicant was preparing calculations on an additional service area in addition to the Carriage

Hill project in order to calculate an appropriate size requirement for the sewer force main to be installed along Pinewoods Avenue. Further, Mr. Kestner brought the Planning Board up to date concerning discussions with the City of Troy concerning ownership and maintenance of the sewer force main for this project located within the jurisdiction of the City of Troy. On that issue, Attorney Philip Dixon for United Development Group informed the Planning Board that the City of Troy would take ownership and maintenance of the sewer line located within the City under an agreement currently being worked out between the Applicant and the City. Chairman Oster inquired whether there were any issues remaining on the review of the subdivision plat. Member Tarbox inquired as to the specifications for the driveways leading to the estate homes. Mr. Kestner stated that these driveways would be subject to compliance with the Town Driveway Standards. Member Tarbox also inquired of the specifications for the private road off Pinewoods Avenue providing access to three lots. Mr. Kestner stated that the road was proposed to be 16 feet wide in accordance with Town Specifications. Member Wetmiller asked whether there would be any problems concerning snow removal. The Planning Board reviewed the subdivision plat, which calls for a 30 foot wide easement, within which the 16 foot wide private road is proposed. Member Czornyj stated that this private roadway should be 18 feet wide to provide greater width for both vehicle and emergency vehicle access. The Planning Board will require that this private road off Pinewoods Avenue to service three proposed lots be 18 feet wide within the existing 30 foot wide easement noted on the plat. Attorney Gilchrist reviewed the matters outstanding for this project that are required under the Town Board approval. The final language of several legal documents needs to be prepared, including a Bonding Security Agreement for roads, sewer and water infrastructure; Declaration of Easements and Road Maintenance Agreement; final bond amounts for the roads, water, and sewer infrastructure;

Declaration of Restrictive Covenants; Conservation Easement; Homeowner Association documents; and resolution of several issues associated with the sewer force main on Pinewoods, including pipe size, sewer and pump station specifications per comments of Rensselaer County, and resolution of the ownership and maintenance of the sewer force main located in the City of Troy. Attorney Gilchrist informed the Planning Board that the Town Board had held public hearings on the creation of the water and sewer districts for this project, but would not move forward in creating those districts until all issues associated with the sewer force main had been resolved. Chairman Oster inquired as to procedure on the site plan and subdivision applications. Attorney Gilchrist stated that as to the subdivision plat, the Major Subdivision Regulations under the Town Code require considerations of both the preliminary plat and final plat. While this Applicant has provided all information required in connection with the final plat, the Planning Board had not yet made any preliminary plat determination. Given that there are outstanding issues to be resolved on this application prior to final approvals, it was determined that action on a preliminary plat basis would be appropriate subject to listed conditions. In this regard, Member Tarbox made a motion to approve the preliminary subdivision plat on the Carriage Hill PDD subject to the following conditions:

1. Completion of all required agreements, including Bonding Security Agreement for roads, water and sewer infrastructure; Declaration of Easements and Road Maintenance Agreement; Declaration of Restrictive Covenants; Conservation Easement; review of Homeowner Association documents; calculation of bond amounts for roads, sewer, and water infrastructure installation;
2. Resolution of all issues regarding sewer infrastructure, including pipe specifications for the sewer force main; resolution of sewer and pump station specification comments from Rensselaer County; and resolution of ownership and maintenance of that portion of the sewer force main located in the City of Troy; and
3. Compliance with all remaining enumerated conditions set forth in the Town Board Findings Statement and Resolution Approving the Carriage Hill PDD.

Member Wetmiller seconded the motion, subject to the stated conditions. The motion was approved 6/0, and preliminary plat approval granted subject to the stated conditions. Chairman Oster then confirmed that the stakes would be placed in the field in those areas of the proposed construction entrance. The Board generally discussed that in the event permission was granted to do the construction entrance work prior to all final permits and approvals, the Applicant would be required to post a Performance Bond for both the construction work and restoration in the event all final permits or approvals were not obtained, as well as an appropriate engineering inspection escrow. The Applicant understood these requirements. This matter has been placed on the February 15 agenda for further discussion.

The next item of business on the agenda was the Brooks Heritage major subdivision. The Applicant, Jeff Brooks was not present. Mr. Kestner reported that Mr. Brooks had called him and informed him that while the Army Corps of Engineer had written a letter concerning the wetlands delineation, that letter was still being reviewed by the Army Corps New York City office. The interim, Mr. Brooks has applied for all necessary Army Corps of Engineers permits for this project. Mr. Brooks has requested that this matter be placed on the February 15 agenda for further discussion. Member Tarbox asked whether all subdivision plans had been submitted by the Applicant. Mr. Kreiger stated that he had received all current subdivision plans and had distributed them to the Planning Board Members. Chairman Oster noted that once the wetlands information was finalized, the Planning Board will need to make a series of fact findings and a recommendation on the total number of lots which should be allowed on this cul-de-sac road, and forward that recommendation to the Town Board for action under the Town Code. This matter is placed on the February 15 agenda for further discussion.

The next item of business on the agenda was the final subdivision plat submission by Cobblestone Associates concerning the major subdivision on Tambul Lane and Bulson Road. This application had received preliminary subdivision approval at the December 21, 2006 meeting. Appearing on the application were Francis Bossolini, P.E. and Jim Dunn. Mr. Bossolini had reviewed the final plat details. Mr. Bossolini stated that all driveways are now in compliance with Town Specifications. Mr. Bossolini stated that the County Health Department had performed inspections at that site for perc tests, and that a complete application for a private water and septic system for this project had been submitted and is pending at the County Health Department. Mr. Bossolini also reviewed the re-calculated total disturbed areas for purposes of New York State Stormwater Regulatory Compliance, and stated that the total acreage of disturbed area is now at 4.76 acres. Mr. Bossolini stated that a NYSDEC Notice of Intent to comply with the general stormwater permit had been submitted, and that permit coverage had been granted by NYSDEC. Mr. Kestner stated that he had contacted Carol Lamb-LaFay at NYSDEC concerning the stormwater compliance issue. Mr. Kestner wanted to speak with NYSDEC since the total disturbed acreage approached the 5 acre limit for residential subdivision, which would otherwise require the preparation of a full Stormwater Pollution Prevention Plan. Mr. Kestner informed NYSDEC that he was concerned because the total disturbed area was close to the 5 acre threshold, and that the construction plan was very tight, particularly with respect to proposed lots 2, 3, 4, and 6 where the perimeter of the disturbance area was right next to the septic fields on three sides, requiring that the septic fields be built from the interior out. Mr. Kestner reported that NYSDEC suggested that the Board require the staking of all disturbed areas on a lot by lot basis before any construction activities are to take place on that lot. Mr. Kestner did confirm that a CAD drawing had been forwarded from Mr. Bossolini

concerning the calculation of 4.76 acres of total disturbed area and that Mr. Kestner was in the process of reviewing those calculations. Mr. Kestner wanted the record to note that he was concerned regarding this stormwater compliance issue, and did want any subsequent lot buyers to be hurt by the very restrictive construction limitations shown on the grading plan, particularly since this Applicant is not committing to construct the homes but could alternatively sell the project or individual building lots. To further address this issue, Mr. Kestner, with the concurrence of the Planning Board, stated that a map note should be added to the subdivision plat requiring strict compliance with the grading plan for disturbed areas, and that all areas of disturbance must be staked in the field prior to the start of construction activities. In this way, these conditions and restrictions are noted on the subdivision plat which gets filed with the County Clerk's Office, so that all subsequent owners are on notice of these issues. Member Esser inquired how the total disturbed acreage was calculated, since the grading plan shows a series of wavy lines around the areas of disturbance. Mr. Bossolini stated that the wavy lines are presented for concept purposes only, and that the CAD drawing shows a straight line for the areas of disturbance. Member Czornyj asked what would happen if future lot owners wanted a larger lawn area than that depicted on the grading plan. Mr. Bossolini stated that the lot owners could not grade the lot, but could mow the existing vegetation and thereby create more usable area. On that issue, Mr. Kestner reiterated that stormwater compliance is an enforcement issue for NYSDEC, not the Town of Brunswick at this time. Attorney Gilchrist noted that these stormwater compliance issues should be addressed in a subdivision plat note, which requires strict compliance with the limits of disturbance on the approved grading plan as well as the requirements of installing stakes in the field prior to construction. While Member Esser agreed, he wanted it noted that the grading plan showed a 15 foot back lawn and a 20 foot front lawn,

and did not feel this was workable or fair to future homeowners. The Planning Board held further discussion regarding the grading plan and inquired of Attorney Gilchrist what would happen in the event of a compliance problem in the future. Attorney Gilchrist reviewed the State Stormwater Regulations, and concurred that this program is being regulated and enforced by NYSDEC. With respect to residential subdivision, State Stormwater Regulations require the preparation of an Erosion and Sediment Control Plan for any disturbance greater than one acre, and a Full Stormwater Pollution Prevention Plan for residential subdivisions in the event total disturbed areas exceed 5 acres. On this application, the total area of disturbance as calculated by the Applicant is 4.76 acres. The Applicant has filed a Notice of Intent to comply with the general stormwater permit with NYSDEC, and NYSDEC has already issued permit coverage. Further, Mr. Kestner reiterated that he had requested NYSDEC to review the subdivision plat and grading plan, and that NYSDEC does not have adequate staff to review these materials. Mr. Bossolini concurred that he had also requested NYSDEC staff to review these documents, but had been told that NYSDEC does not have adequate staff for this purpose. NYSDEC did request that the Planning Board require stakes to be put in the field prior to construction activities, which suggestion will be incorporated into any action by the Planning Board. Concerning the Planning Board's question regarding future enforcement, Attorney Gilchrist stated that if a violation does occur, NYSDEC does have the authority to issue a Stop Work Order and require restoration of any disturbed areas in excess of the general permit requirements. The enforcement authority of NYSDEC, coupled with the subdivision plat note requirements concerning strict grading plan requirements and placing stakes in the field prior to construction activities addresses the stormwater compliance issue. Member Wetmiller had a question concerning the driveway on proposed Lot 8 (noted on Sheet 7 of 10 of the subdivision plan package), and stated that the

driveway appeared to be at a significant grade. Mr. Bossolini stated that he would amend the driveway specification to address the grade issue. Member Tarbox raised questions concerning the inlet pipe for stormwater on Lots 8 and 7, to which Mr. Dunn had responded that these had already been cleaned out by the Applicant, both near the cul-de-sac as well as further down into the lots as well. Member Tarbox asked about the status of the radar speed control sign being installed on Tamarac Road. Mr. Dunn stated that he was still working with County Engineer Fred Howard on coordinating that installation. Mr. Bossolini stated that a map note had been added that no work on the project can commence until the radar speed control sign has been installed. The Board then discussed the timing of the installation of the radar speed control sign on Tamarac Road. The Board ultimately determined that it was appropriate to have the plat note indicate that no construction activities on this project could commence until the radar speed control sign had been installed on Tamarac Road. Member Czornyj inquired about specific language for the map note regarding the installation of stakes on a lot by lot basis prior to construction activities. Attorney Gilchrist stated that the Applicant should prepare a proposed map note for review by the Board. Mr. Bossolini agreed to provide a proposed map note. The Planning Board also discussed the necessity of holding an additional public hearing on the final plat, and determined that an additional public hearing was not warranted on this application. This matter will be placed on the February 15 agenda for further discussion.

The next item of business on the agenda was the preliminary subdivision plat application by Al Zouky for a major subdivision on the Welch Farm property located between Route 2 and Pinewoods Avenue. Al Zouky appeared on the application together with Steve Rutkey of Earth Tech. Mr. Zouky started by indicating he thought this project had already received preliminary subdivision approval in July, 2006. The Planning Board corrected Mr. Zouky, stating that

concept plan approval had been discussed by the Planning Board in July, 2006, which moved the process forward to allow the Applicant to perform additional soil testing and field data acquisition for the preparation of the full preliminary subdivision plat submittal. The minutes of the July, 2006 meeting were reviewed, and Mr. Zouky understood that the project had proceeded only through the concept plan stage with the minutes noting that additional soil testing would be conducted to determine the viability of the plat layout. Mr. Zouky then reviewed the preliminary plat with the Planning Board. Significantly, the preliminary plat proposed totaled 26 residential lots, but one common leach field system to be located on the opposite side of Route 2 in the area currently being used for agricultural purposes. Mr. Zouky explained that the soils would not be appropriate for individual lot septic fields, so that the plan was prepared to have each residential lot include a septic tank, but the waste water from each lot would then be collectively piped under Route 2 and discharged into a common septic field located on the opposite side of Route 2. Also, Mr. Zouky explained a stormwater plan which discharged stormwater directly to wetlands located on the property. Mr. Kestner inquired as to who would own and maintain the common septic field. Mr. Zouky stated that the Homeowners Association to be prepared in connection with this project would own and maintain the common septic field. Mr. Zouky also stated that he was concerned about potential traffic and speed of cars on the subdivision road connecting Pinewoods Avenue and Route 2, and that he was considering keeping that road private, with the possibility of having a gated private community. Mr. Kestner went back to the issue of the common septic field, and stated that in his experience any part of a common waste water treatment system needed to be owned and operated by a transportation corporation, and that Town Board approval would have to be required for the creation of a transportation corporation. Attorney Gilchrist concurred in that opinion. Also, Attorney Gilchrist stated that discharging

stormwater directly into a regulated wetlands may also be a problem from a regulatory compliance perspective. Mr. Kestner concurred in that opinion. On these issues, Mr. Rutkey stated that he realized immediately that the soils may pose a problem on the project site, and given the number of lots being proposed, a common septic field system would be required since there was no available public sewer. Mr. Rutkey argued that the zoning classification for this property was R-15, and therefore the proposed lot sizes were appropriate for this site. Nonetheless, given the soil conditions, the common septic field would be required. Chairman Oster asked whether putting a wastewater pipe underneath Route 2 would be a problem. Mr. Kestner stated that this would be subject to review and approval by the New York State Department of Transportation as well as the Rensselaer County Health Department and that in his experience these issues may be problematic. Mr. Kestner thought that the Applicant should approach the Town Board on the issue of approval of the transportation corporation before the Planning Board spent too much time reviewing a plat showing a certain number of lots and lot layout, since the number of lots and lot layout is not approvable absent the common septic field. The Planning Board Members generally concurred with this approach. Member Jabour stated that he thought the road from Pinewoods to Route 2 would end up being a speed way. Mr. Zouky concurred, and stated that he was considering the concept of a private road or gated community. Chairman Oster inquired whether private roads would be approved by the Town. Attorney Gilchrist stated that the Town did approve a private road/private residential community in the past in connection with the Winfield Estates project, but had not had a good experience since that project went through severe financial problems and the Town ended up taking over Winfield Lane. In the event a private road is sought to be pursued by the Applicant, the Town would need to further investigate that issue. Chairman Oster noted that there were several issues

which should be considered by the Town Board, most particularly the transportation corporation in conjunction with the common septic field, as well as a private road and gated residential community. Mr. Zouky stated that he had initially proposed a cul-de-sac road, but that the Planning Board wanted a through road. Member Tarbox stated that he did not recall the design of a cul-de-sac at all, that there had always been a proposed through road for the project. Member Tarbox recalled that the discussion concerning the road was concerning location on Pinewoods Avenue given the grades in that area, not the concept of a cul-de-sac road. Chairman Oster again stated that the Town Board should first address the common septic field and transportation corporation issues, since that could significantly change the subdivision plan. Mr. Zouky stated that he did not understand why these issues were being raised now. Attorney Gilchrist stated that there appeared to be a misunderstanding on the part of the Applicant concerning the concept review for this plan which occurred during the summer of 2006. In that regard, Attorney Gilchrist stated that a concept approval allows a project Applicant to move forward with the preparation of a detailed preliminary subdivision plat, subject to specific site conditions. In reviewing the July, 2006 minutes, the Planning Board had expressly stated that the Applicant should move forward with required soil testing on the project site to determine the ability for water and septic to support the subdivision proposal. Mr. Zouky stated that he was under the impression that the only issue left for investigation was soil conditions for the proposed residential lots, and since the soil conditions were not good, he had proposed a common septic field system to support the number of approved lots. Attorney Gilchrist responded by stating that a concept plan does not result in "approved lots", but required further site specification information to support the preliminary subdivision plat. Mr. Zouky stated that he had complied with the concept plan approval regarding the number of lots, lot layout, and

road layout as depicted on the preliminary plat submission. Chairman Oster stated that the preliminary plat was consistent with the concept plan, but that the common septic field now being proposed would require Town Board review and approval. Chairman Oster reiterated that a concept plan is not equivalent to a final or preliminary plat approval. Mr. Zouky then stated that he may have to scrap the entire plan and revise the proposal to have individual fill systems placed on each lot, since the existing soil conditions are not appropriate for septic systems. This will require trucking in additional gravel materials to create the septic systems, and will result in a smaller number of lots for the project. Mr. Zouky stated that he would need to speak with the property owner (Welch) on how to proceed. Mr. Rutkey again explained how he designed the common septic field system to support the number of proposed lots. Mr. Zouky reiterated that he would need to speak with Mr. Welch concerning how to proceed with the project. In that regard, Mr. Zouky asked what the Planning Board wanted in terms of the proposed subdivision road. Chairman Oster stated that the Planning Board does not design the road, but that the Applicant presents a proposed plan and the Planning Board reviews it. Member Czornyj stated that if Mr. Zouky wanted a cul-de-sac road, he should design that and present it for review by the Planning Board. The Planning Board reiterated that in the event Mr. Zouky wished to pursue the current preliminary lot layout with the common septic field design, he would need to present that proposal to the Town Board for consideration since the Town will be required to approve the creation of the transportation corporation to own and operate the common septic field. Mr. Zouky stated that he would confer with the property owner as to how to proceed.

The next item of business on the agenda was the minor subdivision application by Robert Gervais for property located on Garfield Road. Mr. Gervais and Harold Berger, P.E. were present on the application. Mr. Berger reviewed that a waiver of subdivision had previously

been granted to Mr. Gervais to divide off the existing house plus private water and private septic system. This left Mr. Gervais with approximately 4 acres of vacant land. Mr. Gervais now seeks to divide this 4 acres into two lots, approximately 2 acres each. Mr. Berger stated that he had prepared a water and septic plan which had been submitted to the Rensselaer County Health Department and that that application remains pending at the Health Department. Mr. Berger explained that he had performed the calculation of the total disturbance for the proposed driveways, house, water and septic, and determined the total area disturbance to be approximately 1 acre. In this regard, Mr. Berger stated that he would provide a full Erosion and Sediment Control Plan if the total disturbance is over 1 acre, but would still provide erosion control features if the total disturbance remained under 1 acre. Mr. Kestner inquired about the proposed driveways, and whether grading would be required. Mr. Berger stated that grading would be required, and that he would include those areas of grading in his total land disturbance calculation. Member Czornyj reminded Mr. Berger that the Town required a negative pitch on the driveways leading onto a public road. Mr. Berger stated that he would give the Planning Board driveway profiles. Mr. Berger also stated that he would provide the Planning Board with extra copies of a survey done by Brian Holbritter, which had been done in connection with the waiver application. The Planning Board determined that this application would be treated as a minor subdivision. In connection with the minor subdivision application, a full preliminary plat would need to be submitted, together with an Agricultural Data Statement. The application will be subject to a park and recreation fee, as well as a mandatory public hearing. Both Mr. Gervais and Mr. Berger understood this, and Mr. Berger stated he would prepare the full preliminary plat application for review by the Planning Board. Following discussion regarding time to prepare

the plans, it was determined that a public hearing would be held on the Gervais minor subdivision plat application on March 1 at 7:00 p.m.

The next item of business on the agenda was the preliminary plat submittal by Landmark Development Group on the Highland Creek PDD. In attendance on behalf of the Applicant were Lee Rosen, Esq., Robert Marini, and Ivan Zdrahal, P.E. Mr. Rosen presented the preliminary plat materials to the Planning Board. Mr. Rosen stated that after a prior public hearing had been noticed for December 7, the Applicant determined that certain corrections needed to be made to the subdivision plat submittal, and therefore the previously plans had been withdrawn. A subdivision plat submittal had been made including the preliminary plat package as well as a full Stormwater Report. Member Wetmiller asked what would become of the existing Bonesteel Lane. Mr. Rosen explained that this road would be maintained for emergency access only, and that there would be no change to it. Chairman Oster noted that if there were no significant changes to the current plat submittal from the previous submittal, the Planning Board should consider setting a new public hearing date. Mr. Kestner stated that he had reviewed the current subdivision plat submittal, including 33 sheets, and also had reviewed the revised Stormwater Plan. Mr. Kestner stated that the subdivision plat submittal is complete for purposes of scheduling a public hearing. The Planning Board scheduled the public hearing for the February 15th meeting, to commence at 6:45 p.m. Mr. Kreiger requested that a copy of the subdivision plan be sent to the Center Brunswick Fire Department for review.

Chairman Oster reviewed four items of old business.

First, the ITZ application before the Zoning Board of Appeals for an expansion of the use variance will be on the agenda for the February 26th ZBA meeting.

Second, Mr. Kreiger updated the Board on compliance issues associated with the Plum Blossom site, with Mr. Kreiger noting that he had scheduled a meeting with the owner and site contractor to discuss compliance issue on the approved site plan. There was also general discussion on the adequacy of the guardrail installed on the parking lot behind the Maselli Deli at the top of the excavated area, and whether an upgraded guardrail should be installed. Mr. Kreiger will review that issue with the owner and site contractor.

The Board discussed the Engelke property matter which was raised at the January 18, 2007 meeting. The minutes of the January 18, 2007 meeting will reflect that Mr. Engelke discussed "agri-tourism", and his proposal for his property. Attorney Gilchrist stated that the Engelke property is currently the subject of litigation between the Town of Brunswick and Mr. Engelke, that he had spoken with the outside counsel representing the Town of Brunswick in that litigation, that such outside counsel indicated that the litigation remained pending before the Rensselaer County Supreme Court, and Attorney Gilchrist advised the Board that it should not consider this matter while that litigation remains pending.

Fourth, Chairman Oster raised the Sugar Hill Apartments PDD application, and that the Town Board had requested that the Planning Board review its prior recommendation on this application in light of the submission by the Applicant of a new concept map depicting 5 buildings on the project site, rather than the previous 4 building plan. The Planning Board discussed the revised plan depicting the 5 proposed apartment buildings. Mr. Kestner noted that the current plan placed the fifth building no closer to the property of Clifford Bonesteel, and no closer to McChesney Avenue Extension. Also, Mr. Kestner stated that the topography of the site of the proposed fifth building was not at a higher elevation than the prior building plan, and that the prior line of sight analysis would be applicable to the proposed fifth building. Member

Wetmiller reviewed the proposed limit of construction line on Sheet 1 of 2 on the concept plans, and stated that the construction limit line should not extend down to McChesney Avenue Extension but should go around the location of the proposed stormwater basins and tie back into the rear corner property line of Clifford Bonesteel. Member Wetmiller stated that the construction limit line would then comply with the Conservation Easement area, and that no construction activities should occur outside the line noting limits of construction on the plan. Member Czornyj also noted that the Applicant had indicated that it sought to use the barns on the property for storage of seasonal equipment, but that there should not be any internal driveways or roadways from the apartment area down to the barns. Member Czornyj thought that the Applicant needed to clarify the extent and use of the barns, and agree that there are no internal roads to be constructed over the green area, and that access to the barns would be limited only to McChesney Avenue Extension. Member Jabour raised significant concern regarding the addition of a fifth apartment building, and raised concerns regarding density and traffic on McChesney Avenue Extension. Member Czornyj stated that he was concerned also about the addition of the fifth building. Chairman Oster stated that the Applicant had added the fifth building after the Planning Board's prior discussion on its prior recommendation, wherein the Planning Board had stated that all areas outside of the four building plan should remain green and subject to a Conservation Easement. When the Applicant heard the Planning Board's recommendations regarding these restrictions and Conservation Easement requirement, it had stated that it sought to reserve an area for a potential fifth building. When the Planning Board heard this comment, and in light of the comments made during the public hearings on the four building proposal concerning future amendments to Conservation Easements, the Planning Board had stated to the Applicant that it should show on the current plan all of the buildings it

proposed for this site, whether it sought to construct now or in the future. This prompted the Applicant to place the fifth building on the concept plan, with the agreement that all areas outside the limits of construction would be subject to a Conservation Easement and no further building whatsoever. Chairman Oster felt that this provides an accurate map for consideration by the Town of Brunswick, rather than a partial map subject to an amendment in the future. Member Tarbox stated that the Planning Board had discussed applying the same density calculation that had been applied to the existing Sugar Hill Apartment complex to this new proposed project site, and that whatever the total number of units were allowed under that density calculation should be applied to this new project site. This calculation resulted in the addition of the fifth building as well. Upon further discussion, the Planning Board entertained a motion to adopt a positive recommendation on the Sugar Hill Apartment PDD application consisting of the five building proposal, with the following additions to its prior recommendation:

1. The limits of construction line depicted on Sheet 1 of 2 of the PDD map should not extend to McChesney Avenue Extension, but should be amended to go around the proposed stormwater detention basins but tie back into the rear corner property boundary of Clifford Bonesteel;
2. No internal access road or driveway should be allowed to the barns and silo, but rather access should be limited to McChesney Avenue Extension for the barns and silo, and that no construction be allowed in the green area depicted on the PDD map;
3. The restrictions to be placed on the green space through a Conservation Easement should be consistent with the Conservation Easement placed on the balance of the Sugar Hill Apartment complex.

Member Esser seconded the motion. The motion was approved by a 4/2 vote, with Members Jabour and Czornyj dissenting, raising concerns regarding density and traffic. The Planning

Board directed that this recommendation be forwarded to the Town Board for consideration in connection with the Sugar Hill Apartments PDD application.

Mr. Kreiger handed out to the Planning Board Members updated maps on the Brooks Heritage major subdivision proposed for Dusenberry Lane. These maps were reviewed by the Planning Board Members. Mr. Kestner stated that he would request a copy of Mr. Brooks' permit application made to the Army Corps of Engineers.

The **index** for the February 1, 2007 Planning Board meeting is as follows:

1. Carriage Hill Estates PDD site plan and subdivision – preliminary subdivision plat approval subject to conditions – 2/15/07;
2. Brooks Heritage – major subdivision – 2/15/07;
3. Cobblestone Associates – major subdivision/final plat submission – 2/15/07;
4. Zouky – major subdivision – adjourned without date;
5. Gervais – minor subdivision – 3/1/07 (public hearing at 7:00 p.m.);
6. Highland Creek PDD preliminary subdivision plat – 2/15/07 (public hearing at 6:45 p.m.); and
7. Sugar Hill Apartments PDD – review and recommendation.

The proposed agenda for the February 15, 2007 meeting is as follows:

1. Highland Creek PDD preliminary subdivision plat – public hearing at 6:45 p.m.;
2. Carriage Hill Estates PDD site plan and final subdivision plat;
3. Brooks Heritage, LLC – major subdivision;
4. Cobblestone Associates final subdivision plat; and
5. Shudt – waiver of subdivision.

AFFIDAVIT OF PUBLICATION

STATE OF NEW YORK,

Rensselaer County,

City of Troy.

ss:

NOTICE OF PUBLIC HEARING NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Planning Board of the Town of Brunswick at 6:45 p.m. on Thursday, February 15, 2007, at the Brunswick Town Hall, 336 Town Office Road, Brunswick, New York, to review the preliminary subdivision plat submitted by Landmark Development Group, LLC for the Highland Creek Planned Development District, which currently proposes 162 residential lots on 210.13 acres of land situated on the Northeast side of McChesney Avenue Extension, south of its intersection with McChesney Avenue. The Brunswick Town Board has approved the Planned Development District, and SEORA has been completed on this action. Copies of the subdivision plat and detailed plan documents 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 with respect to the preliminary plat and detailed plan documents. DATED: February 2, 2007. Brunswick, New York THE PLANNING BOARD OF THE TOWN OF BRUNSWICK By: Russell Oster, Chairman 684567 2/6

R. Willett of the City of Troy, in the county of Rensselaer and State of New York, being duly sworn, deposes and says that she is the Principal Clerk of the **Troy Publishing Company**, a Corporation duly organized under the laws of the State of New York; that said Corporation is the publisher of **The RECORD**, a daily newspaper printed and published in the City of Troy and County of Rensselaer, and that the notice of which the annexed is a printed copy, has been regularly published in **The RECORD**.

ONCE DAILY for ONE DAY

to wit: on the 6th day of February, 2007

Sworn before me, this

6th day of February, 2007 }

Notary Public

DEBRA A. BECK

Notary Public, State of New York

01BE607222

Qualified in Rensselaer County

Commission Expires April 01, 2010

Planning Board

TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD February 15, 2007

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

ABSENT was JOSEPH JABOUR and FRANK ESSER.

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

The Planning Board opened a public hearing on the Highland Creek Planned Development District preliminary subdivision plat. Chairman Oster stated that the Applicant would make a presentation of the preliminary subdivision plat, and the Board would open the public hearing for receipt of comment on the subdivision plat and detailed engineering submissions. The Notice of Public Hearing was read into the record, which had been published in The Record, posted on the Town Notice Board, posted on the Town website, and sent to all property owners located within 500 feet of the project site. Chairman Oster then requested the Applicant to make a short presentation. Bob Marini of Landmark Development Group presented an overview of the project. Mr. Marini stated that the preliminary subdivision plat submitted to the Planning Board substantially conforms to the PDD approval granted by the Town Board. Mr. Marini explained that approximately 151 acres out of the total 210 acres of the project site will remain as open space subject to a conservation easement, with the only use being walking trails and a picnic area for the residents of the Highland Creek community. Mr. Marini reviewed the general plot layout and road system and the type of homes to be built, including carriage

homes, traditional homes, and manor homes. Chairman Oster then opened the floor for the receipt of public comment on the preliminary subdivision plat. No person offered any comment. Chairman Oster kept the floor opened, and repeated that the public had the opportunity to comment at this time. No person wished to offer any public comment. Hearing no comment, Chairman Oster then closed the public hearing on the Highland Creek PDD preliminary subdivision plat.

Chairman Oster then opened the regular meeting of the Planning Board.

Chairman Oster reviewed the Agenda for the regular meeting, which includes the Highland Creek PDD preliminary subdivision plat; Carriage Hill Estates PDD site plan and final subdivision plat; Brooks Heritage major subdivision; Cobblestone Associates major subdivision final plat; and Shudt waiver of subdivision application.

The proposed minutes of the February 1, 2007 meeting were reviewed. Upon motion of Member Czornyj, seconded by Member Wetmiller, the minutes were unanimously approved as written.

The first item of business taken up by the Planning Board was the waiver of subdivision application by Edwyn Shudt, for property located on Bald Mountain Road. Mr. Shudt was present, and the application was presented by his son-in-law, Paul Giromenic. Mr. Shudt seeks to divide 3± acres with frontage on Bald Mountain Road from his approximately 120 acre parcel. The Planning Board discussed the issue of sight distance on to Bald Mountain Road from the proposed parcel, and determined that the sight lines were adequate. Member Czornyj noted that the driveway location should be on the north end of the proposed lot for optimum sight distances. It was determined that the actual sight distances should be measured when the lot is surveyed, and that information submitted to the Brunswick Building Department. Upon further discussion,

it was determined that the application was complete and that no issues remained. Thereupon, Member Czornyj made a motion to adopt a Negative Declaration under SEQRA, which motion was seconded by Member Tarbox. The motion was approved 5/0, and a Negative Declaration adopted. Thereupon, Member Czornyj made a motion to approve the waiver of subdivision application, subject to the following conditions:

1. Rensselaer County Health Department approval for water and septic.
2. Measured sight distances and survey map must be submitted to the Brunswick Building Department.
3. A title block must be added to the survey map when submitted to the Building Department.
4. Payment of all application fees.

Member Wetmiller seconded the motion subject to the stated conditions. The motion was approved 5/0, and the waiver of subdivision application approved subject to the stated conditions.

The next item of business on the agenda was the Highland Creek PDD preliminary subdivision plat. Upon inquiry from Chairman Oster, Attorney Gilchrist reviewed the procedural status of the application. SEQRA compliance has been completed, as the Town Board completed the SEQRA process on the project through coordinated environmental review. The PDD has been approved by the Town Board, subject to detailed subdivision plat review in front of the Planning Board. The Applicant has submitted its preliminary subdivision plat and detailed engineering plans, together with a Full Stormwater Management Plan, for review by the Planning Board. Attorney Gilchrist observed that the mandatory public hearing on the preliminary subdivision plat had been held, and no public comment received by the Planning Board. However, Attorney Gilchrist advised the Planning Board that it must complete its review

of the preliminary plat and engineering information submitted. Chairman Oster inquired as to the ultimate use of the existing Bonesteel Lane. Mr. Marini stated that the existing Bonesteel Lane would be used for emergency access only, would remain in its existing condition, and that the Applicant would be installing signage indicating emergency access only both at its intersection with McChesney Avenue Extension as well as its intersection with the interior subdivision road system. Mr. Marini stated that the Applicant was not proposing to install any crash gate or other equipment other than the emergency access signage. Mr. Kreiger noted that the fire departments do not promote the use of crash gates. Mr. Marini explained that the interior road system for the subdivision would be paved, whereas the Bonesteel Lane emergency access would remain in its existing gravel condition. Chairman Oster requested Mr. Kestner to review the sanitary sewer plan. Mr. Kestner reviewed the sewer pipe layout within the subdivision, and noted that the Applicant must pay the sum of \$60,000.00 to be used for pump station upgrades at the BSD 6 pump station. In addition, Mr. Kestner noted that the Town Board required the Applicant to pay the sum of \$100,000.00, or other amount as may be determined by the Town Board in connection with the review of other pending Planned Development District applications, to be used toward the cost of design and construction of a new wastewater pump station for BSD 6. Chairman Oster inquired whether there was any issue regarding pipe sizes for the sewers. Mr. Kestner stated that there was no issue. Member Czornyj inquired about the use of grinder pumps for some of the proposed subdivided lots. Ivan Zdrahal, P.E., representing the Applicant, explained the proposal, with which Mr. Kestner concurred. The Planning Board asked Mr. Kestner whether there were any outstanding technical issues on the preliminary subdivision plat and engineering plans. Mr. Kestner concluded that the submissions were compliant with the Town's preliminary subdivision regulations, that his office had reviewed the

engineering plans and found them to be acceptable. Mr. Kestner did note that the water and sewer report had been sent to the Rensselaer County Health Department for review. Mr. Kestner noted that the submissions were compliant with the Findings Statement adopted by the Town Board on the PDD approval. Mr. Kreiger noted that the Center Brunswick Fire Department had submitted a written comment letter addressing water main size and hydrant locations, as well as detail issues concerning road surface and utility conditions. These issues must be addressed by the Applicant on the final plat submission. Mr. Kestner did review the issue of a loop water system connecting to Harris Avenue. The Applicant is required to install a T at its property boundary for a future loop system through the lands of O'Malley connecting to Harris Avenue. This was required by the Town Board in connection with the Findings Statement. Chairman Oster noted that one of the subdivision roads crossed the lands of National Grid. Mr. Marini stated that National Grid had already reviewed the plans and had given approval for the construction of the road over its property. A letter to that effect is in the record. Attorney Gilchrist noted that there were several written agreements that still needed to be finalized on this application, including a Bonding Security Agreement; Declaration of Easements and Road Maintenance Agreement; Restrictive Covenants for the greenspace; review of Homeowner Association documents; and Conservation Easement for the greenspace. Attorney Gilchrist also noted that application for creation of a water and sewer district must be filed by the Applicant with the Town Board. Attorney Gilchrist also noted that the Office of Parks, Recreation and Historic Preservation was finalizing its review concerning an archeological area on the project, and that the Applicant will need to avoid and/or remove artifacts in that area. This must be addressed prior to action on a final plat submission. Chairman Oster inquired whether there were any further questions or comments on the preliminary plat application. Hearing none, Member

Czornyj made a motion to approve the preliminary subdivision plat application subject to the following conditions:

1. Completion of all necessary agreements with the Town Board, including Bonding Security Agreement; Declaration of Easements and Road Maintenance Agreements; Restrictive Covenants for greenspace; Conservation Easements; and review of Homeowner Association documents;
2. Comments of Rensselaer County Health Department on water and sewer plans;
3. Creation of water and sewer district upon petition by the Applicant filed with the Town Board;
4. Compliance with final review comments of Office of Parks, Recreation and Historic Preservation;
5. Response to comments by the Center Brunswick Fire Department; and
6. Subject to all comments by Planning Board consulting engineer.

The motion was seconded by Member Mainello. The motion was approved 5/0, and the Highland Creek PDD preliminary subdivision plat was approved subject to the stated conditions. This matter has been adjourned without date pending submission of the final subdivision plat by the Applicant.

The next item of business on the agenda was the Carriage Hill Estates PDD site plan and final subdivision plat. Appearing for the Applicant was Michael Uccellini. Mr. Uccellini stated that the required agreements between United Development Group and the Town of Brunswick had been drafted, including the Bonding Security Agreement; Declaration of Easement and Road Maintenance Agreement; Declaration of Restrictive Covenants; Stormwater Management Facilities Maintenance Agreement; and Conservation Easement. Mr. Uccellini stated that the Homeowner Association documents were drafted and currently being reviewed by United Development Group, and should be submitted to the Town within the next 1-2 weeks. Regarding the size of the sewer forcemain to be constructed on Pinewoods Avenue, Mr.

Uccellini stated that demographic projection information had been completed by Saratoga Associates and forwarded to Mr. Kestner for review. This information will be utilized in conjunction with the final determination of sewer forcemain pipe size on Pinewoods Avenue. Mr. Uccellini explained that the ownership and maintenance of the sewer forcemain located within the City of Troy still remained an open issue, that United Development Group had thought an agreement had been reached with the City of Troy, but that the issue still remained outstanding and subject to final resolution. Mr. Uccellini agreed that Planning Board action on the final site plan and final subdivision plat could not be entertained until such time as the ownership and maintenance of the sewer forcemain within the City of Troy was finalized. Mr. Uccellini also acknowledged that Rensselaer County had made comments regarding the sewer pump station specifications, and that final responses to those comments were being prepared. Attorney Gilchrist stated that he had reviewed draft agreements with the attorney for United Development Group, Philip Dixon, Esq., and that once those agreements were further reviewed they would be forwarded to the Town Board and Town Attorney for review and comment as well. Mr. Kestner stated that he had not yet received the demographic information from Saratoga Associates concerning the proposed sewer forcemain size, but that he would review that upon receipt. Mr. Kestner did review several meetings which were held at the City of Troy with the Town of Brunswick, City of Troy, Applicant, and Rensselaer County Sewer District concerning the ownership and maintenance of the sewer forcemain located within the City of Troy. Mr. Kestner also reviewed the history of the lease agreements between the Rensselaer County Sewer District and City of Troy, including a recent amendment to that Lease Agreement negotiated between the Rensselaer County Sewer District and City of Troy. Concerning the size of the sewer forcemain, Mr. Kestner did acknowledge that the Applicant was proposing two

sewer forcemains within the same trench along Pinewoods Avenue, one line being 4 inches to service the Carriage Hill project, and a second line being 6 inches for future tie in. Thus, the total sewer forcemain capacity along Pinewoods Avenue would be equivalent to a 10 inch forcemain. The Planning Board inquired whether there was any technical issue associated with having existing homeowners on Pinewoods Avenue tie in to the 4 inch sewer forcemain. Mr. Kestner stated that this was not a technical problem, and that he would further look into that issue. Member Mainello inquired of Mr. Kestner regarding certain specifications on the sewer pump stations. Chairman Oster noted that the sewer issues were critical, and that they were not yet resolved. Mr. Uccellini agreed, and concurred that the Planning Board could not take action upon the final site plan and final subdivision plat until that issue had been fully resolved. The issue concerning the commencement of a construction entrance off Pinewoods Avenue to meet the March 18, 2007 date under the existing Nationwide Permit Program for which coverage had been granted this project by the Army Corps of Engineers was discussed. Chairman Oster asked whether all issues associated with the final site plan and final subdivision plat could be resolved, so that all necessary approvals have been issued by the Planning Board on the project which would allow work to commence prior to the March 18, 2007 date. Attorney Gilchrist stated that the necessary agreements could be reviewed by that date, and Mr. Kestner stated that the resolution of the sewer forcemain pipe size on Pinewoods Avenue could also be resolved by that date. However, Mr. Kestner stated that the issue of ownership and maintenance of the sewer forcemain within the City of Troy may not be resolved, since a number of parties are involved in that issue. It was determined that the Applicant should prepare a proposal for review by the Planning Board as to commencing work at the construction entrance off of Pinewoods Avenue in the event that all final approvals by the Planning Board are not completed on or before that date.

This will include a legal mechanism for the commencement of that work, together with required bonding and engineering review. It was determined that this matter will be placed on the March 1, 2007 agenda for discussion of both the final site plan and final subdivision plat, as well as a proposal for the commencement of work on the construction entrance off Pinewoods Avenue.

The next item of business on the agenda was the Brooks Heritage major subdivision application on Dusenberry Lane. Mr. Kestner reported that Mr. Brooks had called him, and stated that the Army Corps of Engineer issue had not yet been finalized, and further that an issue has arisen with the Office of Parks, Recreation and Historic Preservation. Accordingly, as these issues were not resolved, Mr. Brooks would not be appearing tonight. Mr. Kestner also informed the Planning Board that he had told Mr. Brooks to correct the preliminary subdivision plat in terms of removing all common driveways and making sure all lots had their own individual driveways. Mr. Brooks stated that he had requested his engineer to make those corrections prior to the plat submittal, and that clearly a mistake had been made. Chairman Oster determined that this matter is adjourned without date, pending further information on this application from the Army Corps of Engineers and the Office of Parks, Recreation and Historic Preservation.

The next item of business on the agenda was the final subdivision plat submittal by Cobblestone Associates for property located on Tambul Lane and Bulson Road. Francis Bossolini, P.E. and James Dunn appeared on the application. Attorney Gilchrist stated that the required subdivision plat notes have been submitted by the Applicant, and that they have been reviewed both by him and Mr. Kestner. These plat notes addressed the necessary radar speed control sign on Tamarac Road as well as the areas of land clearing and disturbance. Attorney Gilchrist stated that he had made revisions to the proposed map notes, and had forwarded them back to the Applicant. The Applicant agreed to make the necessary plat note changes per the

comments of the Planning Board. Attorney Gilchrist also reviewed the proposed Deed Restriction concerning Lot #4 and the restrictions around the private cemetery area. Again, Mr. Gilchrist had made certain changes to the proposed Deed Restriction, which had been forwarded to the Applicant. The Applicant agrees to make the changes to the Deed Restrictions as well. Concerning the cemetery area, the Planning Board will require that certain monuments be placed in the field to indicate the area of restrictions around the cemetery. It was determined that a survey marker with a cap, which will be flush to the ground, will be installed within Lot #4 demarking the areas of restriction around the cemetery. Town Historian Zankel, who was present at the Planning Board meeting, again reviewed the cemetery issues, including the extent of her research as to whether the cemetery plot was public or private. Town Historian Zankel recommended that the owner of Lot #4 contact the distant relative of the family whose members were buried in the private cemetery, who had earlier volunteered to contribute funds to install a fence around the cemetery. While the current Applicant did not pursue those discussions, the future owner of Lot #4 may in fact have an opportunity to work with the family relative for the installation of the fence. This is noted in the record. Mr. Kestner reviewed all preliminary subdivision plat approval conditions, which have been satisfied except for final Rensselaer County Health Department approval. Mr. Bossolini stated that the submittal remains pending with the Rensselaer County Health Department. Mr. Kestner stated that he had reviewed the CAD drawing regarding the 4.76 acre land disturbance, and that the subdivision plat note will require staking being installed and maintained on each lot during construction activities. Member Tarbox asked about the remaining lands of the Applicant, which are not part of the residential lots, but is merely noted as vacant land. Upon discussion, the Planning Board determined that the remaining lands are to be noted on the subdivision plat as not approved for

building lot purposes. The Applicant agreed to this plat note. Mr. Kestner inquired whether comments of the Rensselaer County Health Department concerning septic systems might add to the total land disturbance areas, pushing the total disturbance over 5 acres. Mr. Bossolini stated that his initial discussions with the Rensselaer County Health Department did not indicate any problem with the areas of disturbance. Chairman Oster asked whether there were any further questions or comments concerning the final plat submittal. Hearing none, Member Wetmiller made a motion to approve the final subdivision plat, subject to the following conditions:

1. Final subdivision plat notes and Restrictive Covenant for Lot #4 subject to final review and acceptance by Planning Board engineer and Planning Board attorney;
2. Rensselaer County Health Department approval for water and septic;
3. Filing of a Performance Bond in an amount acceptable to the Town engineer and Town Highway Superintendent for construction work associated with the Winfield Lane cul-de-sac;
4. Subject to review by Town engineer and Highway Superintendent of the work performed on the extension of Winfield Lane cul-de-sac;
5. Payment of Park and Recreation fees;
6. Payment of all application fees; and
7. Payment of all review engineering fees.

Member Czornyj seconded the motion. The motion was approved 5/0, and final subdivision plat approval was granted subject to the stated conditions.

Chairman Oster reviewed two items of old business.

First, Chairman Oster reminded the Board that the Gervais minor subdivision application will be subject to a public hearing at the March 1, 2007 meeting commencing at 7:00 p.m.

Second, Chairman Oster noted that the ITZ Security use variance application will be entertained by the Brunswick Zoning Board of Appeals at its February 26, 2007 meeting. Upon

discussion, it was determined that the ITZ site plan will be tentatively placed on the Planning Board agenda for its March 1, 2007 meeting, subject to action by the Zoning Board of Appeals.

One item of new business was discussed.

Attorney F. Redman Griffin appeared before the Board on behalf of Dan and Ellen Hogarty for property located in Brunswick Hills. The Hogartys wish to build a guest house on their property located in Brunswick Hills. However, Deed Restrictions within that area limit the ability to construct the guest house on the parcel, necessitating a subdivision, or lot line adjustment. The concept plan submitted created a lot which did not have any road frontage on West Road. The Planning Board generally discussed the application with Attorney Griffin, and advised Mr. Griffin that the lot line adjustment would need to be made in such a way as to afford the proposed lot frontage on West Road. The Planning Board discussed the option of creating a flag lot shape for the proposed lot, which would allow the necessary minimum frontage on West Road. Mr. Kestner also noted that the plan should address any stormwater runoff, as the area had been prone to stormwater runoff conditions. Attorney Griffin noted the Planning Board's comments, and indicated that the engineering plans would be modified accordingly, and a new submission would be made to the Planning Board. This matter has been tentatively placed on the March 1, 2007 agenda, subject to receipt of revised plans.

Mr. Kreiger noted that he had been contacted by Stuart Ginsburg, who stated that he was working on the revised site plan, and was working toward completion of that for submittal for either the March 1, 2007 or the March 15, 2007 meeting. Mr. Ginsburg had again requested copies of all letters which had been sent by the Planning Board concerning plat requirements. The Planning Board directed Mr. Kreiger to forward all such prior letters, although they had already been sent to Mr. Ginsburg and his consultants. The Planning Board determined that if

this submittal was not made by the March 15, 2007 deadline, the matter should be referred to the Town Board for further consideration of enforcement.

Chairman Oster also raised the Hudson Hills Planned Development District application, and the Planning Board review and recommendation. Attorney Gilchrist advised the Planning Board that the Town Board had accepted the Final Environmental Impact Statement for this action as complete at its February 8, 2007 meeting, and that the Planning Board did need to move forward with the review of this PDD application in order to prepare its recommendation to the Town Board. The Planning Board generally discussed the option of holding a special workshop session, which the Planning Board Members favored. Several dates were discussed, but it was determined that the Planning Board would hold its workshop meeting on Monday, February 26, 2007, at 6:00 p.m. at the Town Hall. It was noted that the ZBA was also meeting on that evening due to the Presidents Day holiday, but the Planning Board stated that it did want to meet on the February 26, 2007 date and will utilize the large conference room at Town Hall. Attorney Gilchrist was directed to contact the Applicant and inform them of the February 26, 2007 workshop date.

The **index** for the February 15, 2007 Planning Board meeting is as follows:

1. Highland Creek PDD preliminary subdivision plat – public hearing and grant of conditional preliminary subdivision plat approval;
2. Shudt – waiver of subdivision – approved subject to conditions;
3. Carriage Hill Estates PDD site plan and final subdivision plat – 3/1/07;
4. Brooks Heritage, LLC – major subdivision – adjourned without date;
5. Cobblestone Associates – major subdivision – conditional final subdivision plat approval;

6. Gervais – minor subdivision – 3/1/07 (public hearing at 7:00 p.m.);
7. ITZ Security – site plan – 3/1/07 (subject to ZBA action);
8. Hogarty – waiver of subdivision – 3/1/07; and
9. Hudson Hills Planned Development District site plan – review and recommendation – workshop meeting to be held 2/26/07 at 6:00 p.m.

The proposed agenda for the March 1, 2007 meeting is as follows:

1. Gervais – minor subdivision – public hearing at 7:00 p.m.;
2. Carriage Hill Estates PDD site plan and final subdivision plat;
3. ITZ Security – site plan (subject to ZBA action);
4. Hogarty – waiver of subdivision.

The Planning Board will hold a special workshop meeting on February 26, 2007 at 6:00 p.m. to review the Hudson Hills Planned Development District application for purposes of review and recommendation to the Town Board.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Planning Board of the Town of Brunswick at 7:00 p.m. on Thursday, March 1, 2007, at the Brunswick Town Hall, 336 Town Office Road, Brunswick, New York, to review the minor subdivision plat application submitted by Robert Gervais relative to property located on Garfield Road. The Applicant seeks to divide a four (4) acre vacant parcel located on Garfield Road into two (2) parcels, each approximately two acres in size with frontage on Garfield Road. Copies of the subdivision plat and all application documents 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: February 20, 2007
Brunswick, New York

THE PLANNING BOARD OF THE TOWN OF BRUNSWICK
By: Russell Oster, Chairman

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD March 1, 2007

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, JOSEPH JABOUR, DAVID TARBOX, KEVIN MAINELLO 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 Planning Board opened the public hearing on the minor subdivision application of Robert Gervais for property located on Garfield Road. The Notice of Public Hearing was read into the record. Chairman Oster requested the Applicant to present the project to the public. Harold Berger, P.E. and Robert Gervais were present. Mr. Berger presented an overview of the proposed two lot subdivision. Mr. Berger described the private sewage disposal systems which had been designed for the project, and Mr. Berger stated that the Rensselaer County Health Department had been on the property during testing. Mr. Berger described the proposed driveways, which will be over 150 feet in length, and therefore the driveways meet the private road standards including 16 feet width of pavement and 3 foot shoulders, and that driveway details have been submitted on the application. Mr. Berger stated that the total land disturbance was over one acre, and therefore a full Erosion and Sediment Control Plan had been prepared and submitted. Chairman Oster opened the floor for receipt of comments. Karen Smith, 403 Dater Hill Road, stated that her property abuts and is directly behind the proposed two residential lots. Ms. Smith stated that her property had been an agricultural use, and that there may be

homes within 250-300 feet from the property boundary. Ms. Smith noted that this area is currently wooded, and she hopes that it is in the intent of Mr. Gervais to keep the buffer area wooded between the homes and her agricultural property. Ms. Smith also stated she had been in receipt of the Agricultural Data Statement for this project, and noted that the statement provided that her property was not in active agricultural use, and that was incorrect. Ms. Smith stated that the Smith Farm is actively an agricultural use, and she wanted her right to farm to be protected. She is concerned that two residential lots will be located next to an active farm, which includes running tractors, spreading manure, and grazing livestock. In addition, Ms. Smith said there may be additional agricultural use in the future. Ms. Smith wanted it clear on the record that her property is in agricultural use, and she did not want any disputes in the future between residential and farm use. Ms. Smith wanted the Agricultural Data Statement corrected on the record. Upon discussion, it was determined that the Agricultural Data Statement would be corrected, and the corrected notice re-sent to all necessary recipients. John Kreiger noted he had received communication from John Schriener, who owns property adjacent to the proposed two lot subdivision. Mr. Schriener requested that the home on the lot adjacent to his property be situated near the front of the lot rather than the back of the lot, to insure his continued privacy. Mr. Berger stated that the house location was limited by the septic design, and that he had located the house as close to Garfield as possible, subject to proper septic design and setbacks. Mr. Gervais noted that he had discussed this matter directly with Mr. Schriener. Mr. Berger stated that Mr. Gervais would be willing to maintain a vegetative buffer along the property line with Mr. Schriener. Chairman Oster inquired whether there were any further comments. Hearing none, the Planning Board closed the public hearing on the Gervais minor subdivision application.

Chairman Oster then opened the regular meeting for the Planning Board.

The proposed minutes of the February 15, 2007 meeting were reviewed. Upon motion of Member Czornyj, seconded by Member Wetmiller, the minutes were unanimously approved as written.

The first item of business on the agenda was the minor subdivision application by Robert Gervais for property located on Garfield Road. Chairman Oster stated that a corrected Agricultural Data Statement will be required, and will be sent by the Town to all necessary recipients. Chairman Oster also noted the comments of Karen Smith as well as John Schriener received during the public hearing. Mr. Kestner inquired whether culverts were included in the driveway design adjacent to Garfield Road. Mr. Berger stated that he would add driveway culverts to the design. Mr. Kestner generally reviewed drainage issues on Garfield Road. Mr. Kestner also reviewed the sight distances for the proposed driveways onto Garfield Road, and noted that the sight distances were adequate for a 30 mph road. Chairman Oster asked whether the full driveway profiles were compliant with Town Specifications. Mr. Kestner stated that the driveway profiles were compliant, but a back pitch would be required since the driveways do connect directly to a public roadway. Mr. Berger noted that the Rensselaer County Health Department was ready to approve the water and septic application, subject to action by the Planning Board on the subdivision plat. The Planning Board generally discussed conditions which would be required on this application. First, a 50 foot vegetative buffer must be maintained along the property line with Schriener. Second, a similar 50 foot vegetative buffer must remain along the rear property lines of both proposed lots adjacent to the Smith Farm. Third, the necessary back pitch must be added to the driveway profiles for each driveway connecting to Garfield Road. Fourth, Rensselaer County Health Department approval would be required for water and septic. Fifth, a note must be added to the subdivision plat stating that an active farm operation exists to the rear of the proposed lots. Finally, a permit from the

Rensselaer County Highway Department will be required for the driveways. The Planning Board determined that since a corrected Agricultural Data Statement must be sent out on the application, the matter will be adjourned for final action until the March 15, 2007 meeting. This matter has been placed on the March 15, 2007 agenda for further action.

The second item of business on the agenda was the Carriage Hill Estates Planned Development District site plan and subdivision. Tim Haskins of United Group appeared. Mr. Haskins reported to the Planning Board that the necessary agreements between United Group and the Town continued to be drafted. Mr. Haskins stated that the Homeowners Association documents were still in preparation, and should be submitted to the Town for review within 1-2 weeks. Mr. Haskins stated that the issue of the size of the sewer forcemain to be installed on Pinewoods Avenue was still under discussion, and that Mr. Kestner had received additional technical information on that issue. Mr. Haskins stated that United Group was preparing its final response to comments from the Rensselaer County Health Department on the sewer pump stations, and those responses should be submitted within the week. Mr. Haskins stated that the Notice of Intent to commence construction under the Stormwater Pollution Prevention Plan had been submitted to NYSDEC, with a copy to John Kreiger. Member Wetmiller asked whether there was any resolution regarding the sewer forcemain ownership and maintenance issue with the City of Troy. Mr. Haskins stated that there had been no resolution with the City on that issue. Chairman Oster reviewed the issue of the preliminary work at the construction entrance of Pinewoods Avenue. Attorney Gilchrist reviewed the procedural status. The issue arises as the U.S. Army Corps of Engineers is proposing revisions to the Federal Wetlands Nationwide Permit Program, and the current nationwide permits are set to expire on March 18, 2007. United Group has received coverage under the current nationwide permits for the limited work in Federal Wetlands areas on the project site for purposes of road crossing and utility crossing. In order to

vest coverage under the existing nationwide permits prior to their expiration, the Applicant has requested permission to commence limited work under the terms of the nationwide permit. This generated the preliminary work plan, and limited scope of work. Mr. Kestner reviewed the proposed preliminary work, including installation of silt fences, grading, placement of stone, and stabilization of graded areas. Member Czornyj confirmed that the location of the construction entrance was in location of the final road entrance. Member Mainello confirmed that there would be appropriate DEC and Army Corps of Engineers oversight of the work. Mr. Haskins confirmed that the total work would take one day, possibly two days at the most. United Group was retaining Rifenberg Construction for the work, and would coordinate with the Town and appropriate public agencies on the work. The Planning Board discussed appropriate conditions attached to the preliminary work, and determined to provide the following conditions:

- a. Strict compliance with the scope of work depicted on the Preliminary Work Plan;
- b. Applicant must make application for and receive a Building Permit from the Town of Brunswick Building Department for the Preliminary Work pursuant to Brunswick Code §55-10;
- c. The Preliminary Work shall be performed in strict compliance with all applicable requirements of the United States Army Corps of Engineers;
- d. A pre-work conference will be held among the Town of Brunswick, the Applicant, and construction contractor at least 3 business days prior to the commencement of the Preliminary Work, which pre-work conference may also include the Rensselaer County Highway Department and U.S. Army Corps of Engineers;
- e. The Town of Brunswick shall be copied on all required permits and notifications required for the Preliminary Work, which may include but not be limited to a Rensselaer County Highway Department Highway Work Permit and Army Corps of Engineers Preconstruction Notification;

- f. In the event Applicant does not receive site plan approval and/or final subdivision plat approval for this action within 12 months of the date of this Resolution, the Applicant must restore that portion of the project site disturbed by the Preliminary Work to its pre-work condition; in the event such restoration work is required, it must be completed within 15 months of the date of this Resolution;
- g. Prior to commencement of the Preliminary Work, the Applicant must provide to the Town of Brunswick, in form and content acceptable to the Town Attorney, Town Consulting Engineer, and Town Board, a performance bond or acceptable form of financial security in an amount sufficient to cover the cost of all required restoration work as referenced in paragraph (f) above;
- h. The Applicant must fund an engineering escrow account to cover all on-site engineering review and inspection activities with respect to the Preliminary Work, in an amount and form acceptable to the Town Attorney, Town Consulting Engineer, and Town Board;

The Planning Board discussed an appropriate bond amount for restoration work, and Mr. Kestner recommended the amount of \$36,000.00. The Board also discussed an appropriate amount for the engineering inspection escrow, and Mr. Kestner stated that an initial escrow of \$5,000.00 would be sufficient. The Planning Board entertained a Resolution to Permit the Preliminary Work to Proceed, subject to the above-stated conditions. The Resolution was unanimously approved, with a recommendation to the Town Board that a bond amount of \$36,000.00 be required. Chairman Oster inquired whether the Applicant wished to be placed on the March 15, 2007 agenda. Mr. Haskins requested to be placed on the March 15, 2007 agenda to discuss sewer forcemain size on Pinewoods Avenue, as well as the status of necessary agreements and Homeowners Association documents. This matter will be placed on the March 15, 2007 agenda for further discussion.

The next item of business on the agenda was the ITZ Security site plan. Mr. Kreiger reported that there was no action by the Zoning Board of Appeals at its February meeting, and

therefore the site plan application cannot proceed at this time. The Planning Board tentatively placed this matter on the April 5, 2007 agenda.

The next item of business on the agenda was the waiver of subdivision application by Dan Hogarty for property located at 44 West Road. Mr. Hogarty handed up a revised map depicting the proposed waiver of subdivision, as prepared by his engineer Walter Van De Loo. Mr. Hogarty currently owns two lots on West Road, with his home situated on one lot. Mr. Hogarty seeks to construct a guesthouse in a certain location, which would place a second principal structure on the same lot. Accordingly, Mr. Hogarty is seeking to revise the lot lines to keep two lots, but separate the property differently so that the guesthouse would be on its own separate lot. The waiver map had been revised to have the proposed second lot with direct frontage onto West Road, creating a flag lot. Mr. Hogarty reports that Rensselaer County Health Department approval has been obtained for the proposed septic system for the guesthouse. The guesthouse is proposed to be approximately 1,900 square feet, two bedroom with no garage. While there is area for a driveway to access the guesthouse directly onto West Road, Mr. Hogarty plans to have a driveway extended from his driveway to the guesthouse. Chairman Oster confirmed that a 25 foot strip has been added to the proposed lot so that frontage is available directly onto West Road. Mr. Hogarty confirmed that the proposed second lot has 25 feet of frontage onto West Road. Member Tarbox noted that an existing two-car garage on the property is not depicted on the new map, but that it does appear that the setbacks for the new proposed property line are adequate with respect to the two-car garage. Member Jabour suggested that a separate driveway should be installed for the guesthouse. Mr. Hogarty stated that the construction road off of his existing driveway to the guesthouse would likely become the access driveway for the guesthouse. Member Mainello noted that the access road must be accessible by emergency vehicles. Mr. Hogarty stated that in all likelihood, the access drive to

the guesthouse would be crushed stone, and wide enough for both passenger vehicle and emergency vehicle access. The Board decided that the location of the proposed access driveway should be depicted on the map, as well as the addition of the existing two-car garage to confirm compliance with setback requirements from property lines. Member Jabour suggested that the Planning Board wait until a revised map is submitted for action. The remaining Planning Board Members felt that the Board could take action on the application, subject to conditions to be reflected in a final map to be submitted to the Building Department. Thereupon, Member Czornyj made a motion to adopt a Negative Declaration under SEQRA, which was seconded by Member Tarbox. The motion was approved 5/1 (Jabour dissenting), and a Negative Declaration adopted. Thereupon, Member Wetmiller made a motion to approve the waiver application subject to the following conditions:

1. Waiver map revised to add access driveway location to guesthouse and addition of two-car garage to confirm compliance with setbacks from property lines;
2. Rensselaer County Health Department approval for septic; and
3. Final review of final waiver map by consulting engineer and Building Department.

The motion was seconded by Member Czornyj subject to the stated conditions. The motion was approved 5/1 (Jabour dissenting), and conditional final approval granted to the waiver application.

The next item of business on the agenda was the Brook Hill Subdivision (Reiser) which had previously received conditional final subdivision approval. The property is located between Route 2 and Route 278. The approval included 14 subdivided residential lots, with two cul-de-sac roads. The Planning Board has not yet stamped or signed the subdivision plat, as all outstanding conditions have not been satisfied. Reiser has moved forward and started road construction, and waterline installation, in coordination with the Town. Specifically, Reiser has

constructed the cul-de-sac road off Langmore Lane through the binder course, including installation of storm sewers. Reiser has also constructed the cul-de-sac road off Buck Road through the sub-base course, including installation of storm sewers. In addition, Reiser has installed the water line to service the subdivided lots, but has not yet looped that water line to Route 278. Reiser has been trying to coordinate with National Grid on a utility installation plan, but National Grid will not prepare that utility plan until a final plat has been stamped and signed by the Town. Accordingly, Reiser is proposing a phasing plan for this subdivision, wherein Phase I will include 7 subdivided lots for the cul-de-sac off Langmore Lane, and Phase II would be the residential lots and cul-de-sac road off Buck Road. While the entire subdivision would be approved and the plat stamped and signed, an approved phasing plan would allow Reiser to construct only the first phase, including all necessary bonding and financial undertaking in connection therewith. Mr. Kestner reviewed the road construction and waterline installation completed to date, which was constructed with municipal oversight. Member Wetmiller confirmed that the waterline has been installed and can service the first phase. Mr. Kestner confirmed that the waterline has been installed through the first phase and into the proposed second phase, but has not yet been looped and connected to the waterline and Route 278. Mr. Kestner confirmed that the waterline is adequate to service the lots on the proposed first phase of the construction. The Board discussed whether there should be a specific timeframe within which the waterline must be looped and connected to the waterline on Route 278. Mr. Kestner suggested that any Certificate of Occupancy for any home in the proposed first phase of construction be conditioned on the completion of the waterline loop and connection to Route 278. The Planning Board concurred with this recommendation. Following further discussion, the Planning Board approved the proposed construction phasing plan for the Brook Hill Subdivision, subject to the following conditions:

1. Filing of necessary financial undertaking for infrastructure completion for Phase I of construction;
2. The waterline loop and connection to the waterline on Route 278 must be completed prior to the issuance of any Certificate of Occupancy for any homes constructed within Phase I;
3. No building permits issued for Phase II until all necessary financial undertaking for infrastructure is filed for Phase II;
4. Payment of the park and recreation fee in full (14 lots) prior to stamp and signature of the subdivision plat;
5. Payment of any engineering review fees (if any); and
6. Correction of the phasing plan map to eliminate a construction phasing line extending to Route 2.

Member Jabour made a motion to approve the construction phasing plan subject to the above-listed conditions, which motion was seconded by Member Wetmiller. The motion was approved 6/0, and the phasing plan approved.

Two items of new business were discussed.

The first item of new business discussed was a minor subdivision application by Gendron for a proposed 3 lot subdivision, consisting of two subdivided residential lots plus a remainder of approximately 100 acres. The property is located on Route 278. Plans for Rensselaer County Health Department approval have been prepared, and NYSDEC driveway entrance permits are also being prepared. An Agricultural Data Statement will be required on the application. This matter has been placed on the March 15, 2007 agenda for further discussion.

The second item of new business discussed was a waiver of subdivision application by Mary Ann Willetts for property located at 608 Brunswick Road. Willetts seeks to divide an area of approximately 100' x 200' from her parcel for transfer to an adjoining property owner. This matter is placed on the March 15, 2007 agenda for further discussion.

The Planning Board generally discussed the Hudson Hills Planned Development District recommendation, and points that were raised at the Planning Board Workshop held on February 26, 2007. The Planning Board directed Attorney Gilchrist to prepare a draft recommendation based on those comments, which will be further discussed at the March 15, 2007 meeting.

The **index** for the March 1, 2007 Planning Board meeting is as follows:

1. Gervais – minor subdivision – 3/15/07;
2. Carriage Hill Estates PDD site plan and subdivision – 3/15/07;
3. ITZ Security – site plan – 4/5/07 (subject to action by ZBA);
4. Hogarty – waiver of subdivision – conditional approval;
5. Brook Hill Subdivision construction phasing plan – approved subject to conditions;
6. Gendron – minor subdivision – 3/15/07;
7. Willetts – waiver of subdivision – 3/15/07; and
8. Hudson Hills Planned Development District recommendation – 3/15/07.

The proposed agenda for the March 15, 2007 meeting is as follows:

1. Gervais – minor subdivision;
2. Carriage Hill Estates PDD site plan and subdivision;
3. Gendron – minor subdivision;
4. Willetts – waiver of subdivision;
5. Hudson Hills Planned Development District recommendation.

Planning Board

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD March 15, 2007

PRESENT were CHAIRMAN RUSSELL OSTER, FRANK ESSER, JOSEPH JABOUR, DAVID TARBOX, and JOSEPH WETMILLER.

ABSENT was MICHAEL CZORNYJ and KEVIN MAINELLO.

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

The Planning Board reviewed the draft minutes of the March 1, 2007 meeting. Typographical corrections were noted. At Page 9, lines 13-14, the sentence is corrected to state "Member Wetmiller questioned whether the waterline has been installed and can service the first phase". Page 9, lines 5, 16, 19, and 21-22, Page 10, line 3, all references to "Route 278" are changed to "Route 2". Subject to the typographical corrections, Member Jabour made a motion to approve the March 1, 2007 meeting minutes, which motion was seconded by Member Tarbox. The motion was approved 5/0, and the minutes approved as amended.

The first item of business on the agenda was the minor subdivision application of Robert Gervais for property located on Garfield Road. Following the March 1 meeting, Harold Berger, P.E. on behalf of the Applicant, submitted a revised subdivision plat showing a 50 foot no cut zone on the property boundary with Schriener, and a 50 foot no cut zone along the entire property boundary with Smith. Driveway culverts and the required backpitch have been added to the driveways specifications. A plat note has been added indicated that active farming is occurring on the Smith property. Mr. Kestner reviewed these plat changes with the Board, and stated that

all issues associated with the subdivision plat have been resolved. At the March 1 meeting, it was discovered that a mistake had been made on the Agricultural Data Statement, and that a corrected Agricultural Data Statement needed to be sent to the relevant owners of the Agricultural District property. However, the Agricultural Data Statement, as corrected, had not been sent to the relevant property owners. Therefore, the Agricultural Data Statement was corrected at the meeting, and will be sent to the relevant property owners prior to the April 5, 2007 meeting. This matter has been placed on the April 5 agenda for final action, subject to service of the corrected Agricultural Data Statement.

The next item of business on the agenda was the Carriage Hill Estates Planned Development District site plan and subdivision plat review. Mr. Kestner advised the Board that he had only received updated technical information on the sewer forcemain on Pinewoods Avenue on March 15, and needed additional time to review those technical materials. Accordingly, the Applicant will not be appearing at this Board meeting. Mr. Kestner updated the Board as to the pre-work conference which had been held concerning the preliminary work on the project, and informed the Board that United Group and its contractor had installed the silt fence and completed preliminary site preparation work on March 14, and was scheduled to continue the preliminary work on March 16. Attorney Gilchrist noted that the necessary agreements on the project were still being reviewed by the Town. Member Esser inquired of Mr. Kestner whether United Group planned on installing two pipes for the sewer forcemain, or one larger pipe. Mr. Kestner stated that United Group was still planning on installing two sewer forcemain pipes, and that was part of his review of the updated technical information. Chairman Oster inquired whether the project would be serviced by natural gas. Mr. Kestner confirmed that natural gas would service the project. Chairman Oster inquired as to the location of the feed for

the natural gas coming into the project. Mr. Kestner stated that natural gas was being fed to the project off Pinewoods Avenue. Chairman Oster inquired whether National Grid would extend the gas line down to Route 2. Mr. Kestner stated that this was a determination to be made by National Grid. Chairman Oster inquired as to whether a turning lane would be installed on Route 2 at the project entrance. Mr. Kestner and Attorney Gilchrist noted that NYSDOT did not require a turning lane to be installed on Route 2, but that the Town Board is requesting NYSDOT to take a further review of that issue prior to road construction. This matter has been placed on the April 5 agenda for further discussion.

The next item of business on the agenda was the minor subdivision application by Stéphanie Gendron for property located on Route 278. Stephanie Gendron and Mark Danskin appeared on the application. Mr. Danskin reviewed the subject plat, which seeks to cut out two residential building lots out of an existing 106 acre parcel. The lots are located on the north side of Route 278. Ms. Gendron intends on conveying these parcels to her son and daughter for residential purposes. The property is zoned A-40, and the lots are compliant with code requirements as to size. Mr. Danskin has shown a proposed house, water, sewer, and driveway location for each lot, and submitted elevations for the same. Mr. Danskin stated that the application for water and sewer have been submitted to the Rensselaer County Health Department, and that applications for driveway permits had been prepared and will be submitted to NYSDOT. Mr. Danskin explained the driveways are planned to be 16 feet wide, with 3 foot shoulders on each side. Mr. Danskin also reviewed the sight distances at the driveway locations, which show over 1,000 feet sight distance in each direction. This is compliant with sight distance requirements. However, one 2 foot diameter maple tree must be removed in connection with the sight distance analysis on Route 278. Member Wetmiller inquired whether wet areas on

the property would have an impact on the proposed septic systems. Mr. Danskin stated that there are no delineated wetlands on the proposed lots, and opined that any wet areas would not impact the septic design. Mr. Danskin reiterated that his water and septic application had been submitted to Rensselaer County Health Department for review. Mr. Kestner wanted to confirm that the driveway locations were not within the cable guardrail on Route 278. Mr. Danskin stated that was correct. The Board noted that an Agricultural Data Statement needed to be filed with the application. Member Wetmiller again raised the wetland issue in terms of septic location. Mr. Kestner stated that while there may not be NYSDEC wetlands on site, there may be Federal jurisdictional wetlands. Member Wetmiller asked whether there was room on the parcel to relocate the septic system in the event there are problems with wetlands. Mr. Danskin stated that there was ample room on the property to stay out of all wetland areas. Mr. Danskin then explained that the area proposed for the septic system was 6-7 feet higher in elevation than the wet area on the property, and that the soils in the septic location are reputed to be well drained. Mr. Kestner reviewed the drainage for the driveways leading to Route 278. Mr. Danskin confirmed that the drainage from the driveways will be directed to Route 278. Ms. Gendron noted that she did intend on transferring these parcels to her son and daughter for residential purposes. The Board determined the application complete for purposes of scheduling the public hearing. The Board will schedule and hold the public hearing on this application at its April 5 meeting at 7:00 p.m. The Agricultural Data Statement will be sent to the relevant property owners with notice of the public hearing date.

The next item of business on the agenda was the waiver of subdivision application by Mary Ann Willetts for property located on Route 2 and Moonlawn Road. Willetts currently owns property on the south side of Route 2, which includes her home and 3.5 ± acres, as well as

vacant land located on the north side of Route 2 at its intersection with Moonlawn Road. While these properties historically were under separate deeds, the properties had been combined into one deed and one tax map number several years ago. Willetts now seeks to divide off the smaller vacant parcel on the north side of Route 2 for transfer to an adjacent property owner (DeCurtis). The size of the parcel sought to be divided and transferred is compliant with the R-15 zone for purpose of a building lot, although Willetts intends on transferring the parcel to DeCurtis. Mrs. Willetts explained that DeCurtis had no plans for construction on the transferred piece, but may plan to build an extension onto their existing home which could result in a setback issue from their existing property line absent adding the subdivided parcel to their lot. The Board inquired of Mr. Kreiger as to whether the lot met all zoning size requirements on its own. Mr. Kreiger confirmed it was zoning compliant for the R-15 zone. Also, in the event DeCurtis does transfer the parcel for single family dwelling purposes, there is adequate road frontage both on Route 2 and Moonlawn Road for a driveway location. Upon further discussion, the Board determined the application to be complete. Member Jabour 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 Esser then made a motion to approve the waiver application, subject to payment of all necessary application fees. Member Jabour seconded the motion. The motion was approved 5/0, and the waiver application approved.

The next item of business on the agenda was the Hudson Hills Planned Development District application. Mr. Kestner and Attorney Gilchrist advised the Board that the Town Board had extended the public comment period on the FEIS through March 29, 2007, and that the Planning Board should consider the additional public comment to be received in connection with

their recommendation. Attorney Gilchrist also noted that he was continuing to work on a draft of the Planning Board recommendation based on the Board's prior deliberations. Chairman Oster concurred that the matter should be adjourned and continued at their April 5 meeting. Chairman Oster noted that a letter had been received from Norman and Joanne Fivel concerning the Hudson Hills application. This matter has been adjourned to the April 5 meeting for further discussion.

Mr. Kreiger informed the Board that a letter had been received from National Grid, in which National Grid sought to better coordinate with municipalities on utility installation locations on public roads for new major subdivisions. The Planning Board discussed this matter briefly, noting that a coordination problem does often exist and that National Grid will not prepare a Utility Plan for a subdivision until such time as the final plat has been stamped and signed. At that point, the road locations, lot locations, and easement areas have already been reviewed and finalized, without the benefit of National Grid input in that National Grid historically will not work on the project until such time as a final plat has been approved. This coordination issue will be further discussed at the April 5 meeting.

Chairman Oster noted that a meeting will be held at the Brunswick Community Center on March 28, 2007 at 7:00 p.m. to discuss agricultural issues in Rensselaer County.

Chairman Oster noted that the ITZ Security use variance application remained pending at the Zoning Board of Appeals, and the site plan application has been tentatively placed on the April 5 agenda.

Chairman Oster also noted that a letter had been received from Earth Tech concerning the Ginsburg site plan. Mr. Kreiger noted that Earth Tech had been in touch with him, indicating that they were making good faith efforts toward preparing a site plan for the facility, and

requested a one month extension in order to submit the necessary site plan. Chairman Oster was satisfied with that submission, and the Board generally concurred. This matter has been placed on the April 19 agenda for further discussion on the site plan, with Mr. Kreiger informing Mr. Ginsburg and Earth Tech that the site plan should be submitted one week prior to the meeting. Member Esser inquired whether there had been any response from the Rensselaer County Health Department concerning the septic issues. Mr. Kestner stated that he had received no response from Rensselaer County Health Department, but will follow up with that office. Member Tarbox had found among his records a 2001 Engineering Report for the Harley Davidson site, which described a standard septic system with septic laterals. It is now known that such a system does not exist on the site, and that the issue of the septic system must still be considered by the Rensselaer County Health Department and the Town.

Mr. Kestner informed the Board that the engineer for Dan Hogarty concerning his property located on West Road, Walter Van De Loo, P.E., had met with Mr. Kestner concerning the amended subdivision plat. Mr. Van De Loo had added the access driveway as discussed at the March 1 meeting. However, the driveway needs to be increased to 16 feet wide. Also, the two-car garage had been added to the subdivision plat, and the location of the garage results in a setback violation. The Applicant had indicated that a full 25 foot setback from the proposed property line existed, whereas the final plat notes the garage only 15 feet from the property line. Accordingly, a condition to the approval has not been satisfied. Mr. Kreiger will contact Mr. Hogarty concerning this issue, and further submission is anticipated. This matter has been adjourned without date.

Five items of new business were discussed.

The first item of new business discussed was a minor subdivision application by Margaret Jarem for property located on John Snyder Road. Jarem seeks to divide off a 2.69 acre lot. This matter is placed on the April 5 agenda.

The second item of new business discussed was a waiver of subdivision application by Michael J. Vickers for property located on Spring Avenue. This matter has placed on the April 5 agenda for discussion.

The third item of new business discussed was a waiver of subdivision application by George DuJack for property located on Town Office Road. DuJack seeks to divide off a 3.5 ± acre parcel from his existing 7.92 acre parcel for transfer to his son for construction of a new home. This matter is placed on the April 5 agenda for discussion.

The fourth item of new business discussed was a site plan application by Peter Clemente for property located on Route 7, the former Lolly's Luxuries site opposite Goyers. Clemente seeks to operate a chainsaw woodcarving business at this location. This matter has been placed on the April 5 agenda for discussion.

The fifth item of new business discussed was a site plan submittal by Robert Pollock for one of the tenants located in the Pollock Plaza on Route 7. A coffee shop has leased one of the tenant spaces, and seeks to have an outside patio for customers. A site plan showing the leased space and proposed patio area has been submitted. This matter is placed on the April 5 agenda for discussion.

The **index** for the March 15, 2007 Planning Board meeting is as follows:

1. Gervais – minor subdivision – 4/5/07;
2. Carriage Hill Estates Planned Development District – 4/5/07;
3. Gendron – minor subdivision – 4/5/07 (public hearing at 7:00 p.m.);

4. Willetts – waiver of subdivision – approved;
5. Hudson Hills Planned Development District recommendation – 4/5/07;
6. ITZ Security site plan – 4/5/07 (tentative);
7. Ginsburg – site plan – 4/19/07;
8. Hogarty – waiver of subdivision – noncompliance with conditional approval;
further submission required;
9. Jarem – minor subdivision – 4/5/07;
10. Vickers – waiver of subdivision – 4/5/07;
11. DuJack – waiver of subdivision – 4/5/07;
12. Clemente – site plan – 4/5/07; and
13. Pollock – site plan – 4/5/07.

The proposed agenda for the April 5, 2007 meeting is as follows:

1. Gendron – minor subdivision (public hearing at 7:00 p.m.);
2. Gervais – minor subdivision;
3. Carriage Hill Estates Planned Development District site plan and subdivision;
4. ITZ Security – site plan;
5. Jeram – minor subdivision;
6. Vickers – waiver of subdivision;
7. DuJack – waiver of subdivision;
8. Clemente – site plan;
9. Pollock – site plan;
10. Hudson Hills Planned Development District recommendation.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD April 5, 2007

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER, JOSEPH JABOUR, KEVIN MAINELLO, DAVID TARBOX, and JOSEPH WETMILLER. KEVIN MANILLO was absent.

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

The Planning Board opened a public hearing with respect to the minor subdivision application of Stephanie Gendron for property located on Route 278. The Notice of Public Hearing was read into the record. Stephanie Gendron was in attendance, together with her licensed land surveyor, Mark Danksin. Mr. Danksin presented an overview of the proposed two lot subdivision. Chairman Oster then opened the floor for receipt of public comment. No person in attendance sought to make any comment, and no public comments were received. Thereupon, Chairman Oster closed the public hearing.

Chairman Oster then opened the regular business meeting of the Planning Board.

The Minutes of the March 15, 2007 meeting were reviewed. Upon motion of Member Jabour and seconded by Member Czornyj, the Minutes were unanimously approved as written.

The first item of business on the agenda was the minor subdivision application of Stephanie Gendron. Chairman Oster inquired whether the large maple tree, which must be removed for purposes of sight distance for the proposed driveway, had yet been removed. Mr.

Danskin stated that the large maple tree had not yet been removed, but would be removed as part of the NYSDOT curb cut permit process. Chairman noted that an agricultural data statement had been sent out to relevant property owners, and no comments received thereon. Member Jabour inquired regarding the proposed driveway onto Route 278. Member Jabour inquired whether the proposed driveway would access both subdivided lots. Mr. Danskin explained that a single driveway was being proposed for both lots, but that the lots had been designed with adequate road frontage onto Route 278 for individual driveway access if needed in the future. Member Jabour asked whether there was road frontage for the retained property of Gendron. Mr. Danskin stated that there continues to be adequate road frontage for the remaining lands of Gendron. Chairman Oster inquired whether all the application fees and other necessary fees have been paid on the project. Mr. Kreiger stated that all application fees have been received, but the park and recreation fee would be required if the subdivision were approved. In addition, Mr. Kreiger stated that engineering review fees also needed to be paid. Chairman Oster inquired as to the status of water and septic permit application at the Rensselaer County Health Department. Mr. Danskin stated that field testing would be performed during the week of April 9. Chairman Oster also inquired as to the status of the NYSDOT curb cut permit. Mr. Danskin stated that the permit application had been submitted, and remains pending with NYSDOT. Chairman Oster inquired whether the permit application was for one driveway, or for a driveway for each lot. Mr. Danskin stated that the application was for one driveway only. The Board requested that Mr. Danskin make application for curb cuts for each proposed lot, even though only one driveway would initially be constructed. Chairman Oster inquired whether there were any further questions or comments on the application. Hearing none, Member Czornyj made a motion to approve a negative declaration under SEQRA, which motion was seconded by

Member Wetmiller. The motion was approved 6-0, and a negative declaration adopted. Thereupon, Member Jabour made a motion to approve the minor subdivision application subject to the following conditions:

1. Rensselaer County Health Department approval for water and septic;
2. NYSDOT curb cut permits for driveways;
3. Payment of Park and Recreation fee in the amount of \$500 per lot (total of \$1,000);
4. Payment of all engineering review fees.

Member Tarbox seconded the motion subject to the stated conditions. The motion was approved 6-0, and conditional final approval granted.

The next item of business on the Agenda was the minor subdivision application of Robert Gervais for property located on Garfield Road. This matter had been previously reviewed, and all technical issues resolved. The only outstanding issue was the service of an amended agricultural data statement to the relevant property owners. The corrected agricultural data statement had been sent out, and no comments had been received by the Board. Member Wetmiller then 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. Thereupon, Member Czornyj made a motion to approve the Gervais minor subdivision subject to the following conditions:

1. Rensselaer County Health Department approval for water and septic;
2. Payment of Park and Recreation fee in the amount of \$500 per lot (\$1,000 total);
3. Payment of all engineering review fee.

Motion was seconded by Member Esser subject to the stated conditions. The motion was approved 6-0, and conditional final approval granted.

The next item of business on the Agenda was the Carriage Hill Estates PDD Site Plan and Subdivision Plat. This matter has been adjourned to the April 19, 2007 meeting. Mr. Kestner gave the Board an update on the status of discussions regarding sewer infrastructure specifications. Attorney Gilchrist informed the Board that resolution of the legal issues surrounding ownership, operation and maintenance of the sewer force main located in the City of Troy likewise remained outstanding.

The next item of business added to the Agenda was the waiver of subdivision application by Daniel Hogarty with respect to property located on West Road in Brunswick Hills. Mr. Hogarty had obtained approval of a waiver of subdivision, subject to compliance with zoning setback provisions. However, upon further delineation, the waiver map as approved was not compliant with zoning setback provisions. Therefore, Mr. Hogarty has submitted an amended plat showing a relocated driveway. Chairman Oster and Mr. Kestner confirmed that the amended plat was compliant for water and septic setbacks, as well as zoning setback provisions. Upon further comment Mr. Hogarty confirmed that he was not planning on constructing a garage for the new lot, but only a concrete pad. The Board inquired whether action on the amended plat was required. Attorney Gilchrist advised that SEQRA had been completed on the application, and that further SEQRA review was required only if there was a substantial modification to the approved waiver map. The Board determined that the modification was not substantial. Attorney Gilchrist advised the Board that it should act upon and approve the amended waiver map. Thereupon, Member Wetmiller made a motion to approve the amended waiver map, subject to Rensselaer County Health Department approval. The motion was seconded by

Member Tarbox. The motion was approved 6-0, and conditional final approval granted with respect to the amended waiver map.

The next item of business on the Agenda was the ITZ Security Site Plan for property located on Route 7. Peter Gardineer, owner of ITZ Systems, was in attendance. Mr. Gardineer stated that he had initially submitted his site plan in January, but it was determined that an additional use variance was required from the Zoning Board of Appeals. In particular, Mr. Gardineer sought approval to allow one of the offices within his building to be used for collection of Time Warner payments, using his own staff for the collection of those payments. However, in order to allow that use, a variance from the Zoning Board of Appeals was required.

The site plan was thus adjourned, subject to action by the Zoning Board of Appeals. The Zoning Board of Appeals did issue the use variance for this proposed use. Mr. Gardineer explained the details, under which he seeks to use a 15' by 12' office space as collection of Time Warner payments only. An ITZ employee would collect the payments, not a Time Warner employee. There would be no additional free standing signage, only a sign placed in the building window. It is anticipated that 10 to 20 people per day may stop to make Time Warner payments. The office would be open 9 a.m. to 5 p.m. only. From Time Warner's perspective, this location was good as it would give them exposure on the Route 7 corridor. Member Wetmiller asked whether there was any issue concerning the window sign. Mr. Kreiger stated that a sign permit would be required. Member Oster asked whether all application fees had been paid. Mr. Kreiger stated that all fees had been paid. Member Tarbox asked whether the parking lot would be striped in accordance with the site plan submitted. Mr. Gardineer stated that the parking lot would be so striped. Mr. Kestner confirmed that employee parking would be in the rear of the building. In terms of referral to the Rensselaer County Department of Economic Development and Planning,

Mr. Kreiger reported that this site plan had been referred to that county agency as part of the Zoning Board of Appeals application, and that the County had determined that local consideration shall prevail. The Planning Board discussed whether a public hearing would be required on this site plan. The Planning Board observed that the Zoning Board of Appeals held public hearings in connection with the variance application, and that no major issues had been received as a result of those public hearings. The Planning Board determined that it would not entertain a public hearing on this application. Thereupon, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Wetmiller. The motion was approved 6-0, and a negative declaration adopted. Member Esser then made a motion to approve the site plan subject to the condition that the parking lot striping be completed and reviewed by the building department prior to allowing the Time Warner office to be opened. Member Jabour seconded the motion subject to the stated condition. The motion was approved 6-0, and final site plan approval granted subject to the stated condition.

The next item of business on the Agenda was the minor subdivision application of Margaret Jeram for property located on John Snyder Road. William Doyle, Esq. appeared for the applicant. Mr. Doyle acknowledged that the application had been originally submitted as a waiver, and the fee paid for a waiver application. Now that the application has been changed to a minor subdivision, the increase in the application fee will be paid. Mr. Doyle explained that Margaret Jeram originally had approximately 100 acres on John Snyder Road in Route 7. In or about 2000, two subdivided lots were created with Jeram owning the retained land. These lots were deeded out in 2000 and 2004. The current application is to divide out a 2.69+/- acre parcel for construction of a single family home, with Jeram retaining the balance of the property. Mr. Doyle noted that Rensselaer County Health Department approval had already been obtained for

the proposed lot. Mr. Kestner inquired whether the house location, driveway location, water and septic location were shown on the minor subdivision plat. Mr. Doyle stated that all that information was on the plat, including topography, and handed that information up to the Board and to Mr. Kestner. The Planning Board reviewed that information, and requested that a plat note be added regarding the necessary back pitch for the driveway. Also, Mr. Kestner requested that sight distance information be provided with respect to the proposed driveway. The Board also noted that an agricultural data statement needs to be prepared and served on the application. The Planning Board determined that the application was complete to move forward to public hearing. The Board scheduled a public hearing for this application for the April 19 meeting at 7 p.m.

The next item of business on the Agenda was the waiver of subdivision application by Michael Vickers for property located on Spring Avenue. Mr. Vickers stated that all application fees had been paid. His property is located at 1239 Spring Avenue. Mr. Vickers seeks to divide a portion of his parcel off, for the construction of a home for his mother. The proposed lot would have 25 foot of frontage, and Mr. Vickers stated that there would be no impact on existing dwellings or septic in the immediate area. Mr. Kestner reviewed the waiver map, and informed Mr. Vickers that he had visited the subject parcel, and thought there may be a topography problem in connection with the 25 foot strip. The Planning Board held extended discussions regarding the adequacy of the waiver map submitted and topography issues in connection with the 25 foot strip for a future driveway location. Mr. Vickers responded regarding existing conditions, structures, septic and water, and topography. The Planning Board, while acknowledging this was a waiver application, also observed that there were a number of additional homes in close proximity, and that additional information should be provided on this

application in terms of correct structure locations, and also water and septic locations. The Board determined that the submitted waiver map did not have adequate information on which to act. The Planning Board determined that a site visit to this location was appropriate. Chairman Oster requested that the proposed lot be marked in the field, so that the Planning Board members could review the site. In addition, a proposed driveway location should also be marked in the field. Mr. Vickers was amenable to this approach, and was cooperative in terms of showing the Planning Board members the property before any action was taken. This matter has been placed on the April 19th Agenda for further discussion.

The next item of business on the Agenda would be waiver of subdivision application by George Dujack for property located at 86 Town Office Road. Mr. Dujack appeared on the application. Mr. Dujack explained that he was planning to sell his existing house to his son, and to divide an existing parcel so as to create a flag lot for the construction of a new home toward the rear of that flag lot. In connection with the proposal, Mr. Dujack also seeks to perform a lot line adjustment on his existing house lot so as to straighten the property line (currently covering two smaller parcels, each with a separate tax identification number). Mr. Dujack explained that the flag lot had created a minimum width of 25 feet for the construction of a driveway. Mr. Kreiger confirmed that the proposed lot was compliant with all area and bulk requirements. Chairman Oster inquired whether there were any questions concerning the application. Hearing none, Member Tarbox made a motion to approve a negative declaration under SEQRA, which motion was seconded by Member Wetmiller. The motion was approved 6-0, and a negative declaration adopted. Member Jabour then made a motion to approve the waiver application subject to the following conditions:

1. Rensselaer County Health Department approval for water and septic;

2. Maintenance of a minimum width of 25 feet for the flag lot frontage on Town Office Road upon the completion of the lot line correction on the existing home parcel;
3. Submission of a final survey showing the corrected lot lines plus the new flag lot to the Brunswick Building Department;
4. Payment of all engineering review fees;
5. Driveway permit from Rensselaer County Highway Department.

The motion was seconded by Member Czornyj, subject to the stated conditions. The motion was approved 6-0, and the waiver application approved subject to the stated conditions.

The next item of business on the Agenda was the site plan application of Peter Clemente for property located on Route 7 at the former Lolly's Luxuries site opposite Goyers. Mr. Clemente appeared on the application. Mr. Clemente stated that a sketch plan had been submitted, and that he was working on a final site plan. Mr. Clemente did question the need for full site plan review, given that he was not making any structural changes to the existing building. Chairman Oster stated that the type of business which Mr. Clemente sought to operate at that location, a chainsaw carving business, changed the type of use occurring on the site, which was subject to site plan review. Mr. Clemente then explained that it was his intent simply to use the building as a storefront for the sale of his carved items, and occasionally performing demonstrations of his wood carving technique at the property. Mr. Clemente explained that he would still be using his existing Grafton location for his main production of the carved items. The Planning Board generally discussed the hours of operation for any such carving demonstrations. Mr. Clemente stated that such demonstrations would be in the neighborhood of one to two hours. Member Wetmiller had a concern that if this were an advertised event or brought in a lot of people for the carving demonstrations, there was not adequate parking for a

large crowd. Mr. Clemente stated that the existing parking provides twelve spaces at the site. Mr. Kreiger noted that there was an existing site plan for the location, and that he was still researching his records to obtain a copy of the site plan. William Doyle, Esq., in attendance at the meeting, stated that he owns property both to the side and rear of this location, that it was zoned commercial, and that he had no objection to the proposed use. Paul Haslinger, owner of the Atlantic Pool dealership and owner of a home next to the site, was also in attendance and lay certain concerns regarding the proposed site use. Mr. Haslinger noted that while Goyers does test chainsaws at their location, this lasts only for about five minutes rather than several hours. Mr. Clemente stated that he would like to be able to do the carving demonstrations on the weekends. Mr. Haslinger stated that if carving went on for a several hour period, both noise and fumes could become a problem. Mr. Coement stated that he already had noise monitoring data on the chainsaw carving operations, and that he would make that data available to the Planning Board. Mr. Clemente generally stated that decibel readings for the chainsaw was approximately 80-85 decibels at 25 feet from chainsaw operation, whereas truck traffic on Route 7 was measured at approximately 80-82 decibels. Upon further discussion, it was determined that the Planning Board would entertain site plan review with respect to the site operations, most particularly the chainsaw carving demonstrations. The Planning Board requested Mr. Clemente to provide a site plan locating the area where he sought to do the carving demonstrations, and provide a narrative as to the description of those demonstrations as well as proposed days and hours of operation. The Planning Board asked that the noise data collected by Mr. Clemente be submitted with the site plan as well. Also, the Planning Board wanted the proposed parking shown on the site plan as well. This matter has been placed on the April 19th Agenda to further

review the site plan, with a determination to be made as to whether adequate information was presented to hold a public hearing.

The next item of business on the Agenda was the site plan application by Robert Pollock for one of the tenants located in the Pollock Plaza on Route 7. At the request of the applicant, this matter has been adjourned to the April 19 meeting. The Planning Board raised issues on this application concerning green space requirements as well as drainage issues. These matters will be reviewed at the April 19 meeting.

The next item of business on the Agenda was continued discussion of the Planning Board recommendation on the proposed Hudson Hills Planned Development District. Chairman Oster noted that additional information may be submitted by the applicant, and therefore this matter has been adjourned. Some of the members of the public questioned the Planning Board concerning the procedural status of this application with the Town Board. In particular, members of the public were concerned that the Hudson Hills application was on the Town Board agenda for its April 12 meeting, and that the Town Board would move forward and act upon that application. Chairman Oster explained that the Planning Board needed to make its recommendation prior to any action by the Town Board, and that this matter had been adjourned subject to additional application information which may be forthcoming from the applicant. Attorney Gilchrist did note that the recommendation of both the Planning Board and Zoning Board of Appeals must be completed prior to any Town Board action on the PDD application, and that he would so advise the Town Board. One member of the public questioned the SEQRA procedure, since the FEIS on the application had been accepted as complete by the Town Board. Attorney Gilchrist stated that all timeframes under the SEQRA Regulations are subject to extension upon consent of the applicant, which is the case in this matter. Norm Fivel, Wilrose

Lane, handed up a DVD which he had made depicting other apartment complexes owned and operated by Marvin Chudnoff. The DVD was accepted by Chairman Oster, and noted that the Planning Board would consider the information on that DVD in connection with their final recommendation.

Chairman Oster noted that the Ginsberg site plan should be submitted on the Agenda for the April 19 meeting.

Four items of new business were discussed.

The first item of new business discussed was the Land Vantage, Inc. subdivision application, which covers property located both within the Town of Brunswick and the Town of Grafton. Chairman Oster had received a letter inquiry from the Chairman of the Town of Grafton Planning Board as to the status of any action by the Town of Brunswick concerning the application. Attorney Gilchrist will forward the requested information to the Grafton Planning Board Chairman.

The second item of new business discussed was a waiver of subdivision application by Kevin Stillman, for property located on Willard Lane. Mr. Stillman owns a 6 +/- acre parcel, from which he seeks to divide a 2.22 acre lot for home construction. Willard Lane is a dead-end road off Tamarac Road, and is a highway by use. The Planning Board placed this matter on the May 3, 2007 agenda.

The third item of new business discussed was a waiver of subdivision application by Richard Hudson for property located at 77 Willard Lane. Mr. Hudson owns approximately 100 +/- acre parcel on which Hudson Farm sits, and he seeks to divide a 3 +/- acre lot from that parcel for transfer to his daughter. Again, Willard Road is a highway by use, and the Planning Board had certain questions regarding road frontage for the proposed lot onto this user road. The

Planning Board required further information on this application, and the matter is adjourned without date.

The fourth item of new business discussed was an amended site plan application by Dominick Maselli for his store located on Route 7. Mr. Maselli recently received site plan approval to add an awning over a walkway on the west side of his building. Mr. Maselli now seeks to add a similar awning from the east side of his building near the entranceway to his store. This matter is placed on the April 19 Agenda for further discussion.

The index for the April 5, 2007 Planning Board meeting is as follows:

1. Gendron – minor subdivision – final conditional approval;
2. Gervais – minor subdivision – final conditional approval;
3. Carriage Hill Estates PDD site plan and subdivision plat – 4/19/07;
4. Hogarty – amended waiver of subdivision – final conditional approval;
5. ITZ Security – site plan – final conditional approval;
6. Jeram – minor subdivision – 4/19/07 (public hearing at 7 p.m.);
7. Vickers – waiver of subdivision – 4/19/07;
8. Dujack – waiver of subdivision – final conditional approval;
9. Clemente – site plan – 4/19/07;
10. Pollock – site plan – 4/19/07;
11. Hudson Hills Planned Development District recommendation – adjourned;
12. Ginsberg – site plan – 4/19/07;
13. Land Vantage, Inc. – minor subdivision – adjourned without date;
14. Stillman – waiver of subdivision – 5/3/07;
15. Hudson – waiver of subdivision – adjourned without date; and

16. Maselli – site plan – 4/19/07.

The proposed agenda for the April 19, 2007 meeting is as follows:

1. Jeram – minor subdivision – public hearing at 7 p.m.;
2. Vickers – waiver of subdivision;
3. Clemente – site plan;
4. Pollock – site plan;
5. Ginsberg – site plan;
6. Maselli – site plan;
7. Carriage Hill Estates PDD – site plan and subdivision plat.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Planning Board of the Town of Brunswick at 7:00 p.m. on Thursday, April 19, 2007, at the Brunswick Town Hall, 336 Town Office Road, Brunswick, New York, to review the minor subdivision application submitted by Margaret Jeram relative to property located on John Snyder Road proximate to NYS Route 7. The Applicant seeks to divide a 2.69± acre residential building lot out of her existing parcel. Copies of the subdivision plat and all application documents 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 11, 2007
Brunswick, New York

THE PLANNING BOARD OF THE TOWN OF BRUNSWICK
By: Russell Oster, Chairman

Planning Board

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD April 19, 2007

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

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

The Planning Board opened a public hearing with respect to the minor subdivision application of Margaret Jeram for property located on John Snyder Road proximate to Route 7. The Notice of Public Hearing was read into the record. William Doyle, Esq., appearing on behalf of Mrs. Jeram, presented an overview of the proposed subdivision. Mrs. Jeram seeks to divide a 2.69 +/- acre lot from her acreage on John Snyder Road for purposes of single family residential use. The property is currently vacant. Mr. Doyle stated that Rensselaer County Health Department approval has already been obtained for proposed water and septic on the lot. Mr. Doyle reviewed the proposed house, driveway, septic and well location for the proposed lot on the subdivision plat. Mr. Doyle noted that the necessary back pitch for the driveway will be added to the subdivision plat as a note. Mr. Doyle also confirmed that all application fees for the minor subdivision application have now been paid. Chairman Oster then opened the floor for receipt of public comment. No persons offered any comment. Thereupon, Chairman Oster closed the public hearing.

Chairman Oster then opened the regular business meeting of the Planning Board.

The draft Minutes of the April 5, 2007 meeting were reviewed. Typographical corrections for "Clemente" at page 10 and "Jeram" at page 14 were noted. Subject to correction of the typographical errors, Member Jabour made a motion to approve the minutes as written, seconded by Member Czornyj. The motion was approved 7-0, and the minutes approved subject to the noted typographical corrections.

The first item of business on the agenda was the minor subdivision application of Margaret Jeram for property located on John Snyder Road proximate to Route 7. It is noted for the record that an agricultural data statement had been submitted on the application, and sent out to all relevant owners of agricultural district property. No comments have yet been received from recipients of the agricultural data statement. Mr. Doyle confirmed that the map note concerning the necessary back pitch will be added to the subdivision plat. Mr. Kestner noted that he has reviewed the driveway profile, and is of the opinion that the driveway can accommodate the necessary backpitch onto the public road. Member Czornyj concurred. Mr. Kestner noted that topography is on the submitted subdivision plat. The Board entertained lengthy discussion concerning sight distances onto John Snyder Road from the proposed driveway location. It is noted that the posted speed limit for John Snyder road is 45 mph, and Mr. Kestner and the Board members reviewed these sight distances based on that posted speed limit. Mr. Kreiger also reviewed sight distance issues on John Snyder Road near the bridge. Following lengthy discussion, the Planning Board determined that the sight distances were adequate for the proposed driveway location, and that sight distances were not an issue. The Board noted that Rensselaer County Health Department approval had already been obtained for the water and septic plan. The Board determined that the subdivision plat should be amended to add the map

notes concerning driveway backpitch, and that additional time should be allotted for receipt of any comment concerning the agricultural data statement. This matter has been placed on the May 3rd agenda for further discussion.

The next item of business on the agenda was the waiver of subdivision application by Michael Vickers for property located on Spring Avenue Extension. The Board noted that at the last meeting, issues arose concerning topography, driveway location, and the adequacy of the submitted sketch plan. Michael Vickers appeared on the application. Mr. Vickers noted that three board members had visited the site at different times to view the property. Mr. Vickers also noted that Mr. Kestner had reviewed the site as well. Mr. Vickers reviewed location and separation distances for septic and leach fields and well locations on his lot and his neighbor's lot. Mr. Vickers stated that a proposed well and septic location for the lot created as a result of the waiver would be subject to Rensselaer County Health Department approval as to location and design. Mr. Kestner noted that while the county health department does approve of the water and septic plan, the Planning Board does look at the feasibility of the lot in terms of size. Mr. Kestner noted that the applicant has represented that there is adequate separation distance between existing wells and leach fields so as to design a well and leach field for the proposed waiver lot, and that final design and approval was subject to Rensselaer County Health Department. Chairman Oster noted that there is adequate area for a second driveway in connection with the waiver application. In this regard, Mr. Vickers plans to use his existing driveway to service the waiver lot, and if necessary in the future, he could construct a second driveway to service his existing lot, and continue to utilize the current driveway for the waiver lot. The Planning Board determined that this plan was feasible. Mr. Kestner noted that there was a row of mature evergreens between the Vickers property and an adjacent lot, and suggested that

a width greater of 25 feet would be required to get a driveway back to the waiver lot. Mr. Kestner suggested that a minimum width of 35 feet road frontage be added to the waiver lot. Mr. Kreiger confirmed that a right of way width of 35 feet still maintained compliance with area and bulk requirements for existing structures. Chairman Oster and the Board Members noted that their independent site visits to the property did address issues concerning the topography and feasibility of the waiver lot. Hearing no 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. Thereupon, Member Czornyj made a motion to approve the waiver application subject to the following conditions:

1. Rensselaer County Health Department approval for water and septic;
2. Minimum width of the public road frontage of 35 feet;
3. Minimum 16 foot driveway width due to the length of the driveway to the waiver lot;
4. Submission of engineered plans showing water and septic location on the waiver lot to the building department prior to issuance of any building permit for the waiver lot;
5. Payment of all necessary fees.

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

The next item of business on the agenda was the site plan application of Peter Clemente for a proposed retail use on Route 7. (former Lolly's Luxuries site). Peter Clemente and Diane Clemente appeared on the application. Mr. Clemente stated that the store on the site had previously been used for retail sales, and that he sought to continue to use the building for retail

sales of his chainsaw wood crafts. There is existing residence on the site as well, and his children will be living in the residential structure. Mr. Clemente reiterated that there would be no structural changes to any of the structures on the property. Mr. Kreiger noted that the building department was able to locate a copy of an existing site plan for the property when it was operated as a nursery. Chairman Oster had reviewed the site plan with Mr. Kreiger, and found that such site plan was consistent with the existing conditions on the site. Mr. Clemente had been provided a copy of the site plan. Mr. Clemente handed up a business plan with narrative to the Planning Board for review. Mr. Clemente generally reviewed the business plan with the Board. Mr. Clemente reiterated that there would be no structural changes on the property, that he would continue to operate his main production of the chainsaw woodcrafts at his property in Grafton and transport the finished goods for retail sale at the Route 7 site, and his two children would live in the home on the property, that he sought to operate a neat and clean business and blend into the local business community. Mr. Clemente did state that he sought to do some chainsaw carving on the site, and put on carving demonstrations. In this regard, Mr. Clemente indicated that he sought approval to carve on the site using chainsaws between 8:00 a.m. and 5:00 p.m. Monday through Friday, and also 9:00 a.m. through 5:00 p.m. on Saturday. Mr. Clemente stated that he would identify a central carving area on the site plan that was between the existing retail building and Route 7, generally in front of the store. Mr. Clemente stated that there would be no signage in connection with the business, and that his carving out in front of the building constituted all of the signage or advertising it would need. As to noise generated from the chainsaw operations, Mr. Clemente suggested that the noise was comparable with truck traffic on Route 7, that any exhaust from the chainsaw operations would dissipate on his site and was consistent with exhaust from cars, and that the noise would be comparable to

existing operations at the Goyers facility opposite this site on Route 7. Chairman Oster inquired whether there were any other employees who would be chainsaw carving at the site. Mr. Clemente stated that he would be the only person operating the chainsaws for carving. Chairman Oster noted that the adjacent property owner, Paul Hasslinger, prepared a letter which was handed into the Board concerning the proposed operations. In general, Mr. Hasslinger has raised issues concerning noise and exhaust fumes from chainsaw operation, as well as adequacy of parking. Chairman Oster inquired whether Clemente sought to chainsaw carve for several hours per day at this site, and whether this was consistent with his representation that he would continue to manufacture his products at his Grafton property. Mr. Clemente then suggested that manufacturing had always occurred at this location, whether it was paintings, sculptures, or greenhouse activities. Chairman Oster noted that while some type of "manufacturing" may have occurred at the property, the use of a chainsaw to carve provides a qualitative difference in the type of manufacturing, particularly with respect to noise generation. Chairman Oster noted that Mr. Hasslinger has raised legitimate concerns regarding noise, fumes, and parking. Chairman Oster inquired whether there was any way to create a sound barrier in the area where he sought to use the chainsaws. Mr. Clemente was not sure. Chairman Oster and the Board felt that some limitation needed to be added to the time of chainsaw operations on the site. Mr. Clemente stated that he would be willing to work with the Town, but he must be able to make a living. The Board generally entertained discussion about limiting the total time a chainsaw could operate on the site per day, within certain allotted hours. The Planning Board also discussed the need for a public hearing, and that a determination would need to be made as to whether to hold a public hearing which is discretionary on site plan applications. Mr. Kreiger also noted that the site plan had been referred to Rensselaer County Planning Department, but the Board had not yet

received a response on that referral. The Board inquired of Attorney Gilchrist as to limitation of hours on chainsaw operations. Attorney Gilchrist suggested that the Board should obtain all noise data generated by Mr. Clemente, so as to create a technical basis for making any determinations concerning noise impacts and restrictions. Mr. Kestner concurred in this approach. Concerning noise, the Board generally discussed the review of noise data, the locations where data was obtained, potential noise barriers, topography and vegetation impact to noise impact off site, as well as consideration of existing background noise conditions. Mr. Clemente agreed to submit all noise data in his possession. Chairman Oster directed Mr. Clemente to submit that data directly to the Board and Mr. Kestner, and that Mr. Kestner would review that data prior to the May 3 meeting. This matter has been placed on the agenda for further discussion for the May 3 meeting.

The next item of business on the agenda was the site plan application of Robert Pollock for the Mocha Blend Coffee Shop in the Brunswick Plaza (720 Hoosick Road). Mr. Pollock seeks to create a 12 foot by 20 foot patio area adjacent to this tenant space. Brick pavers would be installed, and a 6 foot high wrought iron fence installed around the perimeter. The patio area would be 240 square feet total. Mr. Pollock stated that there was an excess of 14,000 square feet of green space existent on the property. Mr. Pollock also stated that he would install a pipe for drainage which would then discharge to an existing catch basin approximately 10 feet away from the proposed patio area. Chairman Oster noted that the existing lawn to the side of this tenant space was 12 feet by 16 feet, so that the patio area would extend the area by 4 feet. Chairman Oster noted that the two issues identified by the Planning Board were green space and drainage, and that Mr. Pollock had addressed each issue. Mr. Kestner calculated the excess of green space on the Brunswick Plaza site, and confirmed that 14,000 square feet excess of green space was

available. Member Wetmiller noted concern regarding the steep bank which may be created by the patio in relation to the existing sidewalk, and how Pollock planned to hold this bank back. Mr. Pollock stated that he could either install a brick paver wall, or address this area through shrubbery. Mr. Pollock represented that he would do what was necessary to insure that there was no eroding of that area. Mr. Pollock indicated that any change in topography or drop-off from the proposed patio area would be addressed through installation of vegetation. Member Jabour inquired whether the only access to the patio area would be from the interior of the tenant space. Mr. Pollock stated that the door from the interior of the coffee shop would be the only access to the patio area, although he would install a gate on the wrought iron fence. Chairman Oster inquired about adequacy of fire exits, if the patio area were enclosed with a fence. Mr. Pollock stated that the fire exits are both in the front and the rear of the tenant space, and that the side door was never designed as a code fire exit. Having said this, Mr. Pollock did state that he would be installing a gate on the fence for safety. Following discussion concerning access, it was suggested that Mr. Pollock install a lock on the fence gate, which could be locked at night, but remain open while the business was in operation. Member Czornyj also noted an existing traffic issue at the proximate intersection with the apartments, where a stop sign does exist which is routinely ignored by people. Mr. Pollock concurred that people do ignore that stop sign in that intersection, and that in connection with the patio he would be installing curbing, striping for a pedestrian walkway, installation of a pedestrian walkway sign, with appropriate lighting. Member Czornyj suggested that a guard rail be installed along the turning radius in the area of the patio as an additional safety feature. In this regard, Mr. Kestner inquired as to the proposed lighting. Mr. Pollock stated that there is an existing wall light on the building, which would provide adequate lighting. If any additional lighting is to be installed, it would merely be

ornamental lighting for the patio area. Mr. Pollock confirmed the hours of operation for the coffee shop are Monday through Thursday until 9:00 p.m., Friday and Saturday until 10:00 p.m. and Sunday until 7:00 p.m. No alcoholic beverages are served. Hearing no further discussion, 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. Thereupon, Member Czornyj made a motion to approve the site plan subject to the following conditions:

1. Installation of paver wall or landscaping to eliminate erosion in the area of the patio;
2. Installation of a gate on the fencing on the south side of the patio, with ability to lock the gate at night;
3. Installation of a guard rail near the turning radius of the intersection in proximity to the patio; and
4. Any paver retaining wall to prevent erosion subject to final review and approval by the Building Department.

The motion was seconded by Member Wetmiller. The motion was approved 7-0, and the site plan approved subject to the stated conditions.

At this point, Mr. Pollock also raised with the Planning Board a request to utilize the existing storage buildings at the Brunswick Plaza site for public use. At the present time, the use of the storage buildings is limited to storage of inventory for retail sale in Brunswick Plaza. Mr. Pollock seeks to allow the general public to use the storage facilities. Mr. Kestner noted that Mr. Pollock should provide information concerning his proposed rental agreements, access issues, hours of operation, and traffic flow. This matter will be subject to further discussion upon additional submissions by Mr. Pollock. The Board did note that at the time the construction of

the storage units was reviewed by the Planning Board, there was significant discussion concerning limiting those storage units to tenants of the Brunswick Plaza and not being available for public use. These minutes will be researched.

The next item of business on the agenda was the site plan application by Dominic Maselli for his delicatessen located on Route 7. Bob Dayton appeared on the application. Mr. Dayton explained that Mr. Maselli sought to add an awning on the east side of the building similar to the recently installed awning on the west side of the building. The dimension of the awning would be approximately 9 feet by 12 feet. Chairman Oster inquired whether the awning would interfere with any existing parking. Mr. Dayton said no parking area would be impacted. Mr. Kestner reviewed the general drainage plan for drainage off the canopy, and deemed it acceptable. Mr. Kreiger noted that the site plan had been referred to the Rensselaer County Planning Department, and the County determined that local consideration shall prevail. Mr. Kreiger noted that all fees had been paid on the application. The Board determined that a public hearing is not necessary on this site plan. Hearing no further discussion, Member Esser 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 Esser then made a motion to approve the site plan, which motion was seconded by Member Tarbox. The motion was approved 7-0, and the site plan approved.

Chairman Oster noted that no additional submissions had been made concerning the Ginsburg site plan, and that no one was in attendance concerning the Ginsburg site plan. This matter has been adjourned without date, and Mr. Kreiger was directed to contact both Ginsburg and Earth Tech to determine the status of the site plan submittal.

The next item of business noted on the agenda was the Carriage Hill Estates site plan and subdivision. Mr. Kestner noted that the applicant would not be appearing, as ongoing issues concerning the sewer plan were still being resolved by the applicant. Mr. Kreiger noted that United Group had met on two occasions with representatives of the Town, to review specifications concerning the sewer installation. The applicant has agreed to install two six inch sewer force mains on Pinewoods Avenue, and all pipe specifications have been agreed to. The sewer pump station specifications were still being reviewed. The depth of the sewer force mains was also being addressed, as was final hydrant locations. Attorney Gilchrist noted that the applicant was continuing to resolve issues concerning ownership, operation and maintenance of the sewer force main located within the City of Troy. Attorney Gilchrist noted that the Town Board had advised the applicant in writing that all issues concerning the sewer force main located in the City of Troy must be resolved prior to action on the Water and Sewer District Petitions. This matter has been adjourned without date by the Planning Board, subject to resolution concerning all water and sewer issues.

Chairman Oster discussed the subdivision applications by Stillman and Hudson for property located on Willard Lane off Tamarac Road. Willard Lane is a highway by use. Chairman Oster noted that the Stillman application will be on the agenda for the May 3 meeting, and that the Hudson application has been adjourned without date. The issue concerning Willard Lane is the extent of the highway by use, defined by the area actually maintained by the Town. It was suggested that a site visit be scheduled for Highway Superintendent Eddy, Mr. Kestner, Mr. Kreiger, and any Planning Board member wishing to attend for purposes of marking the area of Willard Lane to determine the extent of the highway by use. This exercise was tentatively scheduled for April 30 at 9:30 a.m.

Chairman Oster noted that Attorney Gilchrist had responded to the inquiry of Grafton Planning Board Chairman Barbara Messenger concerning the Land Vantage subdivision matter. In this regard, Tom Foster of Land Vantage was in attendance at the meeting. Mr. Foster was allowed to address the Board, and he indicated that he has submitted a full minor subdivision plat, septic plan, as well as a report by Harold Berger, P.E. concerning potable water at the site. Following further discussion, this matter has been placed on the May 3rd agenda for further discussion.

Chairman Oster noted that a public hearing will be held by the Town Board concerning the Brunswick Meadows PDD application to be held on May 15, 2007 at 6:30 p.m. at Brunswick Town Hall.

Member Czornyj generally discussed the requirements for a waiver of subdivision application, to ensure that adequate information is in front of the Board on which to make a determination. Mr. Kreiger noted that he was reworking the current Planning Board application forms, including the waiver of subdivision application form, and would share those draft application forms with the Board shortly.

The index for the April 19, 2007 meeting is as follows:

1. Jeram – minor subdivision – 5/3/07;
2. Vickers – waiver of subdivision – approved subject to conditions;
3. Clemente – site plan – 5/3/07;
4. Pollock – site plan – approved subject to conditions;
5. Maselli – site plan - approved;

6. Ginsberg – site plan – adjourned without date (Mr. Kreiger to contact applicant and engineer);
7. Carriage Hill Estates – site plan and subdivision – adjourned without date ; and
8. Land Vantage, Inc. – minor subdivision – 5/3/07.

The proposed agenda for the May 3, 2007 meeting is as follows:

1. Jeram – minor subdivision;
2. Clemente – site plan;
3. Stillman – waiver of subdivision;
4. Land Vantage, Inc. – minor subdivision;
5. Highland Creed major subdivision – project update.

Planning Board

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD May 3, 2007

PRESENT were MICHAEL CZORNYJ, FRANK ESSER, JOSEPH JABOUR, KEVIN MAINELLO, DAVID TARBOX, KEVIN MAINILLO and JOSEPH WETMILLER, CHAIRMAN RUSSELL OSTER was absent.

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

The Draft Minutes of the April 19, 2007 meeting were reviewed. Upon motion of Member Jabour, seconded by Member Esser, the Minutes were approved 6-0 as written.

The first item of business on the agenda was the minor subdivision plat application by Margaret Jeram for property located on John Snyder Road. This application has already been subject to public hearing. The Planning Board had reviewed all issues, but had requested the applicant to place a note on the final plat concerning driveway specifications and the requirements that a two percent (2%) backpitch be included for ten feet off the public road. No one was in attendance at the meeting, and the Board delayed consideration of this matter until later in the meeting.

The next item of business on the agenda was the site plan application of Peter Clemente for the operation of a retail sales business and chainsaw wood carving operation at 1237 NY Route 7, proximate to Atlantic Pools and Goyer's Power Equipment. Peter Clemente was in attendance. Mr. Clemente first thanked members of the Planning Board and Mr. Kestner for

being at the site for purposes of taking noise readings while he was operating his chainsaw equipment. The Planning Board requested Mr. Clemente to review his current site plan narrative. Mr. Clemente stated that he is looking to purchase this 2.5 acre commercial property, and operate a retail sales business with on-site wood carving activities. There are no structural changes for any of the buildings located on the site. Mr. Clemente noted that there has been a change in his proposed site operations, due to the revised plans of his two sons. In particular, Mr. Clemente's sons were going to reside at the house on this property, and work at the retail store. Now, his sons will not be living at this site, but rather Mr. Clemente and his wife will move all operations to this Brunswick site from Grafton, so that all activities in connection with his business will be conducted on this site in Brunswick, and no activities will be occurring at his home in Grafton. Therefore, in addition to the retail sales and limited chainsaw wood carvings, Mr. Clemente will require a larger supply of logs, since all of his carvings will be done in Brunswick. Further, issues associated with clean up of scrap wood and sawdust will also be required. Mr. Clemente reviewed his proposed hours of operation, which include 8:00 a.m. to 5:00 p.m. Monday through Friday, and 9:00 a.m. to 12:00 noon on Saturday, with an occasional carving activity on Sunday afternoons during the fall leaf season. Previously, Mr. Clemente explained that all of his large wood carvings were done in Grafton. Now, Mr. Clemente will also require scaffolding at this site in order to carve his large pieces. Mr. Clemente would like to do all wood carvings between the existing building and Route 7. Mr. Clemente will also require the use of a skidder to move large pieces of wood around the property. In addition to the chainsaw operations, Mr. Clemente explained that he needs a compressor to clean the product, and then also a grinder and sander to do more finishing work. Mr. Clemente also stated that he would like to sell landscape rock from this location. Mr. Clemente reiterated his position that the noise

generated from his site operations were comparable to or less than existing vehicle traffic, particularly truck traffic, on Route 7. Mr. Clemente also stated that any exhaust from his chainsaw equipment would dissipate on site, and was less than existing vehicle emissions from Route 7. Mr. Clemente stated that there was an existing knoll and vegetation to the west which separated this site from the adjacent Haslinger property. Mr. Clemente concluded that he wants to be a part of the business community in Brunswick. Member Jabour stated that the Clemente business plan states that he does not want any restrictions on his work hours. Mr. Clemente explained that he would be working within the hours of operation for the business, but that he would not want any restrictions on the time he could carve within these overall business hours. Member Jabour noted for the record that there were other business operations within the Town wherein restrictions were placed on certain activities during the overall business hours, and that this operation may be subject to the same. Member Czornyj noted that he had discussed this with Mr. Clemente while they were on the site to monitor noise. In this regard, Member Czornyj noted that while he and other members of the Board and Mr. Kestner were on the site, Mr. Clemente had carved a 3 foot bear, and had taken a total of 30 – 40 minutes to complete the carving. In general, the Board discussed the amount of time allotted to carving activities, and that carving was not anticipated to occur for several hours at a stretch. Mr. Kestner reviewed with the Board noise readings taken on the site while Mr. Clemente was performing his chainsaw wood carving. The decibel readings are as follows: 92 dB at the carving station; 83 dB at the edge of the existing building on the site; 70 dB at the property line (with truck traffic in the background); less than 60 dB at the rear of the site near the Haslinger property; 73 dB and 75 dB on adjacent properties owned by William Doyle, Esq.; 80 dB at one home on the opposite side of Route 7 (but 90 dB at same location with truck traffic); and 63 dB at another home on the

opposite side of Route 7 (but 68 dB with truck traffic). Mr. Kestner also handed up to the Board general noise information concerning decibel readings from other activities, so that these noise readings can be put into context. Member Jabour stated that the issue was whether this activity would fit into other background existing activities. Member Czornyj noted that when a truck or car was traveling on Route 7, he could not hear the chainsaw operating at these various locations. Mr. Kestner noted that NYSDEC has a noise assessment policy, and that a number of factors are used to assess both quantity and quality of noise impact. Member Czornyj noted that it seemed that the most noise impact was across Route 7, rather than on the same side of the road (*i.e. Haslinger Property*). Mr. Kestner did note that a chunk of wood had rolled down the bank and onto the shoulder of Route 7 while Mr. Clemente was carving, and that this issue would need to be addressed. Also, Mr. Kestner noted that if scaffolding was to be used in connection with larger wood carving pieces, the scaffolding proximity to Route 7 was also an issue of safety to be reviewed by the Board. Further issues reviewed by the Board given the expanded proposed operations of Mr. Clemente include log storage areas and use of a skidder to relocate materials. Member Czornyj stated that all of these exterior activities needed to be depicted on the site plan. Member Wetmiller noted that any action by the Board would need to be conditioned on only one carver operating on this site, and limited to the area shown on the site plan. Mr. Wetmiller raised a concern that while Mr. Clemente may operate in this manner, future potential owners of the business would need to be likewise limited, and therefore the action would need to be appropriately conditioned. This was generally concurred by the Board. Mr. Kestner also handed up to the Board the findings statement associated with the Mayer logging operation further east on Route 7, which also uses chainsaw operations. Following further discussion, the Planning

Board determined that the application was complete for purposes of scheduling a public hearing. A Public Hearing will be held on the site plan application on May 17 at 7:00 p.m.

The next item of business on the Agenda was a waiver of subdivision application by Stillman for property located on Willard Lane off Tamarac Road. Member Czornyj noted that some members of the Planning Board were also on this site to review both this and the Hudson property. Mr. Stillman was in attendance, and explained that he currently has a 6 +/- acre parcel, which he seeks to divide into two lots, including a 4 acre parcel and a 2 acre parcel to transfer to his in-laws to build a house. Mr. Stillman proposes to grant an easement to the 2 acre lot, so that his existing driveway could be used to access the 2 acre lot. Member Czornyj noted that the Board needed to ensure that a separate driveway could be built off Willard Lane to access the new 2 acre lot, and therefore driveway profiles needed to be prepared to ensure future driveway installation. Mr. Kestner stated that the Board requires an applicant to show that a driveway is feasible and can be built along the public road frontage, even if the proposal is to use an existing driveway and easement on another lot. Mr. Kestner stated that the applicant should submit a driveway profile, meeting Town of Brunswick driveway specifications. This information will ensure that the new lot has the required frontage along a public road, plus data showing that a driveway can be built meeting Town specifications. Mr. Kestner also raised a question concerning a proposed driveway location and the existing septic system on the Stillman parcel. Mr. Kestner questioned whether the area depicted as existing septic system included the expansion area, or limited to the existing septic system. Mr. Stillman explained that a surveyor had met with the Rensselaer County Health Department, and that this detail was being added to the map. This matter has been placed on the May 17 Agenda for further discussion, with particular regard to the driveway profile plan and further information on the existing septic area.

Member Czornyj noted that attorney Doyle was present to address the final subdivision for Margaret Jeram. Mr. Doyle explained that the map note had been added to the final plat requiring the 2% backpitch for the first 10 feet of the driveway off the public road. Mr. Doyle also noted that the corrected Agricultural Data Statement had gone out, and that no further comments had been received. The Board generally concurred that all comments on this application had been adequately addressed, that Rensselaer County Health Department approval was already granted, and that all necessary application fees had been paid. Thereupon, 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. Member Esser then made a motion to approve the minor subdivision plat, which motion was seconded by Member Tarbox. The Motion was approved 6-0, and final subdivision approval was granted.

The next item of business on the Agenda was the minor subdivision application submitted by Land Vantage, Inc. for property located on Old Siek Road. Tom Foster of Land Vantage appeared before the Board. Mr. Foster explained that Land Vantage was seeking approval for a three lot minor subdivision for property located on Old Siek Road. Mr. Foster explained that the original parcel was approximately 150 acres, which straddled power lines owned by National Grid. This original 150 acre parcel was divided along the power line, with the original owner retaining approximately 100 acres, and approximately 50 acres being transferred to Land Vantage. Land Vantage now seeks to divide that acreage into 3 lots, approximately 35 +/-, 8 +/-, and 6 +/- acres in size. Mr. Foster explained that following the initial plat submission, minor lot line revisions had been made due to driveway, well, septic, and house locations. All of the proposed lots will have frontage on Old Siek Road. Mr. Foster explained

that all house locations, as well as well and septic locations, are located in the Town of Brunswick, although the lots do extend into the Town of Grafton. Mr. Foster stated that all set back requirements have been complied with. On the issue of groundwater and potable water for each lot, Mr. Foster stated that the engineering services of Harold Berger were retained, and the groundwater testing program has been completed. This was required since this property is located in close proximity to the old Town landfill. Mr. Foster stated that the engineering report prepared by Harold Berger had been sent to the Rensselaer County Health Department for review, that the Health Department generally agreed with the report but is requiring that certain notes be added to the subdivision plat to address the groundwater condition and future testing requirements. Mr. Kestner stated that in July 2006, the test well had been installed at the site, and testing revealed high levels of turbidity, as well as elevated levels of manganese, lead and arsenic. Following further testing, the turbidity, manganese and lead had reduced, but that arsenic levels still needed treatment. Mr. Foster explained that following this initial sampling, electricity had been brought to the well, and that the well had been continuously pumped at low volume (approximately 1 gallon per minute) for four months, and that the well was then retested. Following this continuous pumping, the well met acceptable limits for lead and arsenic, and that after the well had set for approximately one month, the well also met levels for turbidity. Mr. Kestner asked what the status of this data review had been at the Rensselaer County Health Department. Mr. Foster stated that the Health Department generally agreed with Mr. Berger's report, but will require additional map notes be added concerning water quality and future testing requirements. Mr. Kestner asked whether a letter had been received by the Health Department to the affect. Mr. Foster stated that he had not received a letter from the Health Department, but could obtain one if required by the Board. Mr. Kestner recommended that a letter be received

from the Health Department concerning these issues before any action is taken by the Planning Board. The Board then entertained discussions concerning well locations for each lot, and that all structures would be located in Brunswick. The Board then inquired as to the status of the action before the Grafton Planning Board. Mr. Foster stated that the Grafton Planning Board was not moving forward on the application until such time as Brunswick had acted. On this issue, Mr. Kestner reiterated that the Brunswick Planning Board had been designated as SEQRA Lead Agency, and that the Brunswick Planning Board still needed to make a determination of environmental significance. In this regard, Mr. Kestner reiterated that a letter from the Rensselaer County Health Department would be helpful in terms of making the determination under SEQRA. The Planning Board concurred with this approach, and Member Czornyj requested that a letter be obtained from the Rensselaer County Health Department on the groundwater potability issue. This matter will be placed on the May 17 Agenda for further discussion.

The next item of business on the Agenda was the waiver of subdivision application by Hudson for property located off Willard Lane. Richard Hudson was in attendance. Mr. Hudson explained that he owns a 200 acre farm, and that he was seeking to carve off a small piece to transfer to his daughter to build a house. The issue on this application will be the physical extent of Willard Lane, which is a highway by use. Member Czornyj noted that while the application is in its preliminary stage, he did ask Mr. Hudson to come before the Board to generally explain what he was trying to do so that the Board had a general understanding. Member Czornyj noted that Mr. Hudson was having the property surveyed, and that the location of his existing property lines and the limit of the user road would be required before any action could be taken on the application. Mr. Hudson understood, and concurred that he wanted his surveyor to complete this

work so that existing property boundaries were understood. Mr. Hudson did note that the Town had been turning around at the end of Hudson Lane for years in connection with plowing and road maintenance, and was willing to work together with the Town to mark an area where an upgrade to the turnaround could be created. Member Tarbox asked whether the remaining acreage of the existing 200 acre farm had adequate frontage on Carroll's Grove Road. Mr. Kreiger noted that the tax map shows approximately 600 feet of frontage for this parcel on Carroll's Grove Road. Mr. Hudson noted that the frontage exists, but much of it is wet and marshy, and there is also an existing barn structure. Because of this, Mr. Kestner is suggesting that at least 60 feet of road frontage to the remaining Hudson property be established off Willard Lane, while also seeing if there is adequate room to accommodate the frontage required for the new lot. The Board generally discussed that once Mr. Hudson's surveyor has his existing boundaries plotted on a map, the Board would further discuss the application, including lot lines and appropriate turnaround area at the end of Willard Lane. Once the survey information is plotted, Mr. Hudson will contact the Town and the matter will be placed on a future Planning Board Agenda.

The next item of business on the Agenda was the final subdivision plat status on the Highland Creek Planned Development District. Lee Rosen and Ivan Zdrhal appeared. Mr. Rosen gave an update to the Planning Board on the status of the project. Mr. Rosen informed the Board that the homeowner's association documents were being prepared for submission to the Town, as well as all necessary agreements between the applicant and the Town pursuant to the Town Board approval. Mr. Rosen also stated that the petitions and engineering reports to create the water and sewer districts had also been submitted to the Town Board, and that public hearings on the water and sewer district applications were scheduled for May 10. Mr. Rosen

noted that the applicant had received comments from the Rensselaer County Health Department on water and sewer, and those comments were being addressed. Mr. Rosen also stated that full plans had been submitted to the Town Highway Department and Town Water Department for review and comment. Mr. Rosen also explained that a final Phase II archeological report had been completed and submitted to the Office of Parks, Recreation and Historic Preservation, and final comments should be received shortly. Mr. Rosen also stated that the comments of the Center Brunswick Fire Department were being addressed. Mr. Rosen noted that Ivan Zdrhal's office was working closely with Mr. Kestner's office on all engineering detail. Mr. Rosen stated that he hoped all of these final issues would be completed shortly, and the final plat submission would be made shortly to the Planning Board. The Board generally discussed sewer design and disposal issues. Hearing no further questions or comments, this matter has been adjourned pending submission of the final subdivision plat.

While no items of new business were received, Mr. Kreiger circulated drafts of new application forms for Planning Board actions, and solicited comments on those draft forms from the Planning Board members. Mr. Kreiger and Mr. Kestner noted that the engineers for Ginsburg were still working on the final site plan, and that it did appear Ginsburg was making a good faith effort to complete the site plan and submit it to the Town. Mr. Kreiger also noted that letters concerning site plan compliance issues had been sent to Plum Blossom as well as Maj's Auto, and that he was awaiting response from each business.

The meeting was then adjourned.

The index for the May 3, 2007 meeting is as follows:

1. Jeram – minor subdivision – final approval;
2. Clemente – site plan – 5/17/07 (public hearing at 7:00 p.m.);
3. Stillman – waiver of subdivision – 5/17/07;
4. Land Vantage, Inc. – minor subdivision – 5/17/07.
5. Hudson – waiver of subdivision – adjourned without date;
6. Highland Creek Planned Development District subdivision plat – adjourned without date.

The proposed agenda for the May 17, 2007 meeting is as follows::

1. Clemente – site plan – public hearing at 7:00 p.m.;
2. Stillman – waiver of subdivision;
3. Land Vantage, Inc. – minor subdivision;

Planning Board

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD May 17, 2007

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER, JOSEPH JABOUR, KEVIN MAINELLO, 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 Planning Board opened a public hearing with respect to the site plan application of Peter Clemente for property located at 1237 NY Route 7 proximate to Atlantic Pools and Goyers Power Equipment. The Notice of Public Hearing was read into the record. Chairman Oster requested the Applicant to explain his site plan and proposed use of the property. Mr. Clemente reviewed the proposed site plan, which seeks to use the existing structure with no structural changes or additions. Mr. Clemente seeks to operate a retail store and manufacture chainsaw wood carvings and other rustic products for retail sale at that location. When the application was initially filed, Mr. Clemente was going to continue to manufacture most of his chainsaw wood carvings at a location in Grafton, with limited wood carvings in Brunswick and mainly a retail sales operation at this Brunswick location. However, his business plans have now changed, and no manufacturing will be occurring in Grafton, and all of his chainsaw wood carving operations are proposed to be conducted at this Brunswick location. Therefore, the full extent of the proposed site operations include a supply of logs, all chainsaw wood carving operations, plus

clean up of wood scraps and sawdust.. The existing structure will be used for purposes of retail sale of these products, and Mr. Clemente also seeks to sell landscape rock. The proposed hours of operation for the business include 8:00 a.m. to 5:00 p.m. Monday through Friday, 9:00 a.m. to 12:00 p.m. on Saturday, and an occasional Sunday during the fall season. Mr. Clemente explains that for the chainsaw carving operations, one location has been identified on the proposed site plan, which is situated between the existing building and Route 7. In order to carve the larger pieces, Mr. Clemente will on occasion install scaffolding in connection with the wood carving. In addition, Mr. Clemente will operate a skidster/loader to move the larger logs around the property, and store that piece of equipment in the existing garage. Also, Mr. Clemente will use an air compressor as well as a grinder and sander to finish the carved pieces. All locations for these operations are noted on the site plan. Chairman Oster noted for the members of the public that this public hearing will remain open through the June 7, 2007 meeting, primarily due to the fact that the submitted site plan has not yet been stamped by a licensed professional engineer or landscape architect. Chairman Oster then opened the meeting for receipt of public comment. Paul Hassingler, 1217 NY Route 7, stated that he was the adjoining property owner to the west, but would wait until the June 7 meeting to provide any additional comments. Chairman Oster noted that Mr. Hassingler had earlier submitted a letter providing comments concerning noise and fumes, and asked whether Mr. Hassingler had any additional comments. Mr. Hassingler stated that his primary issues were noise and hours of operations, which also was related to the noise impact issue. The Planning Board Members noted that they had visited the site with Mr. Kestner to take noise readings while Mr. Clemente had operated his chainsaw, and asked whether Mr. Hassingler had heard the chainsaw operation during that site testing. Mr. Hassingler noted that he did not hear anything out of the ordinary during the noise testing. Mr.

Hassinger also noted that the Planning Board would need to make sure there was sufficient parking on site, as he did not think it would be safe to have people parking along the shoulder of Route 7. Chairman Oster inquired whether there were any additional public comments. Hearing none, Chairman Oster moved to keep the public hearing open and adjourn the same until the June 7, 2007 meeting.

Chairman Oster then opened the regular business meeting of the Planning Board.

The Planning Board reviewed the minutes of the May 3, 2007 meeting. Chairman Oster noted one typographical correction on Page 3, changing "caving" to "carving". Subject to that typographical correction, Member Czornyj made a motion to approve the minutes, which motion was seconded by Member Tarbox. The motion was approved 7-0, and the minutes approved.

The first item of business on the agenda was the site plan application of Peter Clemente for the chainsaw carving manufacturing and retail sale proposal for 1237 NY Route 7. Chairman Oster noted that the public hearing was to remain open on this application, and further that the Planning Board still needed to make a determination under SEQRA with respect to the project. In this regard, Chairman Oster again focused on the noise issue, and noted that field measurements had been taken and are part of the record being considered by the Planning Board. Further, Chairman Oster noted that the hours of operation for the chainsaw carving also played into the determination of significant adverse noise impacts to surrounding properties. In this regard, the Planning Board determined that the hours of operation for the retail sales on the site should be viewed separately and distinct from the hours of operation for the chainsaw carving manufacturing operations. The Planning Board determined that any hours of operation restrictions would be limited to the chainsaw carving manufacturing operations, without any formal restrictions on the hours for retail sales. With respect to the manufacturing operations,

Chairman Oster noted that Mr. Clemente mentioned the use of an air compressor during his presentation, and inquired as to the noise generated by that piece of equipment. Mr. Clemente stated that he uses only a small 6 gallon air compressor, that he plans to keep the compressor inside his building and simply run the hoses outside. Further, Mr. Clemente stated that he does not use any tools on the air compressor, merely an air gun to clean off the wood during his carving. Also, Mr. Clemente stated that he will be using a 4 inch grinder/sander to do finish work on his carvings, but this piece of equipment is electric and produces little noise. Mr. Kestner noted that he had previously handed out a table of decibel levels of various equipment operations, and that an air compressor was listed for comparison to a chainsaw. Member Jabour noted that use of the chainsaw and air compressor was appropriate for the site, but not starting at 8:00 a.m. Member Jabour inquired whether Mr. Clemente was agreeable to starting his chainsaw use later than 8:00 a.m. Mr. Clemente stated that he would do what he had to do to operate at this location. Member Jabour opined that starting the chainsaw operations at 9:00 a.m. would be satisfactory, and Mr. Clemente agreed. Chairman Oster reiterated that any limitation on the chainsaw manufacturing operations would have no effect on the retail sales on the site, and that Mr. Clemente should be able to operate his retail sales business just like any other business along Route 7. In this regard, Mr. Kestner reminded the Board that it had limited the Forrest Mayer logging operations further east on Route 7 to certain hours in connection with certain activities. Chairman Oster noted that chainsaw operations on the site should only occur between 9:00 a.m. and 4:00 p.m., rather than the extended hours for retail sales of 8:00 a.m. to 5:00 p.m. In this way, Chairman Oster thought that the chainsaw operations would not start until after people generally left the house for work or school, and the chainsaw operations would cease before people came back from work at the end of the day. Member Czornyj agreed with this approach.

Member Esser also noted that there would not be continuous carving during these hours, and that Mr. Clemente would need to do other activities during the day, including attending to customers, moving logs, and general cleanup activities. Mr. Clemente concurred with this thought and told the Planning Board that the typical time for carving an average figure is approximately 45 minutes. Member Mainello wanted to confirm that there would be only one chainsaw operation at this site, and that there would not be multiple carvers operating at one time. Mr. Clemente stated that there would only be one carver operating at this site, and limited to one carving location. Upon further discussion, the Planning Board agreed to a general approach to restricting the hours of chainsaw carving manufacturing operations to 9:00 a.m. to 4:00 p.m. Monday through Friday, 9:00 a.m. to 12:00 p.m. on Saturday, and occasional carvings on Sunday during the fall season. With respect to the Sunday operations, the Planning Board will require Mr. Clemente to coordinate with his neighbors and provide them with notice as to the dates and times Mr. Clemente planned to operate the chainsaw on Sundays. Mr. Clemente stated that he would be willing to work with his neighbors, and wanted to operate the chainsaw during the fall leaf season only. Next, the Planning Board turned to the issue of safety while the carving operations were in process. Mr. Clemente stated that he would be installing nylon netting around the carving location, generally 8 feet tall but would install 12 foot high netting if he were carving a higher piece. Also, for the higher pieces, scaffolding would need to be installed, but that would be installed within the safety netting. Mr. Clemente has located a general 15 foot by 15 foot area for carving, and that the safety netting would be installed and be in place for all carvings to occur on this site. Mr. Clemente noted that his insurance carrier required the safety netting as well. The safety netting generally acts to prevent access by third parties, and also holds in any wood chips or chunks that may be produced during the chainsaw operation. While Member Jabour

noted that worker safety issues should be addressed, the Planning Board stated that its jurisdiction was limited to Planning issues, not the operation of Mr. Clemente's business, and whatever work safety laws and regulations were applicable, Mr. Clemente would need to comply with those. Chairman Oster inquired whether the Planning Board had any questions concerning the proposed location of the various activities on the site plan, including log storage, storage of decorative stone, the chainsaw carving area, parking, and storage of the skidster in the garage. A question was raised concerning the storage of scrap wood and sawdust. Mr. Clemente stated that he might want to burn some of the scrap wood on the site. In this regard, the Planning Board stated that compliance with all Town Code provisions must be met concerning burning on the site. Mr. Hassingler, who was still in attendance, noted that he had some concern regarding smoke from burning wood on this property impacting his property, and stated that he would want to confer with Mr. Clemente as to the best location on that site to burn any scrap wood. Mr. Kestner stated that with respect to the chainsaw carving area, Mr. Clemente should insure that if any scaffolding or log were to fall, that there was sufficient set back from his own property lines so that the material would stay within this site. Mr. Clemente stated that he would review this issue, particularly with the bank slopping down to Route 7 from this site. On this issue, the Planning Board noted that Mr. Clemente should install a solid, level pad for the carving area to reduce any risk that the scaffolding or log would fall. Again, Mr. Clemente stated that he would further review this issue and that it was his preference to install a concrete pad for the wood carving area. Chairman Oster reiterated that the public hearing remains open, and that Mr. Clemente must have his site plan stamped by a licensed professional engineer or landscape architect. This matter is placed on the June 7, 2007 for continuation of the public hearing and further discussion.

The second item of business on the agenda was the waiver of subdivision application by Stillman for property located on Willard Lane. At the request of the Applicant, this matter has been adjourned to the June 7, 2007 meeting.

The next item of business on the agenda was the minor subdivision application by Land Vantage, Inc. for property located on Old Siek Road. At the request of the Applicant, this matter has also been adjourned to the June 7, 2007 meeting. Mr. Kreiger noted that instead of obtaining a letter from the Rensselaer County Health Department concerning water conditions, Tom Foster of Land Vantage, Inc. is trying to get the County to approve the water and septic plans, and therefore took back all of the subdivision plat filings that had been in the Building Department's office. Further, Chairman Oster noted that the Planning Board must pay special attention to the issue of proximity of this property to the Town Landfill in terms of potable water supply. In this regard, Chairman Oster noted that despite what the Rensselaer County Health Department may do, the Brunswick Planning Board is SEQRA Lead Agency, and must make a determination of environmental impact, including groundwater quality and quantity. Further, Mr. Kestner stated that the report prepared by Harold Berger, P.E., as submitted by Tom Foster on this application, states on Page 2 that the findings of the report apply only to the installation of one test well, and that by its terms may not apply to other wells drilled in that location. Upon further discussion, the Planning Board determined that an additional technical report from a licensed hydrogeologist should be required on this application, and that the Berger report was not adequate by itself. Further, the Planning Board discussed appropriate coordination with the Town of Grafton, in that comments from the Town of Grafton concerning sampling protocols and subdivision plat notes must be coordinated. Further, the Planning Board discussed requiring a plat note indicating that

the site was in proximity to the Town Landfill. This matter will be further discussed at the June 7, 2007 meeting.

Four items of new business were discussed.

The first item of new business discussed was a waiver of subdivision application by Young for property located on NY Route 7 on the municipal border with the Town of Pittstown. This is the old farmhouse on Route 7 that is now an apartment house. The property owner now seeks to divide a one acre parcel off the existing parcel, with the new one acre parcel being located primarily in the Town of Brunswick with a small portion located in the Town of Pittstown. This matter must therefore be coordinated with the Town of Pittstown Planning Board. Mr. Kestner also requested additional information concerning the location of the existing water and septic system on the property. This matter will be discussed at the June 7, 2007 meeting.

The next item of new business discussed was the site plan submittal by 831 Hoosick Road, LLC for the property located on NY Route 7 currently housing an antiques business located directly west of Feathers Furniture. The Applicant proposes to sell used cars at this location (B&B Auto Sales, Inc.). The Planning Board inquired whether the antiques shop was still open, and whether two businesses were proposed to be operated on the same site. The Board determined that additional information is required on this application before being placed on an agenda.

The next item of new business discussed was a proposed amendment to the Max BMW site plan to allow a carport to be installed on the Betts Road side of the site. The Planning Board tentatively placed this matter on the June 7, 2007 agenda, pending submittal of additional information one week prior to the meeting.

The last item of business discussed was the Wal-Mart Plaza, with Chairman Oster noting that he had been contacted by Paul Engster concerning two issues. First, the Mexican restaurant was considering adding seating for outdoor dining in front of the restaurant. Also, a farmers market was being proposed by Paul Engelke for the front parking area near the Hollywood Video. Chairman Oster noted that both of these proposals require site plan review. Further, Chairman Oster noted that the Town Board was currently reviewing certain issues associated with the farmers market, and that the Planning Board would coordinate with the Town Board on that issue. This matter has not yet been placed on the Planning Board Agenda and was raised for informational purposes.

Chairman Oster also noted that he had attended the public hearing concerning the proposed Brunswick Meadows Planned Development District which had been held on May 15, 2007. The Applicant will appear at the June 7, 2007 meeting to update the Planning Board on the current status of the project.

The Planning Board also noted that a site plan had not yet been submitted by Ginsberg.

The index for the May 17, 2007 meeting is as follows:

1. Clemente – site plan – 6/7/07;
2. Stillman – waiver of subdivision – 6/7/07;
3. Land Vantage, Inc. – minor subdivision – 6/7/07;
4. Young – waiver of subdivision – 6/7/07;
5. 831 Hoosick Road, LLC - site plan - adjourned without date;
6. Max BMW – site plan – 6/7/07;
7. Wal-Mart Plaza – site plan issues – adjourned without date;
8. Brunswick Associates, LP – Brunswick Meadows PDD – 6/7/07.

The proposed agenda for the June 7, 2007 meeting currently is as follows:

1. Clemente – site plan;
2. Stillman – waiver of subdivision;
3. Land Vantage, Inc. – minor subdivision;
4. Young – waiver of subdivision;
5. Max BMW – site plan;
6. Brunswick Meadows Planned Development District update.

Planning Board

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD June 7, 2007

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

ABSENT was KEVIN MAINELLO.

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

Chairman Oster reopened the public hearing on the Clemente site plan application, which had initially been opened at the May 17 meeting and kept open for receipt of further public comment. Chairman Oster inquired whether there was any one present to submit additional comment concerning this application. Peter Gibson stated that he had previously owned the site for approximately 15 years, and that he had installed a Rensselaer County Health Department approved septic system on the site. Mr. Gibson stated that he had no opposition at all to the application, and that it was very positive that Mr. and Mrs. Clemente seek to live in the house on the property as well as operate the business. Mr. Gibson stated that given the site, it is very hard to subdivide the residence from the commercial building, and to have people who wish to both live in the house and operate the business is a positive for that location. Mr. Gibson also stated that while he does not own property directly adjacent to this site, he does own property in close proximity, and he has no objection at all to any noise. Mr. Gibson opined that Goyer's Power Equipment also operates chainsaws directly across the street, and that the proposed Clemente site

is zoned commercial and this is an appropriate use. Mr. Gibson concluded that he thought this would be a positive improvement to the property and a benefit to the Town. Chairman Oster inquired whether there was any further public comment. Hearing none, Chairman Oster noted that Mr. Clemente had now filed a site plan that had been stamped and signed by a licensed professional engineer, and that the site plan was in compliance with the Town Regulations. Hearing no further public comment, Chairman Oster closed the public hearing on the Clemente site plan.

Chairman Oster then opened the regular business meeting for the Planning Board.

The Board reviewed the draft minutes of the May 17, 2007 meeting. Upon motion of Member Czornyj, seconded by Member Wetmiller, the minutes were approved 6/0 without amendment.

The first item of business on the agenda was the Clemente site plan application for property located at 1237 NY Route 7, proximate to Atlantic Pools and Goyer's Power Equipment. Chairman Oster confirmed that the submitted site plan is now stamped and signed by a professional engineer, and is in compliance with the Town Site Plan Regulations. Chairman Oster also noted that the site plan application had been referred to the Rensselaer County Department of Economic Development and Planning, and that the County had determined that it had no objection to the application, and local consideration shall prevail. The Planning Board reviewed the record on this application, and discussed appropriate conditions on this site plan. After due deliberation, the Planning Board determined that the following conditions shall apply:

1. Hours of operation for chainsaw carving operations shall be limited to the following:
 - o Monday through Friday 9:00 a.m. to 4:00 p.m.;
 - o Saturday 9:00 a.m. to 12:00 noon;
 - o Sunday (September, October, and November only) 12:00 noon to 4:00 p.m.

With respect to carving operations on Sunday during September, October, and November, prior notification to all adjacent property owners of the specific date and times for Sunday carving operations is required.

These hours of operations are applicable only to chainsaw woodcarving operations, and are not applicable to retail operations on the site.

2. Chainsaw carving operations are limited to the carving area depicted on the site plan, and only one chainsaw carver may operate within the carving area at one time.
3. Nylon safety netting must be installed at all times that chainsaw carving operations are occurring. Such nylon safety netting must be a minimum 8 feet high; if scaffolding is installed to carve larger pieces, such nylon safety netting must be installed to prevent any wood pieces from going beyond the limits of the carving area.
4. The location for log storage and decorative stone storage is limited to the areas depicted on the site plan.
5. The skidster used to move items on the site must be stored in the garage when not in use.
6. All scrap wood and sawdust must be stored behind the commercial building in such a manner that it is not visible from NY Route 7.

Following deliberation of such conditions, Member Jabour made a motion to adopt a Negative Declaration under SEQRA subject to the above stated conditions, which motion was seconded by Member Czornyj. The motion was approved 6/0, and a Negative Declaration adopted. With respect to the SEQRA Negative Declaration, it is noted for the record that actual noise readings were obtained at the site to make an informed decision concerning potential noise impacts from the site. Thereupon, Member Czornyj made a motion to approve the site plan application subject to the above stated conditions, which motion was seconded by Member Esser. The motion was approved 6/0, and the site plan approved subject to the above listed conditions. The Planning Board, Building Department, and the Applicant confirmed on the record that these conditions are binding and enforceable in the future, and will govern manufacturing operations on the site with respect to the chainsaw woodcarvings.

The next item of business on the agenda was the waiver of subdivision application by Stillman for property located on Willard Lane off Tamarac Road. Mr. Stillman appeared on the application. Mr. Stillman provided additional information to the Planning Board on the waiver map showing that the proposed driveway for the new lot allowed adequate separation from the existing septic system including the expansion area for the septic system. Mr. Kestner confirmed that the driveway location is now avoiding the existing septic system and 50% expansion area on Lot No. 1. Further, Mr. Kestner confirmed that the driveway for the proposed new residential lot connects directly onto Willard Lane, and that the slope on the proposed driveway is acceptable. With respect to sight distance, it is noted that Willard Lane has a speed limit of 30 mph. The sight distances were reviewed. When turning left out of the proposed driveway, it was noted that the sight distance guidelines require 360 feet, whereas the existing sight distance is 310 feet, but that vegetation removal and/or grading may increase the sight distance in that direction. As a driveway permit will be required from the Town Highway Department when such driveway is sought to be constructed, this issue should be reviewed by the Highway Department at that time. Upon further deliberation, it was determined that a following note should be added to the subdivision plat:

1. The driveway for Lot No. 2 must provide for a 2 % backpitch for 10 feet off the public road.
2. The driveway for Lot No. 2 must meet the Town of Brunswick Private Road Specifications, not to exceed 12% grade.
3. All sight distances for the driveway on Lot No. 2 must meet the standards in NYSDOT Policy and Standards for entrances based on 30 mph speed limit.

Chairman Oster inquired whether there were any further issues concerning the application. Hearing none, 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. Thereupon, Member Jabour made a motion to approve the waiver application subject to the map notes listed above being added to the subdivision plat, and a requirement that three copies of the amended subdivision plat be filed with the Town Building Department within 60 days, and further that the approval is subject to the Rensselaer County Health Department approval for water and septic. Member Czornyj seconded the motion subject to the stated conditions. The motion was approved 6/0, and the waiver application approved subject to the stated conditions.

The next item of business on the agenda was the minor subdivision application by Land Vantage, Inc. for property located on Old Siek Road. Tom Foster of Land Vantage, Inc. appeared on the application, together with Harold Berger, P.E. Mr. Foster generally reviewed the application. The subject property was initially part of a 148 acre piece, which was previously subdivided to create a 48 acre parcel located both within the Town of Brunswick and Town of Grafton, and a 100 acre remainder parcel located in the Town of Grafton. The current three lot minor subdivision application covers the 48 acre parcel. Land Vantage seeks to divide the 48 acres into three lots, Lot 1 being $7 \pm$ acres, Lot 2 being $35 \pm$ acres, and Lot 3 being $5 \pm$ acres. All lots front on Old Siek Road. Lot No. 1 has approximately 114 feet of road frontage. Lot No. 2 has approximately 326 feet of road frontage, and Lot No. 3 has approximately 531 feet of road frontage. Proposed driveway, house, and septic locations have been noted on the lots. All driveways will be at less than 10% grade, and meet New York State Guidelines for sight distance. Mr. Foster noted that the lots are in proximity to the closed, covered Town of Brunswick Landfill on Old Siek Road. With respect to groundwater, Mr. Foster stated that the test well located on Lot No. 2 was drilled to a depth of 640 feet, that the well was extensively

tested to meet potable water standards, and that a report had been prepared by Harold Berger, P.E. concerning groundwater conditions which had also been filed with the Rensselaer County Health Department. Mr. Foster stated that there was a note on the subdivision plat indicating that the groundwater wells must be tested and verified for compliance with potable water standards. Mr. Foster noted that the Rensselaer County Health Department has now approved the water and septic plan for these lots. Chairman Oster noted that the Brunswick Planning Board is serving as SEQRA Lead Agency on this coordinated review with the Town of Grafton Planning Board, and therefore must independently make a determination that there is not the potential for a significant adverse environmental impact from this action, including groundwater impacts. The Planning Board is concerned with the Berger report, which specifically provides that the report is premised on a single well, and that the conclusions in the report may not apply to other wells drilled in this area. The Planning Board has determined that a supplement to the Berger report must be prepared that will address all proposed drinking water wells under this application, and that such supplemental report should be prepared by a hydrogeologist. The Planning Board members were concerned that the drilling of additional wells for this subdivision may cause an influence from the Town of Brunswick Landfill, which is closed and capped but which was operated as unlined landfill. The Planning Board is requiring additional technical information concerning any potential groundwater influence from drilling additional wells with respect to groundwater flow in proximity to the former Town landfill. Mr. Berger responded that he did not think that there was any connection between the test well which was drilled on Lot No. 2 and the former Town landfill. Mr. Berger stated that when the test well was initially drilled and pumped, there was high turbidity, high pH, lead, iron, manganese, and arsenic. However, after extensive and continuous pumping, all drinking water standards were reached with respect to the

test well. Mr. Berger therefore concludes that there was no connection between the test well on Lot No. 2 and the former Town landfill. Mr. Kestner responded that while Mr. Berger has presented this to the Planning Board, his written report does not state those conclusions. The Planning Board is looking for further technical information and written report addressing the potential influence between the wells for each of these lots and the former Town landfill, and whether the drilling of additional drinking water wells could influence the groundwater regime in proximity to the former Town landfill. Mr. Berger concurred that additional technical information from a hydrogeologist does appear to be in order on this record. Chairman Oster wanted to make clear that the Planning Board was not questioning the conclusions of Mr. Berger, but that additional technical information from a hydrogeologist would help to complete the record before the Planning Board on which its SEQRA determination was to be based. Mr. Berger concurred. Mr. Kestner also suggested that the subdivision plat have a note added which indicated the location of the former Town landfill, and the existence of the Berger report. Further, given that an additional hydrogeological report would be prepared, the subdivision plat should also note the existence of that report as well. Chairman Oster inquired whether there were any other outstanding issues on this application other than the groundwater issue. The Planning Board did not have any additional issues on this application, other than confirming the groundwater issue through supplemental hydrogeological information. Attorney Gilchrist reviewed the procedural status of the application. This subdivision application is undergoing a coordinated review between the Brunswick Planning Board and the Grafton Planning Board, with the Brunswick Planning Board serving as SEQRA Lead Agency. The Brunswick Planning Board will contact the Grafton Planning Board to determine whether Grafton was interested in holding a joint public hearing on this application, or whether Grafton sought to hold its own

public hearing on its regular business meeting. This matter has been adjourned without date pending receipt of the supplemental hydrogeologic technical information, at which time the Planning Board will make a determination of application completeness to move the matter forward to public hearing.

The next item of business on the agenda was the waiver of subdivision application by Young for property located on the border of Brunswick and the Town of Pittstown on NY Route 7. This application proposes to divide off a parcel approximately 200' x 200' from an existing 6 acre parcel located on Route 7 near Sterup Square, currently housing the old farmhouse which has been converted into apartments. The Planning Board has not yet received supplemental application material. This matter has been placed on the June 21, 2007 agenda pending receipt of additional application material. This application will need to be coordinated with the Town of Pittstown Planning Board.

The next item of business on the agenda was the site plan application by Max BMW for the location on NY Route 7. The Applicant seeks to build an additional storage area onto the structure, which will be a 3 sided structure to be gated and locked, to provide for additional storage. Mr. Kestner stated that the application raised the issue of drainage, and where the additional runoff from this structure would be directed. Upon further discussion, the Planning Board determined that a re-examination of the stormwater plan for this property will be in order, since this application will be the second addition to the structure. Mr. Kestner thought it appropriate to have a recalculation of the initial stormwater runoff data be performed, to determine whether the onsite stormwater detention areas are adequate for the additional stormwater runoff from the two additions. Member Czornyj also noted that there seems to be a lot of vehicles stored on this site. The Board discussed the fact that it appears many motorcycles

were placed in the parking area in front of the store; which are actually product for sale and not customer parking. Given the two additions to this business, the Planning Board determined that it was appropriate to re-examine the amount of parking at this location, including employee parking, customer parking, and display area for motorcycles for sale. Mr. Kreiger was directed to review these issues with the Applicant. This matter has been placed on the June 21, 2007 agenda for further discussion, pending receipt of the additional information on the application.

Representatives of JPJ Partnership appeared before the Planning Board and presented an overview of the proposed Brunswick Meadows Planned Development District. This application remains pending before the Town Board for determination of the PDD application.

Three items of old business were discussed.

The first item of old business discussed was the waiver of subdivision application by Hudson for property located on Willard Lane. The Town Highway Superintendent has been onsite with Mr. Hudson to determine an appropriate area for a turnaround at the end of Willard Lane, and Mr. Hudson is proposing to transfer property to the Town for the construction of an appropriate turnaround. Mr. Eddy continues to work with Mr. Hudson. This matter is placed on the June 21 agenda for discussion.

The second item of old business discussed was the subdivision application by Provost for property located on Norman Lane. Mr. Kreiger reported that he will schedule an inspection of the residential structures on the Provost property, to complete the outstanding CO issue. At that point, the subdivision application should move forward for further review.

The third item of old business discussed was the site plan of Ginsburg. The Planning Board noted that it had granted several extensions to time frames for the submission of an updated and complete site plan for this property, but that Ginsburg and its engineering consultant

have not made any submissions to the Board. The Planning Board determined that this matter should be referred to the Town Board, to determine what course of action should be taken. The correspondence from the Planning Board to the Town Board will be forwarded in this regard.

One item of new business was discussed.

A site plan application has been submitted by Dr. Drumm for the Troy Veterinary Hospital located at 814 Hoosick Road. Dr. Drumm looks to renovate the existing structure at that location. This matter has been placed on the June 21 agenda for discussion.

Chairman Oster noted that following his discussion with Paul Engster, Esq. concerning the Wal-Mart Plaza issues, including the addition of outdoor seating for the Mexican restaurant as well as the operation of a farmers market in the parking lot located adjacent to Hollywood Video, no further information has been received by the Planning Board. The Board generally discussed the farmer's market concept, and wanted to insure that the Town Board had adequate time to consider appropriate regulations. Member Tarbox noted that Rensselaer County did have standard regulations for operation of farmer's markets, and that farmer's markets did operate in Troy, East Greenbush and Hoosick Falls.

The new store manager for the Brunswick Wal-Mart was in attendance. Wal-Mart is seeking the ability to sell seasonal items in the parking area near the gated garden center, but have a register located on the front sidewalk to the building. After further discussion, it was determined that the new store manager would meet with Mr. Kreiger to review the existing site plan and the findings statement for this facility to determine the extent of approved operations at the site, to reexamine any outstanding issues concerning building compliance and to determine whether an additional site plan would be required for the proposed seasonal item sales.

The index for the June 7, 2007 meeting is as follows:

1. Clémente – site plan – approved with conditions;
2. Stillman – waiver of subdivision – approved with conditions;
3. Land Vantage, Inc. – minor subdivision – adjourned without date;
4. Young – waiver of subdivision – 6/21/07;
5. Max BMW – site plan – 6/21/07;
6. Brunswick Meadows Planned Development District – adjourned without date;
7. Hudson – waiver of subdivision – 6/21/07;
8. Provost – major subdivision – adjourned without date;
9. Ginsburg – site plan – adjourned without date (refer to Town Board);
10. Drumm – site plan – 6/21/07.

The proposed agenda for the June 21, 2007 meeting currently is as follows:

1. Young – waiver of subdivision;
2. Max BMW – site plan;
3. Hudson – waiver of subdivision;
4. Drumm – site plan.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD June 21, 2007

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER, JOSEPH JABOUR, KEVIN MAINELLO, 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 minutes of the June 7, 2007 meeting were reviewed. The minutes were unanimously approved as drafted.

The first item of business on the agenda was the site plan submittal by Ginsburg for the Ginsburg property located on Route 7. Stuart Ginsburg and Steve Rutkey of Earth Tech appeared on the site plan submittal. Mr. Rutkey gave a brief update on the status of the site plan preparation. Mr. Rutkey stated that while the Planning Board had requested a submittal in the nature of an overlay depicting prior approved site plans and current building conditions on the site, such an overlay preparation has proven to be difficult. In the alternative, Mr. Rutkey proposes to submit a complete site plan of the Ginsburg property, including the Harley Davidson shop as well as the additional commercial space and new garage building, and also submit a detailed narrative reviewing those items which were on prior site plans but not included in the current site, and the reasons for such items not being built and/or installed. The Planning Board was generally agreeable to this approach. Mr. Rutkey stated that a full survey has been prepared

for the site, and that his office is currently finalizing the site plan and preparing the narrative. Mr. Rutkey indicated that he had a spreadsheet prepared regarding a series of site plan requirements, and that he was using the spreadsheet to prepare the written narrative. Mr. Rutkey stated that in addition to the correct site plan information including survey information, his office was focusing on improvement to drainage on the site as well as a connection to public water for all potable water purposes on the property. Chairman Oster noted for the record that he had met with Mr. Kreiger as well as Stuart Ginsburg and Steve Rutkey to discuss the status of the site plan preparation and submittal. The Planning Board is now comfortable that the site plan is being addressed, and that a full site plan and narrative submittal will be made shortly. Chairman Oster noted that the issue of a private well and septic on the site was a cause of concern for the Planning Board, but the connection to municipal water will address that concern. Also, Chairman Oster noted that an area should be available on site for installation of a future septic system, in the event the current septic disposal system fails. Also, Chairman Oster noted that the Planning Board would be reviewing stormwater runoff issues as well as parking configuration. Member Esser inquired whether the 2,000 gallon "seepage pit" was depicted on the site plan, and what was the proximity of that seepage pit to existing buildings. Member Esser noted for the record that he was still concerned regarding the disposal system being located under an existing building, and feels that the Rensselaer County Department of Health should still be involved to review the situation. Mr. Kestner noted that he had contacted, both by telephone and in writing, the Rensselaer County Department of Health, and that Mr. Kestner had received no response to his letter inquiry. Stuart Ginsburg noted that he had spoken with the Rensselaer County Department of Health, and was told if the existing system is not failing, the Rensselaer County Department of Health would not perform an inspection of the existing system. Member Czornyj

noted that he was concerned with onsite drainage, particularly in the area of the new garage building. Upon further discussion, Chairman Oster stated that an additional letter should be sent to the Rensselaer County Department of Health, and that the Applicant should finalize the narrative as well as the site plan and submit that to the Planning Board as soon as possible. Chairman Oster confirmed that all building permit and site plan application fees must be paid. Finally, Chairman Oster noted that the Planning Board would correspond with the Town Board upon action on the site plan submittal. Member Jabour inquired whether the Planning Board should act on a site plan if there are current zoning violations on the property. It was noted for the record that the site plan submittal was required by the Town as part of a resolution for code violations, and that the Planning Board should proceed to act upon the site plan submittal. Mr. Kestner stated that he would ensure building code compliance once the Planning Board has acted upon the site plan submittal. This matter has been tentatively scheduled for the July 5 meeting subject to submission of the final site plan and written narrative.

The next item of business on the agenda was the waiver of subdivision application by Young for property located on NY Route 7 on the Brunswick/Pittstown municipal boundary. There was no appearance on the application. This matter has been tentatively scheduled for the July 5 meeting.

The next item of business on the agenda was the site plan application by Max BMW for the addition of a storage enclosure at the current Max BMW site. Max Stratton appeared on the application. Chairman Oster noted that the Planning Board had two primary concerns. First, the Planning Board was concerned whether the onsite detention areas constructed in association with the first site plan approval was adequate to handle the additional stormwater runoff generated from the structural additions and additional parking areas added to the site. Second, the Planning

Board was concerned that customer parking areas on the front of the building were now being used for the display of merchandise, rather than being open and available for customer parking. This in turn raised the question of overall parking capacity on the site. Mr. Kestner confirmed that the detention basins for stormwater management had been sized for the original building, and that there has already been one structural addition to the site and now an application has been made for a second structural addition to the site. Mr. Kestner suggests that an updated stormwater analysis be prepared to ensure that the onsite detention basins are adequately sized for all generated stormwater. Chairman Oster inquired whether this structural extension was proposed for an area that provided for existing parking. Mr. Stratton stated that there was no current parking in the area of the proposed extension. Member Czornyj noted that areas for employee parking were noted on the site plan, but that overall parking availability on the site must be addressed. Member Czornyj noted that it appeared that customer parking areas in the front of the building were being used for motorcycle display areas. Mr. Stratton confirmed that there was, at times, motorcycle display in the front parking area. Member Czornyj stated that overall parking and merchandise storage/display areas was a concern, particularly with respect to emergency vehicle access. Member Jabour concurred in this concern. Chairman Oster suggested that the site plan be amended to designate an area for merchandise/motorcycle display, while also ensuring that there was adequate customer and employee parking on the site, and that traffic flow was not impaired. Mr. Stratton stated that this was a good idea, and the proposed additional storage structure would provide flexibility for the site. Member Wetmiller also noted that the site had more than minimum green space, and that if an additional area for merchandise display or storage was required, existing green space could be utilized and minimum green space

requirements still met. Chairman Oster placed this matter on the July 5 agenda pending receipt of an updated stormwater plan and parking plan for the site.

The next item of business on the agenda was the waiver of subdivision application by Hudson for property located on Willard Lane off Tamarac Road. Mr. Hudson appeared on the application. Mr. Hudson reported that Highway Superintendent Eddy had been onsite with Mr. Hudson as well as members of the Planning Board for purposes of staking out an additional area at the end of Willard Lane for the construction of an adequate turnaround area. Mr. Hudson confirmed that he was prepared to deed property to the Town in order to provide an adequate turnaround area at the end of Willard Lane. Also, Mr. Hudson confirmed that a minimum 60 feet of road frontage was provided for the balance of this property off Willard Lane, in addition to the proposed building lot. The Planning Board generally discussed the turnaround area to be built at the end of Willard Lane. The Planning Board noted that Highway Superintendent Eddy had been in the field, laid out an area for a turnaround, stakes had been placed in the field and the area surveyed in. Chairman Oster stated that there was a map note indicating areas to be conveyed to the Town for highway purposes. Chairman Oster questioned whether this created an additional lot, or created road construction which would not allow the application to be treated as a waiver. Upon further discussion, the Board concluded that the land to be conveyed to the Town was not a building lot, and that the Applicant would not be constructing a new road, but would rather be improving an existing road by extending a turnaround area. The Board felt it was appropriate to continue to consider the application as a waiver, rather than as a minor or major subdivision. Having no further issues in connection with the application, 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. Thereupon, Member Czornyj made a motion to approve the waiver application subject to the following conditions:

1. Rensselaer County Health Department approval.
2. Final comments of Town Highway Department concerning turnaround area at the end of Willard Lane.
3. Payment of all application and review fees.

Member Tarbox seconded the motion with the stated conditions. The motion was approved 7/0, and the waiver approved.

The next item of business on the agenda was the site plan application of Dr. Drumm for the Troy Veterinary building located at 840 Hoosick Road (Route 7). The site plan submittal proposes to extend the existing building by 2,000 ± square feet. There is also a proposed parking plan submitted in connection with the building extension. Mr. Kestner reviewed stormwater compliance issues, and determined that the total area of disturbance was less than one acre, and therefore a full Stormwater Pollution Prevention Plan was not required, but that an Erosion and Sediment Control Plan would be required on the site plan. The Planning Board generally discussed site drainage and stormwater runoff issues. Mr. Kreiger noted that the site plan application had been sent to the Rensselaer County Department of Economic Development and Planning, but a reply had not yet been received. The Planning Board generally discussed whether a public hearing should be required on the site plan. The Planning Board concluded that the public hearing should be held, and scheduled that public hearing for a July 5 meeting at 7:00 p.m.

Chairman Oster reviewed three items of old business.

First, Chairman Oster noted that supplemental application materials had been received from the Applicant on the proposed Hudson Hills PDD. This supplemental information downsized the project to 250 proposed apartment units, and added the construction of two athletic fields on 25 acres to be donated to the Town. Mr. Kestner generally reviewed the revisions to the project proposal, and provided additional maps to the Planning Board members. The Planning Board determined to hold a Workshop Meeting to discuss the project changes, to be held June 25 at 6:00 p.m.

Second, Chairman Oster reviewed the status of the Gallivan commercial property located on Oakwood Avenue. Chairman Oster noted that the Town had sent Mr. Gallivan a letter concerning site plan compliance. Mr. Gallivan had discussed this matter with Chairman Oster, indicating that Gallivan had purchased an additional piece of adjacent property on Oakwood Avenue, and that he was currently working on a site plan for review by Rensselaer County in connection with Empire Development Zone inclusion. Mr. Gallivan told Chairman Oster that he had no problem submitting the site plan to the Town of Brunswick, and acknowledged that his operations had expanded beyond the original site plan approval. Mr. Kreiger will check the zoning district classification for the adjacent parcel acquired by Mr. Gallivan.

Third, Chairman Oster noted that he had been contacted by the Applicant on the Carriage Hill Estates PDD, requesting that the matter be placed on the Planning Board agenda for consideration of the final subdivision plat and site plan. Chairman Oster noted that the matter had been adjourned on the Planning Board Agenda pending resolution of the sewer line issue in the City of Troy, and that such sewer line issue had been resolved. Accordingly, the Planning Board will place this matter on the Agenda for the July 5 meeting. Upon further discussion, it

was also determined that the project would be reviewed at the Workshop Meeting to be held by the Planning Board on June 25.

Mr. Kreiger reported that he had spoken with the owner of Maj's Auto on Route 7, and that he was preparing a site plan for submission to the Planning Board in connection with the recent site activities. Mr. Kreiger also reported for information purposes that a violation letter had been sent to Rensselaer Honda concerning a back parking area and use of the back entrance onto McChesney Avenue, and that a violation letter had been sent to Forrest Meyer concerning the logging operation on Route 7 with respect to hours of operation and days of operation limitations. Member Czornyj also noted that the property should be staked to denote areas where activities are permitted. Mr. Kreiger noted this issue as well.

The **index** for the June 21, 2007 meeting is as follows:

1. Ginsburg – site plan – 7/5/07;
2. Young – waiver of subdivision – 7/5/07;
3. Max BMW – site plan – 7/5/07;
4. Hudson – waiver of subdivision – conditional final approval;
5. Drumm – site plan – 7/5/07 (public hearing at 7:00 p.m.);
6. Hudson Hills PDD – recommendation – 7/5/07 (workshop meeting to be held 6/25/07);
7. Gallivan – site plan – adjourned without date pending submittal;
8. Carriage Hill Estates PDD – final subdivision plat and site plan – 7/5/07 (to be discussed at workshop meeting to be held 6/25/07).

The proposed agenda for the July 5, 2007 meeting is as follows:

1. Drumm – site plan (public hearing at 7:00 p.m.);

2. Ginsburg – site plan;
3. Young – waiver of subdivision;
4. Max BMW – site plan;
5. Carriage Hill Estates PDD – site plan and final subdivision plat;
6. Hudson Hills PDD – recommendation.

AFFIDAVIT OF PUBLICATION

STATE OF NEW YORK,

Rensselaer County,

City of Troy.

ss:

R. Willett of the City of Troy, in the county of Rensselaer and State of New York, being duly sworn, deposes and says that she is the Principal Clerk of the **Troy Publishing Company**, a Corporation duly organized under the laws of the State of New York; that said Corporation is the publisher of **The RECORD**, a daily newspaper printed and published in the City of Troy and County of Rensselaer, and that the notice of which the annexed is a printed copy, has been regularly published in **The RECORD**.

ONCE DAILY for ONE DAY

to wit: on the 28th day of June, 2007

Sworn before me, this

28th day of June, 2007,

Notary Public

DEBRA A. BECK

Notary Public, State of New York

01BE607222

Qualified in Rensselaer County

Commission Expires April 01, 20 10

NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY
GIVEN that a Public Hearing
will be held by the Planning
Board of the Town of
Brunswick at 7:00 p.m. on
Thursday, July 5, 2007, at
the Brunswick Town Hall,
336 Town Office Road,
Brunswick, New York, to
review the site plan
application submitted by Dr.
Drumm for the Troy
Veterinary Hospital located
at 840 Hoosick Road. The
Applicant seeks to renovate
the existing structure at this
location. Copies of the
application documents 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: June 26, 2007
Brunswick, New York T H E
PLANNING BOARD OF
THE TOWN OF
BRUNSWICK By: Russell
Oster, Chairman
730544 6/28

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD July 5, 2007

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER, JOSEPH JABOUR, KEVIN MAINELLO, 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 Planning Board opened the Public Hearing on the site plan application of Dr. Drumm for the Troy Veterinary Hospital located at 840 Hoosick Road. The Notice of Public Hearing was read into the record. Chairman Oster opened the Public Hearing, and requested Dr. Drumm to present an overview of the proposed site plan. Dr. Drumm reviewed the site plan, which seeks to add a 2,200± square foot addition to the existing veterinary building, and add a paved parking area for the addition. The proposed addition is situated on the west side of the existing building. Dr. Drumm stated that an Erosion and Sediment Control Plan has been prepared, and all issues associated with drainage from the site have been addressed. Mr. Kestner confirmed that a stamped site plan had been submitted, but that the site plan had not yet been signed. Mr. Kestner also confirmed that the Erosion and Sediment Control Plan had been submitted, and that drainage issues have been addressed. Mr. Kestner also confirmed that according to Town Code, a total number of 16 parking spaces were required, and that 24 parking spaces were proposed, and therefore adequate parking existed on the site. Chairman Oster then opened the Public Hearing

for receipt of public comment. No persons wished to comment on the site plan. Chairman Oster then closed the Public Hearing.

Chairman Oster then opened the regular business meeting of the Planning Board.

The draft minutes of the June 21, 2007 meeting will be reviewed and addressed at the July 19, 2007 meeting of the Planning Board.

The first item of business on the agenda was the site plan application of Dr. Drumm for the Troy Veterinary Hospital located at 840 Hoosick Road. Chairman Oster inquired whether the Board Members had any further questions or comments on the site plan. Member Esser stated that topographic contour should have been added to the site plan to better assess drainage. Mr. Kestner noted that he had inspected the site, that the site is uniformly flat, and that the proposed drainage plan, including French drains and a swale, are adequate to handle onsite drainage and discharge into the State drainage system along Hoosick Road. Member Esser also inquired into the proposed concrete retaining wall with a 6 foot chain link fence noted on the site plan. Dr. Drumm indicated that this was an area to walk dogs, and that the retaining wall may be required because the dog walking area goes slightly into a hill. Mr. Kestner noted that equipment and test holes were on the site to test the soil conditions, to determine whether the retaining wall would be required or the site could generally be regraded. Member Esser also raised an issue concerning screening around the onsite dumpster. Dr. Drumm indicated that the dumpster currently does not have any screening, and the dumpster would be positioned behind the building with the proposed expansion, but that he would include screening around the dumpster if required by the Planning Board. Chairman Oster noted that there is an area on the site plan noted as "future expansion", and inquired of Dr. Drumm concerning this area. Dr. Drumm stated that he had no plans for any expansion, but wanted adequate area on site for future

expansion if necessary. Dr. Drumm reiterated that there were no current plans to expand beyond the current application for the 2,200± square foot expansion to the west of the building. Member Czornyj noted that the biggest issue for him was onsite drainage. Mr. Kestner confirmed that the onsite drainage issue had been addressed, with a showing that this property had the right to discharge site drainage into the State drainage system on Hoosick Road. Mr. Kestner also noted that since the total area of sight disturbance was less than one acre, a Full Stormwater Pollution Prevention Plan is not required, but that an Erosion and Sediment Control Plan was required, which has been submitted on the application. Chairman Oster inquired of Mr. Kreiger whether a response from the Rensselaer County Department of Economic Development and Planning had been received. Mr. Kreiger stated that the response from the County had been received, indicating that the proposal did not conflict with any County plans and local consideration shall prevail. The County did note that urine-resistant vegetation should be used on the site. Member Mainello inquired whether there were any floor drains in the proposed expansion area. Dr. Drumm indicated that there was a small floor drain near the kennel area, but that no other floor drains are proposed. Member Mainello inquired whether this site was hooked into public sewer. Dr. Drumm and Mr. Kestner confirmed that the site is connected to public sewer. On the issue of screening around the dumpster, Member Tarbox suggested that since the dumpster is located to the rear of the proposed expansion, no screening around the dumpster should be required. The Planning Board Members generally concurred. The Planning Board generally concurred that all issues had been satisfied on the site plan. Thereupon, 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. A signed site plan must be submitted to the Town Building Department;
2. The site plan approval covered only the proposed 2,200± square foot expansion to the west plus associated parking, and did not cover the "future expansion area" noted on the site plan, and that any future expansion of this site would be subject to full site plan review.

The motion was seconded by Member Wetmiller, subject to the stated 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 site plan of Ginsburg for the Ginsburg property located on Route 7. Steven Rutkey of Earth Tech and Stuart Ginsburg were in attendance. Chairman Oster acknowledged the submittal of the revised site plan, and also a multi-page narrative discussing the current site plan and prior site plans which had been submitted to the Town, plus a written request from Earth Tech to the Rensselaer County Department of Health concerning the onsite sewerage system. Chairman Oster requested Mr. Rutkey to review the submission. Mr. Rutkey generally reviewed the current site plan, as well as the written narrative. The written narrative reviews previous site plans that have been submitted to the Town for this location, including site plans dated April, 2001; January, 2004; July, 2006; November, 2006; and the current site plan dated July, 2007. The narrative goes on to review deviations from current site conditions to past site plan actions, including the issues of building layout, parking, water supply, sewerage, lighting, landscaping, and drainage. This narrative submittal is dated July 3, 2007. The Board generally reviewed several issues. First, onsite parking requirements were reviewed. Mr. Rutkey submitted that the Town Code required 50 parking spaces for this site, and that 42 were presently constructed on the site. Mr. Rutkey did note that there were additional asphalt areas on the site that were not delineated as parking spots which have been used for parking. The Board noted that paved areas in the rear of the site have

been used for employee parking. Mr. Kreiger calculated the total number of parking spaces required, and computed 52 total spaces. The Board then generally discussed that the area designated for parking motorcycles had not been included in the 42 parking spaces existing on the site, and that Mr. Ginsburg estimated approximately 30 motorcycles could be parked in the area designated for motorcycle parking. Following discussion, the Planning Board concurred that adequate parking existed on the site for the existing structures and uses, and that no additional parking would be required. The potable water supply issue was discussed, and Mr. Rutkey confirmed that the public water supply along Route 7 would be extended and hooked into the site, so that all potable water for this location would be from the public water supply. The onsite private wells would be discontinued for potable water purposes. The Planning Board noted that the water supply was a significant issue, and extending public water to this location addressed that issue. The Planning Board next discussed the onsite sewerage system. Mr. Kestner noted that he had both telephoned and sent a letter to the Rensselaer County Department of Health concerning the onsite sewerage system, but had not yet received a response from the County Health Department. Mr. Rutkey also sent a letter to the Rensselaer County Health Department on July 3, 2007 requesting comment on the onsite sewerage system. Mr. Kestner noted for the record that he remained concerned regarding the onsite sewerage system, since collection structures were located partially under the buildings, and the concern for methane gas within the structures was present. Member Mainello also noted that he was concerned regarding this system, from the perspective of public health and safety. Both Stuart Ginsburg and Adam Ginsburg (also present) described the location of the system, with the hatch to the system located in a motorcycle storage area, and that the hatch was covered with dirt. Both Stuart Ginsburg and Adam Ginsburg stated that they had never had a problem with fumes or odors, even when the

hatch had been exposed and opened and the system was being pumped out. With respect to the seepage pit, Member Esser stated that seepage pits get pumped out generally if they have a problem, and that he was concerned there was a problem with this seepage pit. Mr. Ginsburg stated that it was pumped out only to determine its size in connection with this site plan submittal. Member Esser asked if a seepage pit was 5 feet from a building, whether wastewater could be migrating under the building. Mr. Kestner stated that this was a possibility. The Planning Board generally discussed their concerns regarding the onsite sewerage system, and to what extent this Planning Board should address that issue since primary jurisdiction is with the Rensselaer County Department Health. Both Attorney Gilchrist and Mr. Kestner concurred that primary jurisdiction regarding the onsite sewerage system is with the Rensselaer County Department of Health, and that the Planning Board should press the County Department of Health to address the issue and provide comments. In the event the County Health Department declines to comment on the existing system, the issue of Planning Board action will be further discussed. A letter will be sent by Mr. Kestner to the County Health Department to reiterate the Planning Board request for comment on the onsite sewerage system. Mr. Rutkey also indicated he would follow up with the Health Department concerning his letter requesting comments as well. Mr. Rutkey reviewed the issue of drainage, and concurred that erosion had resulted from the construction of the 100' x 22' building, and that steps are being taken to address that erosion issue. Chairman Oster noted that the Planning Board Members will review the site plan submittal in detail, and will request comment from the County Health Department concerning the sewerage system. This matter has been placed on the July 19, 2007 agenda for further discussion.

The next item of business on the agenda was the waiver of subdivision application by Young for property located on Route 7 on the Brunswick-Pittstown municipal boundary. Mr. Kestner understands that this waiver application has been withdrawn.

The next item of business on the agenda was the site plan application by Max BMW for the BMW motorcycle dealership located on Hoosick Road. The Applicant continues to prepare the Stormwater Plan and parking plan for this location, and this matter is adjourned without date pending further submittal.

The next item of business on the agenda was the site plan and final subdivision plat on the Carriage Hill Estates Planned Development District. Tim Haskins of United Group, Rich Miller of Saratoga Associates, and Phil Dixon, Esq. appeared on the application. Mr. Haskins stated that the Applicant had resolved the issue of the ownership of the sewer main located in the City of Troy, and that the Brunswick Town Board had approved the creation of the Water and Sewer Districts for the project. Mr. Haskins also stated that the detailed engineering issues on the site plan and subdivision plat had been resolved with the Town, and the Applicant was requesting final approval on the site plan and subdivision plat. Mr. Kestner stated that his office, together with the Town Highway Department, Building Department, and Water and Sewer Department, had held a series of meeting with the Applicant to address engineering and construction details. Mr. Kestner reviewed with the Planning Board a memorandum dated May 31, 2007 from his office concerning engineering issues on the project, as well as a response from the Applicant dated June 26, 2007. Mr. Kestner also discussed a meeting which had been held between Town representatives and the Applicant on July 2, 2007, at which discussion concerning these engineering issues was held. Mr. Kestner reviewed with the Planning Board the following issues:

- United Group will purchase and install an electric winch for each building at Sewer Pump Stations 1 and 2, and also purchase and supply to the Town a portable winch for use in conjunction with Pump Stations 3, 4 and 5.
- The Applicant will purchase and supply to the Town a pressure washer, and also a tapping machine with respect to the sewer forcemain.
- The Applicant will pay to the Town its proportionate share toward the purchase of a by-pass pump in conjunction with the sewerage system.
- All five pump stations on the Carriage Hill project will be housed in a building. Pump Station 1 will be housed in a 12' x 16' building, which will include a toilet and sink, with electric heat hooked to a generator. Pump Stations 2, 3, 4, and 5 will also be housed in a building sized to comply with all applicable building and health and safety codes, and will also be heated and insulated. Final design specifications and size will be included in the building permit applications. Each building for each pump station will be fenced, and include a pole mounted light.
- Each sewer pump station will have a dedicated fire hydrant unless the pump station is located within 150 feet of a street fire hydrant, in which case a dedicated fire hydrant for the pump station will not be required.
- The Applicant will install a "T", valve, and cap at all existing road intersections along Pinewoods Avenue in conjunction with the sewer main installation (these existing road intersections include Fairfield, The Crossings, Cole Lane, Patton Road, Menemsha Lane, Banberry Road, Cranston Road, Langstaff, and Deerfield Drive).
- The Applicant will confirm that all work in conjunction with the sewer main installation is performed within the County public right-of-way.

Attorney Gilchrist then reviewed the prior Planning Board action on the Carriage Hill Estates site plan and subdivision plat. On October 19, 2006, the site plan and subdivision plat were presented by the Applicant. On November 16, 2006, the Eagle Mills Fire Department appeared at the Planning Board meeting to review all issues associated with emergency access, fire flows, as well as turning radius for roads and parking areas. Also at the November 16, 2006 meeting, the issue of adequate parking for the senior apartments was discussed. The issue of necessary parking for the senior apartments was further discussed at the December 7, 2006 meeting. After

revision to the parking plan, the issue of adequate parking for the senior apartments was further discussed at the January 18, 2007 meeting. The Planning Board was satisfied at a total number of 260 parking spaces at the senior apartments and clubhouse, as well as adequate auxiliary parking at the community gardens area, presented an adequate parking plan for the senior apartments and clubhouse. Also at the January 18, 2007 meeting, the Planning Board reviewed the road layout, lot layout, as well as vegetative screening between walking paths and offsite residences. At the February 1, 2007 meeting, the Planning Board addressed the common driveway off Pinewoods Avenue for three residential lots, and determined that such driveway needed to be a minimum of 18 feet wide within a 30 foot right-of-way, and that such driveway would be maintained by the Carriage Hill Estates Homeowners Association. The road layout as well as all lot layout was reviewed, and deemed adequate. On February 1, 2007, the Planning Board had granted preliminary subdivision plat approval on the Carriage Hill Estates subdivision plat. The issue of temporary work in the area of the access road off Pinewoods Avenue was discussed, with the Applicant requesting the ability to commence such work for compliance with Federal Wetlands Nationwide permit status. The issue of the temporary work was again discussed at the February 15, 2007 meeting, as well as the issue of sewer line ownership and maintenance within the City of Troy. On March 1, 2007, the Planning Board determined that the preliminary work in the area of the access road off Pinewoods for Federal Wetlands Nationwide permit compliance was acceptable, and forwarded that matter to the Town Board for consideration. It was noted that the sewerline ownership and maintenance issue within the City of Troy remained pending, and the Planning Board determined that it would take no action on the final site plan or final subdivision plat until such issue was resolved in the City of Troy. The sewer line issue was finally resolved with the City of Troy in June, 2007, and the Applicant has

now requested the Planning Board to act upon the site plan and final subdivision plat. Attorney Gilchrist reminded the Board that SEQRA had been complied with on this action, and that the Town Board as SEQRA Lead Agency, had adopted SEQRA Findings in conjunction with the PDD approval. Following further discussion, Member Esser made a motion to approve the Carriage Hill Estates site plan subject to the following conditions:

1. Final engineering comments.
2. Rensselaer County Department of Health approval for water and septic plan.
3. Execution of all necessary agreements by the Applicant with the Town Board.
4. Filing all necessary performance bonds with the Town.
5. Funding the appropriate engineering inspection escrow.
6. Payment of park and recreation fee.

Member Tarbox seconded the motion subject to the stated conditions. The motion was approved 7/0, and the Carriage Hill Estates site plan was approved subject to the stated conditions. Thereupon, Member Jabour made a motion to approve the Carriage Hill Estates final subdivision plat subject to the following conditions:

1. Final engineering comments.
2. Rensselaer County Department of Health approval for water and septic plan.
3. Execution of all necessary agreements by the Applicant with the Town Board.
4. Filing all necessary performance bonds with the Town.
5. Funding the appropriate engineering inspection escrow.
6. Payment of park and recreation fee.

Member Wetmiller seconded the motion subject to the stated conditions. The motion was approved 7/0, and the Carriage Hill Estates final subdivision plat was approved subject to the

stated conditions. Mr. Haskins then requested the ability to commence tree cutting, clearing, and preliminary grading work while all of the final conditions were being satisfied. After discussion, it was determined that the issue of commencing work was appropriately addressed to the Town Board in conjunction with the PDD approval, but that the Planning Board did note that even with respect to the preliminary work which was done in March, 2007, appropriate financial security and engineering oversight costs had been required. The Planning Board generally concurred that it was not opposed to commencing the work while these final conditions were being satisfied, but that this was a matter for the Town Board to address in conjunction with the PDD approval. Mr. Haskins thanked the Planning Board for their time in conjunction with the extensive review of the site plan and subdivision plat, and looks forward to the build-out of the project.

The next item of business on the agenda was a discussion of a recommendation on the proposed Hudson Hills Planned Development District. The Planning Board reviewed a draft recommendation, and made several comments thereon. This matter will be further discussed at the July 19, 2007 meeting. It was noted that the Town Board is holding a Public Hearing on the Hudson Hills project on July 12, 2007 at 6:00 p.m. and that the Planning Board Members may attend for further information.

Two items of new business were discussed.

The first item of new business discussed was a waiver of subdivision application by Wayne Howe for property located on Sweetmilk Creek Road. Mr. Howe seeks to divide off a .57± acre parcel from an existing 4.66± acre parcel. Mr. Kreiger will review the area and bulk requirements for the applicable zoning district. This matter has been placed on the July 19 agenda for further discussion.

The next item of new business discussed was the final subdivision plat submittal by Landmark Development Group for the Highland Creek Planned Development District. Lee Rosen appeared on the matter. Mr. Rosen reviewed that the Planning Board had issued preliminary subdivision approval for this site on February 15, 2007 following a Public Hearing. Mr. Rosen had appeared before the Planning Board in May to provide a project update, principally discussing resolution of outstanding engineering issues on the final plat. Mr. Rosen reports that the engineering issues have now been resolved, and that the final plat has now been submitted for consideration by the Planning Board. Mr. Kestner confirmed that he had been working with the Applicant's engineers on final plat issues. Member Esser noted that he thought a landscaping plan should be submitted on the application, with particular regard to the entrance road area as well as the stormwater detention basins. Also, typical landscaping for the typical residential lot should be submitted for review by the Board. Mr. Rosen stated that this information would be put together and submitted to the Planning Board. This matter has been placed on the July 19 agenda for further discussion.

The **index** for the July 5, 2007 meeting is as follows:

1. Drumm – site plan – approved with conditions;
2. Ginsburg – site plan – 7/19/07;
3. Young – waiver of subdivision – withdrawn;
4. Max BMW – site plan – adjourned without date;
5. Carriage Hill Estates – site plan and final subdivision plat – approved with conditions;
6. Hudson Hills Planned Development District – recommendation – 7/19/07;
7. Howe – waiver of subdivision – 7/19/07;

8. Highland Creek Planned Development District – final subdivision plat – 7/19/07.

The proposed agenda for the July 19, 2007 meeting is as follows:

1. Ginsburg – site plan;
2. Howe – waiver of subdivision;
3. Highland Creek Planned Development District – final subdivision plat;
4. Hudson Hills Planned Development District – recommendation.

Planning Board

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD July 19, 2007

PRESENT were **CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, JOSEPH JABOUR, KEVIN MAINELLO, 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 Planning Board members reviewed the draft minutes of the June 21, 2007 meeting. Upon motion of Member Jabour, seconded by Member Czornyj, the minutes were approved 6/0 as written.

The Planning Board members then reviewed the draft minutes of July 5, 2007 meeting. Upon motion of Member Czornyj, seconded by Member Tarbox, the minutes were approved 6/0 as written.

The first item of business on the agenda was the site plan review of the Ginsburg property located on Route 7. Stuart Ginsburg was in attendance. Mr. Ginsburg explained that his engineer was still awaiting a response from the Rensselaer County Department of Health concerning the onsite sewerage issues. Mr. Ginsburg did confirm that his engineers had submitted a letter to the Rensselaer County Health Department concerning the sewerage system. Mr. Kestner stated that he had spoken with the Rensselaer County Health Department (Chuck Defazio and Rich Kempter), and informed the Planning Board that the Health Department would

be issuing a letter concerning the onsite sewerage system no later than Friday, July 27, 2007. Mr. Kestner reported that the Health Department's initial comments were that they did not like the fact that part of the sewerage system was underneath the building, and had concerns regarding the drywell. The Health Department did indicate that their comments would be set forth in a letter. Mr. Kestner thought that the Health Department would be requiring a full report on the sewerage system. Mr. Ginsburg stated that as soon as that letter was received, his engineers would put together the necessary information to submit to the Health Department and the Planning Board. Chairman Oster inquired whether the Town could continue to review the site plan for purposes of Building Permit compliance and Building Department inspections of the onsite structures. Mr. Kreiger noted that he could move forward and do the onsite inspections of the structures for which prior building permits had not been issued. Mr. Kreiger will coordinate with Mr. Ginsburg concerning this. This matter has been placed on the August 2nd agenda for update.

The next item of business on the agenda was the waiver of subdivision application by Howe for property located on Sweetmilk Creek Road. There was no appearance by the Applicant. This matter has been adjourned without date.

The next item of business on the agenda was the Highland Creek Planned Development District final subdivision plat. Appearing on behalf of the Applicant were Lee Rosen, Robert Marini and Ivan Zdrahal. The Planning Board noted that the Applicant had submitted landscaping plans concerning the streetscape, entrance sign, pump station, and typical landscaping plan for residences. Chairman Oster inquired whether there were any landscaping plan for the detention ponds. Mr. Kestner stated that he had spoken with the Applicant, and the Applicant had concerns with screening the detention ponds with vegetation. These concerns

include safety, in the event a child fell into a detention pond and was not able to be seen due to vegetation; vegetative screening would inhibit the ability to access the detention ponds with equipment for necessary maintenance in the future; and detention ponds naturally vegetate with wetland species which promote wetland biology and wildlife. Chairman Oster noted that the Planning Board had not required other developers to screen detention ponds with vegetation, citing several other projects at which detention ponds have been constructed without any required vegetative screening. Member Wetmiller asked whether the detention ponds would be maintained by the Highland Creek Homeowners Association. Mr. Kestner and the Applicant confirmed that the Homeowners Association is required to maintain the detention ponds, and the Town would be granted an easement for access only. Upon further discussion, it was determined that vegetative screening of the detention ponds would not be required, and that natural landscaping and wetland vegetation is appropriate. The Applicant then reviewed the landscaping plans concerning the streetscape, entrance area, pump station, and vegetation for typical residences. Member Mainello inquired whether there would be street lights installed along the subdivision streets. The Applicant stated that street lights would be installed. Mr. Kestner confirmed that street lights would be installed, but that the Town would not be taking future ownership or maintenance responsibilities, but that the street lights would be maintained by the Highland Creek Homeowners Association. Member Mainello inquired whether there would be stop signs installed along the roads. Mr. Kestner stated that there would be standard street signage within the subdivision roads. Member Jabour inquired whether the Homeowners Association documents set forth limits or provide guidelines for future landscaping for the individual residences. The Applicant stated that there are guidelines that are binding on each residential lot set forth in the Homeowner Association documents. In addition, the Applicant

explained that any structural additions proposed for any of the homes will require architectural review by the Homeowners Association. The Applicant also stated that the street trees proposed for the streetscape would be on Homeowner Association land, and maintained by the Homeowners Association in the future. Member Mainello inquired as to any vegetative plan within the cul-de-sacs. The Applicant stated that the interior of the cul-de-sac would be planted with grass and vegetation, and that these areas would be maintained by the Highland Creek Homeowners Association. Upon further discussion, it was determined that the landscaping plans were acceptable. Chairman Oster inquired as to additional conditions set forth in the SEQRA Findings Statement, including the necessary agreements to be executed between the Town and the Applicant. This project will require a Bonding Security Agreement for Roads, Water and Sewer Infrastructure, Road Maintenance Agreement, and Declaration of Easement; Stormwater Management Facilities Agreement; and Conservation Easement, together with Restrictive Covenants set forth in the Homeowners Association documents. These agreements continue to be prepared by the Town with respect to the Highland Creek project. It was noted that the water and sewer districts were approved and created by the Town Board for the Highland Creek project, and that the water and sewer plans had been reviewed by Kestner Engineering and the Town Water and Sewer Department and found acceptable. The Applicant has submitted the water and sewer plans to the Rensselaer County Department of Health for review. Mr. Kestner noted that he had comments concerning the pump station, which were being addressed by the Applicant. Chairman Oster inquired as to the status of the Homeowner Association documents. The Applicant explained that these documents had been drafted and submitted to Town counsel for review in accordance with the SEQRA Findings Statement, but will not be submitted to the Attorney General's Office for review until final approval by the Town. Upon further discussion,

it was determined that the final subdivision plat and landscaping plans are in approvable form. The Planning Board determined to defer action on the final plat until the August 2, 2007 meeting for review of necessary conditions. This matter has been placed on the August 2 agenda for further discussion.

The next item of business on the agenda was the Planning Board recommendation on the proposed Hudson Hills Planned Development District. Chairman Oster stated that the Town Board had held an additional public hearing on this project on July 12, 2007, and that he had attended that public hearing. Chairman Oster reviewed his notes concerning comments raised at the public hearing, which included comments on the athletic fields, school enrollment and tax issues, traffic issues, and the public concern regarding detailed information on the construction and use of the athletic fields. William Hoblock of Capital District Properties, the Applicant on this project, was in attendance. Mr. Hoblock stated that the Zoning Board of Appeals had made its positive recommendation on this PDD application at its meeting held July 16, 2007. Chairman Oster also noted that he was in receipt of a letter from Richard Hart, 192 North Lake Avenue, dated July 12, 2007 concerning the Hudson Hills project. The Planning Board reviewed its proposed recommendation. Concerning the proposed athletic fields, it was confirmed that there were no lights planned for the athletic field, but that the Town Board should take a hard look at the construction and use of the fields, including the use of any public address system. Member Czornyj raised an issue concerning the access road to the athletic fields. Mr. Hoblock confirmed that the access road is proposed to be temporary in nature, particularly due to the fact that there are no development plans proposed for the 40 acre parcel over which the access road will be built. Mr. Kestner stated that with a temporary road, access would be provided to the athletic fields without locating and constructing a final road given that there are no development

plans for the 40 acre parcel. Further, Mr. Kestner stated that it made sense to locate the access road along a property line so as to not interfere with or limit use of the 40 acre retained parcel. Mr. Kestner understood that the temporary road would be graded and have a crusher run/gravel surface. Member Wetmiller thought that a temporary road would turn into a road that would be used for several years, and was concerned that a gravel road would generate dust. Member Czornyj was also concerned that a temporary road in its currently proposed location would impact residents on Wilrose Lane. Upon further discussion, it was determined that the access road location and construction should be subject to Planning Board review during site plan review in the event the Town Board approved the PDD. Member Mainello inquired whether the fire departments should be contacted regarding emergency access issues from Lord Avenue. The Planning Board determined that coordination with the applicable fire departments (Center Brunswick and Brunswick No. 1) should be required in the event the Town Board approved the PDD, and that such coordination would occur during site plan review. Mr. Kestner generally reviewed the proposed upgrades to Betts Road, both in terms of width and construction. Member Oster inquired about certain maintenance issues on Betts Road, including snowplowing. Member Jabour also inquired concerning any upgrades to the Betts Road Route 7 intersection. These issues were generally discussed by the Planning Board. Thereupon, the Planning Board made a final review of its proposed written recommendation. Upon motion of Member Czornyj, seconded by Member Tarbox, a Planning Board recommendation on the Hudson Hills PDD application was approved 6/0. The written recommendation will be forwarded to the Town Board for review and consideration in connection with the PDD application.

Two items of old business were discussed.

First, Mr. Kreiger informed the Board that Jeffrey Brooks had contacted him concerning the proposed Dusenberry Lane subdivision, informing Mr. Kreiger that a permit had been obtained from the Army Corps of Engineers concerning Federal Wetland issues on the property. Mr. Brooks is requesting that the application be placed on the Planning Board agenda to continue the subdivision review. The Planning Board members and Mr. Kestner stated that this project has gone through several revisions, and the Board must insure that it has the correct subdivision map for review, and that such map is consistent with the map reviewed by the Army Corps of Engineers in connection with its Federal Permit. It was determined that this matter will be placed on the August 2 agenda for discussion, if the appropriate maps are submitted to the Town one week before such meeting.

Mr. Kreiger also noted that the Town has received a hydrogeologic report from Land Vantage, Inc. concerning its proposed subdivision on Old Siek Road. The Board wanted to make sure that the Town of Grafton Planning Board was in receipt of the hydrogeologic report, since this project is being coordinated with the Grafton Planning Board. This matter has been placed on the August 16 agenda for further discussion.

One item of new business was discussed.

Mr. Kreiger stated that there is an application pending before the Zoning Board of Appeals for a telephone co-location on the WNYT tower located on Bald Mountain Road. The Applicant is requesting to come into the Planning Board at its August 16 meeting to present the project for information purposes only, since the application is still pending before the ZBA. The Planning Board agreed to allow the Applicant to come into the August 16 meeting for presentation of its project for informational purposes only.

Mr. Kestner and the Planning Board members generally discussed a proposal by Paul Engster for the Brunswick Plaza, particularly with respect to the Panchos Restaurant. Mr. Kestner understands that Mr. Engster is proposing to widen the sidewalk in front of the Panchos Restaurant to provide an outside seating area, but that the proposal would impact the travel lane in front of that portion of the plaza. No particular application has been made either to the Planning Board or Town Board concerning this use, but that this was generally discussed for informational purposes and that an application may be submitted in the future.

The index for the July 19, 2007 Planning Board meeting is as follows:

1. Ginsburg – site plan – 8/2/07;
2. Howe – waiver of subdivision – adjourned without date;
3. Highland Creek Planned Development District – final subdivision plat – 8/2/07;
4. Hudson Hills Planned Development District – recommendation – adopted and forward to Town Board;
5. Brooks Heritage LLC – Dusenberry major subdivision – 8/2/07;
6. Land Vantage Inc. – major subdivision – 8/16/07;
7. WNYT tower co-location – site plan – 8/16/07 (informational purposes only).

The proposed agenda for the August 2, 2007 meeting is as follows:

1. Ginsburg – site plan;
2. Highland Creek Planned Development District – final subdivision plat;
3. Brooks Heritage LLC – major subdivision.

**TOWN OF BRUNSWICK PLANNING BOARD
REGULAR MEETING**

July 19, 2007

**RESOLUTION ADOPTING RECOMMENDATION ON THE
HUDSON HILLS APARTMENTS PDD APPLICATION**

WHEREAS, the Town Board of the Town of Brunswick ("Town Board") has received an application by Capital District Properties ("Applicant") for a Planned Development District ("PDD") called Hudson Hills Apartments; and

WHEREAS, the Hudson Hills Apartments PDD as originally presented proposed an apartment complex located on 216± acres consisting of 1,116 total units, on property bounded by Route 7 to the South, North Lake Avenue to the North, and Lord Avenue to the West; and

WHEREAS, the Town Board, acting as Lead Agency pursuant to the State Environmental Quality Review Act ("SEQRA"), required the preparation of an Environmental Impact Statement ("EIS") for the Hudson Hills Apartments PDD application; and

WHEREAS, the Applicant prepared a Draft EIS for the Hudson Hills Apartments PDD, and the Town Board accepted the Draft EIS as complete; and

WHEREAS, the Town Board held a public hearing on the Hudson Hills Apartments PDD application and Draft EIS; and

WHEREAS, the Applicant revised its application to reduce the total number of proposed apartment units to 668 on the same 216± acres; and

WHEREAS, the Town Board continued said public hearing to receive comments and review the 668 apartment unit PDD proposal; and

WHEREAS, the Applicant prepared a Final EIS with respect to the 668 apartment unit PDD proposal; and

WHEREAS, the Town Board reviewed and accepted the Final EIS as complete, but raised concern over the overall size of the PDD proposal and the need to demonstrate a public benefit; and

WHEREAS, the Applicant thereafter further revised the PDD proposal to reduce the total number of proposed apartment units to 250; and

WHEREAS, the Applicant also added two athletic fields to be constructed by the Applicant on 25± acres and, following completion, said 25± acres and athletic fields will be donated and transferred to the Town of Brunswick (the 250 units and athletic field proposal is described by the Applicant as the "Smaller Plan"); and

WHEREAS, the Applicant filed additional information and mapping concerning the Smaller Plan to the Town Board, which reviewed the same and held a public hearing thereon; and

WHEREAS, the Town Board has referred the Hudson Hills Apartments PDD application to the Town of Brunswick Planning Board ("Planning Board") for its review and recommendation; and

WHEREAS, the Applicant has appeared before the Planning Board to review the PDD application, EIS documents, and information concerning the Smaller Plan; and

WHEREAS, the Planning Board members received and reviewed the PDD application, EIS documents, and information concerning the Smaller Plan; and

WHEREAS, the Planning Board members have discussed the PDD application, and have duly deliberated thereon;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Town of Brunswick as follows:

1. The Planning Board adopts the following recommendations on the Hudson Hills Apartments PDD application:

- a. The Planning Board generally views the proposed land use as generally acceptable. The Planning Board notes that apartments are already built and exist on adjacent property. Further, the visual impact assessment performed on the application shows that the apartment buildings will not be seen from the Route 7 corridor or Betts Road entranceway, nor from the Town Beach on North Lake Avenue. Under the 668 unit proposal, a total of 216± acres was included in the PDD, and a density ratio of approximately 3 units per acre resulted. The revision to reduce the total number of units to 250 also reduced the total area included in the PDD to approximately 77± acres. However, this maintains the density ratio to approximately 3 units per acre. The Planning Board finds this density ratio to be acceptable on this application.
- b. The Planning Board considers the one access road into the project site over Betts Road to raise two issues on which the Town Board should focus. First, the limited width of the public right-of-way over Betts Road does not appear to leave adequate area for actual road construction upgrades without impact to private property. The Planning Board notes that regulated wetlands exist in areas along the length of Betts Road, potentially limiting the area that construction vehicles can operate. Second, the Planning Board is concerned that only one primary access road is planned for all traffic entering and leaving the proposed apartment complex, with the secondary road onto Lord Avenue being for emergency purposes only. The Planning Board is concerned that tenants of the units in close proximity to Lord Avenue will seek to use Lord Avenue as an entranceway. The Applicant has stated that the Lord Avenue entrance is for emergency purposes only, and that the entranceway will be gated. The Town Board should ensure that the Lord Avenue entrance is limited to emergency access only, through an effective and enforceable limitation and condition. The Town Board should coordinate with all emergency service providers on an appropriate gate or other emergency access system. Also, the Town Board should consider the location of the emergency access gate off Lord Avenue, to discourage use of that part of the emergency road between the gate and turn off Lord Avenue by non-emergency vehicles.
- c. Copies of site plan shall be provided by the Applicant to Fire District 1 and Center Brunswick for review, examination and comment concerning coordination and provision of emergency services.
- d. On the 668 unit proposal, the Planning Board had concern regarding the utility installation plan, specifically locating the water and sewer lines within the Betts Road right-of-way. However, in connection with the Smaller Plan, the Applicant has acquired rights to obtain additional property and widen the public right-of-way. This allows all utilities to be constructed outside the paved travel lanes on Betts Road. The Planning Board views this as a positive improvement.

- e. The Planning Board is concerned with drainage from the project site down to properties located in the Lord Avenue area. The topography in this area is significant, and drainage off of this land is already a concern for property owners in the Lord Avenue area. The Planning Board is concerned that construction of the apartment buildings and other impervious surfaces will increase drainage and runoff onto these properties. The Planning Board acknowledges that the Applicant has prepared a Stormwater Pollution Prevention Plan (SWPPP), but notes that detailed engineering inspections during construction must be achieved to ensure compliance.
- f. With respect to the utility plan, the Planning Board encourages the Town Board to require extension of the water line to the boundary line of the 25± acre parcel on which the athletic fields are proposed, in the proximity of Woodhill Lane. The Applicant should be required to bring the water line to this location for potential further connection to North Lake Avenue via Woodhill Lane. With respect to the sewer plan, this Applicant should be required to contribute its proportionate share of Town Sewer Pump Station upgrades, consistent with other PDD projects in the Town.
- g. While the Applicant has stated the apartments are designed for "young professionals" and "empty nesters", the Planning Board is concerned that this target market may not continue over the long term, and that "empty nesters" are also the target market for other PDD projects pending in the Town of Brunswick. The Planning Board thus finds the reduction of proposed units to 250 to be a positive improvement.
- h. The parking plan for this project must be adequate to meet not only the residents of the apartment complex itself, but also anticipated guests. The Planning Board is prepared to consider parking requirements during site plan review if the Planned Development District is approved by the Town Board.
- i. Sidewalks and walking trails should be encouraged to provide greater pedestrian movement throughout the project site, including the use of the greenspace for this purpose.
- j. The proposed green, open space on the project site must be preserved by the Applicant, and appropriate restrictions and a conservation easement should be required by the Town Board. On this issue, the Planning Board acknowledges that the area of the PDD has been reduced to 77± acres. However, the open greenspace on this 77± acres should be subject to the conservation easement requirement. As stated above, walking trails should be encouraged in this greenspace. The walking trails must be maintained by the Applicant and/or its successors, not the Town.

- k. The Planning Board acknowledges that the Applicant already owns the property on which the apartments are proposed (77± acres) and the athletic fields are proposed (25± acres). These parcels are not contiguous. A 40± acre parcel is located between these lands, and over which the Applicant has an option to purchase. The access road to the athletic fields traverses this 40± acre parcel, and the Applicant has stated it must and it will purchase the 40± acre parcel if the PDD is approved. The Town Board should ensure that this PDD cannot be amended in the future to permit additional apartment units on this 40± acre parcel. The Town Board should require that an enforceable deed restriction be placed in the deed for this 40± acre parcel that no multi-family, non-owner occupied units may be constructed on that property.
- l. The Planning Board views the addition of the athletic fields as a positive addition to the project, and provides a public benefit. The Town Board is urged to closely examine the issues of safety and security involving the development, construction and use of the athletic fields. The location and construction of the temporary access road to the athletic fields shall be reviewed by the Planning Board during the site plan review process.
- m. The Planning Board notes that under the 668 unit proposal, both the Brittonkill Central School District and Lansingburgh School District had portions of this project within their boundaries. The Smaller Plan is entirely within the Brittonkill Central School District. This will reduce the number of school buses on Betts Road, and is viewed as a positive improvement.
- n. The Planning Board encourages the Town Board to closely examine the real property tax and school tax implications of single family detached homes versus apartment use of the project site. Given the style of construction and target market, close scrutiny of tax assessment shall be made.
- o. The Planning Board identifies that the project will result in a significant change in land use and traffic use of Betts Road, and encourages the Town Board to closely examine those issues in connection with impacts to existing residences on Betts Road and Wilrose Lane.
- p. The 40± acre parcel that the Applicant will acquire if the Planned Development District is approved is currently in agricultural use. The Town Board should encourage the continued agricultural use of such parcel prior to any proposed development to another use.

The foregoing Resolution, offered by Member Czornyj and seconded by Member Tarbox was duly put to a roll call vote as follows:

| | | |
|------------------|--------|---------------|
| CHAIRMAN OSTER | VOTING | <u>Aye</u> |
| MEMBER CZORNYJ | VOTING | <u>Aye</u> |
| MEMBER ESSER | VOTING | <u>Absent</u> |
| MEMBER JABOUR | VOTING | <u>Aye</u> |
| MEMBER TARBOX | VOTING | <u>Aye</u> |
| MEMBER WETMILLER | VOTING | <u>Aye</u> |
| MEMBER MAINELLO | VOTING | <u>Aye</u> |

The foregoing Resolution was/~~was not~~ thereupon declared duly adopted.

July 19, 2007

Planning Board

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD August 2, 2007

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

ABSENT were CHAIRMAN OSTER and JOSEPH JABOUR.

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

The Planning Board members reviewed the draft minutes of the July 19, 2007 meeting. Upon motion of Member Wetmiller, seconded by Member Mainello, the minutes were approved as written.

The first item of business on the agenda was the site plan application of Stuart Ginsburg for the Harley Davidson Shop site on Route 7. Mr. Ginsburg confirmed receipt of a letter from the Rensselaer County Department of Health dated July 24, 2007 concerning the onsite septic system. In general, the Rensselaer County Department of Health is requiring a complete engineering report on the system. Mr. Ginsburg had explained that he had retained Harold Berger, P.E. to address the letter of the Health Department, and that Mr. Berger had already met with Rich Kempter on the site. Mr. Berger will coordinate with Mr. Kreiger and Mr. Kestner on the preparation and submission of the report concerning the onsite septic system. The Planning Board inquired whether Mr. Kreiger had the opportunity to inspect the structures on site. Mr. Kreiger reported that he had performed his inspections of the onsite structures. Mr. Ginsburg

inquired whether there were any outstanding issues on the site plan, and whether the site plan could be acted upon subject to the Health Department issues. Member Mainello inquired whether the parking layout was adequate. Mr. Kestner stated that the parking plan had been reviewed and was deemed acceptable. Member Mainello asked whether the stormwater compliance issues had been resolved. Mr. Kestner and Mr. Ginsburg confirmed that there was one stormwater runoff issue that was still being addressed by Earth Tech. Further, the Planning Board discussed whether a public hearing should be held on the site plan. Mr. Kestner noted that a public hearing had been held on the prior site plan, but at that time there were different tenants including a waste hauler and commercial tire service, which had raised issues concerning trucks leaving the site at early hours and screening issues. Mr. Kreiger reported that he had received no complaints concerning the current tenants located at the Harley Davidson site. Upon further discussion, the Planning Board determined that a public hearing will be held on the site plan to afford surrounding property owners the opportunity to comment. A public hearing was scheduled for August 16, 2007 at 7:00 p.m. Accordingly, this matter is scheduled for the August 16 meeting for public hearing as well as continued discussion of the site plan.

The next item of business on the agenda was the Highland Creek Planned Development District final subdivision plat. Lee Rosen was in attendance on behalf of the Applicant. Mr. Rosen reviewed the fact that the final subdivision plat as well as the landscaping plan had been reviewed at the July 19 meeting, and that the Planning Board had determined that they were satisfactory and in compliance with the Subdivision Regulations. Mr. Rosen also generally reviewed a proposed phasing plan for construction build-out. Mr. Kestner informed the Board that he had met with and discussed the phasing plan with Highway Superintendent Eddy and Dan Dougherty of the Highway Department, for purposes of discussing the phasing plan, and whether

the phasing of the road construction presented any issues. Mr. Kestner confirmed that each proposed construction phase either had a temporary turn around or looped street or T-intersection, which would allow functional independence of the phased road system as well as providing adequate area for snowplowing and maintenance. Mr. Kestner also confirmed that he had reviewed the phasing plan, and determined that each phase did provide functional independence for highway, water, sewer, and drainage issues. Member Mainello inquired whether the roads would be dedicated at the time of the binder installation or final top course installation. Mr. Kestner stated that such issue was currently being reviewed by the Town Board. Attorney Gilchrist reviewed the status of the Highland Creek PDD, including that SEQRA compliance had been completed by the Town Board in connection with the PDD approval, and that the Planning Board had conducted its own public hearing concerning the subdivision plat, and that the Planning Board had previously granted preliminary subdivision plat approval on February 15, 2007. The Planning Board has considered and reviewed the final plat submission, the landscaping plan, and the construction phasing plan. Mr. Kestner confirmed that he had reviewed the subdivision plat and phasing plan, and deems them to be satisfactory and in compliance with the Town Subdivision Regulations. Thereupon, Attorney Gilchrist and Mr. Kestner reviewed proposed conditions to be attached to final plat approval with the Planning Board members. Upon further discussion, Member Wetmiller made a motion to approve the Highland Creek PDD final subdivision plat, subject to the following conditions:

1. Compliance with all final engineering comments.
2. Rensselaer County Department of Health approval for water and sewer plan.
3. Execution of all necessary agreements by the Applicant with the Town Board.
4. Filing all necessary performance bonds with the Town.
5. Payment of park and recreation fee.
6. Payment of all required fees in connection with upgrade to BSD6 pump station.
7. Funding the appropriate engineering inspection escrow.

Member Tarbox seconded the motion subject to the stated conditions. The motion was approved 5/0, and the Highland Creek PDD final subdivision plat approved subject to the stated conditions.

The next item of business on the agenda was the Cobblestone major subdivision plat, for properties located on Tambul Lane and Bulson Road. This subdivision had previously received final conditional subdivision plat approval by the Planning Board. Two of the conditions attached to final approval required the establishment of appropriate financial security for road improvements to Winfield Lane, as well as approval of the water and septic plan by the Rensselaer County Department of Health. Kevin Kronau appeared before the Board, and explained that he was still working on Rensselaer County Department of Health approval for the water and septic plan, and was still working with the Town on establishing the appropriate escrow account for the Winfield Lane improvements. Attorney Gilchrist explained to the Board that under New York Town Law, an Applicant is provided a period of 180 days in which to satisfy all conditions attached to final subdivision plat approval. However, the New York Town Law also provides a Planning Board with the discretion to grant two additional 90 day periods in order for all final plat approval conditions to be satisfied, which is within the discretion of the Planning Board. The Planning Board members were satisfied that good faith efforts had been undertaken by the Applicant to satisfy the final plat conditions, and therefore would entertain an extension of 90 days in order to satisfy the final approval conditions. Upon motion of Member Tarbox, seconded by Member Wetmiller, a motion to grant a 90 day extension to the Applicant for purposes of satisfying final subdivision plat conditions was approved by a vote of 5/0. The Planning Board inquired as to the status of the speed control sign on Tamarac Road, which was

also required in conjunction with the project approval. Mr. Kronau explained that his engineer had been reviewing proposed designs with the Rensselaer County Highway Department, and that a solar design had been chosen. Mr. Kronau's engineer is awaiting final design approval from the County Highway Department, in order for the sign to be ordered and installed.

The next item of business on the agenda was the major subdivision application by Brooks Heritage, LLC for property located off Dusenberry Lane. Jeff Brooks appeared on the application. This matter had previously been extensively reviewed before the Planning Board, including the conduct of a public hearing on the application. As a result of the public hearings, and deliberation of the Planning Board, it was determined that a cul-de-sac road was the most appropriate road design for the project, rather than the installation of a through road connecting to Bald Mountain Road. The cul-de-sac road design was incorporated into the project design by the Applicant, and a lot layout design which includes 22 lots located off the cul-de-sac road, plus one lot with access directly onto Bald Mountain Road. Due to the number of proposed lots on the cul-de-sac road, as well as the specific road specifications, a referral of this matter to the Town Board for purposes of considering a waiver of Town Standards must be made. In particular, the Town Code limits the number of lots on the cul-de-sac to 12. In this case, seven current homes exist on Dusenberry Lane, and this proposal would extend Dusenberry Lane and add an additional 22 residential lots. Also, the Town Road Specifications require two 15 foot wide travel lanes, plus two 3 foot wing gutters. The proposal for this Dusenberry Lane extension calls for two 12 foot travel lanes with two 2 foot wing gutters. Both of these waivers, concerning number of lots on a cul-de-sac road and road specifications, must be referred to the Town Board for action. However, the Planning Board must undertake and complete fact findings and make a recommendation to the Town Board concerning these waivers. Mr. Brooks explained that when

the Planning Board was previously considering its recommendation on these two waivers, it determined that the delineation of the wetlands on the project site was an important issue, and required Mr. Brooks to have the site delineated for wetlands in coordination with the New York State Department of Environmental Conservation and the Army Corps of Engineers. Mr. Brooks completed the wetlands delineation, and confirmed that there were no NYSDEC protected freshwater wetlands on the property. In terms of coordination with the Army Corps of Engineers, Mr. Brooks was able to have Army Corps field visits to confirm the wetlands delineation, which were completed last fall. The Army Corps indicated that it would be prepared to issue a jurisdictional determination letter, but that the Army Corps was not issuing such jurisdictional determination letters in light of a United States Supreme Court decision concerning federal wetlands jurisdiction (Rapanos). Alternatively, the Army Corps suggested that Mr. Brooks merely apply for his US Army Corps permit under the Nationwide Permit Program, which would likely be processed and resolved sooner than waiting for a jurisdictional determination letter. Accordingly, Mr. Brooks did make application for coverage under the Army Corps of Engineers Nationwide Permit Program for his proposed subdivision. The Army Corps of Engineers approved coverage for this project under the Nationwide Permit Program, and issued such letter on June 4, 2007. Accordingly, Mr. Brooks is now appearing before the Planning Board to continue the processing of the subdivision application, with particular regard to the fact findings and recommendation by the Planning Board to the Town Board concerning the two requested waivers. The Planning Board began to refresh its memory concerning this project, since it has been several months since it was before the Planning Board. The Planning Board generally discussed the number of proposed lots as well as the road design issues. The Planning Board also generally reviewed the number of design revisions that this project has

undergone, including alternate road designs as well as alternate lot layouts... Member Mainello inquired as to the standards the Planning Board should consider in conjunction with its recommendation to the Town Board on the waiver issue. Attorney Gilchrist stated that the Planning Board members should review the entire record before it, including the original proposal for a through road connecting to Bald Mountain, since this would have eliminated the need for any waiver concerning a cul-de-sac road. The Planning Board should also consider the proposed number of lots, lot sizes, topography, and the overall project design to help determine whether the proposed number of lots was appropriate. With respect to the road specification issues, comments from the Town Highway Department should be considered. The Planning Board discussed the lot layout, as well as the proposed septic design for the lots. Upon further discussion, the Planning Board determined to hold a special workshop meeting to discuss the application for purposes of making the appropriate fact findings and recommendations to the Town Board on the two requested waivers. The Planning Board determined to hold a special workshop meeting on this application on Tuesday, August 14, commencing at 6:00 p.m. Notice of the special workshop meeting will be posted. Further, the Planning Board placed this matter on the August 16 agenda for further discussion.

One item of old business was discussed.

Mr. Kreiger reported that updated maps had been submitted by Land Vantage, Inc. for its proposed three lot subdivision on Old Siek Road. Mr. Kreiger also confirmed that the Applicant had provided a complete copy of the hydrogeological report to the Town of Grafton Planning Board, which is coordinating with the Brunswick Planning Board on this application. This matter has been placed on the August 16 agenda for purposes of determining completeness of the

record and scheduling of a public hearing on the application, to be held jointly with the Town of Grafton Planning Board.

One item of new business was discussed.

An application has been made by Michael Gallivan for a proposed four lot subdivision on a 38± acre parcel located on Deep Kill Road and Smith Hill Road. The Planning Board generally reviewed the subdivision plat, noting several issues concerning topography, driveway location, and wetlands. This matter has been placed on the August 16 agenda for further discussion.

The **index** for the August 2, 2007 meeting is as follows:

1. Ginsburg – site plan – 8/16/07 (public hearing at 7:00 p.m.);
2. Highland Creek Planned Development District – final subdivision plat – conditional final approval;
3. Cobblestone Associates – major subdivision – 90 extension on conditional final approval;
4. Brooks Heritage, LLC – major subdivision – 8/14/07 workshop meeting; 8/16/07 regular meeting;
5. Land Vantage, Inc. – minor subdivision – 8/16/07;
6. Michael Gallivan – minor subdivision – 8/16/07.

The proposed agenda for the August 16, 2007 meeting is as follows:

1. Ginsburg – site plan (public hearing commencing at 7:00 p.m.);
2. Brooks Heritage LLC – major subdivision;
3. Qual Comm, Inc. – site plan – (informational purposes only; WNYT tower co-location pending at Brunswick ZBA);

4. Land Vantage, Inc. – minor subdivision;
5. Gallivan – minor subdivision.

Planning Board

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE PLANNING BOARD WORKSHOP MEETING HELD August 14, 2007

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

ALSO PRESENT was MARK KESTNER, consulting engineer to the Planning Board.

ABSENT was JOHN KREIGER, Superintendent of Utilities and Inspections.

The purpose of the workshop meeting was to discuss the Brooks Heritage, LLC major subdivision application proposed for Dusenberry Lane. The specific purpose of the workshop was to discuss proposed recommendations to the Brunswick Town Board in connection with two waivers with respect to Brunswick Code provisions on the proposed plat. These waivers include waiver from highway specifications, and waiver from the limit of twelve residential lots on a cul-de-sac or deadend road. Jeffrey Brooks of Brooks Heritage, LLC and Jason Dell of Lansing Engineering were in attendance for the Applicant. The Applicant generally reviewed the history of the proposed subdivision layouts, as well as the two public hearings held on the subdivision application. The Applicant stated that following receipt of public comment, the Planning Board had determined that an extension of Dusenberry Lane to create a through road connecting to Bald Mountain Road was not appropriate, and therefore the cul-de-sac design was pursued. The current proposal provides for 22 residential lots off of the extension of Dusenberry Lane terminating in a cul-de-sac, and one residential lot having access directly off Bald Mountain Road. There are a total of 7 existing homes on Dusenberry Lane. Jeff Brooks stated that he had worked with Highway Superintendent Eddy on the design of the Dusenberry Lane extension and cul-de-sac, and that Highway Superintendent Eddy

was satisfied with the road design. Chairman Oster noted that three letters have been received from members of the public concerning this application, including a letter from Brenenstuhl dated August 7, 2007; Giamis, dated August 14, 2007; and Morrissey, dated August 14, 2007. These letters were noted for the record. The Planning Board noted that the Town owned right-of-way on Dusenberry Lane is a total of 50 feet in width, and that the existing grade of Dusenberry Lane off Route 142 is 12±%. Brooks proposes to regrade and upgrade the existing Dusenberry Lane to meet an 11% grade, with the new road construction averaging 3-4% in grade. Brooks is also proposing to add a 2% back pitch to Dusenberry Lane for the first 20 feet off Route 142. Sight distances onto Route 142 were generally discussed. Brooks indicated that there was in excess of 800 feet sight distance to the right at the intersection of Dusenberry Lane and Route 142, and 286 feet to the left; however, Brooks indicated that he will need to reshoot the sight distance to the left since he has performed grading work in that area. Brooks will supply the Planning Board with updated sight distance information when looking to the left. The Planning Board generally discussed the location of proposed driveways, including a cluster of 4 driveways that looked to be in very close proximity. As to specific road specifications and the requested waiver, Brooks proposes to construct the upgrade to Dusenberry Lane plus the road extension to include two 12 foot travel lanes and two 2 foot wing gutters. Brooks is also planning to install public water up Dusenberry Lane to the terminus at the proposed cul-de-sac, provide public water to the new proposed homes, and provide taps for the existing homes on Dusenberry Lane. The Planning Board generally discussed the location of a stormwater detention pond in the area between proposed lots 4 and 5. The Planning Board also generally discussed cul-de-sac design, including the option of requiring grass/landscaping in the center of the cul-de-sac as opposed to paving the entire cul-de-sac. Highway Superintendent Eddy favors paving the entire cul-de-sac. The Planning Board would like to investigate the requirement that vegetation/landscaping in the center of the cul-de-sac be required to be maintained by the

Homeowners Association which would be created for this project. The Planning Board generally discussed the road width and wing gutters, and found them to be generally acceptable. However, the Planning Board had a concern regarding the 11% grade for the reconstructed Dusenberry Lane. Also, as to the total number of lots on the cul-de-sac road, the Planning Board entertained discussion regarding the total number of lots which should be allowed. Several of the Planning Board members were concerned that the Town Code limits the number of lots to 12 on a cul-de-sac road, and wanted additional guidance from the Town Board as to why the code limits the number of lots on a cul-de-sac to 12, and if a variance were granted, what the total number of lots should be. In general, the Planning Board discussed obtaining further guidance from the Town Board in terms of amending the Town Code, rather than dealing with cul-de-sac roads on a waiver basis on a number of applications. Attorney Gilchrist stated that the current Town Code allows requests for waivers, that the decision on waiver applications was within the authority of the Town Board, but that the Town Code require the Planning Board to make fact findings and make a recommendation to the Town Board on all waiver applications. Accordingly, Attorney Gilchrist counseled the Board to further discuss the application for purposes of making the required findings and recommendation, and those factors should include specific site features, wetlands, topography, proposed total number of lots, size of each proposed lot, total acreage of the entire parcel, as well as issues concerning emergency access. The Planning Board entertained further discussion on this site, including the history of road proposals, which included the through road option as opposed to the cul-de-sac option. The Planning Board did not make a final recommendation on the total number of lots which should be allowed on this project, but directed Attorney Gilchrist and Mr. Kestner to draw up draft findings for review by the Planning Board at its September 6, 2007 meeting. The Planning Board then adjourned its workshop meeting.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD August 16, 2007

PRESENT were CHAIRMAN OSTER, FRANK ESSER, JOSEPH JABOUR, KEVIN MAINELLO and DAVID TARBOX.

ABSENT was MICHAEL CZORNYJ and VINCE WETMILLER.

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

The Planning Board opened a public hearing concerning the Ginsburg site plan for the Harley Davidson facility located on Route 7. The Notice of Public Hearing was read into the record. Stuart Ginsburg and Steven Rutkey of Earth Tech were present on behalf of the Applicant. Chairman Oster requested a brief presentation of the site plan. Mr. Rutkey overviewed the site plan, which covers approximately 5.6 acres of a total 82± acre parcel. Mr. Rutkey reviewed all current improvements on the site plan, and generally reviewed the written narrative explaining each of these improvements. Mr. Rutkey reviewed the key two outstanding issues, which include the public water connection and review of the onsite septic system by the Rensselaer County Health Department. Chairman Oster then opened the public hearing for receipt of comment. No one in attendance at the meeting presented any comment. Chairman Oster noted a letter had been received from Attorney William Doyle in support of the Ginsburg site plan application, and read the letter into the record. Mr. Kreiger reported that he had been contacted by Bob Hyde, who reviewed the site plan and raised no issue of concern. Chairman

Oster again inquired whether there was anyone in attendance who wishes to submit comment.

Hearing none, Chairman Oster closed the public hearing on the Ginsburg site plan.

Chairman Oster then opened the regular business meeting of the Planning Board.

The Planning Board reviewed the draft minutes of the August 2, 2007 meeting. Upon motion of Member Esser, seconded by Member Jabour, the minutes were approved as written.

The first item of business on the agenda was the site plan application by Ginsburg for the Harley Davidson facility located on Route 7. Mr. Rutkey stated that Ginsburg had retained Harold Berger, P.E. for the design of the new onsite septic system, but that Mr. Berger wanted to take actual flow readings from the buildings after public water had been hooked up, so that an actual waste water discharge could be computed. Mr. Rutkey stated that the hookup of the public water would take some time, which would necessarily delay submission of the revised septic plan. Mr. Kestner reviewed the position of the Rensselaer County Department of Health, which was requesting the submission of a full engineering report on the existing septic system. In response, the Applicant has retained Mr. Berger for the purpose of designing a new septic system to be installed at the site. Mr. Rutkey explained that although Mr. Berger's final engineering design for the new septic system may take some time, Mr. Rutkey would be able to show an approximate location of the new septic system on the site plan, using his best engineering judgment. The Board generally discussed when the public water would be hooked up to the existing buildings. Mr. Ginsburg stated that he had already contacted a contractor for the work to hookup public water to the buildings, and was awaiting a final estimate and schedule. The Applicant requested that the site plan be acted upon and approved, subject to approval of the Rensselaer County Department of Health on the revised septic plan. Chairman Oster inquired whether the inspection on the existing buildings had been completed. Mr. Kreiger reported that

he had completed the inspections of the structures on the site. The Board generally discussed the other issues which had been reviewed on this application, and determined that all remaining issues had been addressed and resolved. Attorney Gilchrist stated that the Board could act upon the site plan subject to stated conditions, including approval of the Rensselaer County Department of Health; alternatively, the Board could wait for the Rensselaer County Health Department to complete its review of the revised septic plan, and then move forward and act upon the site plan. The Board determined that it was comfortable acting upon the site plan depicting an approximate location of the new septic system, and subject any action on the site plan to conditions, including Rensselaer County Health Department approval. However, the Board would not move forward at this meeting since the current site plan did not depict the approximate location of the new septic system. In particular, Member Jabour stated that the Applicant was clearly moving in the right direction, that the Board had received positive public comment on the site plan, and that he was comfortable moving forward with a conditional approval of the site plan. Members Esser, Mainello, Tarbox, and Chairman Oster were likewise comfortable acting upon the site plan subject to stated conditions. The Applicant will revise the site plan to show the approximate location of the new septic system, and submit that map into the Planning Board. The final site plan will include both the engineering stamp and the stamp of the land surveyor. This matter has been placed on the September 6, 2007 agenda for further action.

Chairman Oster noted that the Brooks Heritage, LLC major subdivision matter had been adjourned to the September 6 meeting.

The next item of business addressed by the Planning Board was the waiver of subdivision application by Wayne Howe for property located on Sweetmilk Creek Road. Mr. Howe appeared on the application. Mr. Howe explained that his family had been renting an existing

house on a large parcel for about 25 years, that neither he nor his family were interested in continuing to rent the house, and was looking to divide the house from his family's larger parcel for sale. Mr. Kreiger stated that the property was located in the R-25 zoning district, and that the proposed lot on which the existing house would sit is compliant with that zoning district, being approximately .6 acre in size. The Planning Board confirmed that there was road frontage for the balance of the Howe property, as well as road frontage for the proposed .6± acre lot. Upon further discussion, the Planning Board found the waiver map in compliance with regulations, confirmed that all application fees had been paid, and determined to move forward on the application. Member Tarbox 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. Thereupon, Member Mainello made a motion to approve the waiver of subdivision, which motion was seconded by Member Esser. 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 by Qual Comm to co-locate new equipment on the existing WNYT tower at 218 Bellview Road, Bald Mountain. Bill Biscone, a consultant for Qual Comm, appeared before the Board. This matter is before the Planning Board for informational purposes only, since the application remains before the Zoning Board of Appeals for action on the tower co-location. The matter is on the agenda for the Zoning Board of Appeals meeting to be held August 20. Mr. Biscone explained the project, which includes co-locating a 26 foot long, 4± inch diameter antenna at elevation 635 to the existing WNYT tower. A structural analysis had been performed and provided to the ZBA, which concludes that the tower can support the installation of this equipment. Mr. Biscone also explained that the ground equipment would be installed inside the existing building at the base of

the tower, but that two small additional antenna would be installed at the north end of the existing compound, including the installation of a 10 foot high ice shelter. While Mr. Biscone explained there were no structural modifications proposed to the existing buildings at the base of the tower, HVAC would be added to the building. A generator and propane tank would also be added to the building. Following general discussion, the Planning Board placed this matter tentatively on the September 6 agenda, pending action by the ZBA.

The next item of business on the agenda was the minor subdivision application by Land Vantage, Inc. for property located on Old Siek Road. Tom Foster of Land Vantage, Inc. appeared on the application. This matter includes the proposed 3 lot subdivision of property located on Old Siek Road. The Planning Board had required Land Vantage, Inc. to prepare a hydrogeological report concerning groundwater conditions, given the Planning Board's concern regarding the location of these 3 lots plus private wells proximate to the former town landfill. Land Vantage, Inc. retained the technical firm Alpha Geoscience to prepare the hydrogeologic report, which had been submitted to both the Brunswick Planning Board and the Town of Grafton Planning Board (coordinated review being undertaken since part of the property is also located in the Town of Grafton). Mr. Kestner acknowledged receipt and presented his review of the Alpha Geoscience hydrogeologic report, which generally concludes that it is Alpha Geoscience technical opinion that the former town landfill has no impact upon groundwater conditions in the location of the wells for these three lots, but did recommend that analytical testing be undertaken for the wells to be placed on lots 1 and 3 of the subdivision, consistent with the analytical testing performed for the test well located on lot 2. Mr. Foster noted that the location of the landfill had been added to the subdivision plat, plus a note identifying the initial groundwater report prepared by Harold Berger. Mr. Kestner stated that the subdivision plat

should also add a note identifying this additional hydrogeologic report prepared by Alpha Geoscience. Even though the Rensselaer County Department of Health has already approved the water plan for this subdivision, Mr. Foster stated that he would send a copy of the Alpha Geoscience report to the Health Department for their review and comment. Mr. Kestner also noted that if the Planning Board did act upon the subdivision plat, the subdivision plat should also have a note that analytical sampling should be conducted on lots 1 and 3, consistent with the analytical testing which was performed on the well for lot 2. Barbara Messenger, Town of Grafton Planning Board Chairperson was in attendance at the meeting. Ms. Messenger requested a copy of the initial groundwater report prepared by Harold Berger, plus copies of the Brunswick Planning Board meeting minutes at which the Land Vantage application was discussed. Chairman Oster inquired of Attorney Gilchrist as to appropriate procedure, since the application was ready to move forward to public hearing. Attorney Gilchrist explained that since this matter was being reviewed on a coordinated basis with the Town of Grafton Planning Board, the SEQRA regulations plus subdivision procedure supports a joint public hearing, which would include both the Brunswick Planning Board and Grafton Planning Board. The Notice of Public Hearing would be a regular business meeting for both planning boards, but would be held at one common location at which all members of both boards would be present. Ms. Messenger stated that her planning board had discussed this matter at their last meeting, and that Grafton Planning Board was willing to come to a joint public hearing to be held at the Brunswick Town Hall. Following discussion, it was determined that September 20, 2007 would be an appropriate date for the joint public hearing, to commence at 7:00 p.m. at Brunswick Town Hall. Attorney Gilchrist stated that he would prepare the Notice of Joint Public Hearing, and forward a copy of that to the Grafton Planning Board for its own publication. This matter has therefore been

scheduled for the September 20 meeting, a Joint Public Hearing with the Grafton Planning Board will commence at 7:00 p.m.

The next item of business on the agenda was the minor subdivision application by Sean Gallivan for property located on Deepkill Road and Smith Hill Road. Mr. Gallivan and Charles Zableski, architect, appeared on the application. Mr. Gallivan seeks to create a total of four lots from an existing 55 acre parcel. Mr. Gallivan seeks to create three building lots, with one non-building lot being the balance of the vacant parcel. Mr. Zableski had prepared a preliminary grading plan including driveway and house locations for conceptual review by the Planning Board. Mr. Zableski reviewed the driveway profiles, both in terms of grade as well as width of the driveways (all 16 feet wide as they exceed 150 feet in length). The Planning Board raised a concern regarding the proposed location of the driveway on lot 2 being too close to the intersection of Smith Hill and Deepkill Road, and recommended that that driveway be relocated. Mr. Gallivan indicated that the sight distances were not an issue, and that he would have the driveway moved away from the intersection. Mr. Kestner reviewed stormwater issues with Mr. Zableski. Member Esser stated that he would like to see both existing and proposed contour lines on the subdivision plat, and also add lot dimensions on the plat. Mr. Gallivan stated that all that information would be on the final plat, and that this preliminary drawing was presented for conceptual review only. Mr. Gallivan stated that Harold Berger had been retained to work on the septic designs for these lots. Upon further discussion, the Planning Board stated it did not see any significant issues on the conceptual basis, and that Mr. Gallivan should move forward and prepare the subdivision plat to include the additional information requested. Also, the Planning Board asked that the proximate location of the driveways be flagged in the field so that they

could be reviewed by the Planning Board. This matter has been placed on the September 6 agenda for further discussion.

Two items of new business were discussed.

The first item of new business discussed was a waiver of subdivision application by Nancy and John Trzcinski, for property located on Carrolls Grove Road. Trzcinski seeks to divide a 2.19 acre parcel off of their farm, for purposes of single-family home construction. The Planning Board generally discussed driveway location and sight distance issues, as well as stormwater issues. This matter has been placed on the September 6 agenda for discussion.

The second item of new business discussed was a major subdivision application by Walter Foust for property located on Garfield Road. Foust seeks to divide a 22.23 acre parcel into 8 lots, including 7 residential building lots (each approximately one acre in size), plus one residual non-building lot. The property is zoned A-40. Mr. Foust states in his application that he is proposing to construct 7 custom homes on the building lots. This matter has been placed on the September 6 agenda for discussion.

Mr. Kestner reported to the Planning Board that Jeff Brooks had met with Highway Superintendent Eddy at Dusenberry Lane, and that upon further review, Mr. Brooks stated that he would be able to regrade the existing Dusenberry Lane to reach a 10% grade. Also, Mr. Brooks reported to Mr. Kestner that he had re-shot sight distances looking to the left at the end of Dusenberry Lane onto Route 142, and that the sight distance was approximately 580 feet to the left, not 280 feet as was discussed at the August 14, 2007 workshop meeting. The Planning Board entertained general discussion concerning the proposed subdivision and its recommendation concerning the waiver on the number of lots on a cul-de-sac street, including

discussion about emergency vehicle access issues. This matter has been placed on the September 6 agenda for further discussion.

The **index** for the August 16, 2007 meeting is as follows:

1. Ginsburg – site plan – 9/6/07;
2. Howe – waiver of subdivision - approved;
3. Qual Comm, Inc. – site plan (co-location on WNYT tower) – 9/6/07 (subject to action by ZBA);
4. Land Vantage, Inc. – minor subdivision – 9/20/07 (Joint Public Hearing with Grafton Planning Board to commence at 7:00 p.m.);
5. Gallivan – minor subdivision – 9/6/07;
6. Trzcinski – waiver of subdivision – 9/6/07;
7. Foust – major subdivision – 9/6/07;
8. Brooks Heritage, LLC – major subdivision – 9/6/07.

The proposed agenda for the September 6, 2007 meeting is as follows:

1. Ginsburg – site plan;
2. Qual Comm – site plan;
3. Gallivan – minor subdivision;
4. Trzcinski – waiver of subdivision;
5. Foust – major subdivision;
6. Brooks Heritage, LLC – major subdivision.

Planning Board

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD September 6, 2007

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNJY, FRANK ESSER, KEVIN MAINELLO, DAVID TARBOX and JOSEPH WETMILLER.

ABSENT was JOSEPH JABOUR.

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 application of Stuart Ginsburg concerning the Harley Davidson facility on Route 7. Stuart Ginsburg and Steven Rutkey, P.E. were in attendance. Chairman Oster noted that a revised site plan had been submitted showing a proposed septic area, and that the site plan was now stamped by both the surveyor and engineer. Mr. Rutkey stated that the site plan has a last revision of August 17, 2007. Mr. Rutkey also stated that the proposed septic area was noted on the site plan, but that it was subject to the actual septic design which is being prepared by Harold Berger, P.E. Mr. Kreiger confirmed that all required inspections for structures on the site have been completed. Member Tarbox inquired when the public water would be hooked up to the buildings. Mr. Ginsburg stated that he has already coordinated with the Town in terms of water line location, and that his contractor for the water line installation was looking to get the work done within the next week. Mr. Kreiger did confirm that Mr. Ginsburg, Mr. Berger, Wayne Savage of the Water Department and he had a meeting to discuss the septic design, and that Mr. Berger would like the public water hooked up

and have two months of actual flow data in order to adequately design the septic system. Mr. Kestner stated that while this procedure might be acceptable, Ginsburg should proceed to do the perc tests and soil tests now in relation to the septic design, since the Health Department has a cut off date in the fall as to when soil and perc tests can be completed. The Board generally discussed the timing of the septic design and installation, which all parties are looking to have completed this fall. The key issue was the timing of the public water hookup, which then will allow adequate time for flow data and septic design. Member Czornyj noted that there are also drainage improvements which need to be completed as well. Mr. Kreiger confirmed that all necessary fees had been paid on the application. Member Mainello inquired as to what would happen with the old septic system which exists, in part, under one of the buildings. Mr. Kestner stated that generally the Health Department requires the old system to be pumped out and filled with sand, but that this will be part of the septic design being prepared by Mr. Berger and which will ultimately be reviewed by the Health Department. Chairman Oster confirmed that the record on this site plan was now complete. 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. Thereupon, Member Czornyj made a motion to approve the site plan subject to the following conditions:

1. Rensselaer County Health Department approval.
2. Completion of the design and installation of the new septic system.
3. Installation of all drainage improvements noted on the site plan.

Member Wetmiller seconded the motion subject to the stated conditions. The motion was approved 6/0, and the site plan approved subject to the stated conditions. Chairman Oster then noted for the record that this matter was referred to the Planning Board by the Town Board as

part of an enforcement matter, that the Town Board had requested the Planning Board to review this site plan, that the Planning Board had held extensive meetings and public hearings concerning site plan issues, and that process was now complete. Chairman Oster noted that all issues raised concerning the site plan for this facility have been addressed, and that there is no further action required by the Planning Board. However, Chairman Oster also noted for the record that Mr. Ginsburg is now on notice that he should contact the Town and obtain all necessary permits and/or approvals prior to any changes or additions to this site.

The next item of business on the agenda was the site plan application of Qual Comm, Inc. for co-location of facilities on the WNYT tower. This matter has not yet been acted upon by the Brunswick Zoning Board of Appeals. Accordingly, this site plan matter has been tentatively placed on the October 4, 2007 agenda.

The next item of business on the agenda was the minor subdivision application of Gallivan for property located on Deepkill Road and Smith Hill Road. Sean Gallivan appeared on the application, and handed up a revised subdivision plat. Mr. Gallivan reviewed two changes which had been made on the subdivision plat in response to Planning Board comments on the concept plan. First, proposed Lot 3 had the grading plan changed to address concerns regarding drainage. Second, a driveway entrance to a proposed lot had been relocated to make sure that it was 40 feet from a point at the Smith Hill Road/Deepkill Road intersection. Mr. Gallivan also indicated that he has established an escrow account for technical review of the application. Mr. Gallivan also stated that the overall master site plan for the property, including all retained Gallivan property, and which will include metes and bounds descriptions, had not yet been completed, but would be ready for submission to the Town shortly. Member Czornyj asked as to the ownership of all surrounding properties. Mr. Gallivan stated that the property was mostly

owned by Gallivan, except for a small portion which will be noted on the overall site map. The Planning Board reviewed the subdivision plat, which is still stamped by a licensed landscape architect. The Planning Board is requiring both the overall site map plus the subdivision plat to be stamped by a licensed engineer or land surveyor. Mr. Gallivan requested that the public hearing be scheduled, and that he would have all final stamped plans into the Town prior to the public hearing. Chairman Oster stated that the Planning Board will require the submission of the final stamped plans to be reviewed by the Planning Board, at which time the public hearing will be scheduled. Chairman Oster stated that if the final stamped plans are submitted, the matter will be placed on the September 20 agenda for review, and that at that point a public hearing could be scheduled for the October 4 meeting. Chairman Oster was also concerned about holding an additional public hearing at the September 20 meeting, given that a Joint Public Hearing with the Grafton Planning Board had already been scheduled concerning a separate application. Chairman Oster asked the Planning Board whether there were any further issues on the subdivision plat. The Planning Board is requiring the addition of contour information on the subdivision plat, including both existing and proposed contours on the project site as well as 200 feet beyond the boundary of the project site. Mr. Kestner also stated that an Erosion and Sediment Control Plan should be prepared, and that if the total disturbance was in excess of 5 acres, a full Stormwater Pollution Prevention Plan should likewise be prepared. Mr. Gallivan stated that the Erosion and Sediment Control Plan would be prepared and submitted, but that the total disturbance on this proposed subdivision was only 2.5± acres. This matter will be placed on the September 20, 2007 agenda for further discussion.

The next item of business on the agenda was the waiver of subdivision application by Trzcinski for property located on Carrolls Grove Road. John and Nancy Trzcinski appeared on

the application. Mr. Trzcinski indicated that this property was part of his dairy farm, and that he was seeking to divide off a lot to sell in order to raise some money for the farm. The Planning Board generally discussed the location of the lot, the sight distances for a future driveway, and drainage issues. Chairman Oster noted that the intention for the lot was for residential purposes, but asked Mr. Trzcinski whether this was going to be transferred to a family member. Mr. Trzcinski said that it would not be transferred to a family member, but would be sold since he was trying to raise money for the farm. It was noted that the waiver map handed up was incorrect, since the Doyle and Carter lot names had been reversed. The record is noted that the map should be interpreted as having those two names reversed. Chairman Oster inquired whether there were any further comments on the waiver map. Hearing none, 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. Thereupon, Member Czornyj made a motion to approve the waiver application, subject to the following conditions:

1. Rensselaer County Health Department approval.
2. Two (2%) percent back pitch on the driveway, and necessary driveway permit.

Member Wetmiller seconded the motion subject to the stated conditions. The motion was approved 6/0, and the waiver application approved subject to the stated conditions.

The next item of business on the agenda was the major subdivision application by Foust for property located on Garfield Road. David Foust and Walter Foust appeared on the application. David Foust reviewed the survey map, which includes the proposed lots, driveway location, house location, water and septic and provides topographic information. Mr. Foust indicated that the engineering plans for water and septic have been completed, and that he is

coordinating with Richard Kempter at the Rensselaer County Health Department. Member Czornyj inquired whether there are any wetlands on this property. Mr. Foust stated that there are no wetlands on the site. Mr. Foust did indicate that an environmental study had been completed when he purchased the site in 2004, and that the environmental study is on file at the Town. Mr. Kreiger confirmed that the environmental report was required in connection with a prior waiver granted to Moody for the site, and that he would copy and distribute that environmental report for the Planning Board members and Mr. Kestner. Member Esser discussed well and septic locations with the Applicant. Mr. Kreiger and Members Tarbox and Wetmiller then discussed the lot width issue for these proposed lots, and whether they were in compliance with the Town Code. The Town Code provisions concerning lot width were reviewed. It was determined that Attorney Gilchrist will further research this issue concerning minimum lot width, and report back to the Planning Board on that issue at the September 20 meeting. This may result in a modification to the proposed lots on the site. Chairman Oster noted that additional topographic information is required on the plat, including existing and proposed contours on the project site and 200 feet off the project site. Mr. Kestner stated that an Erosion and Sediment Control Plan needed to be prepared and submitted, and if the total amount of land disturbance was greater than 5 acres, a full Stormwater Pollution Prevention Plan was required. This matter has been placed on the September 20 meeting for further discussion.

The next item of business on the agenda was the major subdivision application of Brooks Heritage, LLC for property located off Dusenberry Lane. Jeff Brooks was in attendance. Chairman Oster noted that he had met with Mr. Kestner and Attorney Gilchrist to review the notes of the Planning Board Workshop Meeting concerning the two requested waivers on this application: first, waiver of Highway Specifications; and second, waiver of the limit of 12

residential lots on a cul-de-sac road. Attorney Gilchrist explained that the Planning Board members had discussed these waivers at their August 14 Workshop Meeting, and that while the discussion was clear on the Highway Specification issue, the discussion on the issue of number of lots on the cul-de-sac road generated many different comments. To provide a framework for the discussion leading to fact findings and a recommendation to the Town Board on this issue, Attorney Gilchrist and Mr. Kestner, as well as Chairman Oster felt it appropriate to outline a spectrum of alternative development scenarios of this property, in order to provide the framework for discussing whether the current proposal should warrant a positive recommendation to the Town Board in terms of the requested waiver. Mr. Kestner then reviewed the specifics of the two requested waivers, which are outlined as follows:

ISSUE #1: Waiver of Road Specifications

Proposed:

- 2x12' travel lanes
- 2x2' wing gutters
- 60' ROW from end of existing Dusenberry Lane to cul-de-sac terminus
- Upgrade existing Dusenberry Lane to proposed specifications [existing Town-owned 50' ROW]
- Re-grade existing Dusenberry Lane from 12+% to 10%
- 3-4% grade on new road construction
- Add 2% back pitch on existing Dusenberry Lane for 20' off Route 142
- Public water line installed within public ROW
 - taps for existing homes
 - connections for new homes

Recommendation: grant waiver

- Highway Superintendent approves proposal
- Existing sub-standard Dusenberry lane will be upgraded @no cost to Town
 - grade
 - width
 - back pitch
 - sight lines (800' to right; 580' to left)

- provide for adequate shoulder for snow removal
- put grass/landscaping in center of cul-de-sac to be maintained by HOA
- new road construction will be consistent with upgrade to Dusenberry Lane; cannot widen existing Dusenberry Lane without significant impact to existing homes from grading into existing yards and driveways
- 24' travelway adequate for public safety

ISSUE #2: Waiver on Number of Lots on cul-de-sac Road

Spectrum of Alternatives –

() 12-lot limit scenario:

74± acres @5 lots (7 existing on Dusenberry)

- Average 15± acre lots
- Public water unlikely
- Upgrade existing Dusenberry Lane unlikely
- Stub street with large cul-de-sac and long driveways is likely design

() Current proposal:

74± acres @22 lots

- Average 3.4± acre lots
- Public water
- Upgrade existing Dusenberry Lane
- Concern re total number of lots
- Concern re emergency access/fire and ambulance
- fire hydrants to be installed

() through – road proposal:

74± acres @ >22 lots (30-40?)

- public water
- upgrade existing Dusenberry Lane
- topo and ROW-width issues @Bald Mountain Road
- Not recommended by PB after public hearings

() PDD? cluster design?

OVERALL ISSUE – federal wetlands delineation

| | | |
|-----------------------|----------|--------------------------|
| EXISTING CDS WAIVERS: | Kennelly | 20 existing + 3 new = 23 |
| | Reiser | 41 existing + 7 new = 48 |

Alderman 30± existing + 3 new = 33±

Member Czornyj noted that the Applicant had stated at the August 14 Workshop Meeting that regrading the existing Dusenberry Lane to 10% was not possible; however, Member Czornyj is pleased to note that upon further review and examination the Applicant will be able to meet the 10% grade. Mr. Brooks said the 10% grade is met only by adding a gabian wall to meet the requisite road width and area for snow removal and that he had met onsite with Highway Superintendent Eddy to discuss this. Member Czornyj also noted that he was pleased to see the corrected sight line distance of 580 feet to the left at the end of Dusenberry Lane, rather than the 280 feet which was discussed at the August 14 Workshop. Mr. Brooks stated that the 280 foot number was not correct, and that he had reshot the sight distance leading to the 580 foot distance. Member Czornyj noted for the record that the Planning Board was struggling with this issue because in his time on the Planning Board, the Planning Board had never approved a major subdivision of this size in terms of number of new lots on a cul-de-sac road. Jeff Brooks noted for the record that he had prepared a letter to the Town dated August 16, 2007 on these issues, and inquired whether he needed to read the entire letter into the record. The Planning Board indicated that the content of the letter is noted for the record, without the need to read the same into the record. Member Mainello, however, stated that he disputed a number of points raised by Mr. Brooks in his August 16 letter. Mr. Brooks responded by stating that all of the facts in his August 16 letter were taken from the approved minutes from prior meetings as set forth on the Town website. Member Mainello continued to dispute several points. In particular, Member Mainello disputed Points 3, 4, 6, 10, 11, 12, 13, and 14 set forth in the Brooks August 16 letter. In general, Member Mainello stated that the Planning Board had never approved or even suggested that the lot count of 22 was acceptable or approvable, that the Planning Board never

suggested that the review go quickly on this project, that the Planning Board never directed or proposed the single cul-de-sac design, and that the Planning Board never approved the number of lots contingent on obtaining Army Corps of Engineers signoff on the federal wetland delineation. Mr. Brooks stated that he stands by his August 16 letter, and that there is a difference of opinion concerning the prior Planning Board proceedings. Member Mainello also raised the point that while other cul-de-sac roads in Town have resulted in higher number of lots than 12, and ranged to as many as 48 (Reiser), these were instances where the requested number of new lots represented only a 10-20% increase, and that the Brooks application was seeking a 300% increase over the total number of existing lots. Mr. Brooks responded that the issue was the total number of lots on a cul-de-sac road, whether the homes resulted from new or old construction. Mr. Kestner stated that it would be advisable for the Planning Board to review both the Highway Specification waiver and the number of lots on the cul-de-sac road waiver. In regard to the Highway Specification waiver, the Planning Board generally had no issue. However, it is noted that the Highway Specification issue was directly related to the road design and cul-de-sac design for the project. Mr. Kestner then raised the waiver on the number of lots on a cul-de-sac road, and reviewed the alternatives identified above. With respect to limiting the total number of additional lots to 5, resulting in the "12 lot limit scenario", Member Mainello indicated that he would support this alternative. Chairman Oster noted that he did not support this alternative, because he felt there was much more to gain in terms of public benefit with allowing more than 12 lots on this cul-de-sac road. In particular, Chairman Oster noted that adding the availability of public water, upgrading the existing Dusenberry Lane at no cost to the Town, and having an average lot size of 3.4± acres were all positive. Member Czornyj agreed that these points were positive for the Town, and that he agreed there should be a waiver granted because the total

acreage can support more than 5 new lots, but that he was unsure as to what the total number of lots should be on this proposal. Mr. Kestner moved to the alternative which included a through road. Mr. Kestner stated that with a through road connecting to Bald Mountain Road, the issue of the total number of lots on a cul-de-sac road is eliminated, and given the total acreage, greater than 22 lots could be planned for the property. On this alternative, Members Esser and Mainello stated that they would support a through road, as it promoted emergency access as well as eliminated the cul-de-sac maintenance issues. Chairman Oster disagreed with this alternative, stating that the public did not support a through road as a result of several public hearings on this matter, and that a through road may result in more than 22 lots on this property. Member Wetmiller disagreed with a through road proposal, since the through road and cul-de-sac proposals had already been reviewed, and that the Planning Board did recommend that the cul-de-sac design be advanced. Member Wetmiller stated that he does support the cul-de-sac design, but that he is also unsure as to what the total number of lots should be, but that a waiver should be issued since the property can support more than 5 new lots. Mr. Kestner then raised the current proposal, seeking 22 additional lots on 74± acres with the cul-de-sac design. Chairman Oster noted that he felt this was an appropriate plan for the property, and that the requested waiver from the cul-de-sac lot limit was reasonable. Member Esser stated that the Town Board must address this issue, and should amend the code so that the Planning Board is not dealing with the 12 lot limit again and again. Chairman Oster concurred with that thought, but reiterated that he felt this current proposal provided many more benefits for the Town and the public in general, which outweigh any perceived negatives from the proposal. The standards which the Town Board must consider in granting the waiver were reviewed from the Town Code, which include a finding of unnecessary hardship, and that strict adherence to the subdivision standard is

not required in the interest of the public health, safety and welfare, and that a waiver would result in substantial justice and secure public interest. Chairman Oster then made a motion to make a positive recommendation on the current proposal. Chairman Oster took a roll call vote. Member Esser stated that he supported a through road, but understood that there were practical construction issues associated with connecting to Bald Mountain Road. Member Esser did not like the cul-de-sac design, but that he could live with it. Member Esser had concerns regarding wet conditions on the project site. Member Esser supported the upgrade to Dusenberry Lane and the extension of public water. However, Member Esser stated that he could not support 22 lots on the site, and would vote no on the motion. Member Mainello stated that he would not support 22 lots on the project site, and that 22 additional lots would result in a 300% increase over the existing lots on Dusenberry Lane. Member Mainello did reiterate that the Town Board should address this issue and consider a code change. Member Mainello stated that he would support a waiver, but not to the extent of 22 additional lots, which he felt were too many for this site. Member Mainello voted no to the motion. Member Czornjy stated that he thought the driveway layouts were problematic, but that he would support a waiver for the property but thought that 22 lots were too many for the property. Member Czornjy did note that he supported the through road, and that there were too many cul-de-sacs in Town. Because Member Czornjy could not support a total of 22 lots on the project site, he voted no on the motion. Member Wetmiller stated that he felt the Planning Board had led the Applicant to the cul-de-sac design based on substantial public comment and review of the Planning Board, that an average of 3.4 acre per lot was good, and felt that 22 lots were acceptable on the project site. Member Wetmiller also stated that the Town should revise the code to address this 12 lot limit on a cul-de-sac road. Member Wetmiller voted yes on the motion. Member Tarbox also voted yes on the motion, and agreed

with Chairman Oster that the positives on the current proposal outweighed any perceived negatives. Member Tarbox did also have concerns regarding the driveway locations, but felt that this was a design issue which could be resolved through subdivision review. Member Tarbox noted that a through road, while preferable, was not possible due to construction issues. Chairman Oster voted yes on the motion, stating that he felt the current proposal was an acceptable plan for the property, and the positives of the current plan outweighed any perceived negatives. Therefore, the vote on the motion to adopt a positive recommendation to the Town Board resulted in a 3/3 vote. Accordingly, Chairman Oster directed Attorney Gilchrist to write up the recommendation and forward the same to the Town Board, noting both the fact findings as well as the 3/3 vote on the recommendation. As to the requested waiver on the Highway Specifications, the Planning Board noted that the road design was contingent on the action on the waiver on the number of lots. However, as to the specification issue, the Planning Board unanimously adopted a recommendation to approve a waiver, and allow the road to be built according to the design specifications. Member Mainello again reiterated that the Town Board should address the Highway Specification issue, and amend the Highway Specifications in the Town Code because the Planning Board continually deals with requested waivers on applications. All Planning Board members concurred except Member Tarbox, who stated he felt the specifications should remain as written, since it is much easier to waive those specifications rather than require a road in excess of the code specifications. Chairman Oster directed Attorney Gilchrist to likewise forward the written recommendation on the Highway Specification waiver to the Town Board.

Three items of old business were discussed.

First, Chairman Oster reminded the Board that it would be holding a joint public hearing with the Town of Grafton Planning Board concerning the Land Vantage, Inc. subdivision application. The public hearing has been noticed for the September 20 meeting at 7:00 p.m. The Planning Board generally discussed the logistics concerning the public hearing.

Chairman Oster noted that he had received a copy of a letter signed by many residents on Betts Road and Wilrose Lane concerning the Hudson Hills PDD application, and that he distributed copies of that letter to all Planning Board members.

Third, Chairman Oster informed the Board that he had met with Tim Owens of Tri-City Rentals concerning the Sugar Hill Apartments PDD, which allowed five additional apartment buildings. That meeting also included Mr. Kestner and Attorney Gilchrist. Chairman Oster informed the Board that Mr. Owens is now proposing a design of apartment building which includes a pitched roof, and generally a higher construction standard and more residential – looking structure than the existing apartment buildings. Chairman Oster noted that Mr. Owens would like to make the presentation of the structure of the proposed apartment building, in conjunction with a site plan application, to the Planning Board at the September 20 meeting. This matter has been placed on the September 20 meeting for further discussion.

The **index** for the September 6, 2007 meeting is as follows:

1. Ginsburg – site plan – approved subject to conditions;
2. Qual Comm, Inc. – site plan – 10/4/07;
3. Gallivan – minor subdivision – 9/20/07;
4. Trzcinski – waiver of subdivision – approved subject to conditions;
5. Foust – major subdivision – 9/20/07;

6. Brooks Heritage, LLC – major subdivision – referred to Town Board on requested waivers.

The proposed agenda for the September 20, 2007 meeting currently is as follows:

1. Land Vantage, Inc. – minor subdivision – Joint Public Hearing with Town of Grafton Planning Board at 7:00 p.m.;
2. Gallivan – minor subdivision;
3. Foust – major subdivision;
4. Brunswick Associates LP – Sugar Hill Apartments PDD site plan.

Planning Board

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD September 20, 2007

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, JOSEPH JABOUR, DAVID TARBOX and JOSEPH WETMILLER.

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 Brunswick Planning Board opened a joint public hearing with the Town of Grafton Planning Board concerning the proposed minor subdivision by Land Vantage, Inc. for property located on Old Siek Road. A quorum of the Town of Grafton Planning Board was present at Brunswick Town Hall for such public hearing, and constituted a regular business meeting for the Town of Grafton Planning Board. The notice of joint public hearing was read into the record. Chairman Oster requested Tom Foster of Land Vantage, Inc. to present the proposed three lot subdivision. Mr. Foster reviewed the proposed three lot subdivision, including lot layout, size, road frontage, house locations, septic and water locations, driveway locations (including grades and sight distances). Mr. Foster then reviewed the record concerning water quality investigation for this project. A test well had been drilled and monitored on proposed lot #2, including an engineer report prepared by Harold Berger, P.E., as well as a further hydrogeologic study prepared by Alpha Geoscience. Both the Berger report and Alpha Geoscience report had been submitted to both the Brunswick Planning Board and the Grafton Planning Board, as well as the

Rensselaer County Department of Health. Plat notes had been added to the map indicating that the hydrogeologic investigation had been performed, and also that the Berger and Alpha Geoscience reports were on file both at the Rensselaer County Department of Health as well as the Towns of Brunswick and Grafton. Foster generally reviewed the Berger and Alpha Geoscience reports, which conclude that the presence of the former Town of Brunswick closed landfill will not have an impact upon groundwater quality, and that potable drinking water is available for the three lot subdivision. Chairman Oster then opened the public hearing for receipt of public comment. Edwin Roberts, 1144 Tamarac Road, presented comments concerning groundwater quantity. Mr. Roberts states that he operates a dairy farm, and that he has had to drill a series of wells in connection with his dairy farm operations due to increased development in this general area over recent years. In particular, Mr. Roberts states that his initial well was 265 feet deep, but went dry due to increased development in the general area. Mr. Roberts then drilled a second well at 565 foot depth, due to more development occurring in the area. This second well also went dry, requiring Mr. Roberts to drill a third well at 190 deep. Mr. Roberts is concerned that overdevelopment in the general area is depleting available groundwater resources, and that there is a general water supply problem in the area. Mr. Roberts stated that he was not against this three lot subdivision, but that available groundwater supply is a problem. Mr. Roberts states that his house and barn are located on his property in the Town of Brunswick, but that his cow pasture which borders this project is located in the Town of Grafton. Barbara Messenger, Town of Grafton Planning Board Chairperson, inquired of Mr. Foster as to potential future resubdivision of proposed lot 2, which totals 35± acres, with the bulk of the open space on that lot situated in the Town of Grafton. Chairperson Messenger inquired whether Mr. Foster was proposing any deed restrictions for this lot. Mr. Foster stated that he was not proposing any

deed restrictions; and that potentially this lot could be resubdivided pursuant to the Subdivision Regulations in the Town of Grafton, but that he had no plans to do so. It was noted that even if future resubdivision of lot 2 is required, access to that area is still from Old Siek Road located in the Town of Brunswick. An inquiry was made as to whether there would be any testing for water quality when the wells are drilled on proposed lots 1 and 3. Mr. Foster responded that both the Rensselaer County Department of Health and the Town of Brunswick will require additional testing before any certificates of occupancy are granted for the new homes on lots 1 and 3, with the homes situated in the Town of Brunswick. Chairman Oster inquired whether there were any further comments. Hearing none, Chairman Oster closed the public hearing on the Land Vantage, Inc. minor subdivision application. Town of Grafton Chairperson Messenger also concurred in the closing of the public hearing for purposes of the Town of Grafton Planning Board.

Chairman Oster then opened the regular business meeting for the Town of Brunswick Planning Board.

The Brunswick Planning Board reviewed the proposed minutes of the September 6, 2007 meeting. Upon motion of Member Czornyj, seconded by Member Tarbox, the minutes were approved as written by a vote of 5/0.

The first item of business on the agenda was the minor subdivision application by Land Vantage, Inc. for property located on Old Siek Road. The Town of Grafton Planning Board remained present for this discussion, which continued to constitute a regular business meeting upon due notice with quorum of the Town of Grafton Planning Board. Chairman Oster inquired of Attorney Gilchrist as to procedure on how to handle the groundwater quantity issue raised during the public hearing. Attorney Gilchrist generally reviewed this issue, stating that

groundwater quantity was an issue for review under SEQRA, with the Town of Brunswick Planning Board serving as SEQRA Lead Agency, but primary jurisdiction regarding groundwater supply remained with the Rensselaer County Department of Health. From a SEQRA perspective, Attorney Gilchrist stated that the Planning Board should look at all land uses within the general area, and make a determination as to whether the addition of three residential wells would result in a significant adverse impact on existing groundwater resources in terms of water supply for land uses within the general area. Chairman Oster inquired as to the location of the well on the Roberts' farm in relation to these three proposed residential lots. It was determined that the Roberts well was located approximately one-half mile away. Also in attendance at the meeting was a Mr. Moore, who owns a residential lot adjacent to the Land Vantage property. Mr. Roberts stated that his well on the dairy farm was affected by the installation of a well on the Moore property. Mr. Moore stated that he installed a well on his lot to a depth of 180 feet. A member of the Grafton Planning Board wanted to confirm from Mr. Foster that when he first drilled the well on proposed lot 2, the yield was only one-half gallon per minute. Mr. Foster stated that the drilled well on lot 2 did yield only one-half gallon per minute, but was then hydrofractured and yielded up to five gallons per minute. Mr. Foster also stated that under the Alpha Geoscience hydrogeologic report, it was noted that the test well on proposed lot 2 was continuously pumped between October 15, 2006 and January 30, 2007, and that the volume pumped from this well during that period of time exceeded the daily estimated flow from three residential wells pursuant to Health Department regulations. Therefore, Mr. Foster stated that there is already data in this record to indicate adequate yield from this aquifer for three additional residential wells. The Planning Board inquired of Mr. Moore whether he observed any noticeable impact on his residential well when the test well was in operation

between October 15, 2006 and January 30, 2007. Mr. Moore stated that he had no noticeable impact on his well yield. Mr. Foster also stated that the Alpha Geoscience report confirmed that groundwater flow was in the direction from the three proposed lots toward the Town of Brunswick landfill, which is in the opposite direction from the Roberts farm. Mr. Foster argued that this supports the conclusion that three additional residential wells would not impact the Roberts farm. Attorney Gilchrist stated that as SEQRA Lead Agency, the Brunswick Planning Board should focus on the evidence in the record as to groundwater supply, including the Berger and Alpha Geoscience technical reports, as well as the fact that the Rensselaer County Department of Health has already approved the water and septic plans for this project. Mr. Kestner concurred that the Rensselaer County Department of Health had primary jurisdiction over this issue, and further confirmed that the Planning Board was reviewing only three proposed residential lots. Mr. Kestner stated that while the issue of a potential resubdivision of lot 2 was raised, that would be subject to additional technical review in the future, and that the current application sought only three residential lots. The Grafton Planning Board members raised concern regarding the drilling of the wells on proposed lots 1 and 3, and the impact on yield in the general area. Chairman Oster agreed that this was a legitimate issue. Attorney Gilchrist and Mr. Kestner confirmed that the Boards should review the technical information provided in the record, most particularly the Alpha Geoscience report, which confirmed that the pump test which occurred between October 15, 2006 and January 30, 2007 did pump an amount of water consistent with three residential lots pursuant to Health Department regulation. Mr. Kestner further stated that the Roberts well on the dairy farm was a significant distance from the three proposed residential lots, and stated that he did see any effect from the three residential wells on the Roberts well, particularly in light of the fact that the Roberts well was not impacted during

the pump tests. Having said this Mr. Kestner did agree that if further resubdivision of proposed lot 2 was to occur in the future, further pump tests should be required to determine any impact on existing wells. Member Czornyj noted that the further resubdivision of proposed lot 2 was unlikely because of well separation distance requirements. A member of the Grafton Planning Board also stated that further resubdivision of proposed lot 2 was unlikely, given road frontage requirements, and that there was simply not enough road frontage within proposed lot 2 to add a larger number of lots on a resubdivision of lot 2. Mr. Kestner reviewed his file, and stated that the subdivision plat already includes map notes identifying the location of the former Town of Brunswick closed landfill, the Berger engineering report, and the Alpha Geoscience hydrogeologic report. It was confirmed that Mr. Foster had filed the Alpha Geoscience technical report with the Rensselaer County Department of Health. Mr. Kestner also stated that a map note should be included that requires groundwater quality testing at the time wells are installed on lots 1 and 3, and such testing should include coliform testing, inorganic primary standards (EPA BE 202), inorganic secondary standards (EPA BE 203), inorganic drinking water metals 2 (EPA BE 509), and organics POC/VOC (EPA 502.2). Mr. Kestner also stated that a map note should be added indicating that if lot 2 was further resubdivided, groundwater testing should be required for purposes of quality and quantity. Chairman Oster inquired whether there were any further questions or comments on the application. Hearing none, Chairman Oster confirmed for the record that the Brunswick Planning Board, as SEQRA Lead Agency, as well as the Grafton Planning Board, had undertaken significant analysis of the groundwater quality and quantity issues, and that the record was complete, concluding that the installation of three residential wells will not have a significant adverse impact on the environment, and that adequate and potable groundwater existing for three residential lots. Thereupon, 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, and a Negative Declaration adopted. Thereupon, Chairman Oster made a motion to approve the minor subdivision, subject to the following conditions:

1. Note on the final plat identifying the former Town of Brunswick landfill.
2. Note on the final plat identifying the Berger engineering report, on file with the Rensselaer County Department of Health.
3. Note on the final plat identifying the Alpha Geoscience hydrogeologic report, on file with the Rensselaer County Department of Health.
4. Note on the final plat requiring additional groundwater testing upon installation of wells on lots 1 and 3, with the testing to include coliform testing, inorganic primary standards (EPA BE 202), inorganic secondary standards (EPA BE 203), inorganic drinking water metals 2 (EPA BE 509), organics POC/VOC (EPA 502.2); plus any additional requirements of the Rensselaer County Health Department.
5. In the event lot 2 is further resubdivided, further groundwater analysis must be undertaken in terms of quality and quantity, and potential impact on existing surrounding wells must be examined.
6. Payment of all application and review fees.
7. Payment of park and recreation fee.

Member Czornyj seconded the motion subject to the stated conditions. The motion was approved 5/0, and final approval was granted subject to the stated conditions. A copy of this record will be forwarded to the Town of Grafton Planning Board.

The Town of Grafton Planning Board then closed its meeting. The Grafton and Brunswick Planning Board members thanked each other for the detailed review undertaken on this project, and look forward to working together in the future on any joint projects.

The second item of business on the agenda for the Brunswick Planning Board was the minor subdivision application by Gallivan for property located on Deepkill Road and Smith Hill Road. Sean Gallivan appeared on the application. The Planning Board had requested additional topographic information as well as Erosion and Sediment Control Plan information, with the plat to be stamped by a licensed land surveyor. Mr. Kestner confirmed that additional topographical information on 10 foot intervals had been provided to the Planning Board, and that first floor elevations for the proposed structures for each lot as well as driveway grades had been provided and incorporated into the Erosion and Sediment Control Plan. Further, Mr. Kestner confirmed that the Erosion and Sediment Control Plan included proposed final contours. Mr. Kestner had reviewed the structure elevations and driveway grades, as well as the final contours and proposed drainage plan. Chairman Oster stated that the Applicant had satisfied the Board's request for additional information, with which Mr. Kestner concurred. Mr. Kestner did state that the plat included the existing topographic information, and the Erosion and Sediment Control Plan included the proposed final contours. Mr. Gallivan stated that when placing that information on one plat, the map became difficult to read, and felt that handling the existing and proposed contours on two maps was more understandable for the Board and the public. Member Tarbox questioned grading plans for proposed lot 1. Charles Zableski, who prepared the Erosion and Sediment Control Plan, reviewed the proposed grading for lot 1, which he characterized as minimal grading due to the house location. This matter was generally discussed. The Planning Board requested Mr. Gallivan to stake the four corners of each proposed residential lot, the center point of the proposed house locations, as well as the driveway locations so that Planning Board members could review this in the field. The Planning Board determined that the application was complete for purposes of scheduling a public hearing. The Planning Board has

scheduled a public hearing on this subdivision application for its October 4 meeting to commence at 7:00 p.m.

The next item of business on the agenda was the major subdivision application by Foust for property located on Garfield Road. This application proposes seven residential lots, each approximately 1 acre in size, with one remaining non-building lot approximately 22 acres in size. An issue concerning the definition and application of the term "lot width" under the Brunswick Zoning Code had been identified on this application. Attorney Gilchrist had been requested to research this issue. Attorney Gilchrist reported that there is no case law in New York which provides guidance on this specific issue, but that general zoning treatises did provide guidance. The Town of Brunswick Zoning Ordinance defines lot width as "the mean width measured at right angles to its depth". General zoning treatises suggest that such a definition requires a series of width measurements be made along the length of the lot, and that an average be made of all of these width measurements. However, the general treatises also suggest that the "lot width" requirements are intended to ensure that buildings are not too close together, for purposes of fire protection, health, and general welfare. As a result, the general treatises also suggest that many municipalities focus on the width of the lot at the front line of proposed buildings. Attorney Gilchrist stated, however, that the Planning Board does not have the jurisdiction to interpret Zoning Ordinance definitions, but that the jurisdiction to interpret such provisions is with the Brunswick Zoning Board of Appeals. In the event the Brunswick Planning Board seeks further clarification on this issue, a referral to the Brunswick Zoning Board of Appeals would be in order seeking an interpretation of the definition of "lot width" under the Brunswick Zoning Ordinance. Chairman Oster felt that the most important issue was the width of the lot at the building line, but did agree that if there was any further issue, a referral to the Brunswick ZBA

would be in order. Mr. Kreiger then noted that the Applicant had submitted a revised plat layout, which addressed the question which had been raised concerning the width of proposed lots 2 and 3. The Applicant has reconfigured the proposed lots, so that both lots 2 and 3 now have 180 foot width at the front line, 180 foot width at the rear line, and 180 foot width at the proposed building line. Upon review, the Board was satisfied that there was no issue concerning minimum lot width concerning lots 2 and 3. Chairman Oster noted that he had visited the site with Mr. Kestner, and that a neighbor had reported that there is a drainage problem in the rear of this property as it drains toward to Bott Lane. Mr. Kestner confirmed that this neighbor indicated that the drainage generally goes through a very large culvert under Bott Lane, but that in periods of high flow, the water has gone up and over Bott Lane as well. Mr. Kestner confirmed that stormwater runoff will need to be an issue addressed on this application since it appeared the total area of disturbance would be over 5 acres. In this case, a full Stormwater Pollution Prevention Plan would be required. The Applicant will confirm this with their engineer. An issue arose concerning proposed lot 6 which is triangular in size. However, Mr. Kreiger confirmed that the lot width on this proposed lot was adequate under the Zoning Code as well. Member Czornyj noted that he did not like the configuration showing two proposed driveways to lots 5 and 6 being adjacent. Member Czornyj stated that this was not simply a design or aesthetic issue, but did present a potential safety issue as well. It was noted that the driveway rights of way for proposed lots 5 and 6 were reduced from 50 feet to 30 feet, in connection with the widening of lots 2 and 3 to address the lot width issue. It was discussed that a private driveway meeting Town Standards could be constructed within the 30 foot right-of-way, but would result in driveways that are physically closer to each other as well. The Applicant stated that the submittal was concept only at this stage, and that he was looking for direction from the

Planning Board as to whether this subdivision was acceptable as a concept plan, to pursue with more detailed engineering plans. The Planning Board generally concurred that the concept was adequate, but that further detailed review would need to be undertaken, including final lot layout, at the preliminary plat and final plat stages. It was noted that an Agricultural Data Statement needed to be prepared on this application, and a form was provided to the Applicant. The Applicant will proceed with preparing a detailed preliminary subdivision plat and engineering plans. This matter has been placed on the October 4 agenda for further discussion.

The next item of business on the agenda was the site plan by Brunswick Associates, LP concerning the Sugar Hill Apartments PDD approval recently issued by the Town Board. Tim Owens of Brunswick Associates, LP was present. Mr. Owens presented to the Planning Board a building elevation and schematic for a type of apartment building Brunswick Associates is looking to construct under the PDD approval. The building elevation has a cedar siding appearance, with a pitched, shingled roof. Mr. Owens stated that the building has a more residential look, and Brunswick Associates is looking to have the buildings fit better in to the surrounding area. Member Czornyj inquired as to the procedural status of this matter. Attorney Gilchrist stated that the Town Board had approved the PDD for this apartment complex expansion, which includes five apartment buildings and a total of 60 apartment units. In this regard, Attorney Gilchrist reiterated that the Planning Board had reviewed this project under SEQRA, but that one of the issues addressed was visual impact. In connection with that analysis, the Applicant had prepared a visual assessment including line of sight profiles, based on the height of the existing flat-roofed apartment buildings. Mr. Owens confirmed that the flat-roofed buildings were 26 feet in height, and that the peak of the proposed pitched roof would be at 39 feet. Mr. Owens did state that part of the visual assessment included the maintenance of a

40 foot high hedgerow between the project site and the Heather Ridge Subdivision, and that the pitched roof would still be below the hedgerow height. Members of the Planning Board generally discussed the building elevation. The Planning Board members generally supported this building type, in preference to the existing flat-roofed building. Chairman Oster inquired of the Board members whether the proposed building type was acceptable on a conceptual basis. The Planning Board members generally concurred that the building type was preferable to the existing flat-roofed building type. Member Jabour did indicate that he liked this building type better, but still did not support the total number of buildings to be added to the existing apartment complex. Attorney Gilchrist stated that he would need to do further research and consideration of the procedural issue concerning the height of the proposed building, with particular regard to the SEQRA review undertaken by the Town Board, and would report back to the Planning Board at its October 4 meeting. This matter has been placed on the October 4 agenda.

Three items of old business were discussed.

First, Chairman Oster reminded the Board that the site plan application of Qual Comm for a co-location on the WNYT tower on Bald Mountain would be on the Planning Board agenda for its October 4 meeting.

Second, Chairman Oster allowed John Mainello of JPJ Partnership to present an update to the Planning Board concerning the proposed Brunswick Meadows PDD. Mr. Mainello generally reviewed the project, including the submission of the FEIS to the Town Board for review and consideration. Also, Mr. Mainello handed up to the Planning Board a letter from the New York State Office of Parks, Recreation and Historic Preservation, approving the avoidance plan which had been prepared for this project. Attorney Gilchrist reviewed the procedural status of this

matter as pending before the Town Board. This matter has been adjourned without date pending further Town Board action.

Third, Chairman Oster informed the Planning Board that he and Attorney Gilchrist had met with Supervisor Herrington and Town Attorney Cioffi concerning the referral and recommendation to the Town Board on the requested waivers in connection with the Brooks Heritage major subdivision. The Town Board has referred this matter back to the Planning Board for further findings and clear direction on the requested waivers, in light of the fact that the earlier vote on the waivers had been 3-3. In particular, the Town Board has requested that the Planning Board focus on the standards identified in the Local Law pertaining to waivers of subdivision specifications for purposes of making the requisite fact findings to support a recommendation to the Town Board. Chairman Oster noted that the Town Board is cognizant of the Planning Board's frustration of the 12 lot limit on cul-de-sacs as set forth in the Subdivision Regulations, and reported that the Town Board would consider reviewing that provision in the future. However, frustration with the code limit of 12 lots on a subdivision cul-de-sac should not be factored into the fact findings required in connection with the requested waivers on this application. The Planning Board generally discussed whether the waivers should be considered only in connection with the 22 additional residential lots, or whether the Planning Board should continue its subdivision review to determine what an appropriate number of lots would be for this acreage. Attorney Gilchrist stated that there is nothing in the Subdivision Regulations that would prohibit the Board from continuing its subdivision review prior to its referral to the Town Board, but that the Applicant had presented the 22 lots as a project on which he requested a waiver and requested the Planning Board to refer this matter to the Town Board. Attorney Gilchrist stated that he would provide to each member of the Planning Board an additional copy

of the Local Law dealing with waivers from Subdivision Specifications, highlighting the standards on which the Board should make its fact findings. This matter has been placed on the October 4 agenda for further discussion.

The **index** for the September 20, 2007 meeting is as follows:

1. Land Vantage, Inc. – minor subdivision – final conditional subdivision approval;
2. Gallivan – minor subdivision – 10/4/07 (public hearing at 7:00 p.m.);
3. Foust – major subdivision – 10/4/07;
4. Sugar Hill Apartments PDD – concept site plan – 10/4/07;
5. Qual Comm – site plan – 10/4/07;
6. Brunswick Meadows PDD – referral and recommendation – adjourned without date;
7. Brooks Heritage – major subdivision – 10/4/07.

The proposed agenda for the October 4, 2007 meeting currently is as follows:

1. Gallivan – minor subdivision (public hearing at 7:00 p.m.);
2. Foust – major subdivision;
3. Sugar Hill Apartments PDD – concept site plan;
4. Qual Comm – site plan;
5. Brooks Heritage – major subdivision.

Planning Board

TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD October 4, 2007

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, FRANK ESSER, JOSEPH JABOUR, KEVIN MAINELLO, 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 Planning Board opened a public hearing concerning the Michael Gallivan minor subdivision concerning property located on Deepkill Road and Smith Hill Road. The Notice of Public Hearing was read into the record. Sean Gallivan, appearing for Michael Gallivan, presented the overview of the subdivision plat and stormwater plan. Chairman Oster then opened the public hearing for receipt of public comment. Donna Cominskey, 386 Smith Hill Road, presented comment. Ms. Cominskey first indicated that Gallivans have been good neighbors, but that she did have concerns concerning the application. First, Ms. Cominskey raised issues concerning her groundwater well having yield problems, and she was concerned that adding more wells would only create more of a problem for water supply. Also, Ms. Cominskey raised issues concerning the diversion of stormwater onto her property, and that she has had problems with stormwater runoff particularly in the Spring. Ms. Cominskey also raised concern about traffic, that cars have been speeding on Smith Hill Road, and that she is concerned about safety since her house is so close to the road. Chairman Oster also inquired as to how deep Ms. Cominskey's well was at her house. Ms. Cominskey did not know the depth of her well.

Chairman Oster asked for any additional public comment. Hearing none, the Planning Board closed the public hearing on the Michael Gallivan minor subdivision application.

The Planning Board then opened the regular business meeting.

The Planning Board reviewed the draft minutes of the September 20, 2007 meeting. Upon motion of Member Czornyj, seconded by Member Jabour, the minutes were approved as written by a vote of 7/0.

The first item of business on the agenda was the minor subdivision application by Michael Gallivan for property located on Smith Hill Road and Deepkill Road. Chairman Oster noted that Gallivan had staked out the corners of the proposed lots and center of the house locations, and had cut down some brush to make it easier to view. Chairman Oster noted that he had not been able to review this in the field, but that Mr. Kestner had reviewed the layout. Members Tarbox and Wetmiller also indicated that they had viewed the staking in the field. Mr. Kestner stated that he had reviewed the layout in the field. With respect to stormwater, Mr. Kestner noted that he had reviewed a stormwater report, and that the additional stormwater generated by this project will be detained onsite, and managed through a series of ditches, drywells, and basins. In terms of impact on groundwater resources, Mr. Kestner inquired of Sean Gallivan as to the wells which had been installed on the opposite side of Deepkill Road in connection with a prior Gallivan subdivision. Sean Gallivan indicated that there are three wells on the opposite side of Deepkill Road, with depths of 160, 240, and 280 feet. Sean Gallivan had indicated that there had never been any yield problems associated with those wells. Further, Gallivan indicated that he has a well on his farm at a depth of 200 feet, and that the well on his father's house, Michael Gallivan, is at 160 feet deep. Neither of these wells have had any yield issues either. In terms of stormwater, Gallivan stated that the topography is away from the

Cominskey property, and that stormwater runoff would not have any effect on the Cominskey property. Also, in terms of groundwater resources, Gallivan indicated that the stormwater design included a series of drywells, which will also help to promote groundwater recharge. Mr. Kestner concurred that the use of drywells will help to balance stormwater and groundwater recharge, and did not think the Cominskey property would be impacted since the well was a significant distance from the proposed new wells for this subdivision. Ms. Cominskey was still in attendance and stated that she did have a problem with her well going dry during the Summer of 2006, but that she had no yield problems during the Summer of 2007. Gallivan estimated that the distance between the Cominskey well and proposed new wells is over 400 feet. The Planning Board remained concerned about groundwater resources and impact to the Cominskey well. Attorney Gilchrist stated that the Board must be confident that it has adequate information in the record on which to make a determination of impact to groundwater resources, which would include review by Mr. Kestner, but that final jurisdiction on this issue rests with the Rensselaer County Department of Health. Member Wetmiller raised a question concerning length of the driveway on Lot 3, and a number of drywells proposed. Mr. Kestner stated that one drywell was designed to capture runoff from the roof of the home, and that six drywells were planned for the length of the driveway, plus a detention pond. Mr. Kestner opined that the design was adequate to address stormwater runoff. Member Czornyj inquired why there were so many drywells proposed in this design. Mr. Kestner reminded the Board that the first stormwater design used cross culverts discharging water onto lots, which was not acceptable. Therefore, Gallivan had redesigned the stormwater plan to include the use of drywells, which does promote groundwater recharge. Member Esser inquired whether the use of the drywells would result in any basement flooding potential. Mr. Kestner did not feel that there was a

basement flooding potential. Member Tarbox indicated that when he was on the site, he felt that one of the proposed houses was very close to Michael Gallivan's house. Sean Gallivan stated that the distance was about 150 feet. Member Tarbox also stated that he felt driveways would be steep. Mr. Gallivan stated that the driveway grade was at 10%. The Board generally discussed house locations on the proposed lots, in relation to existing homes in the area. The Board then continued the discussion regarding impact to existing groundwater wells, and overall impact on groundwater resources. The Planning Board determined that it wanted additional information from Cominskey regarding the depth of her well, and required that information prior to making any determination on the application. While Gallivan objected to this, the Planning Board indicated that it wanted this additional information concerning the Cominskey well. Ms. Cominskey stated that she would supply that data both to the Planning Board and Mr. Gallivan prior to the October 18 meeting. In terms of traffic, the Planning Board concluded that the traffic issues raised concerning speed were an enforcement issue, not a traffic generation issue from the proposed subdivision. It was noted that the roads are posted at 30 mph, and that any speeding vehicles required enforcement of the speed limit. The Planning Board placed this matter on the October 18 agenda, for further discussion of the groundwater issue and review of data concerning the Cominskey well.

The next item of business on the agenda was the major subdivision application by Foust for property located on Garfield Road. Chairman Oster noted for the record that two letters had been received on this application. The first letter is from Karen E. Smith and family, 403 Dater Hill Road. The Smith letter is dated October 2, 2007. The second letter is from the Wagner family, Garfield Road. The Wagner letter is undated. Both letters raise issues concerning the proposed major subdivision. The Applicant handed up to the Planning Board a map showing a

revised lot layout. The current proposal includes seven residential lots, each approximately one acre in size, plus one non-building remainder lot. The Applicant stated that the change to the layout increased the width of driveway area on flag lots from 30 feet to 40 feet. Chairman Oster noted that the revised map does extend topographic lines onto adjacent areas. Mr. Kestner noted that proposed house locations must have a setback 50 feet from the property line, not 50 feet from the center line of the road as noted on the map. Discussion regarding setbacks on all of the lots, including proposed Lots 5 and 6 which are triangular in shape, was held. Member Tarbox then stated that he had significant concern regarding the number of lots, and felt that there were too many lots for this area. Member Tarbox stated that the size of residential lots in this area generally range from 2 to 3 acres in size, and therefore there should not be 7 lots on this proposal. Member Jabour concurred, and stated that there should only be 3-4 lots on the plan. Chairman Oster noted that the letters received from Smith and Wagner also raised the density issue, and reiterated their concern regarding impact to agricultural district property. The Planning Board recalled that this property was part of a waiver of subdivision which was previously approved, and that the future construction of larger estate lots had been discussed at that time, not one acre residential lots. Attorney Gilchrist noted that the property is situated in the A-40 zone, which does allow residential development based on a 40,000 square foot lot. However, Attorney Gilchrist did indicate that the Planning Board must also look at the particular application, including topography, soils, surrounding uses, and stormwater, among others, to make a final determination concerning an appropriate layout. The Applicant stated that the project had been designed in consideration of A-40 area and bulk requirements, that the perc tests performed on the property indicated that the soils were good and could handle septic systems on one acre lots, that wells had been drilled to ensure that there was adequate

groundwater yield for the number of lots, and that all data to date supported one acre lots. Chairman Oster also noted that a large number of driveways onto a county road also raised concern, and that this matter should also be reviewed by the Rensselaer County Highway Department. Member Czornyj stated that he did not like driveways very close together, as has been designed on this project. Member Wetmiller did not like the close proximity of the lots, and that the design suggested that the maximum number of lots had been jammed into the area. The Planning Board reviewed the stormwater issues associated with the project. Chairman Oster inquired whether the Planning Board should open a public hearing to receive additional comment from surrounding property owners, or require additional information from the Applicant. Attorney Gilchrist stated that prior to noticing a public hearing, the Planning Board did need a complete record in front of it, and that adequate information needed to be on file at the Town Hall so that the public could fully understand the proposal. The Planning Board determined that additional information on the application was required prior to scheduling a public hearing. The Planning Board continued to raise concern regarding the number of lots, the layout, and the number of driveways onto Garfield Road. The Planning Board did state that while this property had been in agricultural use, it is zoned A-40, which does allow residential development. However, the Planning Board discussed their responsibility to view the overall project, including open space issues, community character, as well as visual assessment. The Applicant stated that the proposed subdivision plat was not different from the conceptual layout which had previously been reviewed by the Planning Board, that the Applicant had taken into account prior Planning Board comments, and that the Applicant has followed the Subdivision Regulations as well as the area and bulk requirements. The Planning Board suggested that the Applicant review the current layout, and consider the comments of the Planning Board. The Planning Board will refer this

matter to the Rensselaer County Highway Department for review of the proposed number of driveways on Garfield Road. This matter has been placed on the October 18 agenda for further discussion.

The next item of business on the agenda was the site plan submittal by Brunswick Associates, LP for the Sugar Hill Apartments PDD. Tim Owens of Brunswick Associates, LP had previously submitted a proposal to the Planning Board which provided for an apartment building with a pitched roof, with a more residential look, rather than the flat roof building which exists in the balance of the apartment complex. Chairman Oster inquired of Attorney Gilchrist as to the procedural issues associated with the site plan matter. Attorney Gilchrist stated that this PDD had been approved by the Planning Board, at which time the proposal for a flat roof building was reviewed. The SEQRA review completed by the Town Board in connection with the PDD application included a visual assessment analysis based on the flat roof building. Accordingly, Attorney Gilchrist advised the Planning Board that it should analyze the visual assessment issue, with emphasis on whether the pitched roof building impacts the underlying Visual Assessment Report which had been completed on the PDD application. In order to have adequate record information, Attorney Gilchrist suggested that the Applicant provide an updated visual assessment, this time including a pitched roof building as opposed to the flat roof building. The Planning Board should then review the issue of visual assessment, to make a determination to whether there is any change to the Visual Assessment Report conclusions. Tim Owens of Brunswick Associates, LP was present at the meeting, and stated that the updated Visual Assessment Report would be completed and submitted to the Planning Board for review. The Planning Board entertained discussion concerning the pitched roof building, proposed lighting on the project, and projected build-out sequence. Member Mainello also inquired as to whether any

additional storage units would be built in connection with the PDD project. Mr. Owens stated that Brunswick Associates already has approval to construct three additional storage unit buildings, as part of the prior approval for the storage units on the existing complex site. Mr. Owens stated that Brunswick Associates could move forward and obtain building permits for the additional three storage unit buildings, but that would be further assessed as the build-out of the current PDD proceeded. The Planning Board also directed that notification be made to both the Center Brunswick Fire Department and Brunswick No. 1 Fire Department concerning emergency access and firefighting issues in connection with the pitched roof building. This matter has been placed on the November 1 meeting for further discussion.

The next item of business on the agenda was the site plan application by Qual Comm for a co-location on the WNYT tower. This matter has not yet been acted upon by the Zoning Board of Appeals. This matter has been adjourned without date. Mr. Kestner did note for the record that his review of the materials indicated that additional geotechnical information was required concerning this tower, in line with today's technical requirements.

The next item of business on the agenda was the Brooks Heritage, LLC major subdivision on Dusenberry Lane. Chairman Oster noted that the Applicant requested that this matter be removed from the Planning Board agenda. The Planning Board therefore did not discuss the substance of the Brooks major subdivision application, nor the pending waiver request. The Planning Board did note that the Town Board had referred the waiver requests back to the Planning Board for further discussion in connection with the Planning Board's recommendation on the waiver requests. In this regard, the Planning Board held a discussion concerning Local Law No. 4 of 2003, which provides the legal standard by which the Planning Board is guided in terms of making its fact findings and recommendation concerning requested

waivers from the Town Subdivision Regulations. The Planning Board entertained general discussion concerning this local law, and also focused discussion concerning waivers from the limit of 12 residential lots on a cul-de-sac or deadend road.

Geoffrey Brooks of Brooks Heritage, LLC was in attendance. Mr. Brooks requested that his application be placed on the agenda for the Planning Board for its November 1 meeting, and that he would submit additional information on his subdivision plans to the Planning Board members on or before October 22.

One matter of old business was discussed. Chairman Oster reported that he had been contacted by Kevin Kroneau concerning the Cobblestone Associates final subdivision plat. Mr. Kroneau reports that the Rensselaer County Health Department has now approved the water and septic plan, and was requesting the Town to sign the final plat. The Planning Board reviewed the stated conditions on the final subdivision approval. Once all conditions on the final subdivision approval are met, the final plat will be stamped and signed by the Planning Board. Chairman Oster will work with Mr. Kreiger concerning this matter.

The **index** for the October 4, 2007 meeting is as follows:

1. Gallivan – minor subdivision – 10/18/07;
2. Foust – major subdivision – 10/18/07;
3. Sugar Hill Apartments – PDD site plan – 11/1/07;
4. Qual Comm – site plan – adjourned without date;
5. Brooks Heritage – major subdivision – 11/1/07.

The agenda for the October 18, 2007 meeting is as follows:

1. Gallivan – minor subdivision; and
2. Foust – major subdivision.

Planning Board

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD October 18, 2007

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, FRANK ESSER, JOSEPH JABOUR, DAVID TARBOX and JOSEPH WETMILLER.

ABSENT was KEVIN MAINELLO.

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

The Planning Board reviewed the draft minutes of the October 4, 2007 meeting. A few corrections were noted. The name "Cominsky" was corrected to "Comiskey". Also, at Page 3 of the draft minutes at Line 8, the date "2006" was corrected to "2005". Subject to these corrections, Member Czornyj made a motion to adopt the minutes, which motion was seconded by Member Wetmiller. The motion was approved 6/0, and the minutes adopted as corrected.

The first item of business on the agenda was the minor subdivision application of Michael Gallivan for property located on Deepkill Road and Smith Hill Road. Sean Gallivan appeared for the Applicant. Chairman Oster noted that issues which have been raised at the public hearing on this application have been addressed and resolved, other than the groundwater and well issue. Chairman Oster reiterated that stormwater runoff comments had been addressed. Mr. Kestner stated that due to topography plus the stormwater features in place, including drywells to capture runoffs from roofs and driveways, that the stormwater plan is acceptable and

will not result in an impact to the Comiskey property. Chairman Oster noted that a traffic issue had been raised, but that the issue spoke to enforcement of applicable speed limits rather than traffic generation, and that this was not a Planning Board matter. As to the issue of groundwater and wells, Chairman Oster noted that a letter had been received from William and Donna Comiskey, dated October 17, 2007. Chairman Oster read the letter into the record. Significantly, the letter indicates that the problem which Comiskey had with his well in 2005 was due to filling a pool. At that time, Comiskey had a consultant to check the well and pump. The consultant indicated that the condition, which included a cloudy silt and shutoff on a low cutoff switch, was simply caused by overuse from filling the pool, and would likely settle down once the water was not run for unusually long periods. Comiskey indicated that after the pool filling incident, they have not had any problems with their well in terms of yield or quality. Comiskey indicated that he did not know the depth of his well. Comiskey stated in his letter that if the project is approved, Comiskey hoped that there would be no impact on his well but was concerned that there "could" be an impact. Mr. Comiskey noted that if there was an impact on his well, he should not be required to pay for a well replacement. Chairman Oster noted that if the Comiskey letter suggested that the Town of Brunswick should pay for a new well if this subdivision is approved, that such a condition is not appropriate and the Town of Brunswick is not responsible for such cost. Chairman Oster noted that he went out to the site and talked to the former owner of the Gallivan property, Bill Phelan, and that Mr. Phelan noted that there had always been ample groundwater supply for the property, and that in fact he had a 10.5 foot groundwater well on the farm which had never had any yield problems and they had more water than they needed. Sean Gallivan reviewed a chart which he had prepared identifying the distance of the existing wells in the area from the Comiskey well, including the wells drilled in

connection with the prior four lot subdivision on Deepkill Road, Michael Gallivan's well, the farm well, as well as the proposed well locations for the currently proposed three residential lots. The closest proposed well to the Comiskey well is approximately 700 feet, with the balance of the proposed and existing wells ranging from approximately 850 to over 2,200 feet from the Comiskey well. Gallivan also reviewed information on the depths of current wells, as well as the fact that none of the existing wells have had any problems in terms of yield. Mr. Kestner also reviewed this technical information with the Board, including both distance from the wells and well depths. Mr. Kestner had also obtained information on Michael Gallivan's well, including the well log. Mr. Kestner reported that he had contacted the contractor who worked on the Comiskey well in 2005, and that the contractor did attribute the problem with the Comiskey well in 2005 only to the filling of a pool and a hot tub. Mr. Kestner had confirmed that he had received an e-mail and the October 17 letter from Mr. Comiskey. Mr. Kestner confirmed that he had measured the distances for the new proposed wells as listed on the Gallivan chart, and generally agrees with those distance measurements. In terms of stormwater, Sean Gallivan indicated that the Town Highway Department had replaced a steel culvert along Deepkill Road with a new culvert, which will aid in stormwater management along Deepkill Road. Chairman Oster inquired whether the Board had any further comments on the groundwater and well issue. Member Jabour noted that the record showed the only time Comiskey had a problem with their well was when they were filling their pool and hot tub, and they have had no problem since. Chairman Oster inquired of Attorney Gilchrist as to the legal standards concerning the well issue. Attorney Gilchrist stated that the Planning Board may not impose conditions on any approval that are not reasonably designed to mitigate some demonstrable defect, and that objective factual evidence must be in the record concerning such defect or impact condition, and

that subjective considerations or general community opposition is not sufficient record evidence to impose conditions. Also, Attorney Gilchrist stated that in general, the Planning Board must look only to the project site in terms of imposing conditions, and that requirements for offsite mitigation on land use projects are generally frowned upon by courts. Attorney Gilchrist opined that this record provides information which appears to be generalized opposition and speculation about possible future impacts to wells, without any technical support for that conclusion. Chairman Oster inquired of Sean Gallivan as to whether Comiskey had any discussions with him concerning his property, or other property that Comiskey owns. Sean Gallivan indicated that Comiskey does own the property on the other side of Smith Hill Road opposite his current home, that Comiskey had spoken to him in the past about constructing a new home on his property on the opposite side of Smith Hill Road, but that it did not appear anything had been done to date. Member Czornyj did state that he had spoken with Comiskey, and that Comiskey told Member Czornyj that he might be interested in the future and build another house on the other side of Smith Hill Road. Upon further discussion, the Planning Board members determined that based on the evidence in this record, there was no basis to conclude that the installation of three additional residential wells would have an impact on the Comiskey well, and that there was no issue concerning groundwater on this application. Chairman Oster inquired whether there were any further questions by the Planning Board members. Hearing none, 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. Thereupon, Member Jabour made a motion to approve the Michael Gallivan minor subdivision application subject to the following conditions:

1. Rensselaer County Health Department approval for water and septic.

2. Payment of all application fees.
3. Payment of all engineering review fees.
4. Payment of park and recreation fees.
5. Requirement of a 2% backpitch for the first 10 feet of all new residential driveways off the public road.

Member Wetmiller wanted to confirm with Mr. Kestner that the drywells along the driveways were adequate to handle all stormwater runoff. Mr. Kestner stated that the drywells were adequate to collect stormwater off the driveways, and that the plan was to have stormwater discharge to the culverts along Deepkill Road, which ultimately discharged to a pond on the remainder of Gallivan's land. Member Wetmiller inquired whether the drywells were adequate to handle runoff in major storm events. Mr. Kestner stated that the drywells should be able to handle that, but if there were any runoff directly from the driveways down to Deepkill Road, that stormwater would be collected within the culverts along Deepkill, and then discharged to the pond on the remainder of the Gallivan land. Member Wetmiller had no further questions. Member Esser then seconded the motion to approve the Gallivan application, subject to the stated conditions. The motion was approved 6/0, and the Gallivan minor subdivision application approved subject to the stated conditions.

Chairman Oster noted that the Foust major subdivision application for property located on Garfield Road had been removed from the agenda at the request of the Applicant. Chairman Oster noted that the Applicant was evaluating the project in light of comments from the public and Planning Board. Chairman Oster did note for the record that a signed petition had been received from the Planning Board from residents in the area. Chairman Oster read the text of the petition into the record, and noted that there were approximately 98 signatures on the petitions.

Chairman Oster also noted that several letters had been received by the Planning Board on this application, including a letter dated October 9 from Carolyn Pollock; an undated letter from Daniel Dobert; a letter dated October 8 from Mark Pollock; a letter dated October 10 from Craig Muller; a letter dated October 8 from Cheryl M. Pollock; a letter dated October 11 from Terrance J. Brennan, David A. Messier, and Edward Bradley; a letter dated October 15 from Michael and Margaret Mikhitarian; a letter dated October 12 from Karen Smith; and a letter dated October 15 from Robert Hayden. Chairman Oster indicated that this matter would not be further discussed, as the Applicant requested that this matter be removed from the Planning Board Agenda. There were several members of the public who reside in close proximity to this project who were in attendance and the Planning Board entertained a few questions concerning procedure on the major subdivision application. Chairman Oster and Attorney Gilchrist explained certain procedural requirements on the Planning Board's review of the major subdivision application. This matter has been adjourned without date.

One item of new business was discussed.

Mr. Kreiger received a call from Russ Reeves concerning a subdivision on Cole Lane by J.J. Cillis, with a request that the matter be placed on the November 1 agenda. This property had been subject to a 1992 subdivision approval, but such approval had conditions attached to it which were not completed. Therefore, the subdivision plat had never been stamped nor signed, nor recorded in the Rensselaer County Clerk's Office. J.J. Cillis is now coming back into the Planning Board for subdivision review on the same property. Mr. Kestner noted that the current plan would need to comply with current Stormwater Regulations. Also, the Planning Board will review this matter as a new subdivision application. Mr. Kreiger noted that the proposal includes fifteen lots, so this application will be reviewed as a major subdivision. The Planning Board

generally discussed the property in the area, Cole Lane, and requested that the minutes of the 1992 action by the Planning Board on this property be pulled for review. This matter is placed on the November 1 agenda for discussion.

Mr. Kreiger noted that plans have been delivered by Tom Foster of Land Vantage, Inc. concerning the three lot subdivision on Old Siek Road. The Planning Board directed Mr. Kreiger to check with the Grafton Planning Board as to its action on this application. Chairman Oster would also contact the Grafton Planning Board Chairperson.

Member Wetmiller requested that Highway Superintendent Eddy inspect the driveways already constructed on the Gallivan subdivision lots on Deepkill Road for compliance with backpitch requirements. Member Wetmiller also stated that the Planning Board should consider a policy of not acting on a site plan or subdivision application at the same meeting where a public hearing has been held. Attorney Gilchrist stated that this should be considered on a case by case basis, as some applications may give rise to no public comment or opposition, whereas other applications might give rise to significant opposition and significant comment during a public hearing. The Planning Board agreed that a case by case approach is best, with the understanding that if comments are submitted at a public hearing, the Planning Board does need time to review and consider those comments before acting, and the Applicant should be made aware of this fact.

The **index** for the October 18, 2007 meeting is as follows:

1. Gallivan – minor subdivision – approved with conditions;
2. Foust – major subdivision – adjourned without date;
3. J.J. Cillis – major subdivision – 11/1/07.

The proposed agenda for the November 1, 2007 meeting is as follows:

1. Brunswick Associates, LP – Sugar Hill Apartments PDD site plan;
2. J.J. Cillis – major subdivision;
3. Brooks Heritage, LLC – major subdivision.

Planning Board

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD November 1, 2007

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

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

Chairman Oster reviewed the Agenda for the meeting. Chairman Oster notified the public that the Brooks Heritage, LLC major subdivision application was removed from the Agenda at the request of the Applicant, and that the matter would be placed on the November 15, 2007 Agenda.

The Planning Board members reviewed the draft minutes of the October 18, 2007 meeting. Upon motion of Member Jabour, seconded by Member Czornyj, the minutes were approved without correction by a vote of 7/0.

The first item of business on the agenda was the site plan application of Brunswick Associates, LP with respect to the Sugar Hill Apartments Planned Development District approval. Tim Owens of Brunswick Associates, LP appeared on the application. Mr. Owens presented to the Planning Board a supplemental visual assessment based on the peaked-roof apartment building elevation, and also a proposed lighting plan. Mr. Owens started by reviewing the visual assessment performed with respect to a flat roofed-style apartment building, which is

part of the SEQRA record in conjunction with the PDD review. Mr. Owens then reviewed the updated visual assessment, this time taking into account the peaked-roof apartment building elevation. Mr. Owens reviewed the visual assessment, which includes a line of sight profile analysis from the Heather Ridge Community. Mr. Owens reviewed the topographic information, as well as existing vegetative buffers between Heather Ridge and the location of the proposed apartments, including a deciduous tree buffer and a 40 foot hedgerow existing on the Brunswick Associates property adjacent to the location of the proposed apartment buildings. The Planning Board questioned whether the line of sight analysis took into account the residents in Heather Ridge at the highest elevation. Mr. Owens reviewed that information, including discussion of topographic elevation. Mr. Owens continued to review the visual assessment, focusing on the existence of the 40 foot high hedgerow adjacent to the proposed apartments, and that the apartments at their highest elevation of the peaked roof were at 39 feet. Mr. Owens concluded that given the topographic features of the property between Heather Ridge and the apartment area, and the maintenance of the 40 foot high, 200 foot wide hedgerow adjacent to the apartments, that there continues to be no visual impact even considering the peaked-roof apartment building elevations. Mr. Owens also reviewed an aerial photograph with the five (5) proposed apartment buildings superimposed adjacent to the existing apartment complex. Mr. Owens highlighted the fact that the existing apartment buildings have a white, flat roof style, and that the white roofs are very pronounced visually. Mr. Owens stated that the proposed peaked-roof style, including appropriately colored shingles, present less of a visual impact to surrounding properties. The Planning Board inquired of Attorney Gilchrist as to the scope of their review concerning the visual issue. Attorney Gilchrist stated that the Town Board, as part of the PDD review and approval, reviewed this matter under SEQRA. Attorney Gilchrist stated

that the Planning Board should review the updated visual assessment information, and determine whether the modification of building type results in a material and significant change to the project. Attorney Gilchrist stated that the information which the Board should consider in this regard is the proposed building type and elevation, the updated visual assessment information including line of sight profiles, the type of building material as between a white roof and a shingled roof. Mr. Kestner also stated that the Board should consider whether the revised lighting plan also affects the visual impact issues. Mr. Owens then reviewed the proposed lighting plan, which includes a residential-style pole lighting at the building entrances and parking areas, but the interior roadways will not be lit. Mr. Owens contrasted this proposed lighting plan with the previous proposal of building-mounted lighting. Mr. Owens stated that both from an aesthetic point of view as well as directional lighting, the proposed lighting plan was an upgrade from the building-mounted lighting plan. Mr. Kestner reviewed the information, concluding that the updated visual assessment information was accurate. Mr. Kestner was of the opinion that the current lighting plan was an improvement over the building-mounted lighting plan. Mr. Kestner further concluded that the dark shingles on a peaked roof was an improvement over the white flat roof. Mr. Kestner also concluded that there was an adequate vegetative buffer between the apartment building area and Heather Ridge such that there was not a significant visual impact. Mr. Kestner also reiterated that the Applicant does own the 40 foot high, 200 foot wide hedgerow, and had agreed to supplement that hedgerow with additional vegetation if required. Chairman Oster stated that he felt the design of the building itself is better, has a more residential appearance than the commercial-type, flat-roof apartment building, and that the current proposal was an improvement in terms of aesthetics and visual impacts. Member Mainello agreed that the proposed building is much better visually, and that the lighting plan was

an improvement. Member Mainello did comment that the hedgerow that exists in the area of the existing apartments is thinning in certain areas, and that the owner should commit to maintaining the vegetative buffer not only on the new apartment area but on the existing apartments. Mr. Owens agreed to address this issue with Member Mainello, and Member Mainello commented that Brunswick Associates was a good neighbor. Member Czornyj then made a motion determining that the proposed pitched-roof building design did not constitute a significant change to the project and does not result in a significant or material change to the SEQRA determination concerning visual impact assessment, and that the existing SEQRA record is complete for purposes of moving this application forward to do site plan review. This motion was seconded by Member Wetmiller. This motion was approved 7/0, with the Board determining that this matter should move forward to detailed site plan review. In this regard, Member Czornyj discussed issues concerning dumpster location and parking areas in relation to property lines. These matters will be addressed during detailed site plan review. This matter has been adjourned without date, pending submission of a detailed site plan by Brunswick Associates with the Planning Board.

The next item of business on the agenda was the major subdivision of J.J. Cillis for property located on Cole Lane. Joe Cillis and Russ Reeves, P.E. appeared on the application. Mr. Cillis reviewed the history of this project, going back to 1989. Mr. Cillis explained that the project site had previously been the subject of gravel extraction, and that when he first looked at the property in the 1980's, he determined that a significant amount of grading was required in order to fill in large earthen depressions in order to make the site buildable. In connection with that effort, Mr. Cillis explained that a major subdivision application had been submitted to the Town of Brunswick Planning Board in the late 1980's, which included residential lots directly on

Cole Lane plus the construction of a new cul-de-sac road with an additional 15 residential lots. Mr. Cillis described the procedural history of this matter before the Brunswick Planning Board from the late 1980's through the early 1990's, and handed up to the Planning Board copies of Planning Board Minutes from 1989 and 1992. Mr. Cillis also handed up to the Planning Board a letter from his engineers during the approval process, Clarke Engineering, which recounted the procedural history of the application. Mr. Cillis explained that while the project was fully approved, he could not get Rensselaer County Health Department approval on the second phase of this project, which was the west side of the property along the proposed cul-de-sac road, since the Health Department wanted all grading completed and set to final grade before perc tests could be performed for the septic plan review. Mr. Cillis had also handed up to the Planning Board a series of photographs depicting the early site work on the project, plus home construction on Cole Lane. Mr. Reeves then stated that the subdivision plat, including both Phase I with the residential lots on Cole Lane and Phase II with the residential lots on the cul-de-sac road, was stamped and signed by the Town of Brunswick and recorded in the Rensselaer County Clerk's Office. Chairman Oster inquired why the Applicant was before the Planning Board if in fact the subdivision plat had already been stamped by the Planning Board in 1992 and recorded in the Rensselaer County Clerk's Office. Mr. Cillis explained that he wanted to bring the Planning Board up to date on what has transpired in the intervening years, to ensure that the Town was fully aware of what was going on and so there were no questions when this project proceeded. Also, Mr. Reeves explained that the project now needed to comply with current Stormwater Regulations, which will require converting one of the residential lots to an area for a stormwater detention basin. Chairman Oster stated that, at a minimum, the revisions to the plat eliminating one of the residential lots and including a stormwater basin would require an

amendment to the final subdivision plat which would need to be reviewed by the Planning Board. Further, Attorney Gilchrist suggested that the Applicant should prepare a written chronology of the approval history of this project, including all minutes and other correspondence pertinent to that record. Also, the Applicant should provide all information concerning the recording of this plat in the Rensselaer County Clerk's Office. At this point, Attorney Gilchrist also informed the Board that his private law firm represents Clarke Engineering, which was the review engineer for Mr. Cillis in the initial Planning Board review process. It does not appear that Clarke Engineering is any longer involved in the project, and that Mr. Reeves is now doing the engineering work. Attorney Gilchrist provided this information for purposes of full disclosure. Also, Mr. Kestner advised the Planning Board that he had previously conveyed certain residential lots in the North 40 project to Mr. Cillis for home construction, but does not have any current contractual relationship on any property with Mr. Cillis. It was determined that the Applicant would provide to the Planning Board and Attorney Gilchrist the written procedural and approval history of this subdivision, including all pertinent record documents. Attorney Gilchrist and Mr. Kestner will review this history to determine the approval status of the project. This matter has been placed on the November 15 agenda for further discussion.

Two items of old business were discussed.

The first item of old business discussed was with respect to the major subdivision application of Foust for property located on Garfield Road. Chairman Oster noted that there were three additional correspondences received by the Planning Board concerning this application, which were noted for the record. First, the Planning Board received a letter dated October 27, 2007 from R.J. MacCrone, 71 Dearstyne Road. Second, the Planning Board

received a cover letter from Karen Smith dated October 19, 2007, which included a letter from Mark Capano plus three additional signatures on a petition concerning the subdivision application. Third, the Planning Board is in receipt of an extensive letter with pictures from Marlene Wagner of Wagner Farms dated October, 2007.

The second item of old business discussed was the minor subdivision approval obtained by Michael Gallivan with respect to property located on Smith Hill Road and Deepkill Road. Sean Gallivan appeared on the matter. Mr. Gallivan explained that while he was undertaking initial excavation in conjunction with this recently-approved project, he hit unanticipated bedrock on Lot No. 2, which required the relocation of a septic system, which in turn necessitated a house and driveway relocation. Mr. Gallivan stated that the Rensselaer County Health Department had been onsite to observe the perc tests in the area of the relocated septic system, and was now appearing in front of the Planning Board concerning the change on Lot No. 2 to the driveway and house location. Mr. Gallivan reviewed the revised driveway location, which also necessitates relocation of a stormwater detention area. Mr. Gallivan explained that the driveway location remained 40 feet from a telephone pole near the intersection of Smith Hill Road and Deepkill Road. Mr. Gallivan also stated that the sight distances remained good in both directions from the relocated driveway area. Member Wetmiller inquired on stormwater runoff from the relocated driveway area. Mr. Kestner stated that the stormwater runoff would still be directed to the culvert along Deepkill Road, to discharge to the pond on the balance of the Gallivan property. Also, Mr. Kestner stated that the driveway relocation also required one drywell to be relocated and the stormwater detention area to be relocated as well. Member Wetmiller inquired whether the 2% backpitch on the driveway would result in any stormwater runoff problem. Mr. Kestner opined that there would be no stormwater impact onto Deepkill

Road. Member Czornyj stated that the revised driveway location of Lot No. 2 appeared to reduce the grade on the driveway. Mr. Gallivan stated that the grade was reduced. Member Tarbox raised a question as to the driveway location in connection with the Deepkill Road-Smith Hill Road intersection. It appeared to Member Tarbox that the relocated driveway area was back in the same location as the original subdivision plan, and that the Planning Board was not comfortable and required Mr. Gallivan to move the driveway further away from the intersection. The Planning Board entertained lengthy discussion concerning the relocated driveway in relation to the Smith Hill Road-Deepkill Road intersection, potential future upgrades to these public roads, and whether the proposed relocated driveway on Lot No. 2 was in the best place. Following lengthy discussion on alternate driveway locations and detention area locations, it was determined that the relocated driveway would be moved 20 feet in a northerly direction, so that the driveway was in excess of 60 feet from the telephone pole located in proximity to the Smith Hill Road-Deepkill Road intersection. After fully discussing all issues associated with the relocated driveway, Member Tarbox made a motion to approve the amended subdivision plat depicting the relocated driveway on Route 2, subject to submission by the Applicant of a revised set of subdivision plat drawings showing the relocated driveway on Lot No. 2 in an area in excess of 60 feet from the telephone pole located at the intersection of Smith Hill Road and Deepkill Road. Member Jabour seconded the motion subject to the stated condition. The motion was approved 7/0, and the amended subdivision plat approved subject to the stated condition. The Building Department should not issue any Building Permits until such time as the updated subdivision plat drawings are submitted and received by the Building Department.

There are no items of new business discussed.

The **index** for the November 1, 2007 meeting is as follows:

1. Brunswick Associates, LP – Planned Development District site plan review –
adjourned without date;
2. J.J. Cillis – major subdivision – 11/15/07;
3. Foust – major subdivision – adjourned without date;
4. Gallivan – amendment to approved minor subdivision plat – approved subject to
condition.

The proposed agenda for the November 15, 2007 meeting is as follows:

1. J.J. Cillis – major subdivision;
2. Brooks Heritage, LLC – major subdivision.

Planning Board

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD November 15, 2007

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, FRANK ESSER, JOSEPH JABOUR, KEVIN MAINELLO, 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 draft minutes of the November 1, 2007 meeting were reviewed. Member Wetmiller noted one correction at Page 8, Line 15, the reference to "Route 2" being corrected to "Lot No. 2". Subject to this correction, Member Jabour made a motion to approve the minutes of the November 1 meeting, which motion was seconded by Member Wetmiller. The motion was unanimously approved, and the November 1 minutes adopted subject to the stated correction.

Chairman Oster also noted that the Brooks Heritage, LLC major subdivision was being removed from this meeting's agenda at the request of the Applicant. Chairman Oster understood that the Applicant was still in the process of reviewing information on the major subdivision application, and has requested that the matter be removed from the agenda. Chairman Oster allowed the application to be removed from the November 15 agenda, but adjourned this application without date pending confirmation from the Applicant that this matter is prepared to proceed before the Planning Board. At that time, the Planning Board will schedule a date for

consideration of the Brooks Heritage major subdivision. Accordingly, this matter is adjourned without date.

The first item of business on the agenda was the major subdivision of J.J. Cillis for property located on Cole Lane. Chairman Oster requested Attorney Gilchrist to review with the Planning Board the materials which have been supplied by Cillis on this application. Attorney Gilchrist stated that Cillis had supplied copies of Brunswick Planning Board minutes from 1987, 1988, 1989, and 1992. The materials supplied by Cillis also included a letter from the engineering firm for Cillis during the review process, dated May 14, 1992. Attorney Gilchrist generally discussed the description of this project as reflected in the Planning Board minutes, which showed that the project included two phases of construction, including lots along the existing Cole Lane (Phase I) plus additional lots on a newly constructed cul-de-sac road off Cole Lane (Phase II). The Planning Board minutes reflect that both Phase I and Phase II of the major subdivision received preliminary subdivision approval. In connection with the project, Cillis was required to undertake a significant amount of grading work, for which he received a mining exemption from the New York State Department of Environmental Conservation as the excavation was performed in conjunction with the subdivision project. The Planning Board minutes further reflect that following completion of the excavation work, the Brunswick Planning Board granted final subdivision approval to Phase I of the major subdivision. However, the Planning Board minutes do not reflect final approval granted to Phase II of the major subdivision. Additional investigation is required for Planning Board minutes between May, 1992 and January, 1993. Cillis has provided the Planning Board with a copy of a subdivision plat for Phase II which does have the stamp and signature of the Brunswick Planning Board approval. Cillis indicates that the stamped and signed plat for Phase II is also recorded in

the Rensselaer County Clerk's Office, although a copy of that filed plat has not been provided to the Planning Board for review. Accordingly, additional investigation in this matter needs to be undertaken concerning Planning Board minutes between May, 1992 and January, 1993, and a copy of the plat for Phase II which Cillis states is recorded in the Rensselaer County Clerk's Office must be reviewed. Mr. Kestner also reviewed the record as well, concurring with the review and comments of Attorney Gilchrist. The Planning Board stated that it would conduct further investigation, and requested Cillis to supply the Board with any additional record documents on this matter plus a copy of any plat recorded in the Rensselaer County Clerk's Office. The Board has placed this matter on the December 6, 2007 agenda for further discussion. Also in attendance with Cillis was engineer Russ Reeves, who handed up to the Board a map for Phase II showing an updated Sediment and Erosion Control Plan and Stormwater Plan. Mr. Reeves generally reviewed that plan, and provided copies to the Board members for review prior to the December 6 meeting.

Two items of old business were discussed.

The first item of old business discussed was the Brunswick Meadows Planned Development District application. Chairman Oster noted that the Brunswick Town Board had accepted a Final Environmental Impact Statement for the Brunswick Meadows PDD application, and has requested both the Planning Board and Zoning Board of Appeals to finalize their review and recommendation for the Town Board's consideration. The Planning Board determined to hold a workshop meeting to discuss the Brunswick Meadows PPD application and FEIS. The Planning Board will hold that workshop on Monday, November 26, 2007 at 6:00 p.m. at Town Hall. The Planning Board members requested a full set of the application plans, and indicated that the electronic version of the FEIS on the Town website was adequate for their review.

The second item of old business discussed was the Highland Creek Planned Development District subdivision plat. Appearing before the Planning Board were Robert Marini and Ivan Zdrahal. Mr. Marini explained that after the Planning Board had granted final subdivision plat approval, the New York State Department of Environmental Conservation had further comments concerning wetland issues. These discussions prompted three minor changes on the final plat, which Mr. Marini reviewed with the Planning Board. These changes included a slight relocation of a cul-de-sac in the area of the entrance road off McChesney Avenue Extension, the relocation of certain carriage home lots to the interior of the project and replacement of traditional home lots with such carriage home lots, and shifting the manor home lots to one side of the road, rather than on both sides of the road. Mr. Marini explained that due to these minor changes, 4.5 acres of open greenspace have been added to the project and 2 acres have been removed from Town highway and right-of-way areas. Mr. Marini explained that these slight modifications were made at the request and result of discussions with NYSDEC. Mr. Marini stated that there is the same general layout of lots and road system in the subdivision, and that the overall number of lots remain the same, although the total number of carriage homes have slightly increased and the total number of traditional homes have slightly decreased. Chairman Oster inquired of Mr. Kestner as to whether he has reviewed the modifications, and whether the changes are similar to construction changes during subdivision build-out. Mr. Kestner stated that these changes are similar to construction changes during subdivision build-out, and that such changes are not uncommon. Mr. Kestner stated that he had reviewed the revised subdivision plat, and finds that it is substantially in accordance with the approved final plat subject to the modifications discussed by Mr. Marini. Mr. Kestner also concurred that additional open greenspace had been added to the project, and that there was less area of road and public right-of-way. Chairman

Oster inquired of Mr. Kestner as to whether there were any significant engineering changes due to these modifications. Mr. Kestner said that there were no significant engineering changes. Mr. Zdrahal did explain that the Stormwater Management Plan was modified slightly in terms of relocating a stormwater pond. Again, Mr. Kestner stated that he did not deem this to be a significant change. Attorney Gilchrist stated that the standard by which the Planning Board should address this modification is to determine whether the proposed changes are substantial or significant from the plat which received final approval. If the Planning Board determined that the changes are significant, an additional public hearing should be held on the amended final plat, and the Board should then consider such public comments when addressing the amended final plat. Attorney Gilchrist stated that in the event the Planning Board did not deem the changes to the final plat to be significant or substantial, it could act upon the amended final plat without the need for an additional public hearing. Upon discussion, the Planning Board members found that the changes to the final plat were not substantial or significant. Thereupon, Member Wetmiller made a motion to approve the modified final subdivision plat subject to final engineering comments, which motion was seconded by Member Tarbox. The motion was approved 7/0, and final approval was granted to the amended final subdivision plat.

Chairman Oster noted that he had been contacted by the attorney for David Provost concerning his minor subdivision application, requesting that the matter be placed on the next Planning Board Agenda. Attorney Gilchrist confirmed that all zoning compliance issues had been resolved, with Chairman Oster confirming with Mr. Kreiger that all necessary inspections for Building Permits and Certificates of Occupancies had been completed. Attorney Gilchrist also stated that he had been supplied by the attorney for Mr. Provost with a Consent Order which Mr. Provost had entered into with the New York State Department of Environmental

Conservation in the early 1990's. An issue had arisen during the review of this project as to whether garbage or debris had been deposited on the Provost property. Attorney Gilchrist had reviewed the Consent Order executed by Mr. Provost with NYSDEC, in which NYSDEC had found that construction and demolition debris had in fact been placed on the Provost property. The Consent Order required Mr. Provost to remove all such construction and demolition debris, and also pay a fine to NYSDEC. It appears on the record that Mr. Provost fully complied with the NYSDEC Consent Order, and the issue concerning construction and demolition debris or other waste on the property is resolved. The Planning Board determined to place this matter on the December 6 agenda. There was discussion concerning cul-de-sac construction which may have already taken place, and the Planning Board will request that Highway Superintendent Eddy attend the December 6 meeting.

The **index** for the November 15, 2007 meeting is as follows:

1. Cillis – major subdivision – 12/06/07;
2. Brooks Heritage, LLC – major subdivision – adjourned without date;
3. Brunswick Meadows Planned Development District – review and recommendation – 11/26/07 workshop meeting;
4. Highland Creek Planned Development District final subdivision plat – approval of amended final subdivision plat;
5. Provost – minor subdivision – 12/06/07.

The proposed agenda for the December 6, 2007 meeting is as follows:

1. Cillis – major subdivision;
2. Provost – minor subdivision.

Planning Board

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD December 6, 2007

PRESENT were FRANK ESSER, JOSEPH JABOUR, KEVIN MAINELLO, DAVID TARBOX and JOSEPH WETMILLER.

ABSENT were CHAIRMAN OSTER and MICHAEL CZORNYJ.

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

Acting Chairman Wetmiller opened the meeting by reviewing the Agenda. It was noted that the Cillis major subdivision matter has been postponed to the December 20, 2007 meeting; Provost subdivision application; and site plan of Qual Comm.

The proposed minutes of the November 15, 2007 meeting were reviewed. Upon motion of Member Esser, seconded by Member Tarbox, the minutes were unanimously approved without amendment.

The first item of business on the agenda was the subdivision application by Provost for property located off Norman Lane. Paul Engster, Esq. appeared for Provost on the application. Mr. Engster reviewed the subdivision application status. Mr. Engster stated that there were two major issues which had been resolved on the application. First, the issue concerning zoning compliance and the status of building permits/certificates of occupancy for existing structures on the property have been resolved. Mr. Kreiger confirmed that the necessary inspections have

been completed. Second, an issue concerning the presence of solid waste/construction and demolition debris on the property had been investigated and resolved. Specifically, in the early 1990's, an issue arose on the property concerning the presence of construction and demolition debris. Mr. Provost entered into an administrative Order on Consent with the New York State Department of Environmental Conservation, and in compliance with that Order, removed all debris which had been on the property. Moving on to remaining outstanding issues, Mr. Engster stated that Provost proposes to upgrade the existing driveway off Norman Lane to create a cul-de-sac, which Mr. Engster stated should be considered an upgrade of an existing driveway rather than the extension of a public roadway. Acting Chairman Wetmiller inquired whether the cul-de-sac would be turned over to the Town of Brunswick. Mr. Engster stated that the cul-de-sac would be turned over to the Town. Acting Chairman Wetmiller then stated that this should be viewed as the extension of a public roadway. The Planning Board generally discussed whether the cul-de-sac construction should be considered the creation of a public roadway so as to trigger the major subdivision application standards, rather than the minor subdivision application standards applicable to subdivisions of four lots or less only. Attorney Gilchrist stated that he would further investigate the record as well as to undertake research to determine whether the application should be viewed as a minor or major subdivision application. Mr. Kestner offered that the Town requires that building lots have direct frontage onto a public roadway, and since the driveways for the proposed lots would be accessed via the improved cul-de-sac, the cul-de-sac may be considered the public roadway. Further, Mr. Kestner offered that the cul-de-sac should be paved if it is proposed to be offered for dedication to the Town. This matter has been adjourned to the December 20, 2007 meeting subject to investigation and research concerning whether the application constitutes a minor or major subdivision application.

The next item of business on the agenda was a site plan application by Qual Comm concerning the co-location of facilities on the existing communications tower located on Bald Mountain. Margaret Smith appeared on the site plan application. Ms. Smith reviewed the fact that the site plan had been presented and discussed at a Planning Board meeting in July, 2007, and that the site plan had been held in abeyance pending action by the Zoning Board of Appeals on the Special Permit application. Ms. Smith reports that the Zoning Board of Appeals has approved the issuance of a Special Permit for this co-location, which includes the addition of a 24.7 foot antenna at height 635 feet onto the existing 740 foot tower on Bald Mountain. Ms. Smith explained that in terms of the site plan, the Applicant proposed to install transmitters in the existing building at the base of the tower, plus add three new facilities all within the existing fenced area at the base of the tower. First, 1.8 meter diameter communication dishes will be added; second, a propane generator and heat exchanger will be added; and third, two GPS antenna will be added to the existing building. Mr. Kestner stated that he had reviewed the site plan submittal, and that no technical issues are noted on the application. The Planning Board generally discussed that the Zoning Board of Appeals held a public hearing in connection with the Special Permit application, and both Ms. Smith as well as Mr. Kreiger confirmed that there was no significant public comment on the application. The Zoning Board of Appeals approval was reviewed, which attaches certain conditions to the Special Permit, most particularly the necessity for maintenance of liability insurance which names the Town of Brunswick as an additional insured. The Planning Board noted that the requirement to hold a public hearing is optional with respect to site plan applications, and that since the Zoning Board of Appeals had held public hearings in connection with the Special Permit application, a public hearing would not be required in connection with the site plan review. It has been noted that a Full

Environmental Assessment Form had been submitted both to the ZBA as well as to the Planning Board in connection with the site plan application. The Planning Board further noted that the ZBA had adopted a Negative Declaration under SEQRA concerning the Special Permit. Since coordinated environmental review under SEQRA was not undertaken, the Planning Board was required to make its own SEQRA determination on the application. Member Jabour made a motion to adopt a Negative Declaration under SEQRA, which motion was seconded by Member Mainello. The motion was approved 5/0, and a Negative Declaration adopted. Acting Chairman Wetmiller inquired whether there were any further questions or comments concerning the site plan. Hearing none, Member Jabour made a motion to approve the site plan subject to the incorporation of conditions attached to the Special Permit issued by the Zoning Board of Appeals, as well as payment of all required application and review fees. Acting Chairman Wetmiller seconded the motion. The motion was approved 5/0, and the site plan approved subject to the stated conditions.

Two items of old business were discussed.

First, Mr. Kreiger noted that he had been contacted by Tom Foster of Land Vantage, Inc. concerning the subdivision on Old Siek Road which had been reviewed on a coordinated basis with the Town of Grafton. The Brunswick Planning Board had not yet received any notification from the Grafton Planning Board as to its action on the subdivision. Mr. Kreiger was directed to follow up with the Grafton Planning Board in connection with the status of the matter with that Board.

Second, Mr. Kreiger reported that public water has been connected to the Brunswick Harley Davidson shop pursuant to the approved site plan, and that the facility was going to operate with public water for a couple of months to review total water usage for the purpose of

designing an appropriate septic system. This project is being undertaken in coordination with the Rensselaer County Health Department.

Four items of new business were discussed.

The first item of new business discussed was a waiver of subdivision application submitted by Tom Hamlin and Chris Rockwell for property located on Grange Road. Hamlin proposes to provide 0.41 acre of property for transfer to Rockwell, who in turn will merge that property into the existing Rockwell parcel. Mark Danskin of Danskin Land Surveyors submitted the application and generally reviewed the waiver map. Mr. Danskin also noted that an Environmental Assessment Form had been filed on the application. This matter has been placed on the December 20, 2007 Agenda for further review.

The second item of new business discussed was a site plan submittal by George Rizk for a proposed commercial use at the Tamarac Plaza located on Route 2. Specifically, Rizk proposes to lease office space No. 9 at the Tamarac Plaza for purposes of operating a used car business. Mr. Rizk explains that he only needs a limited office space, and that he proposes to display only 3-4 cars in front of the lease space. These car display areas would be in existing parking spots designated for customer use. Acting Chairman Wetmiller asked whether there would be any car cleaning or detailing on the site. Mr. Rizk stated that he proposed to do no onsite detail or mechanical work, but rather use the spot only for commercial sales. Member Tarbox asked whether Rizk proposed to advertise, or what he had in mind for purposes of used car display. Mr. Rizk stated that he advertises only in the Want Ad Digest and Times Union, and that at most he would be placing stickers in the windows of the cars for sale. After further discussion, the Planning Board requested that a complete narrative concerning the proposed commercial use be submitted together with the survey of the Tamarac Plaza. Further, Mr.

Kestner and Mr. Kreiger were directed to investigate the approval status of the Tamarac Plaza, including any conditions attached to tenant use and/or parking space requirements. This matter has been placed on the December 20, 2007 Agenda for further discussion.

The third item of new business discussed was a proposed site plan by Park East Ventures/Rifenburgh Construction for property located at 1175 Hoosick Road/Route 7. The Applicant proposes to construct an office park, which would require extensive grading and removal of onsite materials in order to prepare the site for construction. It was noted that the property is located in the B-15 zoning district. While an application had been submitted, an Environmental Assessment Form has not yet been completed. Upon further discussion, it appeared to the Planning Board that the Applicant was proposing grading and removal of onsite aggregate materials in connection with a commercial construction project, but that further information from the Applicant would be required. This matter has been placed on the December 20, 2007 Agenda for further discussion.

The fourth item of new business discussed was a proposal by Robert Chartier to lease the existing garage building and property located at Route 278 and Route 2 for the purpose of used car sales, detailing, and sales of tires/rims. Chartier currently operates a car detailing business in a leased space located adjacent to Maselli's Deli on Route 7. Mr. Chartier explained to the Planning Board that his lease for that location was expiring at the end of the current calendar year. Mr. Chartier seeks to relocate his business and expand to used car sales at the location on the corner of Route 278 and Route 2. The Planning Board generally discussed the requirements for a complete site plan application, and tentatively placed this matter on the January 3, 2008 Agenda subject to the receipt of a complete site plan application.

The index for the December 6, 2007 meeting is as follows:

1. Provost – subdivision application – 12/20/07;
2. Qual Comm – site plan – approved subject to conditions;
3. Hamlin/Rockwell – waiver of subdivision – 12/20/07;
4. Rizk – site plan – 12/20/07;
5. Park East Ventures/Rifenburgh Construction – site plan – 12/20/07;
6. Chartier – site plan – 1/03/08.

The proposed agenda for the December 20, 2007 meeting currently is as follows:

1. Cillis – major subdivision;
2. Provost – subdivision application;
3. Hamlin/Rockwell – waiver of subdivision;
4. Rizk – site plan;
5. Park East Ventures/Rifenburgh Construction – site plan.

Planning Board

TOWN OF BRUNSWICK

336 Town Office Road

Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD December 20, 2007

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

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

In reviewing the agenda, Chairman Oster noted that the site plan application by Park East Ventures/Rifenburgh had been adjourned and will be rescheduled for the January 17, 2008 agenda.

The Planning Board reviewed the draft minutes of the December 6, 2007 meeting. Upon motion of Member Czornyj, seconded by Member Wetmiller, the minutes were unanimously approved as drafted.

The first item of business on the agenda was the major subdivision application by Cillis for property located off Cole Lane. Chairman Oster noted that the history of this application had now been fully researched by Attorney Gilchrist and Mr. Kestner as well as Chairman Oster, and Chairman Oster generally reviewed that history. Cillis originally applied for major subdivision approval for the Stonehurst major subdivision in the late 1980's. The Stonehurst application included two phases; Phase I included 7 subdivided lots directly on Cole Lane, and Phase II included 15 proposed lots on a new cul-de-sac road off Cole Lane. The preliminary subdivision

plat was deemed complete, and the application went forward to public hearing by the Planning Board in the late 1980's. The public hearing addressed both phases of the proposed subdivision. The Planning Board granted preliminary approval to both Phase I and Phase II. In connection with this project, Cillis was required to complete significant earthwork to prepare the site for construction, as the property had previously been used for gravel extraction. In connection with the earthwork, Cillis obtained an exemption from the New York State Department of Environmental Conservation as the excavation work was being performed in connection with a subdivision project. Cillis completed the grading work on Phases I and II of the project site. Thereafter, Cillis submitted an application for final subdivision approval for both Phase I and Phase II of the Stonehurst project. The record of the Planning Board indicates that only Phase I of the project received final subdivision approval, and the plat including only Phase I lots was signed and recorded in the Rensselaer County Clerk's Office. The Planning Board record indicates that final approval of Phase II was never granted, and a final plat for Phase II was never stamped or signed. The record does disclose, however, that a road profile and proposed utility plan for Phase II was stamped by the Planning Board, and it is also noted that the Town of Brunswick created a water district for this project which included both Phase I and Phase II. Chairman Oster explained that since the Planning Board had never acted upon the Phase II final plat, and since Cillis never pursued the Phase II application, a new application for major subdivision for Phase II of the Stonehurst project is required. Russ Reeves, P.E., of Reeves Engineering, appeared for the Applicant and reviewed the current proposal for Phase II of this project. Mr. Reeves explained that originally the final plat for Phase II included 15 subdivided lots. In their intervening period, New York State Stormwater Regulations had been revised, and in order to comply with current Stormwater Regulation, one of the subdivided lots will be

eliminated for purposes of creation of a stormwater detention area. Accordingly, prior Lot No. 15 has now been combined into Lot No. 14, with the area formerly identified as Lot No. 15 becoming the area for stormwater detention purposes. Accordingly, the application now seeks approval for 14 subdivided lots on the cul-de-sac road off Cole Lane. Mr. Reeves explained that he is working with the New York State Department of Environmental Conservation on his proposed stormwater plan. Mr. Reeves expects a complete application package, including final stormwater details, will be completed within the next few weeks and submitted to the Planning Board. Mr. Reeves explained that other than the removal of the lot line between Lots 15 and 14, the current final plat is identical to the plat reviewed by the Planning Board in the late 1980's and early 1990's. Chairman Oster explained that since the application constitutes a new application for a major subdivision, and since there are in excess of 12 lots on the proposed cul-de-sac road, this will necessitate a referral to the Town Board for approval concerning the waiver of the 12 lot restriction on cul-de-sac roads. In this regard, Chairman Oster noted to the Planning Board that the prior record on this application should be considered, including the fact that the Planning Board, in 1988, determined that 15 lots were appropriate for the cul-de-sac road off Cole Lane. In addition, Chairman Oster noted that the Planning Board had previously reviewed and approved the road profiles and utility plan for Phase II, that the Town had already created a water district for this second phase of the Stonehurst project, and that a significant amount of earthwork had been completed by the Applicant. Chairman Oster stated that he would recommend that the Town Board grant a waiver on the 12 lot cul-de-sac limit subject to further discussion by the Planning Board. Attorney Gilchrist explained procedure concerning the preparation of a fact finding and recommendation of the requested waiver, and formal referral on the matter to the Town Board for consideration. Mr. Kestner also reviewed the history of this

matter, including grading work which had been completed on Phase II, plus the prior review of the road profile and utility plan for Phase II as well as creation of the water district. Member Jabour noted that the record shows the Town approved of this overall project, but that final action on Phase II had simply not been completed. Chairman Oster noted that the Applicant appeared before the Board requesting an amendment of the Phase II plat, but research on this matter indicated that the Phase II final plat had never been formally approved, and therefore this matter cannot be deemed an amendment of an approved plat, but rather must constitute a new major subdivision application necessitating a referral to the Town Board on the number of lots on a cul-de-sac road. Chairman Oster again stated that he would recommend that the Town Board grant the waiver on the 14 lot cul-de-sac road. Member Czornjy concurred, stating that the record showed this application had been fully reviewed, was ready for approval, but that the Applicant and the Town never completed the approval process for Phase II. Members Esser and Jabour concurred. Member Mainello concurred with the total number of lots on the cul-de-sac road, but inquired whether a waiver for the highway specifications must also be included in the referral to the Town Board. It is noted that the proposal for the cul-de-sac road had originally been designed for a 20 foot travel way. The Planning Board members stated that it had been their recent recommendation that a 24 foot wide travel way (two 12 foot travel lanes) plus 2 foot wing-gutters would be recommended. The Applicant stated this was not an issue. Member Esser stated that the Town should still require the full 60 foot right-of-way, but the 24 foot wide road with 2 foot wing-gutters was acceptable. Member Tarbox stated that since Cole Lane was a dead end road, the total number of lots on Cole Lane and the proposed cul-de-sac should be included in the calculation, but that he had no opposition to the additional 14 lot cul-de-sac off Cole Lane. The Planning Board directed Attorney Gilchrist to draft a proposed finding of fact

and recommendation for review at the January 3, 2008 meeting. This matter has been placed on the January 3, 2008 meeting for review of the draft recommendation.

The next item of business on the agenda was the subdivision application by Provost for property located off Norman Lane. Paul Engster, Esq. appeared on the application. The issue of whether this application should be deemed a minor or major subdivision was reviewed. Mr. Engster presented the position that this application should be considered a minor subdivision application, as the creation of a cul-de-sac at the end of Norman Lane was in the nature of a turnaround for the benefit of the Town. Mr. Engster reviewed the proposed plat, which includes four proposed residential lots, each with frontage on the cul-de-sac sufficient for the accommodation of a private roadway or driveway to service each lot. The Planning Board then determined that this application must be deemed a major subdivision application, since the public road frontage for each proposed lot is onto the cul-de-sac, which therefore must be deemed the construction of a public roadway to be constructed and deeded to the Town in connection with the subdivision application. The Planning Board noted that regardless of the number of lots, the Town Subdivision Regulations define major subdivision as including any subdivision of land which includes the construction or extension of a public roadway. On this issue, Mr. Engster noted that the cul-de-sac had already been constructed in coordination with the Town Highway Department. The constructed cul-de-sac does appear to comply with the size requirements under the Town Highway Standards, but is currently a gravel cul-de-sac with no paved surface. On this issue, the Planning Board inquired why the cul-de-sac had been constructed prior to review and approval by the Planning Board. In particular, Member Mainello inquired why Mr. Provost had constructed a cul-de-sac in a location that had not yet been reviewed and approved by the Planning Board. Mr. Engster stated that the cul-de-sac construction had been coordinated with

the Town Highway Department. The Planning Board stated that the Town Highway Department reviews road construction for purposes of compliance with the Highway Construction Standards, but it is the Planning Board which must review and approve the location and layout of road systems in proposed subdivisions. The Planning Board stated that the final location of a cul-de-sac had not yet been discussed or approved by the Planning Board, and that construction of a cul-de-sac was premature. Further, Mr. Engster presented the position that the Town should not require this cul-de-sac to be paved or otherwise constructed according to the Public Highway Standards, since this situation was more analogous to other recent approvals by the Planning Board which included a turnaround area as part of a subdivision approval. Mr. Engster identified two examples, including turnarounds constructed at the end of Flower Road and Willard Lane. Attorney Gilchrist noted that those two examples were reviewed and approved as part of a waiver of subdivision application, not as part of a major subdivision application. Attorney Gilchrist reviewed the Subdivision Regulations, and noted that the nature of a waiver of subdivision application allows the Planning Board to waive subdivision standards, whereas a minor/major subdivision application requires compliance with all subdivision design standards, and that in the event an Applicant requests a waiver from the minor/major subdivision design standards, current Town Law requires the Planning Board to make fact findings and a recommendation and refer the matter to the Town Board for action. Attorney Gilchrist stated that in the event Mr. Provost seeks to pursue this procedure, he is entitled to do so. The Planning Board further discussed the information that will be required on the major subdivision plat. It was acknowledged that this matter has been complicated by the fact that multiple residences had already been constructed on one lot, and that zoning compliance issues took a considerable amount of time to resolve. The Planning Board further noted that proposed lots on which

individual residences already constructed are quite large, and that full major plat requirements for the entire property may not be warranted. Following extensive discussion, the Planning Board minimally will require topographic information for all proposed driveways for each of the four proposed residential lots, full topography on the lots on which residences are not currently constructed, plus topography for 200 feet around the existing residences on the property. Member Tarbox noted that topographic information on this property should be easily available from USGS. Chairman Oster noted that the cul-de-sac must be built according to Town design standards for major subdivisions, and if the Applicant does not wish to pave the cul-de-sac, it will require Town Board action on a requested waiver. Mr. Engster again inquired whether a full Environmental Impact Statement is mandatory on a major subdivision application. Attorney Gilchrist stated that an Environmental Impact Statement is not mandatory under the Town Subdivision Regulations, but that SEQRA is applicable, and the Planning Board will need to make a SEQRA determination on the application. In terms of the SEQRA determination, this could either be a Negative Declaration, which ends the SEQRA process, or the Planning Board could adopt a Positive Declaration, which in turn necessitates an Environmental Impact Statement. Mr. Engster stated that he understood this. This matter has been placed on the January 17, 2008 agenda for further discussion.

The next item of business on the agenda was the waiver of subdivision application by Hamlin/Rockwell for property located on Route 142, Old Route 142, and Scott Drive. Mark Danskin of Danskin Land Surveyors appeared on the application. Mr. Danskin explained that Hamlin seeks to divide 0.41 acre from his property to transfer to Rockwell, the adjoining property owner. The 0.41 acre strip is located on the Northeast corner of the Hamlin homestead parcel. Mr. Danskin explained that following the waiver and transfer of the 0.41 acre parcel,

both the Hamlin property and Rockwell property remain in full compliance with zoning requirements, including setbacks. The Planning Board confirmed that with respect to this type of waiver, the 0.41 acre piece must be merged into the Rockwell deed. Following discussion concerning the merger requirement, it was confirmed that the 0.41 acre piece would be merged into the Rockwell property through a revised description. 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 was adopted. Thereupon, Member Czornyj made a motion to approve the waiver application subject to the condition that the 0.41 acre parcel be merged into the Rockwell property through a revised property description. Member Tarbox seconded the motion subject to the stated condition. The motion was approved 7/0, and the waiver application approved subject to the stated condition.

The next item of business on the agenda was the site plan application by George Rizk for retail space located at the Tamarac Plaza on Route 2. Mr. Rizk appeared on the application. Mr. Rizk stated that a formal site plan has not yet been submitted, as he has had difficulty obtaining a surveyor or engineer to prepare that site plan. Mr. Rizk did hand up to Mr. Kreiger a copy of the Phase I Environmental Site Assessment Report prepared for the property in 2006. Mr. Rizk again explained that he seeks to operate both a wholesale and retail car sales business at the Tamarac Plaza located on Route 2. Mr. Rizk explained that he will lease one of the commercial spaces as his office, and seeks to have one or two used cars displayed in the parking lot. Chairman Oster stated that this presents a problem which needs to be addressed, due to the fact that the Planning Board has not allowed retailers to display and/or sell merchandise in the parking lot area of commercial plazas. Chairman Oster reviewed the example of Wal-Mart, which routinely seeks permission to sell large/bulk items in the parking lot, and the Planning

Board and Building Department has routinely denied that request. Mr. Rizk and the Planning Board entertained discussion concerning his sales operations, and layout of the Tamarac Plaza, including segregating a used car area on one of the sides of the parking lot. It was confirmed that the Town does not have an approved site plan for this location in its Town files. It was determined that Attorney Gilchrist will further research this issue concerning a used car sales business at an existing commercial/strip mall, and this matter will be further discussed at the January 3, 2008 meeting.

Three items of old business were discussed.

First, Chairman Oster confirmed that the Chartier site plan for the Old Hudson Garage located at the corner of Route 2 and Route 278 is on the Planning Board agenda for the January 3, 2008 meeting.

Second, Chairman Oster informed the Board that the Brooks Heritage major subdivision application will be on the agenda for the January 3, 2008 meeting for purposes of further discussion on the issue of the number of lots on a cul-de-sac road, for purposes of completing the Planning Board's recommendation concerning that waiver request for referral to the Town Board. Chairman Oster noted that the Applicant, as well as the Applicant's attorney, will be present at the January 3 meeting to discuss the current subdivision plat layout.

Third, Chairman Oster distributed a copy of a revised concept plan for the proposed Brunswick Meadows Planned Development District located on NYS Route 142. The Planning Board determined to discuss the revised concept plan at its meeting to be held January 3, 2008. Appropriate notice will be sent to both the Applicant and neighboring property owners.

The **index** for the December 20, 2007 meeting is as follows:

1. Cillis – major subdivision – 1/3/08;

2. Provost – major subdivision – 1/17/08;
3. Hamlin/Rockwell – waiver of subdivision – approved subject to condition;
4. Rizk – site plan – 1/3/08.

The proposed agenda for the January 3, 2008 meeting currently is as follows:

1. Cillis – major subdivision;
2. Rizk – site plan;
3. Chartier – site plan;
4. Brooks – major subdivision;
5. Brunswick Meadows Planned Development District – review and recommendation.