

PLANNING  
BOARD

MINUTES

2011

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

**MINUTES OF THE PLANNING BOARD MEETING HELD January 6, 2011**

PRESENT were MICHAEL CZORNYJ (ACTING CHAIRMAN), GORDON CHRISTIAN, FRANK ESSER, KEVIN MAINELLO, DAVID TARBOX and VINCE WETMILLER.

ABSENT was CHAIRMAN RUSSELL OSTER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

Acting Chairman Czornyj noted that the Duncan Meadows PDD - site plan and minor subdivision matter and the Oakwood Property Management, LLC matters have been adjourned, and tentatively placed on the January 20, 2011 meeting agenda.

The first item of business on the agenda was the waiver of subdivision application by Joseph Magno for property located at Route 2 and Route 351, Tax Map ID No. 92.-6-6. F. Redman Griffin, Esq. was present for the Applicant. The Applicant seeks to divide an approximately 57 acre parcel into two parcels. The first parcel will total 18.92± acres, and will include the existing house and out-buildings with access from Route 2. The second parcel totaling 38± acres is and will remain vacant property, with access off Route 351. This application seeks to create two lots only, and no further subdivision or developments. This matter previously came before the Planning Board, and was approved on August 9, 2009. Mr. Kestner has reviewed the subdivision map, and confirms that it is identical to that which the Planning Board previously reviewed and approved. The matter is before the Planning Board again since

the Applicant failed to have the subdivision map stamped and signed and recorded in the Rensselaer County Clerk's Office. After confirming payment of all new filing fees, the Planning Board determined that there were no new issues which needed to be addressed on this application. Member Tarbox then made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Wetmiller. The motion was unanimously approved, and a negative declaration adopted. Thereupon, Member Mainello made a motion to approve the waiver of subdivision map, which motion was seconded by Member Christian. The motion was unanimously approved, and the waiver of subdivision application approved.

The Planning Board then reviewed the draft minutes of the December 16, 2010 meeting. One correction was noted. At page 6 of the draft minutes, the reference to Acting Chairman Czornyj, Chairman Oster, and Mark Kestner visiting the Oakwood Property site is an error. Acting Czornyj, Chairman Oster, and Ronald LaBerge, PE, were present for the Oakwood Property site visit, and Mr. Kestner had and continues to recuse himself from consideration of the Oakwood Property Management matter. With the noted correction, Member Tarbox made a motion to approve the minutes, which motion was seconded by Member Christian. The motion was unanimously approved, and the December 16, 2010 minutes were approved subject to the noted correction.

One item of new business was discussed.

A major subdivision application has been submitted by Charles Farrell for property located at the intersection of McChesney Avenue Extension and Town Office Road. The parcel is 54.57 acres in size, Tax Map ID No. 102-2-3.12. Brian Holbitter was present for the Applicant. The Applicant has submitted a major subdivision application, major subdivision plans, and a Full Environmental Assessment Form. Mr. Holbitter generally reviewed the

concept plan, seeking to create 23 lots on the property with a new subdivision road. The new subdivision road will connect Town Office Road with McChesney Avenue Extension. Mr. Holbriiter stated that there has been additional soils work completed on the site, and preliminary work performed concerning septic locations. Further, Mr. Holbriiter stated that the wetlands have been delineated on the site, and that such wetlands have federal jurisdiction. Mr. Holbriiter confirmed that there are no wetlands on the site regulated by the New York State Department of Environmental Conservation. Mr. Holbriiter generally reviewed the subdivision map sheets, including proposed house, septic, and well locations, road location, and general layout of the project. Mr. Holbriiter stated that with respect to proposed septic systems, 20 of the lots will have in-ground systems, and 3 lots will have shallow trench systems. 21 of the proposed 23 lots will have access off the proposed new subdivision road, with the remaining 2 lots having access directly off Town Office Road. Mr. Holbriiter stated that a work permit application will be submitted to the Rensselaer County Highway Department. Mr. Holbriiter also confirmed that the 2 existing buildings on the property will be removed, and that the property owner has agreed with another party to come in to take the buildings down and remove them for reconstruction at another site. Mr. Kreiger noted that a permit will be required from his office for the building removal. Mr. Holbriiter stated that he had already corresponded with the New York State Department of Environmental Conservation concerning endangered plants and species, confirming that no endangered plants or species are known on the project site. There was general discussion concerning the location of the new proposed subdivision road, specifically with its location off Town Office Road in terms of potential impacts to federal wetland areas. It was noted that this location has an existing culvert, but there was question as to the original construction and installation of the culvert. Mr. Holbriiter stated that either an extension of the

culvert will be required or a new culvert will be installed, and all necessary permits will be obtained, including any necessary permit from the Army Corps of Engineers. Member Christian asked whether all of the water supply will be from private wells. Mr. Holbriiter stated that all will be private wells. Member Christian then said with the total of 23 homes, the Applicant should be prepared to do an analysis of potential drawdown of the water table and potential impact on existing surrounding residential wells. Mr. Kestner concurred, stating that in the past the Planning Board has required a pump test to be performed to determine any potential impact to existing surrounding residential wells. Mr. Holbriiter stated that the Rensselaer County Health Department will require a minimum of 5 wells to be installed on this site for testing purposes, and that in conjunction with that effort the Applicant could perform a drawdown test. Mr. Kestner stated that he would like to work with Mr. Holbriiter on these locations for these test wells, both in terms of subsequent use for the residential lots as well as appropriateness for a drawdown test. Member Mainello inquired about drainage systems proposed along the subdivision road, noting that catch basins were connected to piping which was proposed to be under the roadbed itself. The Planning Board stated that the drainage piping should be within the road right-of-way, but not under the roadbed itself. Mr. Kestner stated that the drainage pipes should be located on the edge of roadway pavement, not under the roadbed. Mr. Holbriiter will address this issue. Member Tarbox inquired as to future ownership of stormwater detention basins. The Town policy concerning stormwater detention basins is that such remain in private ownership, and with respect to subdivisions, the Town has required a Homeowners Association to be created for the subdivision, and that the Homeowners Association takes legal ownership and responsibility for operation and maintenance of the stormwater basins created for the subdivision. It was noted that an Agricultural Data Statement will be required to be filed on this

application. Mr. Kestner stated that he wanted to review the Full Environmental Assessment Form as well. Member Tarbox inquired as to the proposed grade on the subdivision road. Mr. Holbriiter stated that the grade of the subdivision road off McChesney Avenue Extension is approximately 7.5%, flattening out in the center section, and a 4.85% grade as the road connects to Town Office Road. Mr. Holbriiter also confirmed that all appropriate back pitches have been designed into the subdivision road. Mr. Holbriiter also confirmed that the subdivision road has been designed according to Town Road Specifications. The Planning Board also generally discussed the location of the stormwater basins, and potential landscaping and safety issues. The Planning Board stated that it wanted time to review the proposed subdivision plans for completeness, and have an opportunity to have the Full Environmental Assessment Form reviewed. This matter has been placed on the January 20, 2011 agenda for further discussion.

Mr. Kreiger reported that he had been contacted by Reiser Bros. with a request that the site plan and commercial subdivision matter for Brunswick Farms be placed on the January 20 agenda. Mr. Kreiger reported that required project review fees had been paid by the Applicant. The Planning Board agreed to put the Reiser Bros. project on the January 20 agenda.

The members of the Planning Board, Mr. Kestner, and Mr. Gilchrist note with sadness the passing of Shawn Malone, former Chairman of the Planning Board. Mr. Malone's service to the Town of Brunswick, and his leadership as Chairman of the Planning Board, was consistently professional and worthy of praise.

The **index** for the January 6, 2011 meeting is as follows:

1. Joseph Magno – waiver of subdivision – approved;
2. Charles Ferrell – major subdivision – 1/20/11.

The **proposed agenda** for the January 20, 2011 meeting currently is as follows:

1. Duncan Meadows PDD – site plan and minor subdivision (tentative);
2. Oakwood Property Management, LLC – site plan/waiver of subdivision/rezone petition referral (tentative);
3. Charles Farrell – major subdivision;
4. Reiser Bros. – site plan and commercial subdivision.

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**MINUTES OF THE PLANNING BOARD MEETING HELD January 20, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, KEVIN MAINELLO and DAVID TARBOX.

ABSENT were FRANK ESSER and VINCE WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

Member Czornyj acted as Chairman for the January 20, 2011 meeting.

The draft minutes of the January 6, 2011 meeting were reviewed. No corrections were made. Upon motion of Member Mainello, seconded by Member Christian, the minutes of the January 6, 2011 meeting were unanimously approved.

Chairman Czornyj noted that the applications submitted by Oakwood Property Management, LLC had been adjourned, and are tentatively placed on the February 3, 2011 agenda.

The first item of business on the agenda was the Duncan Meadows PDD site plan and minor subdivision. Francis Bossolini, PE was present for the Applicant. Mr. Bossolini reported to the Board that his clients had met with the owners of Highland Creek PDD project concerning coordinating on construction of one sewage pump station to service the Highland Creek project and Phase III of the Duncan Meadows project. Mr. Bossolini reported that the owners have conceptually agreed on cooperating on the construction of one sewage pump station. Mr. Kestner explained that the Highland Creek PDD project needed a sewage pump station, and Phase III of



the Duncan Meadows condominium project also needed the use of a pump station to transmit the wastewater from that portion of the project. Rather than having two sewage pump stations on adjacent projects, Mr. Kestner explained that coordination and construction of one sewage pump station was preferable. The details of sewage pump station construction will need to be finalized with the Brunswick Building Department, Brunswick Water Department, and Town consulting engineer. Mr. Bossolini also noted that he is finishing his response to comments received from Mr. Kestner on the project SWPPP. Mr. Bossolini reported that he had completed incorporation of all comments from Brunswick No. 1 Fire Department regarding hydrant location and road widths in proximity to all hydrants on the project. Mr. Bossolini did report that the issue of project lighting was raised by Mr. Kestner, and that the project does not propose to include any pole lighting in any parking areas, and merely have porch style lighting on each of the buildings. Mr. Bossolini explained that the senior apartments are not part of the current site plan, and it is anticipated that there will be pole lights in a parking lot area for the senior apartments. However, Mr. Bossolini acknowledged that the owners will need to submit a full site plan application for construction of the senior apartments, which will include a lighting plan. Chairman Czornyj wanted to confirm that there would be no flood lights on any of the buildings. Mr. Bossolini stated that no flood lights will be used, and merely porch style lighting. Mr. Bossolini also reported that some of the driveway areas on the project had been reconfigured to address comments from Member Tarbox. Mr. Bossolini further reported that he had been in contact with engineers for Wal-Mart regarding Wal-Mart's plans for construction of stormwater facilities and wetland areas on the former DiGiovanni parcel adjacent to McChesney Avenue, in relation to the stormwater discharge plan for that portion of the Duncan Meadows project adjacent to the former DiGiovanni parcel. Part of the stormwater discharge from the Duncan Meadows project will be

channeled over the DiGiovanni parcel to an existing stream, and Wal-Mart will coordinate with the Duncan Meadows project and grant an easement for that stormwater discharge. Member Czornyj wanted to confirm that Mr. Bossolini was working with the Wal-Mart engineers to divert water away from the existing home located on McChesney Avenue also adjacent to the former DiGiovanni parcel. Mr. Bossolini said that was the goal of the Duncan Meadows stormwater plan. Member Czornyj noted for the record that a letter had been received from the Eagle Mills Fire Department in favor of an emergency helipad for the parking lot area of the recreational facility on the Duncan Meadows project. The Planning Board noted for the record that this issue had been forwarded to the Town Board for consideration, and is not part of the current site plan discussions. Thereupon, Attorney Gilchrist and Mr. Kestner reviewed a series of proposed conditions to be considered by the Planning Board in connection with any action on the Duncan Meadows site plan. Based on deliberation by the Planning Board, Attorney Gilchrist and Mr. Kestner will review and finalize the conditions on the Duncan Meadows site plan for final review by the Planning Board at the February 3 meeting. Member Tarbox inquired whether any extra signage would be placed on McChesney Avenue Extension near the entrance to the recreational field. Mr. Kestner stated that road signage would need to be coordinated with the County Highway Department and County Engineer. Mr. Bossolini said that he would research industry standards regarding signage and proximity to recreation fields and coordinate with the County Engineer on that issue. This matter is placed on the February 3 agenda for consideration of final conditions on the Duncan Meadows site plan.

The next item of business on the agenda was the major subdivision application submitted by Charles Farrell for property located on McChesney Avenue Extension and Town Office Road. Scott Reese, registered landscape architect, was present for the Applicant. Mr. Reese reported to

the Planning Board that the Applicant was still addressing the prior comments from the Planning Board on the preliminary subdivision plat. The Planning Board had a discussion regarding the culvert which had been previously placed in a drainage ditch along Town Office Road, and the Applicant's proposed use of the culvert for access for the subdivision road off of Town Office Road. The Planning Board noted that this needed to be coordinated with the U.S. Army Corps of Engineers regarding federal wetland issues. The Planning Board noted that the culvert had been placed in the drainage ditch by a prior owner in connection with a proposed equine riding arena, but that project had not moved forward. Mr. Kreiger did note that there was some question regarding the initial installation of that drainage culvert, and that this issue did need to be reviewed with the County Highway Department and the County Engineer, as well as the U.S. Army Corps of Engineers. Mr. Reese inquired whether the Planning Board could move forward and schedule a public hearing. Attorney Gilchrist noted that prior to moving this major subdivision to public hearing on the preliminary plat, SEQRA should be coordinated with other involved agencies, and initial comments from other involved agencies should be received and considered by the Planning Board, most notably the U.S. Army Corps of Engineers. The Planning Board directed Attorney Gilchrist to commence SEQRA lead agency coordination with other involved agencies. Further, Mr. Kestner noted that he had reviewed the preliminary plat, and would prepare a full comment letter for the Planning Board and Applicant. The Planning Board noted that there were three proposed driveways on the subdivision plat which were very lengthy, ranging from 400' to as much as 1,000'. The Planning Board requested the Applicant to look at these lengthy driveways, particularly with respect to the amount of stormwater runoff from the driveways. Member Mainello again inquired as to the closest connection for public water and public sewer for this project site. Mr. Kestner noted that the closest public water may

be on Town Office Road, and the closest public sewer was on McChesney Avenue Extension, but both were significant distances from the project site. This matter has been placed on the February 17 agenda for further discussion in light of the SEQRA lead agency coordination process.

The next item of business on the agenda was the commercial subdivision and site plan by Reiser Bros. Inc. for property located at the intersection of NYS Route 2 and NYS Route 278 (Brunswick Farms). Henry Reiser and Scott Reese, RLA were present. Mr. Reese brought the Board up to date on the proposed wastewater plan, which has been prepared and submitted to NYSDEC and Rensselaer County Department of Health for conceptual review. However, neither NYSDEC nor the Rensselaer County Department of Health have yet responded to the proposed wastewater plan. The Applicant inquired how the Planning Board wished to proceed on this application. Attorney Gilchrist reviewed the significant issues which have been raised on this application, including removal of material from the project site, wastewater design, and drainage to DOT facilities. Attorney Gilchrist reiterated that NYSDEC has determined that a NYS MLRL Mining Permit is not required for this project, subject to the condition that construction of the underlying project proceed within six months of the start of the initial grading on the site. In turn, this requirement has raised the issue of an approvable wastewater design, so that the project can commence construction within six months of the start of the initial site grading. The Applicant has now prepared a proposed wastewater system, which continues to be reviewed by NYSDEC and Rensselaer County Department of Health. Further, the NYSDOT has conceptually approved the curbcut locations for entrances to the proposed commercial uses both on NYS Route 2 and NYS Route 278. However, it is Mr. Kestner's understanding that the proposed wastewater system is designed to discharge treated wastewater to the NYSDOT culvert system along NYS

Route 278 and NYS Route 2, and review and conceptual approval of that proposal will be required from NYSDOT for consideration by the Planning Board. Finally, when the Applicant was last before the Planning Board, he described a proposed berm to be constructed to the rear of the residential lots upgradient from the project site to provide a buffer between the residential use and the commercial use. The Planning Board is requiring that the Applicant provide detail on the berms for review. Accordingly, the Planning Board has determined that it can move forward and renote and continue the public hearing on this application at such time as it has received information and conceptual approval on the wastewater design from NYSDEC, Rensselaer County Department of Health, and NYSDOT. Further, the Applicant will need to submit details concerning the proposed berms between the upgradient residential lots and the project site. Once the record is complete on these issues, the Planning Board will be in a position to move forward and renote and continue the public hearing. At that point, the Planning Board will be in a position to make a SEQRA determination. Once the SEQRA determination is made, the Brunswick Zoning Board of Appeals will be in a position to act upon the special permit application pending before the ZBA concerning the proposed "filling station". Once the ZBA has acted on the special permit application, the Planning Board will then be in a position to act upon the proposed site plan as well as commercial subdivision. Both the Planning Board and the Applicant understood the proposed procedure. This matter is adjourned until such time as further information is received from NYSDEC, Rensselaer County Department of Health, NYSDOT, and also information from the Applicant concerning the proposed berm.

Two new items of business were discussed.

The first item of new business discussed was a site plan application submitted by A&S Diesel, 850 Hoosick Road. The Applicant is seeking to install a 10,000 gallon diesel fuel tank at

the existing A&S Diesel facility for use by the public. It is noted that this proposal has received a special permit from the Zoning Board of Appeals for a "filling station". This matter is placed on the February 3 agenda for further discussion, and the application information was forwarded to the Brunswick No. 1 Fire Department for review and comment.

The second item of new business discussed was a site plan application submitted by Tamarac Auto Sales for a proposed used car lot at the Tamarac Plaza located on Route 2 opposite Tamarac School. Upon initial review, the Planning Board determined that the application was incomplete, and the matter will not be placed on an agenda until such time as a complete site plan has been submitted. Mr. Kreiger will pull the Planning Board minutes when a proposal for a used car lot at this location was last discussed by the Planning Board.

The **index** for the January 20, 2011 meeting is as follows:

1. Duncan Meadows PDD site plan and minor subdivision – 2/3/11;
2. Charles Farrell – major subdivision – 2/17/11;
3. Reiser Bros. Inc. – commercial subdivision and site plan – adjourned without date;
4. A&S Diesel – site plan – 2/3/11;
5. Tamarac Auto Sales – adjourned until complete site plan application submitted.

The **proposed agenda** for the February 3, 2011 meeting currently is as follows:

1. Duncan Meadows PDD – site plan and minor subdivision;
2. A&S Diesel – site plan;
3. Oakwood Property Management, LLC – site plan/waiver of subdivision/rezone petition referral (tentative).

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

ABSENT were CHAIRMAN RUSSELL OSTER and MEMBER CHRISTIAN.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

Member Czornyj will be Acting Chairman for this meeting.

The draft minutes of the January 20, 2011 meeting were reviewed. Upon motion of Member Wetmiller, seconded by Member Mainello, the draft minutes of the January 20, 2011 meeting were unanimously approved without amendment.

The first item of business on the agenda was the site plan application and minor subdivision application by ECM Land Development for the Duncan Meadows Planned Development District. Francis Bossolini, PE was present for the Applicant. Mr. Bossolini stated that he had received a copy of the draft conditions to be considered by the Planning Board on the site plan which had been discussed at the January 20, 2011 meeting, and that in review with his client, the Applicant has no objection with the proposed conditions. Mr. Bossolini presented some additional information concerning signage on McChesney Avenue Extension which may be considered by the County Highway Department in connection with the access roads to the project and recreation field, and provided information on standard intersection signages on driveways for review by the Planning Board. Mr. Bossolini stated that he would coordinate with

the County Highway Department on the work permit, including necessary signage. Member Czornyj inquired as to the location of these signs. Mr. Bossolini reviewed standard distances for signage from road entrances, and stated that the Applicant would comply with any requirements of the County Highway Department. Mr. Bossolini then reiterated that his clients had discussion with the owners of the Highland Creek Planned Development on combining the sewer plans for the provision of one sewer pump station, and that a proposed location for the pump station to service both the Highland Creek project and Phase 3 of the Duncan Meadows condominium project had been proposed and will be submitted to the Town for review. Mr. Bossolini reiterated that it was his client's preference to have the Town of Brunswick move forward with the construction of a new pump station for BSD 6, rather than pay for upgrades to the existing BSD 6 pump station and then construction of a new pump station for BSD 6 in the future. Mr. Kestner stated that the Town was looking at the timing on construction of a new pump station for BSD 6, but that factors including commencement of construction of various PDD projects and the remaining capacity at the existing BSD 6 pump station with limited upgrades to pumps. That issue will continue to be addressed by the Town. Member Czornyj inquired whether there were any additional questions or comments concerning the site plan, or the proposed conditions which had been reviewed at the January 20, 2011 meeting. There were no additional questions or comments. Attorney Gilchrist stated that there were two applications before the Board, one for minor subdivision to divide the remaining lands of ECM Land Development lying to the north of McChesney Avenue from the approved PDD area, and also the site plan for the Duncan Meadows Planned Development project. Attorney Gilchrist reiterated that SEQRA had been completed on this application, with the Brunswick Town Board serving as SEQRA Lead Agency. Thereupon, Member Mainello made a motion to approve the minor subdivision which



will subdivide the remaining lands of ECM Land Development lying to the north of McChesney Avenue from the Duncan Meadows PDD site, which motion was seconded by Member Wetmiller. The motion was approved 5/0, and the minor subdivision approved. Thereupon, Member Mainello made a motion to approve the Duncan Meadows site plan with respect to the condominium portion of the Duncan Meadows PDD project, subject to the following conditions:

1. This conditional site plan approval is applicable to Duncan Meadows PDD site plan titled Overall Site Plan, Duncan Meadows, McChesney Avenue, Town of Brunswick, County of Rensselaer, State of New York, Sheet 1 of 28, last revision date 11/22/10. The full site plan set consists of 28 sheets. The site plan approval covers only the condominium units, identified on the site plan set as phases 1, 2, and 3, consisting of 166 condominium units. The site plan approval is not applicable to the proposed senior apartments. A total of fifty (50) senior apartment units are part of the approved Planned Development District. A site plan for the Duncan Meadows senior apartments has not been submitted to the Planning Board. The Duncan Meadows owner (hereinafter "Owner") must submit a separate site plan application pertaining to the senior apartments, which application is subject to full site plan review by the Planning Board.
2. The Owner has not submitted an engineering plan for an approvable sewer pump station to be located in phase 3 of the Duncan Meadows condominium project. The proposed location of the Duncan Meadows phase 3 sewer pump station is shown on Sheet 21 of 28 of the site plan set, and the proposed sewer pump station details is shown on Sheet 25 of 28 of the site plan set. The proposed sewer pump station details are not approved by the Town of Brunswick. The Owner will coordinate with the owner of the Highland Creek Planned Development District to jointly construct one sewer pump station to service sewer flow from the Highland Creek project and phase 3 of the Duncan Meadows project. In the event such coordination on pump station construction is not completed, the Owner must submit to the Town of Brunswick Building Department an approvable engineering plan for a sewer pump station to service sewer flows from phase 3 of the Duncan Meadows condominium project. Such plan will be subject to review and approval by the Town of Brunswick Building Department, Water Department, and Town consulting engineer. No building permits for Duncan Meadows phase 3 will be issued until coordination with the owner of the Highland Creek project is completed and the Town of Brunswick Building Department, Water Department, and Town consulting engineer have approved the details for a single sewer pump station to service the Highland Creek project and Duncan Meadows phase 3, or a separate sewer pump station to service only Duncan Meadows phase 3 has been approved by the Town of Brunswick Building Department, Water Department, and Town consulting engineer.

3. A condominium association must be created for the Duncan Meadows project. The Duncan Meadows Condominium Association documents are subject to review by the Town Board, Town Attorney, Planning Board, and Planning Board Attorney to ensure compliance with the requirements of the PDD SEQRA Findings Statement, PDD approval, and site plan approval for the site plan identified in Paragraph No. 1 above.
4. The Owner shall grant an easement to the Town of Brunswick for access to all public water and public sewer infrastructure, including pump stations and hydrants. The easement shall be in a minimal width of fifteen (15) feet on each side of sewer and water piping, and be of sufficient area around pump station to allow for repair and maintenance activities. The area of the easement shall be subject to approval by the Town of Brunswick Building Department, Water Department and consulting engineer. An Easement in form and content acceptable to the Town Board and Town Attorney must be executed by the Owner and recorded in the Office of the Rensselaer County Clerk at the expense of the Owner. Proof of such filing at the Office of the Rensselaer County Clerk must be provided to the Town of Brunswick by the Owner.
5. The Owner shall be responsible for all roadway maintenance, including paving, repairing, and snowplowing, for the benefit of all residents within the Duncan Meadows project, to ensure that all roadways are open, passable, and accessible to and by residents and emergency vehicles. All such roadways within the Duncan Meadows project are designed to be maintained as private roadways, and will not become public roadways subject to Town ownership, repair, or maintenance. A Road Maintenance Agreement in form and content acceptable to the Town Board and Town Attorney must be executed by the Owner.
6. A Bonding Security Agreement must be executed between the Town of Brunswick and the Owner concerning bonding or other acceptable financial security for water and sewer infrastructure for the Duncan Meadows project. The form of the Bonding Security Agreement is subject to approval by the Brunswick Town Board and Town attorney.
7. The Owner must submit a petition to the Town Board for creation or extension of a water district, including full map, plan, and engineering report in compliance with municipal and state requirements and standards. The petition for creation or extension of water district will be subject to full municipal review by the Town Board.
8. All improvements constructed in conjunction with providing a system of water supply and distribution will be, upon satisfactory completion by the Owner, dedicated to the Town of Brunswick for operation maintenance without costs to the Town.

9. The Owner shall post a performance bond or other acceptable financial security for all improvements in conjunction with providing a system of water supply and distribution in an amount to be approved by the Town Board in consultation with its Consulting Engineer. The form and content of such performance bond or other acceptable financial security shall be subject to review and approval by the Town Attorney. This will be included in the Bonding Security Agreement.
10. The Owner must submit a petition for the creation of a sewer district, including full map, plan, and engineering report in compliance with municipal and state requirements and standards. The petition for creation of the sewer district will be subject to full municipal review by the Town Board.
11. All improvements constructed in conjunction with providing a system of sewer supply and distribution will be, upon satisfactory completion by the Owner, dedicated to the Town of Brunswick for operation maintenance without costs to the Town.
12. The Owner shall post a performance bond or other acceptable financial security for all improvements in conjunction with providing a system of wastewater collection and distribution in an amount to be approved by the Town Board in consultation with its Consulting Engineer. The form and content of such performance bond or other acceptable financial security shall be subject to review and approval by the Town Attorney. This will be included in the Bonding Security Agreement.
13. The Owner shall be responsible for all costs associated with immediate upgrades to the existing BSD6 wastewater pump station. The Owner shall pay to the Town the sum of \$72,700.00 to be used for the pump station upgrades. This condition shall be inapplicable in the event the Town Board determines to commence the design and construction of a new wastewater pump station for BSD6 as described below in Condition 14 prior to the start of construction of the Duncan Meadows condominium units.
14. The Owner shall pay to the Town the sum of \$121,100.00, or other amount as may be determined by the Town Board in connection with 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 BSD6. Such amount shall be placed in an escrow account dedicated to the design and construction of a new wastewater pump station for BSD6, if necessary in the future.
15. The Owner must comply with all New York State Department of Environmental Conservation (NYSDEC) Stormwater Regulations and Town of Brunswick local laws concerning stormwater compliance. In addition to any mandatory Notice of

Intent to commence construction activities, the Owner must comply with its Erosion and Sediment Control Plan (ESCP) and Stormwater Pollution Prevention Plan (SWPPP) in compliance with NYSDEC Stormwater Regulations. Prior to any grading or other construction activities on the construction site, the ESCP and SWPPP, together with a copy of the NYSDEC Notice of Intent to commence construction activities, shall be provided to the Town of Brunswick for review in compliance with its responsibilities as an MS4 community. The ESCP and SWPPP are subject to compliance with final engineering review comments.

16. All stormwater management facilities shall be constructed in compliance with the approved SWPPP. All stormwater management facilities shall be owned and maintained by the Duncan Meadows Condominium Association. The Town of Brunswick shall not own or otherwise be responsible for future operation or maintenance of such stormwater management facilities. This obligation shall be set forth in the Condominium Association documents. The Town of Brunswick shall be granted an easement for access to such stormwater management facilities pursuant to the Condominium Association documents. The form and content of the Condominium Association documents as to stormwater management facility ownership, operation, maintenance, insurance and access, including the easement granted in favor of the Town of Brunswick for access, shall be subject to review by the Town Board and Town Attorney. The Town of Brunswick shall have no responsible or liability with respect to such stormwater management facilities. The Condominium Association must further execute a Stormwater Management Facilities Maintenance Agreement with the Town of Brunswick. The form and content of the Stormwater Management Facilities Maintenance Agreement shall be subject to approval by the Town Board and Town Attorney. The Owner shall be responsible for recording the access easement in favor of the Town of Brunswick as described in this paragraph in the Office of the Rensselaer County Clerk.
17. The Owner must comply with all requirements of the United States Army Corps of Engineers and New York State Department of Environmental Conservation concerning wetlands on the project site.
18. The Owner shall pay the sum of \$83,000.00 as a park and recreation fee with respect to the condominium units approved under this site plan approval. An additional park and recreation fee will be required in connection with the senior apartments section of the Duncan Meadows Planned Development District.
19. The Owner shall construct a recreation field in the general location depicted on Sheet 1 of the site plan set, plus amenities including a gravel parking lot able to accommodate a minimum of 120 vehicles, concession stand, restroom facilities, and bleachers.

20. Upon completion of the recreation field plus amenities, title to the field and amenities, plus the 7.4± acre parcel on which such recreation facilities are constructed, shall be transferred by the Owner to the Town of Brunswick. Subdivision of the recreation parcel from the remainder of the Owner's project site shall be addressed by the Brunswick Planning Board. The Owner shall comply with all requirements of the Town of Brunswick for acceptance of title to real property and/or personal property. The completion of the recreation facilities and offer of dedication thereof (inclusive of the 7.4± acre parcel) to the Town of Brunswick shall be completed prior to the issuance of any Certificate of Occupancy for any residential unit in the Duncan Meadows project.
21. The Owner shall use best efforts to complete construction of the recreation field and all amenities on or before May 31, 2011, and file an offer of dedication thereof to the Town of Brunswick on or before June 30, 2011.
22. The Owner shall construct sidewalks/pedestrian walkways as generally depicted on Sheet 1 of the site plan set. Construction of such sidewalk/pedestrian walkway by the Owner shall be coordinated with the Rensselaer County Highway Department, Rensselaer County Engineer, Brunswick Highway Department, Brunswick Building Department, and the Town consulting engineer.
23. The Owner must comply with any requirements of the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) during construction activities, including compliance with the Avoidance Plan approved by OPRHP through correspondence dated August 5, 2009.
24. All site work and construction activities on the project site shall be limited to the following hours of operation: Monday through Friday, 7:00 a.m. to 7:00 p.m., Saturday 7:00 a.m. to 5:00 p.m., no site work or construction activities shall be permitted on Sundays or legal holidays.
25. All rock, including bedrock, must be removed by mechanical means, if it is determined to be mechanically feasible. In the event blasting is required to remove such rock, notice to the Town Building Department and consulting engineer must be made, both verbally and in writing, prior to any blasting activities. The following best management practices for blasting must be complied with:
  - a. All blasts will be designed and implemented in accordance with all applicable state and federal regulations.
  - b. A licensed expert blaster will perform all blasting.
  - c. Blasting will be scheduled to avoid adverse weather conditions such as strong, low level thermal inversions and thunderstorms.
  - d. All blast holes will be loaded and implemented under the direct supervision of an expert licensed blaster.

- e. The blast area will be secured prior to each blast.
- f. Blasting will be done between 10:00 a.m. and 5:00 p.m. Monday through Friday. No blasting will occur on weekends.
- g. All blasts will be monitored with a properly calibrated seismograph.
- h. Records of all blasts, including seismograph data, will be prepared and maintained by the Owner and/or blasting expert, and made available to the Town upon request.
- i. The Owner will promptly and professionally respond to and investigate all complaints. The Owner shall make all necessary repairs to homes and property if it is determined that such damage is causally related to the blast.
- j. In addition, the Owner shall offer to all property owners within 1,500 feet of the blasting areas, or as directed by the Town's consulting engineer and Town Building Department, the opportunity to have a pre-blast survey conducted by the Owner for all structures located within such area. This offer must be made in writing, with records of such written offer and/or pre-blast survey to be maintained by the Owner and made available to the Town upon request.

26. The following note shall be placed on all plans and specifications for the Duncan Meadows project:

The undersigned Applicant for the property and undersigned Owner of the property state that they are familiar with all conditions of the Town Board of the Town of Brunswick on the Duncan Meadows Planned Development District, and consent to all said conditions.

\_\_\_\_\_

Applicant

\_\_\_\_\_

Date

\_\_\_\_\_

Owner

\_\_\_\_\_

Date

- 27. The Owner shall provide to the Town of Brunswick GIS data, including but not limited to project boundary area, roads, utilities, control points, and drainage elements.
- 28. The Owner shall pay all consulting engineering and legal review fees incurred by the Town Board in connection with the review of the Duncan Meadows PDD, and all site plan and subdivision consulting engineering and legal review fees incurred by the Planning Board. A final accounting for all such fees shall be made, and all such fees shall be paid by the Owner within 30 days of notification of such a final accounting.

29. The Owner shall be required to establish at the Town of Brunswick an Engineering Review Escrow Account in an amount to be determined by the Town Board upon review with its consulting engineer. The Owner must submit an estimate for projected infrastructure costs, including water, sewer, and stormwater facilities; and further, the Applicant must submit an estimated construction schedule. This information will be used by the Town in considering an appropriate engineering review escrow amount, which amount is anticipated to be five (5) percent of total estimated infrastructure construction costs. The Town Board shall retain an engineer for the purpose of providing engineering review and oversight on all construction plans and site construction activities related to the Duncan Meadows project. In addition, such consulting engineer shall assist the Town Building Department in all mandatory inspections pursuant to all applicable codes. All fees for engineering oversight shall be the responsibility of the Owner, and shall be paid out of the escrow account established pursuant to this paragraph. The amount of such escrow account shall be subject to review from time to time by the Town Board during construction activities on the Duncan Meadows project. At no time shall such account be in amount less than \$20,000.00. In the event the Owner fails to maintain such escrow account in a balance of less \$20,000.00 a Stop Work Order shall be issued by the Town of Brunswick Building Department on all construction activities at the site. The Owner shall be entitled to an accounting of all invoices for engineering review fees. At the conclusion of construction and completion of engineering oversight activities and upon a final accounting of all engineering fees, all funds remaining in such escrow account shall be returned to the Owner.
30. A conservation easement, in form acceptable to the Town of Brunswick, shall be required for those areas of the project site identified as open space on Sheets 9, 10, 17 and 19 of the site plan set. The Conservation Easement must be transferred by the Owner to, and be in favor of, the Town of Brunswick. The Owner must complete all necessary requirements to record the Conservation Easement in the Office of the Rensselaer County Clerk.
31. The Owner shall coordinate with representatives of WalMart concerning the stormwater discharge from Phase 1 of the Duncan Meadows condominium project in relation to WalMart's construction of stormwater management features and wetland areas on the former DiGiovanni parcel located on McChesney Avenue. WalMart has agreed to grant a drainage easement to the Owner for stormwater discharge from Phase 1 of the Duncan Meadows condominium project. The Owner shall file a copy of such drainage easement with the Brunswick Building Department.

Member Tarbox seconded the motion subject to the stated conditions. The motion was approved 5/0; and the Duncan Meadows site plan for the condominium project was approved subject to the stated conditions.

The second item of business on the agenda was the site plan application by A&S Diesel for property located at 850 Hoosick Road. Gary Joy of A&S Diesel was present, as was a representative of John Ray Fuels. Mr. Joy stated that he is joint venturing with John Ray Fuels for the proposed installation of a 10,000 gallon diesel fuel tank at the existing A&S Diesel facility for use by the public. Mr. Joy stated that he was supplying the land on a lease basis, and that John Ray Fuels was handling all fuel issues. Member Esser inquired whether the diesel fuel tank would be open to the public. The tank is proposed to be open 24 hours, 7 days a week, with the use of a credit card for fuel dispensing. The Planning Board then generally discussed truck circulation and area for truck movement to the location of the proposed diesel tank. Member Esser inquired whether existing cars parked on the site would pose a circulation problem for access to the diesel tank. Mr. Joy stated that there would be no issues concerning traffic flow, and that he will not have any problem with parking vehicles in connection with his existing business. Member Esser asked whether there would be advertisement for the diesel fuel system. Mr. Joy stated that there would be signage at the location. Mr. Kestner inquired whether a trailer attached to a tractor trailer which was filling with diesel fuel would be parked in front of the A&S Diesel door. Mr. Joy stated that the trailer would not be in front of the door to his existing business, and that there was adequate room on the site. Member Esser asked whether the diesel tank was free standing. The tank is free standing, and specifications for the tank were handed up to the Planning Board for review. Member Wetmiller asked whether the area where trucks would be fueling is paved. That area is not paved, and the Applicant seeks to have trucks on a gravel



surface when fueling from the diesel tank. It was made clear that the current proposal was to have the tank on a concrete pad with a containment system, but the area where the trucks would be fueling is a gravel surface. There would also be a camera in place to monitor the fuel tank, and John Ray's emergency spill response program was also discussed. The John Ray representative stated that the company had several other locations where this type of free standing diesel tank was provided, and at these other locations the filling area was originally on gravel, and then a determination was made as to whether that location was economically viable, and if yes, then a concrete pad was added where the fueling of vehicles occurs. Member Czornyj inquired whether there was adequate room on this site for vehicle circulation in the area of the diesel tank during snow removal, particularly in light of the snow received this winter. Mr. Joy stated that he had no problem with snow removal on this site, and he kept this site very clear with free access. A letter had been received on this matter from the Brunswick No. 1 Fire Department, stating that the department saw no future problems with the proposed diesel dispensing pump being installed at this location. The fire department does request that a proper fire extinguisher be on hand in case of any emergency that may arise. Further discussion was held concerning John Ray's spill response, and it was noted for the record that given the size of this tank, the tank will be registered with the New York State Department of Environmental Conservation. Mr. Kestner noted that there was a requirement to report a spill of diesel fuel to NYSDEC if the spill was above the reportable quantity of 5 gallons. Mr. Kestner noted that at the existing fuel dispensing system at the Sunoco Station on Route 2, the Town had required a concrete pad and containment system for the filling area, with a drain and containment tank. Mr. Kestner did note, however, that the Town had required this system at the Route 2 location because that location was over a principal aquifer, and that there were different conditions present at the A&S Diesel

location. Mr. Kestner stated that the A&S Diesel location was principally over shale. Mr. Joy stated the site did contain shale, and that any release would drain toward an existing storm drain which would then discharge to his onsite detention pond. The Planning Board reviewed the proposed filling procedure for the proposed diesel tank, and the protection of the tank by jersey barriers. It was noted that the jersey barriers were not depicted on the submitted site plan. Mr. Kestner also inquired as to lighting, since the diesel system was proposed to be operating 24 hours per day, 7 days per week. Mr. Joy stated that a light would be mounted on the existing A&S Diesel building, to shine only on the pump system itself. There was discussion regarding the type of lighting, and that no spillage of light offsite would be permitted. It was noted that the light and the camera system would be installed on the A&S Diesel building, at a location high enough so as not to block the pump system while a truck was being filled. The John Ray representative stated that the camera system was installed so that John Ray could monitor all of its locations, including this one, 24 hours a day. After further discussion, it was determined that the submitted site plan did not include all of the existing features on the site, nor all of the proposed facilities in connection with the diesel tank. Toward that end, the Applicant will need to prepare an updated site plan which shows all existing features at the site, trees, vegetation, parking, container areas, grease trap, and that the location of the lighting, camera, jersey barriers, and also the addition of a concrete pad for the filling area needs to be added to the site plan. Member Mainello stated that he would like to see a concrete pad added to this operation now, similar to the requirement for the diesel tank installation at the Honda dealership on Route 7. Member Esser also wanted the site plan on an appropriate scale for review by the Planning Board. Member Wetmiller also stated that traffic directional arrows should be added to the site plan to depict the proposed traffic flow for the diesel tank area. The Planning Board determined

to hold a public hearing on this site plan. The public hearing will tentatively be scheduled for the February 17, 2011 meeting at 7:00 p.m., with a condition that the updated site plan information is received by the Town no later than February 10 to allow public access to the site plan information. In the event the updated site plan could not be submitted to the Town by February 10, than this matter will be held over and public hearing will be held at the March 3, 2011 meeting.

The third item of business on the agenda was an application to update and amend the site plan with respect to the Brunswick Woods PDD project. Tim Owens of Brunswick Associates was present for the Applicant, together with Brian Owens of Brunswick Associates and a representative of BBL Construction Services, the construction contractor for the Brunswick Woods Apartment project. Tim Owens presented the Planning Board with an update on the status of the current construction activities. Brunswick Associates has filed with the Planning Board 4 sheets prepared by Hershberg and Hershberg. Two sheets depict Phase 1 and Phase 2 of the construction activities, and show previously approved site plan features in red ink and proposed amendments in gray, and are labeled Sheets C-2 and C-3. The final two sheets depict proposed options for parking and garage areas in blue ink, and are also labeled Sheets C-2 and C-3. Tim Owens reviewed these sheets in detail. With respect to Phase 1 construction adjustments, Mr. Owens reviewed 13 items, as follows:

- 1) Garage B&C and associated parking shifted due to existing utilities
- 2) Realigned Building 414 walkway
- 3) Garage A – changed to Type B garage (no rear access)
- 4) Realignment of loop road due to National Grid easement requirements
- 5) Relocated Fire Hydrant in front of Building 12

- 6) Shifted parking at Building 413
- 7) Realignment of loop road due to National Grid easement (west side of 412)
- 8) New Retaining wall alignment behind 409 & 408
- 9) Building 409 GF raised half a foot & 408 GF raised one foot
- 10) SWPPP Area 4 – Retaining wall removed
- 11) Minor changes to sidewalk alignments
- 12) Add 10 parking space at building 407
- 13) Added decorative walls to handicap entrances similar to the Glen

With respect to Phase 2 construction adjustments, Mr. Owens reviewed 6 items, including:

- 1) Garage K, L, M & N – changed to Type B (no rear access)
- 2) Removed Retaining wall behind Garage K
- 3) Building 404 rotate 90 degrees and shifted to avoid rock outcrop
- 4) Shift dumpster location
- 5) Added curbing Island at Clubhouse
- 6) Relocated end of sidewalk at clubhouse

With respect to the proposed options for parking and garage areas depicted on the blue ink sheets C-2 and C-3, Mr. Owens reviewed the option of eliminating garage L and replacing it with surface parking (Options 1 & 2), and eliminating the proposed RV storage area with additional parking (Option 3). Mr. Owens stated that it was Brunswick Associates' intent to continue to construct garage L and the RV storage area, but that site conditions may warrant the adjustments. All of the proposed amendments to the originally approved site plan have been occasioned by the amount of rock encountered during the initial construction activities, and also National Grid gas line easement requirements. Mr. Owens handed up a letter from the Brunswick No. 1 Fire

Company stating that the company had no objections to the proposed site plan amendments. Lastly, Mr. Owens reviewed the total parking spaces under the originally approved site plan, and the proposed amendments including inclusion of Options 1, 2 and 3. The Planning Board inquired of Attorney Gilchrist of whether the Board could review and act upon these amendments, including the approval of the options. Attorney Gilchrist stated that the Planning Board had the authority to address the proposed revisions to the site plan, and with respect to the options, could approve these options as construction-related options with the requirement that the specific construction plans be submitted and reviewed by the Town Building Department and consulting engineer for each of the option areas, and that in the event the option was constructed, the Applicant would need to submit as-built drawings with respect to those option areas to be filed with the Brunswick Building Department. With that understanding, the Planning Board was prepared to act on the proposed amendments to the site plan as reviewed by Mr. Owens. Attorney Gilchrist noted that SEQRA had been completed on this project by the Town Board serving as SEQRA Lead Agency on the PDD amendment, and that the Planning Board did not need to revisit SEQRA unless it determined that these amendments were significant. The Planning Board did not deem these amendments to be significant, and therefore no further action under SEQRA is required. Thereupon, Member Wetmiller made a motion to approve the proposed amendments to the site plan, including the options identified as Options 1, 2, and 3, with the requirement that specific building plans concerning these option areas be filed and reviewed by the Brunswick Building Department and consulting engineer prior to any construction activities, and in the event these options were incorporated into the project a set of as-built plans would be required to be filed with the Building Department upon completion. Member Mainello seconded the motion subject to the stated conditions. The motion was

approved 5/0, and the site plan amendments including construction options were approved subject to the stated conditions and requirements. Mr. Owens thanked the Board for its time, and did bring the Board up to date on changes it is making to the exteriors of the existing apartment buildings in Brunswick Woods, and preview the proposed changes to the exterior of the clubhouse. Finally, there was discussion concerning modifications of pump station for water supply to the Brunswick Woods project, including upgrading pumps and installation of a generator. Mr. Kestner concurred that these items were currently being reviewed by the Town, and will be incorporated into the project.

Two items of new business were discussed.

The first item of new business discussed was a waiver of subdivision application by Michael Blair for property located at 394 Moonlawn Road (Tax Map #92.-3-7). Mark Danskin was present for the Applicant. Mr. Danskin explained that this property, which is described in one deed, consists of four lots which were created through a filed subdivision plat decades ago. The Applicant is seeking to create two lots within this total 5.20 acre tract, denominated as Lot A and Lot B. Proposed Lot A would be 0.93 acres in size, and include the existing house, shed, and outbuildings/structures. Proposed Lot A is situated in the R-25 zone, but does meet the size requirements for the A-40 District, in which the balance of this tract is situated. Proposed Lot A will have approximately 140 feet of road frontage on Moonlawn Road. Proposed Lot B will be 4.27 acres in size, with 275 foot of road frontage on Moonlawn Road. Proposed Lot B is vacant, and is located in the A-40 zoning district. This property is served by public water. Member Tarbox inquired as to a proposed driveway location for proposed Lot B. Mr. Danskin stated that he would site the driveway near the existing driveway to proposed Lot A. Member Czornyj stated that he would like to see sight distances calculated for the proposed driveway location for

proposed Lot B. Mr. Danskin stated that he would either plot the sight distances or obtain a County Highway permit for the driveway location. The Planning Board stated that either the sight distances or issuance of a County Highway permit would be acceptable. The Planning Board generally discussed if there are any wetland issues associated with the property. Member Tarbox noted that the subdivision map continued to reference the four lots from the prior subdivision plat, and suggested that a new subdivision map be created depicting only proposed Lot A and Lot B. Mr. Danskin concurred, and stated that a subdivision plat would be created for proposed Lot A and Lot B which would then be stamped by the Planning Board and recorded in the County Clerk's Office. This would help to clean up the record on this matter, and also allow Mr. Danskin then to prepare two deeds with a new metes and bounds description for each lot. Mr. Danskin will resubmit a map for review by the Planning Board. This matter has been placed on the February 17 agenda for discussion.

The second item of new business discussed was a concept proposal by Sphere Development for a proposed site plan for construction of a Tractor Supply store on property located on 864 Route 7, at the intersection of NYS Route 7 and McChesney Avenue, opposite the Countryview Diner and adjacent to A&S Diesel. The property is currently owned by Loccisano, with Tax Map #91.00-2-18. The parcel is located in the B-15 zoning district. The parcel is approximately 4 acres in size. R. Loccisano and representatives of Sphere Development and the civil engineers retained by Sphere Development presented a concept plan for the siting of a Tractor Supply store at this location. The proposed store is approximately 19,097± square feet, with an adjacent 15,000± square foot fenced outdoor display area. A parking lot area housing 73 spaces is proposed, together with an area identified as trailer display of 3,300 square feet. The proposed access for tractor trailer deliveries is off McChesney Avenue, and the proposed

entrance for retail customers is directly off Route 7 opposite Betts Road. The Planning Board generally discussed the building placement, parking issues, lighting issues, elevation of the building adjacent to Route 7, and also site grading and quantity of materials to be removed from the site for construction purposes. The proposed building will have a construction grade approximately 14 feet above Route 7, with a total building height of 23 feet. The building is proposed to be approximately 30 feet from the Route 7 right-of-way. The Planning Board generally discussed options for the building elevation/facade for the side of the building facing Route 7. The entrance of the store will face in a westerly direction, with the customer parking on the western portion of the project site, with the entrance driveway on the extreme westerly portion of the site accessing Route 7 opposite Betts Road. Gary Joy of A&S Diesel, the adjacent property owner, was present and indicated he was interested in working with the Applicants for blending the grading of the project site with the A&S Diesel site to achieve an appropriate grade between the parcels. Sphere Development indicated that a full site plan application for this project together with all application fees and required escrows will be submitted on or before February 17, and requested that this matter be placed on the March 3 Planning Board agenda for further discussion.

The **index** for the February 3, 2011 meeting is as follows:

1. Duncan Meadows PDD minor subdivision and site plan – approved with conditions;
2. A&S Diesel – site plan – 2/17/11 (public hearing at 7:00 p.m. *tentative*);
3. Brunswick Associates of Albany, LP – amendment to Brunswick PDD site plan – approved with conditions and requirements;
4. Blair – waiver of subdivision – 2/17/11;



5. Sphere Development – site plan (Tractor Supply) – 3/3/11 (subject to receipt of full site plan application).

The **proposed agenda** for the February 17, 2011 meeting currently is as follows:

1. A&S Diesel – site plan (public hearing at 7:00 p.m., *tentative*);
2. Blair – waiver of subdivision;
3. Oakwood Property Management, LLC – site plan/waiver of subdivision/rezone petition referral (*tentative*).

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

**MINUTES OF THE PLANNING BOARD MEETING HELD February 17, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, DAVID TARBOX and VINCE WETMILLER.

ABSENT were FRANK ESSER and KEVIN MAINELLO.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board reviewed the draft minutes of the February 3, 2011 meeting. Upon motion of Member Czornyj, seconded by Member Christian, the draft minutes of the February 3, 2011 meeting were unanimously approved without change.

Chairman Oster noted for the record that the Oakwood Property Management, LLC – site plan/waiver of subdivision/rezone petition referral matters would not be addressed at the February 17 meeting, and the matter is adjourned until the March 3 meeting.

The first item of business on the agenda was the waiver of subdivision application by Michael Blair for property located at 394 Moonlawn Road (Tax Map No. 92.-3-7). Mark Danskin was present for the Applicant. Mr. Danskin generally reviewed the application, which addresses four lots shown on a previously – filed subdivision map. These lots were denominated 3, 4, 5 and 6 on the previously filed subdivision plat. Such lots 3, 4, 5, and 6 are contained in one deed, now in title of Blair. Blair seeks to re-subdivide these lots into two residential lots, denominated as Lots A and B. Proposed Lot A is a 40,500 square foot lot with existing homestead. Proposed Lot B will be a 4.2 acre building lot, currently vacant. Both proposed lots

will have municipal water available. Mr. Danskin reported that he received permission from the Rensselaer County Highway Department for a proposed driveway location for proposed Lot B. Member Czornyj inquired whether a new map would be submitted in accordance with the discussion at the February 3 meeting. Mr. Danskin reported that he did not think a new map needed to be submitted, since the existing map already submitted to the Planning Board does show proposed Lots A and B. Member Czornyj understood that reference to the prior lot designations of 3, 4, 5, and 6 would be eliminated, and a map would be submitted showing only proposed Lots A and B. Mr. Danskin thought that elimination of any reference of prior denominated lots 3, 4, 5, and 6 would create a question on the record at the Rensselaer County Clerk's Office. After further discussion, it was determined that this application constitutes a re-subdivision of prior lots 3, 4, 5, and 6, and a new map would be shown identifying only proposed Lots A and B, but with a title block identifying the map as a re-subdivision of prior lots 3, 4, 5, and 6, and a map note added for explanation. Mr. Kestner noted that the Town Water Department requests a copy of the proposed easement for public water line extension over these lots, and also a copy of an existing easement over the adjacent Lands of Kaiser. The Planning Board inquired whether there would be any further subdivision of proposed Lot B. Mr. Danskin responded that no further subdivision is proposed, but rather Lot B will be one residential building lot, with one home, one septic plan being submitted to the Rensselaer County Health Department, and one proposed driveway location approved by the County Highway Department. It was also noted that this property is currently located in an agricultural district, and therefore an agricultural data statement must be completed and served. It is further noted that proposed Lot B will require a water district extension, to be added to consolidated Water District #4. The

extension of the water district will be a condition to any action on this application. This matter has been placed on the March 3 agenda.

One item of new business was discussed.

A site plan application has submitted by Tamarac Auto Sales (Kenneth Bruno owner) for a proposed used car lot in the parking lot of the Tamarac Plaza. This is Tax Map No. 92.-6-3. Kenneth Bruno appeared on the application. Mr. Bruno did an overview of what the proposal entails, which will be a used car business with an office for used car sales located in the Bruno Law Offices, with a proposed display area in the front parking lot of the Tamarac Plaza. The Planning Board in general, and Chairman Oster in particular, raised a concern regarding display of used cars in a front parking lot creating a dangerous condition with people walking around viewing used cars in the middle of a parking lot. Chairman Oster also thought this created a dangerous precedent for allowing display of merchandise in parking lot areas, an issue which the Planning Board has viewed negatively in the past. Mr. Bruno stated that the used car dealership would be similar to one of the retail uses in the plaza, but used the parking lot for display of the merchandise. Chairman Oster stated that one option may be to have a separate dedicated area outside of the existing parking lot for used car display. Member Czornyj concurred, saying that an area to the west side of the parking lot, even if some lawn was taken for car display, would be preferable to having cars displayed in the front parking lot. Mr. Bruno responded that he was looking for the visibility for having cars displayed in the front parking lot adjacent to Route 2. Member Wetmiller asked whether there would be any car washing on the site. Mr. Bruno said there would not be any car washing on the site. Member Czornyj reiterated that he was concerned regarding public health and safety. Mr. Bruno stated that he could envision some curbing or some similar barrier added around the area of the used car display in the parking lot.

Chairman Oster asked whether the use of 8 parking spots for used car display would impact the total number of required parking spots for the retail plaza. Mr. Kreiger said that the total number of parking spots would not be an issue. The Planning Board wanted time to research the issue of having a used car dealership on the same lot that is currently being used for retail sales, and directed Attorney Gilchrist to research that issue. Also, the Planning Board directed Mr. Kreiger to research whether any other commercial lot was being used for two separate commercial purposes, particularly where one of the uses was utilizing parking spaces. This matter will be placed on the March 3 agenda for further discussion.

Mr. Kreiger distributed to the Planning Board members the full site plan application submitted by Sphere STP II, LLC for the proposed Tractor Supply on Route 7. This is Tax Map Parcel 91.-2-18, comprising 3.8 acres. Sphere STP II, LLC is the Applicant, and the underlying fee owner is Rocco Loccisano. Mr. Loccisano has a letter in the record concerning his consent to the site plan submittal. This matter is placed on the March 3 agenda for further discussion.

The site plan application by A&S Diesel was also discussed, noting that the Applicant was looking to submit a limited site plan showing only the area of the proposed diesel fueling location. The Planning Board stated that it was looking for a full site plan of the entire lot, and further stated that it wanted to see a concrete pad in the location of the diesel fueling area. The Planning Board directed Mr. Kestner to contact the Applicant and inform the Applicant that a full plan of the entire site needed to be filed. This matter has been tentatively placed on the March 3 agenda for further discussion.

The **index** for the February 17, 2011 meeting is as follows:

1. Blair – waiver of subdivision – 3/3/11;
2. Tamarac Auto Sales – site plan – 3/3/11;

3. Sphere STP II, LLC – site plan (Tractor Supply) – 3/3/11;
4. A&S Diesel – site plan – 3/3/11.

The **proposed agenda** for the March 3, 2011 meeting currently is as follows:

1. Blair – waiver of subdivision;
2. Oakwood Property Management, LLC – site plan/waiver of subdivision/rezone petition referral;
3. Sphere STP II, LLC – site plan (Tractor Supply);
4. Tamarac Auto Sales – site plan;
5. A&S Diesel – site plan.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD March 3, 2011**

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

ABSENT was GORDON CHRISTIAN.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

The draft minutes of the February 17, 2011 meeting were reviewed. Upon motion of Member Czornyj, seconded by Member Wetmiller, the draft minutes were unanimously approved without amendment.

The first item of business on the agenda was the waiver of subdivision application by Michael Blair for property located at 394 Moonlawn Road (Tax Map No. 92.-3-7). Mark Danskin was present for the Applicant. Mr. Danskin reviewed the updated subdivision map, showing a corrected title block and an inset showing the location of existing waterlines with a map note pertaining to the waterline. Mr. Danskin reported that the Rensselaer County Highway Department has approved the proposed driveway location for the proposed Lot B, and further that the Rensselaer County Health Department has issued a permit to construct a septic system on proposed Lot B. Mr. Danskin also handed up and generally reviewed the proposed descriptions for Lots A and B, including reserved easements for the waterline. Mr. Danskin also reported that the easement for the waterline crossing the lands of Kaiser is currently being executed and finalized. Chairman Oster stated that all the outstanding items on the waiver

application have been addressed. Member Czornyj inquired whether the current subdivision map was proper as it still referred to the prior Mooncrest Subdivision Lots 3, 4, 5, and 6 as well as the new proposed Lots A&B. Attorney Gilchrist stated that the map was legally sufficient, and reference to the prior Mooncrest lot numbers was appropriate as the current proposed Lots A&B were portions of these prior numbered lots, it would therefore make the record title at the County Clerk's Office understandable. Chairman Oster inquired whether there were any further questions or comments. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Mainello. The motion was unanimously approved, and a negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the waiver of subdivision application subject to the condition that the final, executed easement for the waterline over the lands of Kaiser be filed with the Building Department. Member Esser seconded the motion subject to the stated condition. The motion was unanimously approved, and the waiver application approved subject to the stated condition.

The second item of business on the agenda was the site plan application by Sphere STP II, LLC for a proposed Tractor Supply store on property located at 864 Route 7, Tax Map #91.00-2-18. Tom Cooney of Sphere STP II, LLC, and engineer Rod Ives, were present for the Applicant. Mr. Cooney generally reviewed the site plan package, which includes payment of all application and escrow fees, site plan, signage package, Route 7 elevations, stormwater management plan, and long environmental assessment form. Mr. Ives reviewed the site plan in greater detail, which proposes a 19,000 square foot Tractor Supply building, with adjacent 15,000 square foot outdoor display area. The primary customer access to the parking lot is off Route 7 opposite Betts Road, with tractor trailer access off McChesney Avenue. The McChesney Avenue entrance/exit will also serve as the proposed exit for vehicles from the adjacent outdoor



display area. Mr. Ives stated that the site plan meets all required setbacks under the Brunswick Zoning Code, and is 41% greenspace which is in excess of the minimum required under the Brunswick Site Plan Regulations. A total number of 72 parking spaces is proposed. There is also a proposed display area for trailers near the customer access off Route 7, and also sidewalk display areas in the front of the Tractor Supply building. Chairman Oster inquired whether the proposed store size is a "standard" size for Tractor Supply stores. Generally, Mr. Cooney stated that this was a standard store, with the same layout that is found in all Tractor Supply stores, although some Tractor Supply stores can be as large as 24,000 square feet. Mr. Ives did confirm that extensive earth work is required, to meet grades of 6% for the access driveway off Route 7 as well a 4% grade in the parking lot area. Mr. Ives generally reviewed the status of the stormwater management plan, acknowledging that new stormwater regulations from the New York State Department of Environmental Conservation went into effect March 1, requiring green infrastructure practices, and therefore the stormwater plan will be modified to potentially include rain gardens and porous pavement. Mr. Kestner confirmed that he had a meeting with the Applicant concerning the stormwater plan, and that his office is in the process of reviewing the stormwater plan and proposed amendments. Member Wetmiller raised a question regarding sheet flow of stormwater off the parking lot, in particular to the entrance driveway. Mr. Ives confirmed that he is revising the stormwater plan to address that issue so that stormwater does not bypass detention areas and become an issue in the access driveway area. Member Wetmiller also had a question regarding snow removal. Mr. Ives stated that there was ample area for snow removal on the site, and that all plowing locations would be away from stormwater detention facilities. Mr. Ives did confirm that the Applicant was working with A&S Diesel on a grading plan, and that the final grading plan and location of stormwater detention facilities is still being reviewed. Mr. Ives

generally discussed the public water and public sewer connection points, noting that the Applicant will need Department of Health approval for the sewer connection. Mr. Ives also noted that the Applicant will need DOT approval for the access driveway location. Mr. Ives noted a lighting plan was included in the site plan package, identifying light specifications and confirming no light spillage off site. Mr. Ives then generally reviewed the landscaping plan for the site. Chairman Oster inquired as to how much material needed to be removed from the site in connection with site grading. Mr. Ives confirmed that approximately 30,000 to 40,000 cubic yards of material does need to be removed from the site under the current grading plan, and that the Applicant is in discussion with NYSDEC on the issue of construction exemption to the Mining Regulations. Member Wetmiller inquired whether there was ample room on the site for tractor trailer loading, including tractor trailers exiting the site onto McChesney Avenue and then to Route 7. Mr. Ives stated that the site has been designed to allow a tractor trailer to maneuver onsite before going onto McChesney Avenue, and that the McChesney Avenue/Route 7 intersection is being looked at for purposes of tractor trailer exit requirements. Member Czornyj noted that signage may be required on McChesney Avenue indicating a commercial driveway entrance. Mr. Ives stated that he would review the appropriate signage requirements for McChesney Avenue. Member Czornyj inquired about current discussions with A&S Diesel on the grading plan. Member Czornyj noted that the current grading proposal encroaches onto the A&S Diesel site, including location of a stormwater detention basin. Mr. Ives did state that the Applicant had met with Gary Joy, owner of A&S Diesel, just that day, and that discussions were ongoing. Gary Joy of A&S Diesel was present, and confirmed for the record that he is in favor of the overall project, but had just received this proposed grading plan and needed time to review it. Mr. Joy's initial concern is having as much grading on the A&S Diesel site, and having a large

detention pond located on the A&S Diesel property in close proximity to his parking lot. Mr. Joy did say he would continue to coordinate with the Tractor Supply representative on the grading issue and stormwater detention pond location issue. Chairman Oster stated that the site plan application was complete, and thought this matter should move forward to public hearing. The Planning Board members concurred. The public hearing will be held on this application at the March 17 meeting starting at 7:00 p.m.

The next item of business on the agenda was the site plan application by A&S Diesel for installation of an approximate 10,000 gallon diesel fuel tank at the existing A&S facility located at 850 Hoosick Road. Gary Joy was present for the application, as well as a representative of John Ray & Sons and the project engineer, Alex Duggan. Mr. Joy generally reviewed the revised site plan, which now calls for the installation of a concrete pad in the truck fueling area, installation of 6" ballards around the fuel area, the proposed traffic plan both in and out of the diesel fueling area, as well as lighting and landscaping plans. Member Czornyj asked about the additional site plan information requested by the Planning Board, including overall site parking. Mr. Joy stated that he was not opposed to providing a complete and final site plan to the Planning Board, but indicated that he was now coordinating with the Tractor Supply representatives for the proposed project on the adjacent property, and that additional grading may result on the A&S Diesel parcel, and that Mr. Joy was requesting that the Planning Board consider the portion of the site plan currently under review for the fuel storage area, and allow him to submit a final overall site plan once the final grading plan for the proposed Tractor Supply facility is complete. Mr. Joy reiterated that he was not opposed to submitting a full site plan for the A&S Diesel site, but wanted to be able to coordinate his efforts and submit one final site plan once the Tractor Supply proposal was complete. The Planning Board did not object to

this approach. Mr. Kestner raised the issue of whether tractor trailers would be able to fill up at the diesel fueling area and still be able to get around the A&S Diesel building. Turning areas had been provided to Mr. Kestner, and that it is determined that there is sufficient distance for tractor trailers to access and exit the fueling area. Mr. Joy stated that he did not expect much tractor trailer use of the fueling area, but there is adequate room for tractor trailer use if needed. Mr. Kestner generally reviewed the lighting plan for the fueling area, which calls for a light on the existing A&S Diesel building focused on the fueling area. Mr. Joy confirmed that a Jersey barrier proposal for the fueling area had been eliminated, in favor of installation of 6" ballards. The Planning Board reviewed the concrete pad proposal for the truck fueling area, which calls for 4" of gravel and a 4" concrete slab. Mr. Kestner confirmed that this would be adequate for truck fueling area. Mr. Kestner stated for the record that NYSDEC has preempted the field of the fuel storage regulations, and that a condition to any final action by the Planning Board on this site plan should be the Applicant's compliance with NYSDEC Petroleum Bulk Storage Regulations. The Planning Board generally discussed the monitoring of this facility by John Ray & Sons Fuels, which includes a 24 hour surveillance camera connected to a computer monitor, with telephone notification to John Ray & Sons in the event of any fuel discharge. The Planning Board stated that a public hearing will be held on this application, and deemed the application complete for purposes of scheduling a public hearing. The public hearing on this site application will be held at the March 17 meeting commencing at 7:15 p.m.

Four items of new business were discussed.

The first item of new business discussed was a waiver of subdivision application filed by Michael Ball, owner, and John Gavin, Applicant, concerning property located at 59 Flower Road, Tax Map #73.1-6.12. John Gavin was present for the application. Mr. Gavin explained

that this proposal was to transfer approximately 1.45 acres from the lot at 59 Flower Road owned by Ball, to the lot at 41 Flower Road owned by Gavin. Mr. Gavin stated that there were no setback issues concerning any existing structures, well, or septic in conjunction with this proposed lot line adjustment. This was confirmed with Mr. Kreiger. The Planning Board confirmed that this waiver would not result in a new building lot, and that the 1.45 acre division would need to be legally merged into the deed of Gavin at 41 Flower Road. Mr. Gavin understood this condition. The Planning Board saw no issues associated with the application. Member Czornyj then made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Esser. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the waiver application subject to the condition that the 1.45 acre area of the subdivision be legally merged into the Gavin lot at 41 Flower Road, with proof of the legal merger filed with the Brunswick Building Department. Member Tarbox seconded the motion subject to the stated condition. The motion was unanimously approved, and the waiver application approved subject to the stated condition.

The second item of new business discussed was a waiver of subdivision application by Diamond, 16 The Crossings, and Sullo/Rooney, 14 The Crossings, to transfer approximately 0.24 acres from Diamond to Sullo/Rooney. This waiver application is the nature of a lot line adjustment. The Planning Board deemed the application complete for purposes of placing it on the March 17 agenda.

The third item of new business discussed was a waiver of subdivision application filed by Eric Graue, 380 Smith Hill Road, Tax Map #72-9-41.1. The Applicant's parcel is currently split by Smith Hill Road, and the current application seeks to divide 37.58 vacant acres on one side of

Smith Hill Road from the remaining lot, and thereby create a new building lot. Member Tarbox noted that he would recuse himself from this application, as his property abuts this parcel. The Planning Board reviewed the submitted materials, and determined that the proposed waiver map needs additional information before this matter can be placed on a Planning Board agenda. Mr. Kreiger was directed to review this with the Applicant.

The fourth item of new business discussed was a request by Robert MacCrone, 71 Dearstyne Road, to update a subdivision approval which had been granted by the Planning Board on June 17, 2010. Mr. MacCrone reported that while the subdivision had been approved, he failed to file the subdivision map in the office of the Rensselaer County Clerk within the time required by New York State law. Mr. MacCrone was requesting that the approval be updated so that he could file the map in the County Clerk's office. Mr. Kreiger confirmed that the current application did not have any changes whatsoever from the previously approved subdivision map. Chairman Oster confirmed that all necessary application fees had been paid. Thereupon, Member Wetmiller made a motion to update the prior approval of the MacCrone subdivision, subject to the same conditions that are attached to the prior approval dated June 17, 2010. Member Esser seconded the motion. The motion was unanimously approved, and the MacCrone subdivision approval updated, subject to the conditions attached to the June 17, 2010 prior approval.

The **index** for the March 3, 2011 meeting is as follows:

1. Blair – waiver of subdivision – approved with condition;
2. Sphere STP II, LLC – site plan – 3/17/11 (public hearing at 7:00 p.m.);
3. A&S Diesel – site plan – 3/17/11 (public hearing at 7:15 p.m.);
4. Ball/Gavin – waiver of subdivision – approved with condition;
5. Diamond/Sullo/Rooney – waiver of subdivision – 3/17/11;

6. Graue – waiver of subdivision – adjourned without date;
7. MacCrone – subdivision updated approval – approved subject to conditions.

The **tentative agenda** for the March 17, 2011 meeting currently is as follows:

1. Sphere STP II, LLC – site plan – public hearing commencing at 7:00 p.m.;
2. A&S Diesel – site plan – public hearing commencing at 7:15 p.m.;
3. Diamond/Sullo/Rooney – waiver of subdivision;
4. Tamarac Auto Sales – site plan.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD March 17, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER, GORDON CHRISTIAN, DAVID TARBOX and VINCE WETMILLER.

ABSENT was KEVIN MAINELLO.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

The public hearing was opened on the site plan application by Sphere STP, II, LLC, which proposes to construct a Tractor Supply Store on approximately 4 acres of property located at 864 Route 7, at the intersection of NYS Route 7 and McChesney Avenue (Tax Map No. 91.00-2-18). The Notice of Public Hearing was read into the record, with such notice having been posted on the Town website and sign board, published in the Troy Record, and mailed to all adjacent property owners. Chairman Oster reviewed the Planning Board rules for conduct of public hearing. Chairman Oster then requested the Applicant to make a presentation of the site plan proposal. Tom Cooney of Sphere STP, II, LLC and the company's consultant, Neil Simsmeier were present for the Applicant. Mr. Cooney generally reviewed the site plan proposal, which proposes a 19,000 square foot Tractor Supply building, with adjacent 15,000 square foot outdoor display area. The primary customer access to the parking lot is off Route 7 opposite Betts Road, with tractor trailer access off McChesney Avenue. Mr. Cooney noted that the Applicant is proposing to add a hidden driveway sign on McChesney Avenue. Mr. Cooney noted that a total of 72 parking spaces are proposed, which is compliant with Town requirements. The



proposal also complies with all applicable setback requirements. Mr. Cooney noted that a proposed elevation and rendering of the Tractor Supply Store along Route 7 has been made available, to address concerns regarding the aesthetics of the building along the Route 7 corridor. Mr. Cooney generally reviewed the grading plan proposal for the site. Finally, Mr. Cooney generally reviewed the incorporation of new stormwater requirements pursuant to State Regulation. Chairman Oster then opened the floor for receipt of public comment. David Minkler, 195 McChesney Avenue, stated he owns the property directly to the rear of the proposed Tractor Supply site. Mr. Minkler had concerns regarding the grading plan and final topographic level of the building site, with concern that there would be a significant slope or cliff off of his property line. Mr. Cooney stated that the grading plan in the area of Mr. Minkler's property, which is where the proposed Tractor Supply building would be located, will be maintained at its approximate topographic level and will remain approximately 14 feet above Route 7. Mr. Minkler also had concern regarding the proximity of the Tractor Supply Store to his property line. Mr. Cooney stated that the Minkler property line is approximately 45 feet from the outer edge of the outdoor sales area, which will be adjacent to the Tractor Supply building. Mr. Cooney explained that the Tractor Supply building has been located as close as possible to Route 7 while still maintaining the 30 foot setback requirement, and further that the outdoor sales area has been made more narrow than the standard Tractor Supply layout. Mr. Minkler also had concerns regarding lighting, since the outdoor display area would only be 45 feet from his property line. Mr. Cooney generally reviewed the lighting plan, which shows there will be no spillage off the rear property line, which will be at 0 foot candles at that rear property line. Mr. Cooney also generally reviewed the location of proposed pole lights and building light locations, and highlighted the fact that the lights in the outdoor display area are shielded to eliminate any

light spillage. Mr. Minkler also had concern regarding potential blasting to remove rock at the site, particularly since his drinking water well is located nearby. Mr. Cooney stated that there are no plans to blast at the site, and that test pits indicate that the rock should be capable of being ripped for removal. Mr. Minkler also inquired about a vegetative or tree line at the real property line between the store and his property. Mr. Cooney stated that the plan is to maintain the existing tree line, including pines. Mr. Minkler asked about the final slope between his property line and the final grade level. Mr. Cooney stated that the proposed slope would be no worse than existing, and further that a split rail fence would be installed for safety purposes. Mr. Minkler asked whether a traffic light would be installed at the Route 7/McChesney Avenue intersection. Mr. Cooney stated that NYS DOT had approved the truck entrance/exit without the need for any traffic light at that intersection. Jim Tachik, 387 Brunswick Road, raised concern regarding the intersection of Betts Road and Route 7, since this is the location of the proposed access driveway for customers. Mr. Tachik stated that with the proposed Berkshire Properties PDD, and the existing Hudson Hills PDD project, the Route 7/Betts Road intersection will already have significant traffic, and that this needs to be taken into account when acting on an additional driveway entrance for the Tractor Supply Store. Mr. Kestner stated that these issues are under the jurisdiction of NYSDOT, but that the Planning Board will coordinate with NYSDOT to make sure that all proposed projects are being examined in connection with that intersection. Frank Brennanstuhl, 27 Dusenberry Lane, stated that he feels the project site should be further lowered and closer to the grade of Route 7; that a turn lane should be considered along Route 7, both for the customer access driveway and the McChesney Avenue intersection; that truck traffic off McChesney Avenue may present a problem; that the access driveway for customers off Route 7 will be at a grade which could become a problem in the winter time; that there should be a plan

now for disposition of the material to be removed from the site as part of the grading plan; and that he generally is not in opposition to the Tractor Supply application, but doesn't want it to stick out given its proposed topography, and at the same time doesn't want to significantly impact Mr. Minkler in terms of reducing the topography which may cause a significant drop off from the Minkler parcel. Chairman Oster inquired whether there were any further public comments. Hearing none, Chairman Oster closed the public hearing on the Sphere STP, II, LLC site plan.

The Planning Board then opened a public hearing concerning the A&S Diesel site plan, proposing to install a 10,000 gallon above ground diesel fuel tank at the existing A&S Diesel facility located at 850 Hoosick Road for use by the public. The Notice of Public Hearing was read into the record, noting that such public hearing was posted on the Town website and sign board, published in the Troy Record, and mailed to all adjacent property owners. Chairman Oster again reviewed the rules concerning public hearings, and requested that the Applicant make a presentation of the proposed site plan. Gary Joy of A&S Diesel presented the site plan, indicating that this was a joint venture between A&S Diesel and John Ray & Sons Fuels. Mr. Joy generally described the site plan, which proposes the above ground fuel storage tank for highway fuel only, to be operated on a credit card basis. The facility would be open 24 hours per day, and monitored by John Ray Fuels. The storage tank and fuel area would be on a concrete pad, with ballards installed for safety, and fire extinguishers present. A proposed truck route is outlined on the site plan, and Mr. Joy stated that the facility does fit into the overall site plan operations. Chairman Oster then opened the floor for receipt of public comment. No one wished to present comment to the Board on this site plan application. Hearing no public comment, Chairman Oster then closed the public hearing.

The Planning Board then opened its public meeting.

The draft minutes of the March 3, 2011 meeting were reviewed. One correction was noted at page 7, noting that the reference to "The Crossings" must be replaced by "The Crossways". Subject to that correction, Member Czornyj made a motion to approve the minutes of the March 3 meeting, which motion was seconded by Member Christian. The motion was approved 6/0, and the March 3 minutes approved subject to the noted correction.

The first item of business on the agenda was the site plan application by Sphere STP, II, LLC for the proposed Tractor Supply Store at 864 Route 7. Chairman Oster inquired whether the Tractor Supply consultants had met with A&S Diesel regarding location of the proposed stormwater basin. Chairman Oster noted that the prior plan placed a significant portion of a proposed detention basin on the A&S Diesel property. Mr. Cooney noted that the prior proposal proved to have too many issues to resolve, and therefore a change in the proposed stormwater detention basin location had been made. Specifically, Mr. Cooney stated that the Tractor Supply proposal was now incorporating the new DEC "green" stormwater practices, and the proposal now includes installation of pervious asphalt pavement in the parking area, and installation of storm planters to retain stormwater. As a result of the improved stormwater facilities, a smaller stormwater detention basin is required, and the proposal now has the entire stormwater detention basin located on the Tractor Supply parcel. Tractor Supply will continue to work with A&S Diesel on trying to have a mutually agreeable grading plan to reduce the knob of material between the parcels. Mr. Cooney also reminded the Board of the addition of the hidden driveway sign to McChesney Avenue. Also, Mr. Cooney noted that there would only be two tractor trailer deliveries to the Tractor Supply Store per week, that tractor trailer use will be very limited, and that this has been documented in the application materials. As to the proposed final grade for the

store, Mr. Cooney stated that if the final elevation was reduced to the level of Route 7, there would result a very large drop off from the rear property owner, approaching a 30 foot drop. Also, there would need to be significant additional cut on the site to reduce the grade on Route 7. Mr. Cooney stated that the elevation of the proposed store would be approximately the same elevation of the existing house and apartment currently on the site. Mr. Cooney felt that the proposed elevation was a balance between the Route 7 elevation and the rear property owner, and presented the best grading plan for this particular site. Mr. Cooney noted that NYSDOT did initially review the proposed entrance driveway to the parking lot at a different location, but when the plan changed, NYSDOT encouraged the location of the access driveway to the parking lot to be opposite Betts Road. Mr. Cooney did note that NYSDOT approval for the curb cut for the entrance driveway is still required. Member Czornyj asked about the specific hidden driveway sign for McChesney Avenue. Mr. Cooney stated that the Applicant will put the sign wherever the Town requires, and that the company will coordinate with the Town Highway Superintendent. Member Wetmiller inquired as to whether the use of pervious pavement over existing bedrock will result in a water runoff problem. Mr. Cooney noted that the engineering study for the site indicated that there are Class C soils present, and that there is proposed to be 1 foot of stone below the porous pavement, which meets the current NYSDEC Specification for the porous pavement. Mr. Cooney stated that a detail sheet has been provided in the application plans. Chairman Oster inquired whether the public hearing needs to be reopened due to the changes of the stormwater plan and relocation of the stormwater detention basin. Attorney Gilchrist stated that the legal standard to be applied by the Planning Board was whether the change in the stormwater plan was deemed significant, or in the nature of an engineering modification. On this issue, the Applicant noted that there were no public comments received

concerning stormwater issues during the public hearing. Upon consideration, the Planning Board did not consider the changes to the stormwater plan to be significant, and determined that reopening of the public hearing was not required on this record. Chairman Oster commented that he felt the issue of the elevation for the final grade of the proposed store had been adequately addressed, taking into account the concerns of the property owner to the rear and proximity to Route 7, and thought that an appropriate balance had been reached. Chairman Oster also considered the comments concerning lighting and blasting to be adequately addressed. Mr. Kestner noted that the application states that blasting will not be undertaken on the site, and if during the rock removal it is determined that blasting will be required, the Applicant will be required to return to the Planning Board for an amendment to the site plan, at which time a specific blasting plan will be required and reviewed. The Planning Board discussed a vegetative barrier at the rear of the property, and determined that the existing pine tree line should be maintained, and any gaps in that existing tree line must be filled with additional trees. The Applicant was agreeable with this approach. The Planning Board noted as to all access issues off Route 7, NYSDOT has primary jurisdiction. Mr. Kestner did note that NYSDOT requested the widening of the entrance to McChesney Avenue, to allow for easier access for tractor trailer deliveries. It was noted that referral of this application to the Rensselaer County Department of Economic Development and Planning will be required. This matter has been placed on the April 7 agenda for further discussion.

The next item of business on the agenda was a site plan application by A&S Diesel for installation of a 10,000 gallon above ground diesel fuel tank at the existing facility located at 850 Hoosick Road for use by the public. Gary Joy of A&S Diesel was present. The Planning Board noted that no public comments were received during the public hearing on the application. Mr.

Joy noted that all issues raised by the Planning Board had been addressed, and that there were no changes to the final site plan after the Planning Board's review at the March 3 meeting. Mr. Joy reported that he was satisfied with the new stormwater plan for the proposed Tractor Supply detention basin, and that he will work with a Tractor Supply consultant concerning any appropriate grading between the two sites. Mr. Joy wanted it noted for the record that with respect to any grading done between the properties, any water generated on the Tractor Supply side of the property boundary would need to be shed toward the Tractor Supply detention basin. Mr. Joy confirmed that when a final grading solution has been reached between the Tractor Supply proposal and A&S Diesel, he will submit a final site plan of the A&S Diesel site in the nature of an as-built drawing for review by the Planning Board. Mr. Joy noted that he appreciated the Planning Board's cooperation with him on the submission of the final site plan. Mr. Kestner stated that a condition of the final action on this application should require compliance with petroleum bulk storage regulations of NYSDEC. Mr. Kreiger noted that a response had been received from the Rensselaer County Department of Economic Development and Planning, which provided that local consideration shall prevail. Chairman Oster inquired whether there would any further questions or comments. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Wetmiller. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the A&S Diesel site plan subject to the following conditions:

1. Compliance with all applicable petroleum bulk storage regulations of the NYSDEC; and

2. Submission of a final site plan in the nature of an as-built drawing following any final grading between the A&S Diesel site and the proposed Tractor Supply facility.

Member Christian seconded the motion subject to the stated conditions. The motion was approved 6/0, and the A&S Diesel site plan approved subject to the stated conditions.

The next item of business on the agenda was the waiver of subdivision application by Diamond/Sullo/Rooney, for property located at 14 The Crossways and 16 The Crossways. No one was present on the application. This matter has been adjourned until the April 7 meeting.

The next item of business on the agenda was the site plan application by Tamarac Auto Sales, LLC for a proposed used car dealership at the Tamarac Plaza located on Route 2. Kenneth Bruno of Tamarac Auto Sales, LLC was present on the application. An initial zoning compliance issue had been raised on this application, specifically whether the addition of a used car auto dealership was compliant with the B-15 zoning district. The Planning Board had requested Attorney Gilchrist to research that issue. Attorney Gilchrist reported that while he had completed research on this issue, this zoning compliance issue is initially one which must be issued by the Town Building Department/Zoning Code Enforcement Officer, Mr. Kreiger, who has the primary jurisdiction on that issue. Attorney Gilchrist reported that he had reviewed his research with Mr. Kreiger, but noted that Mr. Kreiger should make an independent analysis of the zoning issue, seeking other counsel if he deems necessary. Attorney Gilchrist also noted that upon further consideration, he is formally recusing himself from any further involvement of this application, given a prior attorney-client relationship with the Applicant. Thereupon, Mr. Kreiger stated that in his opinion, the current site application for addition of a used car dealership as a tenant at the Tamarac Plaza is in compliance with the Brunswick Zoning Code, that the Brunswick Zoning Code does not specifically prohibit this use at the retail plaza, and that there



are additional tenants at the Tamarac Plaza which are listed as specific principal permitted uses under the Town Zoning Code but operate at the Tamarac Plaza as a retail tenant. Accordingly, the Planning Board will continue its review of the current site plan application. Member Czornyj inquired as to what entity obtained the license from NYSDMV for the used car dealership. Mr. Bruno stated that the license is in the name of Tamarac Auto Sales, LLC. Mr. Bruno provided a copy of the letter from NYSDMV approving this site for a used car dealership. Mr. Bruno then explained that in response to initial concerns raised by the Planning Board, he had prepared a revised site plan moving the location of the used cars to the grass area between the entrance driveway and the Brunswick soccer fields. The revised plan proposes to locate the used cars for sale in an area that is currently grass, and add crusher run or stone off the parking lot/entrance driveway area as the used car location. Member Czornyj noted that the revised plan showed a small office to be located in that area as well. Mr. Bruno stated that this was merely a proposal, but that the office could be limited to his existing law office as well. The members of the Planning Board had general concern regarding pedestrian health and safety with used cars being located adjacent to the soccer fields and the office for the auto sales being located at the other end of the retail plaza. Mr. Bruno suggested that patrons could walk along the grassy area to the end tenant (pizza shop) and proceed around the walkway in front of the retail stores, but conceded that patrons were likely not to follow that route. The Planning Board then generally discussed alternate locations for the used car area, including both additional grass areas as well as a corner location on the existing parking lot. Member Tarbox had a concern regarding storage of used cars on gravel or crusher run given the existence of the aquifer in that area. After further discussion, the Planning Board determined that the preference would be to have used cars located on a paved surface in one corner of the existing parking lot, with appropriate barricades

and designated pedestrian walking area to the sales office located in Mr. Bruno's law office. The Planning Board directed Mr. Bruno to prepare a revised site plan depicting the area for used car display, proposed barricades, as well as proposed striped pedestrian walk area. Chairman Oster inquired whether there is any proposed separate signage for the used car dealership. Mr. Bruno stated that there would only be a sign added to the existing sign board, and that no free standing sign pole is being proposed. Mr. Kestner asked whether there is any additional lighting being proposed. Mr. Bruno said that no additional lighting is proposed, and that the preferred location for the used car display is near the existing street light on Route 2, which provides adequate lighting. Member Czornyj inquired of Mr. Kreiger whether a shed would be allowed as a separate office. Mr. Kreiger stated that a shed could be allowed if it meets appropriate setbacks, and should be shown on the site plan if Mr. Bruno intends to include it in the proposal. The Applicant will need to submit the requested revised site plan, which will then be forwarded to the Rensselaer County Department of Economic Development and Planning for review and recommendation. This matter will be placed on the April 7 agenda for further discussion, at which time the Planning Board will determine whether the application is complete and ready to schedule a public hearing.

The next item of business on the agenda was a waiver of subdivision application submitted by Oakwood Property Management, LLC, seeking approval to transfer approximately 3.19± acres of land from Tax Map Nos. 90-1-12.2 and 90-1-13.1, located off Oakwood Avenue, to an adjacent owner, John Murray. Sean Gallivan and Brendan Gallivan of Oakwood Property Management, LLC were present on the application, along with Attorney Todd Mathes and Scott Reese, RLA. Mr. Reese reviewed the proposed waiver map, which identifies the 3.19± parcel sought to be divided from the existing Oakwood Property Management property and transferred

in title to the adjoining property owner, Mr. Murray. Mr. Reese explained that this transaction is to provide an additional barrier for the Murray parcels. It was also noted that this transfer of land would go forward regardless of whether the pending site plan and rezone applications of Oakwood Property Management were approved or not. The Planning Board generally discussed the location of the proposed lot line adjustment, including the irregular shape of the parcel. The Planning Board inquired of Mr. Kreiger whether there was any prohibition on the irregular shape of the parcel, including a 10 foot border along the rear of adjacent lots not owned by Mr. Murray. Mr. Kreiger stated that there was no prohibition under the Brunswick Code concerning the proposed lot line adjustment. It was noted that this 3.19± acre piece does not have any road frontage, is not being proposed as a building lot, and is being transferred to Murray for purposes of an additional buffer area. The Planning Board determined that if approved, the 3.19± acre parcel would be required to be legally merged into the remaining lands of Murray. Mr. Reese also explained that as part of the agreement of Oakwood Property Management and Murray, Oakwood Property Management would construct a 30 foot high berm, part of which would be on the parcel to be transferred to Murray, with the remaining part of the berm located on retained lands of Oakwood Property Management. Specifically, the peak of the 30 foot high proposed berm would become the property boundary between the retained Oakwood Property Management property and the Murray property, with half of the berm located on Murray and half of the berm located on Oakwood Property Management. It is noted that while the berm construction is being proposed in connection with the pending site plan application by Oakwood Property Management, LLC for industrial operations located on Oakwood Avenue (Tax Map Nos. 90-1-14 and 90-1-15), the proposed transfer to Murray would go forward regardless of whether the site plan is approved or not. Attorney Gilchrist noted for the record that pursuant to

the Memorandum of Agreement between the Town of Brunswick and Oakwood Property Management, LLC concerning such site plan application, and the related petition to rezone parcels 90-1-12.2 and 90-1-13.1, a coordinated SEQRA review on those specific actions would be undertaken, with the Brunswick Town Board serving as SEQRA lead agency. The current application for waiver of subdivision is not included within that coordinated SEQRA review under the Memorandum of Agreement, and therefore the Planning Board will need to make a determination under SEQRA with respect to the waiver application. It is noted for the record that the SEQRA determination on the waiver application will be limited to only those potential adverse environmental impacts associated with the current waiver application, in the nature of a lot line adjustment between Oakwood Property Management and Murray. Such a determination is not to be construed as any predetermination concerning SEQRA review on the underlying site plan or petition to rezone applications, nor any predetermination concerning action on such pending applications. Further, the Planning Board had earlier inquired as to whether Oakwood Property Management had retained the legal right to enter the property to be transferred to Murray for purposes of berm construction. Attorney Gilchrist stated that he had been provided a written agreement between Oakwood Property Management and Murray, whereby Oakwood Property Management retained the legal right to enter the lands to be transferred to Murray for purposes of the berm construction. Attorney Gilchrist handed up a copy of that agreement to the Planning Board members, which becomes part of the record on this application. Attorney Gilchrist did note that such agreement provided access only for purposes of constructing the currently proposed 30 foot high berm, and that any further mitigation measures, if any, required by the Town of Brunswick in connection with the pending site application and/or petition to rezone would need to be complied by Oakwood Property Management on its retained land.

Attorney Mathes concurred that in the event any additional mitigation measures beyond the proposed 30 foot high berm are required by the Town of Brunswick in connection with the pending site plan and/or petition to rezone, Oakwood Property Management would need to be able to comply with such conditions and/or mitigation measures on its retained land, and further that any SEQRA determination and/or approval of the waiver of subdivision application by the Planning Board did not act as any predetermination concerning the coordinated SEQRA review on such pending site plan and/or petition to rezone actions, nor any predetermination on the pending actions themselves, and that the Town of Brunswick Town Board and Town of Brunswick Planning Board retain all discretion with respect to such pending applications consistent with the Memorandum of Agreement. With this understanding, and given the limitations as described and discussed at this meeting, Chairman Oster concurred that this application can proceed and be entertained by the Planning Board at this time. Thereupon, Member Czornyj made a motion to adopt a negative declaration under SEQRA with respect only to the waiver of subdivision application in the nature of lot line adjustment between Oakwood Property Management and Murray, which motion was seconded by Member Tarbox. The motion was approved 6/0, and a negative declaration adopted, with the express understanding and provision that the Town of Brunswick Town Board retain all discretion and authority pursuant to the coordinated SEQRA review on the pending site plan and petition to rezone actions. Thereupon, Member Czornyj made a motion to approve the waiver of subdivision application subject to the condition that the transferred property be legally merged into the remaining lands of Murray, with express understanding that Oakwood Property Management retains the legal right to enter onto the transferred lands to Murray for purposes of constructing a proposed berm. Member Christian seconded the motion, subject to the stated conditions. The motion was

approved 6/0, and the waiver of subdivision application approved subject to the stated conditions, understandings, and stipulations on the record.

Attorney William Doyle was present, and updated the Planning Board on the current status of the Berkshire Properties PDD plan. The Planning Board agreed to place the Berkshire Properties application on the agenda for its April 7 meeting.

Chairman Oster noted on the record that he had been contacted by Andrew Ross of Ross Valve, Inc. concerning runoff issues from the Oakwood Avenue area onto the Ross Valve property, located at the former Garden Way manufacturing site and currently known as the Ross Tech Park. Chairman Oster noted that he had visited the site with Mr. Ross, and that stormwater comes down off the Oakwood Avenue area down the hill into what appears to be a concrete detention area, then into a 24 inch pipe to discharge to the river. Mr. Ross reports that at times this area gets blocked and floods, impacting the Ross Tech Park. Mr. Ross was concerned regarding pending residential projects as well as the Oakwood Property Management facility located on Oakwood Avenue, and wanted to insure that stormwater compliance issues were being addressed. This information will be considered in conjunction with the pending site plan application by Oakwood Property Management, LLC.

The **index** for the March 17, 2011 meeting is as follows:

1. Sphere STP II, LLC – site plan – 4/7/11;
2. A&S Diesel – site plan – approved subject to conditions;
3. Diamond/Sullo/Rooney – waiver of subdivision – 4/7/11;
4. Tamarac Auto Sales, LLC – site plan – 4/7/11;
5. Oakwood Property Management, LLC – waiver of subdivision – approved subject to stated conditions;

6. Berkshire Properties, LLC – Planned Development District – 4/7/11.

The **proposed agenda** for the April 7, 2011 meeting currently is as follows:

1. Sphere STP II, LLC – site plan;
2. Diamond/Sullo/Rooney – waiver of subdivision;
3. Tamarac Auto Sales – site plan;
4. Berkshire Properties, LLC – Planned Development District.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD April 7, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER, GORDON CHRISTIAN.

ABSENT were DAVID TARBOX, VINCE WETMILLER and KEVIN MAINELLO.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board reviewed the draft minutes of the March 17, 2011 meeting. Upon motion of Member Czornyj, seconded by Member Esser, the minutes were unanimously approved as drafted.

Chairman Oster reviewed the agenda, noting that the site plan application by Sphere STP II, LLC to construct a Tractor Supply Store at 864 Route 7, is adjourned until the April 21 meeting upon request of the Applicant. Mr. Kestner noted that NYSDOT had issued a review letter dated December 15, 2010, to which the Applicant still needed to respond. Further, Mr. Kestner stated that the Applicant is proposing a change to the Stormwater Pollution Prevention Plan, which will eliminate the use of porous pavement and now add bio-retention areas in the parking lot. Mr. Kestner finally noted that it was his understanding that the Applicant had been in discussion directly with Minkler, owner of property at 195 McChesney Avenue directly to the rear of the proposed Tractor Supply site, concerning Minkler's comments. Member Czornyj noted that he had been on the site and that he feels there is a considerable distance between the proposed Tractor Supply Store and the Minkler property, with an existing tree line and forested



area between the properties. Rocco Loccisano, the underlying property owner, confirmed that the existing pines and wooded area would be retained, and that if any gap exists in that wooded boundary between the Tractor Supply Store and Minkler, additional vegetation will be planted. Lastly, Mr. Kestner noted that it was his understanding that a final grading plan to address the grade of material between the proposed parking area for the Tractor Supply Store and the existing A&S Diesel is still being discussed. This matter is placed on the April 21 agenda.

The first item of business discussed by the Planning Board was the site plan application by Tamarac Auto Sales, LLC, for a proposed used car business located at the Tamarac Plaza in conjunction with the Bruno Law Offices. Attorney Gilchrist has recused himself from further consideration of this application, and the Planning Board has retained Tom Kenney, Esq. to serve as Planning Board counsel on this application. Chairman Oster confirmed that a response from the Rensselaer County Department of Economic Development and Planning had been received, which indicated that the project does not conflict with County plans, but did include comments concerning any impacts due to signage or lighting. Kenneth Bruno, on behalf of the Applicant, again confirmed that signage would be limited to the existing sign board already located at the Tamarac Plaza, and possibly signage on the building where the Bruno Law Office space is located. As to lighting, Mr. Bruno confirmed that no additional lighting was planned for the used car sales area, and that a street light exists on Route 2 that should provide adequate lighting. Mr. Bruno also confirmed that this operation would be primarily a "dawn to dusk" business, principally limited to daytime operation. Chairman Oster asked whether there would be any signage on the cars for sale as well. Mr. Bruno stated that at most, there would be some kind of lettering on the windows of the cars. Member Esser inquired how this operation would function, given that the car display area was approximately 200 feet from the office where the business

would take place. Member Esser questioned whether any employee would be situated where the used car display area is located. Mr. Bruno stated that the business office, to be located in the Bruno Law Offices, was not that far removed from the car display area, that signage would be provided to indicate the office is located in the Bruno Law Offices, and also that there should be phone numbers listed on the cars that would connect to the Bruno Law Office as well. Member Czornyj inquired of Mr. Kreiger whether the overall parking space number was still compliant in the event 8 parking spaces were lost to used car display. Mr. Kreiger confirmed that the overall parking space number remained compliant. Member Czornyj noted that he had recently been at the plaza, and confirmed that the parking spaces between the area identified for used car display and the Bruno Law Office are used, and that a dedicated walking area with signage would be appropriate so that pedestrian safety is addressed. After determining that the application is complete to move forward to public hearing, the Planning Board has scheduled a public hearing to be held at the April 21 meeting at 7:00 p.m.

At this point in the meeting, one item of old business was discussed. The Charles Farrell major subdivision, known as Double Day Estates, was discussed. Attorney Gilchrist has recused himself from any further participation on this application, and the Planning Board has retained Tom Kenney, Esq. to serve as counsel. Mr. Kreiger noted that additional plans and application documents have been submitted, and that the Applicant is requesting to be placed on the April 21 agenda for further discussion. Mr. Kreiger noted that additional plans, Environmental Assessment Form, pump test data, copies of application for sanitary facilities at NYSDEC and the Rensselaer County Department of Health, as well as supplemental information on flora and fauna from NYSDEC had been submitted to his office by the Applicant. Mr. Kestner also confirmed that a Stormwater Pollution Prevention Plan has been prepared for the project as well.

Chairman Oster confirmed that the full application is now submitted, all application fees have been paid, and a review escrow has been established. This matter has been placed on the April 21 agenda for discussion.

The next item of business on the agenda was the waiver of subdivision application by Diamond/Sullo/Rooney for property located at 16 The Crossways and 14 The Crossways. The Applicants seek to transfer approximately 0.24 acres from Diamond, located at 16 The Crossways, to Sullo/Rooney, located at 14 The Crossways. Laura Diamond was present on the application. Chairman Oster confirmed that all application fees had been paid. Ms. Diamond explained that she purchased 16 The Crossways in February, 2011 and learned that approximately ¼ acre had previously been leased by the owner of 16 The Crossways to the owner of 14 The Crossways. She did not want to continue any lease arrangement, but rather seeks to transfer title to this ¼ acre area to 14 The Crossways. This will amount to a lot line adjustment between these two parcels. Ms. Diamond confirmed that an existing car port will be demolished and removed in conjunction with the property transfer. Member Czornyj noted that the ¼ acre to be transferred from 16 The Crossways to 14 The Crossways must be legally merged into the existing lot of 14 The Crossways, and that a separate lot is not being created as a result of this lot line adjustment. Ms. Diamond understood this requirement. Chairman Oster inquired whether there were questions or concerns regarding the application. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Christian. The motion was unanimously approved, and a negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the waiver of subdivision application subject to the following conditions:

1. The property transferred from Lot 16 to Lot 14 must be legally merged into Lot 14, with proof of that merger filed with the Brunswick Building Department;
2. The existing car port depicted on the waiver map must be demolished and removed.

Member Esser seconded the motion subject to the stated conditions. The motion was unanimously approved, and the waiver application approved subject to the stated conditions.

The next item of business on the agenda was the Berkshire Properties, LLC Planned Development District. Attorney William Doyle was present for the Applicant. Mr. Doyle reviewed the procedural status of the Planned Development District, which received approval from the Brunswick Town Board at a meeting held March 24, 2011. Attorney Doyle confirmed that an application has now been filed for major subdivision with respect to the proposed ten (10) residential lots, and a waiver of subdivision application submitted with respect to the 5.2± acre lot to be transferred to the Town of Brunswick for recreation and/or open space purposes. Attorney Doyle confirmed that the SEQRA review for this project was completed by the Brunswick Town Board, serving as SEQRA Lead Agency. Attorney Doyle stated that applications are likewise being made to the Rensselaer County Health Department for private water and private septic for the 10 residential lots. Attorney Doyle confirmed that the Army Corps of Engineers wetland delineation had been completed with respect to the subdivision, and that the subdivision layout did not have any impact to delineated federal wetlands, and that further the Applicant had agreed to include a 25' voluntary setback from all federal wetland areas. Attorney Doyle reviewed the location of the proposed subdivision road, including relation to the Hudson Hills Planned Development District located to the rear of this project at the end of Betts Road. Attorney Doyle also generally reviewed the status of the commercial portion of the

project, and indicated that the Applicant was coordinating with the Brunswick No. 1 Fire Department concerning emergency vehicle access. With respect to the major subdivision application, Mr. Kestner confirmed that the major subdivision application is complete for purposes of moving the residential subdivision to public hearing. Mr. Kestner indicated that the major subdivision plans had been reviewed and refined during the PDD review process, and the proposal now includes information concerning road grades, stormwater and drainage, as well as lot layout. Attorney Gilchrist also confirmed that the status of the major subdivision application is beyond that which is required for a preliminary subdivision plat submittal, and is currently more in the nature of a final plat submittal. The Planning Board determined that the major subdivision application is complete for purposes of public hearing. A public hearing will be held on the Berkshire Properties PDD major subdivision application at the April 21 meeting commencing at 7:30 p.m.

One item of new business was discussed.

A waiver of subdivision application has been submitted by Deb Roden, located at White Church Road, Tax Map No. 103.-7-18.2. This application seeks to divide an existing building lot into three pieces: a western portion, center portion, and eastern portion. The western portion is proposed to be transferred to the adjacent property owner to the west (Roden). The eastern portion is proposed to be transferred to the adjacent lot owner to the east (Naylor). The center portion is proposed to be transferred to Schmidt, to be used for access to existing agricultural property located to the south. Further, the existing access way owned by Schmidt is proposed to be divided from the existing Schmidt parcel, to be included in the transfer to the western adjacent property owner (Roden). The result is intended to take three existing residential lots with one

access area and create two larger residential lots and one access area on White Church Road. This matter will be placed on the April 21 agenda for discussion.

Attorney Gilchrist noted that Wal-Mart has submitted its application to amend its existing Planned Development District to expand the Wal-Mart Store, and has requested that the Planning Board schedule a date at which the Wal-Mart representatives can present the project to the Planning Board for purposes of the Planning Board's review and recommendation on the PDD proposal. Chairman Oster reviewed the April 21 agenda items, and determined that the Planning Board will entertain the Wal-Mart PDD application presentation at its May 5 meeting.

The **index** for the April 7, 2011 meeting is as follows:

1. Sphere STP II, LLC – site plan – adjourned to 4/21/11;
2. Tamarac Auto Sales, LLC – site plan – 4/21/11 (public hearing at 7:00);
3. Farrell – major subdivision – 4/21/11;
4. Diamond/Sullo/Rooney – waiver of subdivision – approved with conditions;
5. Berkshire Properties PDD – major subdivision - 4/21/11 (public hearing at 7:30);
6. Roden – waiver of subdivision – 4/21/11;
7. Wal-Mart – PDD amendment – review and recommendation – 5/5/11.

The **proposed agenda** for the April 21, 2011 meeting currently is as follows:

1. Tamarac Auto Sales – site plan (public hearing to commence at 7:00 p.m.);
2. Farrell – major subdivision;
3. Berkshire Properties PDD – major subdivision (public hearing to commence at 7:30 p.m.);
4. Sphere STP II, LLC – site plan;
5. Roden – waiver of subdivision.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD April 21, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, FRANK ESSER, GORDON CHRISTIAN, KEVIN MAINELLO, DAVID TARBOX and VINCE WETMILLER.

ABSENT was MICHAEL CZORNYJ.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board opened the public hearing regarding the site plan application by Tamarac Auto Sales, LLC for the operation of a used car business located in the Bruno Law Offices at the Tamarac Plaza, with the display of vehicles in the parking lot of the Tamarac Plaza. The Notice of Public Hearing was read into the record. The Notice of Public Hearing was published in The Troy Record, posted on the Town Sign Board, posted on the Town website, and sent to adjacent property owners. George Rizk, presenting for the Applicant, gave a brief overview of the site plan. Chairman Oster opened the floor for receipt of public comment. Jim Sliecher, 591 Brunswick Road, commented that the area for the proposed used car display was already a parking lot, and that this use should not present any issue so long as there are appropriate safety barriers in place. Hearing no further public comment, Chairman Oster closed the public hearing.

The Planning Board then reviewed the draft minutes of the April 7, 2011 meeting. Upon motion of Member Mainello, seconded by Member Wetmiller, the minutes of the April 7, 2011 meeting were unanimously approved as drafted.

The first item of business on the agenda was the site plan application submitted by Tamarac Auto Sales, LLC for operation of a used car business located in the Bruno Law Offices and Tamarac Plaza, with the display of vehicles in the parking lot of the Tamarac Plaza. Chairman Oster noted that the current site plan map was distributed at the April 7 meeting. Member Esser commented that all of these used vehicles should be test driven on the highway only, and no test driving should be allowed in the parking lot area. Mr. Rizk confirmed that all test driving of used vehicles will be on the highway, and that test driving of the vehicles will not be allowed in the parking lot area. Member Wetmiller stated that all cars should be plated, and therefore test driven on the public road, and not the parking lot. Mr. Rizk confirmed that dealer plates will be available, and used for all test driving of vehicles on the public road. Chairman Oster confirmed that this site plan is limited to the 8 parking spaces and display of 8 used vehicles only, and if there were any planned expansion in the future, the owner/applicant must come back to the Planning Board for amendment to the site plan. Member Esser also commented that there should be no used car display on any greenspace or grass surface, and that the display should be limited to the 8 parking spaces only. Chairman Oster confirmed that any used car display is limited to the 8 parking spaces depicted on the site plan. Mr. Kreiger stated that the safety barriers should be required to be installed before any cars are offered for sale, and that the Building Department will inspect the barriers. Chairman Oster inquired whether there were any further comments or questions on the application. It was confirmed that the Rensselaer County Department of Planning had commented that local consideration shall prevail. Thereupon, Member Mainello made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Christian. The motion was unanimously approved, and a negative



declaration adopted. Member Mainello then made a motion to approve the site plan subject to the following conditions:

1. All safety barriers depicted on the site plan must be installed prior to the offer of any vehicle for sale, and the Brunswick Building Department must inspect the safety barriers prior to the display of any vehicles;
2. All cars must be test driven on a public road with dealer plates, and no test driving the vehicles in the Tamarac Plaza parking lot is permitted;
3. No cars may be displayed on any greenspace or grass surface, and the area for used car display is limited to the 8 spots as depicted on the site plan.

Member Esser seconded the motion subject to the stated conditions. The motion was unanimously approved, and the site plan approved subject to the stated conditions.

The next item of business on the agenda was the major subdivision application by Charles Farrell for property located at the intersection of McChesney Avenue Extension and Town Office Road (Tax Map ID #102-2-3.12). The Applicant seeks to create 23 building lots on 54.57 acres of property with a new subdivision road. Brian Holbriiter and Scott Reese were present for the Applicant. Mr. Holbriiter stated that a full plan set for this proposed subdivision had been submitted to the Town for review, and that he has received initial review comments from Mr. Kestner's office. Mr. Holbriiter also stated that application had been submitted to the Rensselaer County Health Department for water and septic, and that he has received back a comment letter from the Health Department, and he is making minor changes to his application to address those comments. Mr. Reese has met with the Rensselaer County Highway Department regarding the subdivision road entrance and driveway entrances, and reports that the County Highway Department finds those locations to be suitable. Mr. Reese has also met with the United States Army Corps of Engineers regarding the overall project as well as the subdivision road entrance, and specifically the culvert that needs to be addressed for the subdivision road

entrance. Mr. Reese reports that the Army Corps of Engineers has determined that the culvert location is acceptable, and that limited work in wetland areas to address the culvert construction will be allowed but requires coverage under an Army Corps of Engineers Nationwide Permit, an application for which would need to be filed. Mr. Reese also confirms that the Rensselaer County Highway Department finds the culvert size and location to be acceptable. Chairman Oster inquired whether the New York State Department of Environmental Conservation would be involved regarding wetland issues. Mr. Reese stated that the application for coverage under the Army Corps of Engineers Nationwide Permit Program would be a joint application, in that the New York State Department of Environmental Conservation would need to issue a Water Quality Certification in conjunction with the Army Corps of Engineers Nationwide Permit. There was general discussion regarding the location of a stream on the project site. Mr. Holbriiter confirmed that three test wells had been installed on the project site, and that a pump test had been undertaken in one of the wells, with the remaining two wells being monitored during the pump test. Mr. Holbriiter also confirmed that a water quality test had been undertaken, and sent to a laboratory for analysis. Chairman Oster inquired whether there was adequate area being provided along the proposed subdivision road for potential future installation of public water and/or public sewer lines. Mr. Holbriiter stated that the Applicant was not proposing to install any dry lines. Mr. Kestner confirmed that the 60 foot right-of-way for the proposed subdivision road will leave adequate room for future utility installation. Mr. Kestner commented that the location of an electric power line running through the site needed to be addressed. Mr. Holbriiter confirmed that he had researched the easement for this utility across the project site, and has determined that there is no specific width identified in any recorded easement. The Applicant is proposing to grant to National Grid a 20 foot easement, being 10 feet on either side

of the power line on the project site. Mr. Holbritten further confirmed that there were crossings underneath the power line, and that he is beginning discussions with National Grid concerning appropriate crossing approvals. Mr. Holbritten will prepare a sketch of the proposed road height and power line height in the areas of the crossings for review by National Grid and the Planning Board. Mr. Kestner also commented that four of the proposed driveways were over 150 feet in length, and therefore the Town's Private Road Standards would apply. Further, Mr. Kestner commented that one of the proposed driveways is 900 feet in length, which raises concern regarding stormwater management and wetland issues. Mr. Reese responded that stormwater issues had been considered in conjunction with the driveway design, mindful of wetland location and potential impacts. Mr. Kestner commented that in regard to the pump test, he feels that there is a great distance between the well which was pumped and the wells that were monitored, and that he would like to review that observation with the Rensselaer County Health Department. Mr. Reese also reviewed vegetation plans for stormwater features and trees in the area of the culvert for the subdivision road off Town Office Road, noting that the Rensselaer County Highway Department would like that stream culvert cleared but that the Army Corps of Engineers prefers to maintain all vegetation in place. Chairman Oster noted that there are 23 private wells proposed for this project, and the Planning Board should investigate any potential impact of pumping 23 wells upon existing surrounding properties. Mr. Kestner stated that he would investigate that issue. The Applicant requested that a public hearing be scheduled on the preliminary plat submission. The Planning Board generally discussed the completeness of the application. Mr. Kestner stated that he feels the application is complete for purposes of moving the application forward to public hearing. The Planning Board determined that a public hearing will be

scheduled on the preliminary plat submission. The public hearing will be held at the May 5 meeting commencing at 7:00 p.m.

At this point, the regular business meeting of the Planning Board was adjourned, and a public hearing held with respect to the Berkshire Properties PDD major subdivision. The Notice of Public Hearing was read into the record. The Notice of Public Hearing was published in The Troy Record, placed on the Town Sign Board, placed on the Town Website, and mailed to all property owners within 500 feet of the project site. Chairman Oster opened the floor for receipt of public comment. Jim Sliecher, 591 Brunswick Road, commented that he is not opposed to the residential subdivision, but felt that the public sewer line and public water line were close enough to undertake an assessment as to whether public water and public sewer should be included in the project, and questioned whether any cost analysis was done prior to proposing any private well and private septic. Norman Fivel, 101 Wilrose Lane, questioned whether a Homeowner Association would be created, whether there would be any deed restrictions for the project, and whether any architectural review would be undertaken regarding the proposed homes. Ian Baumes, 44 Betts Road, inquired whether Betts Road would be widened in conjunction with the project, raising a safety concern. Hearing no further comments, Chairman Oster closed the public hearing on the Berkshire Properties PDD major subdivision.

The Planning Board then reconvened its regular business meeting.

The next item of business on the agenda was the Berkshire Properties PDD major subdivision. William Doyle, Esq., was present for the Applicant. Attorney Doyle responded to the comments received during the public hearing. First, Attorney Doyle stated that the Applicant did assess extension of public sewer and public water to the project site. The Applicant and its engineers assessed extending utilities through the Brunswick Little League parcel to the project

site, but given the presence of federal wetlands, utility installation through that area would be very costly and subject to regulatory requirements. Also, future maintenance of utility lines through wetland areas can be problematic, in terms of access to those utilities and wetland regulatory restrictions. The extension of utilities along Betts Road was also analyzed, and the economics were such that additional residential density is required to support the investment on extension of public utilities, and the Applicant does not want to increase the density but keep the lots at a minimum of one acre. Attorney Doyle also stated that public utilities are proposed to be extended on Betts Road in conjunction with the Hudson Hills Apartment PDD, and that the Berkshire Properties PDD major subdivision road has been laid out to accommodate future installation of water and sewer lines in the event those utilities are extended in conjunction with the Hudson Hills project. Attorney Doyle stated that there would be deed restrictions proposed for the subdivision, and that those were being prepared and will be submitted to the Town for review. Attorney Doyle stated that there was no architectural review committee in the Town, but stated that Berkshire Properties, LLC will be the developer of the parcels, and that an upscale – style home is being proposed. Attorney Doyle did state that some home depictions have been prepared in conjunction with the PDD materials, and would submit those to the Planning Board for review. Chairman Oster noted that the Planning Board would like to see these photographs as to home style and quality. Attorney Doyle stated that Betts Road is not being proposed to be widened in conjunction with the Berkshire Properties PDD residential subdivision, and that the subdivision road being proposed in conjunction with the project has been reviewed and approved by the Town as part of the PDD approval. Attorney Doyle did note that Betts Road is being proposed to be widened and realigned in certain areas in conjunction with the Hudson Hills PDD project. While not connected to the residential portion of this PDD, Attorney Doyle did state that

Betts Road will be widened with an additional turn lane in conjunction with the commercial portion of the PDD project along Route 7. Finally, Attorney Doyle did state that a Homeowners Association may be considered in conjunction with stormwater facilities, subject to review by the Town. Mr. Kestner confirmed that the Town had reviewed the Applicant's engineering analysis of alternate public water and public sewer proposals, and that the installation of private wells and private septic systems is supported given the constraints and considerations discussed by Attorney Doyle. Mr. Fivel questioned whether a number of "spec" houses would be built, or whether one "spec" house will be built. Attorney Doyle stated that his client's proposal would be to build one "spec" house, and then build out on a lot by lot basis. Mr. Sliecher wanted to confirm that there was enough area included in the subdivision right-of-way for future utility installation. Mr. Kestner confirmed that area for future water and/or septic lines were engineered into the right-of-way design. Member Tarbox asked whether final stormwater design had been prepared. Mr. Kestner stated that a stormwater report has been prepared, and that the area of the proposed residential lots has been addressed for stormwater management. Mr. Kestner did note that additional stormwater investigation will need to be undertaken in conjunction with the commercial site portion of this PDD project. Mr. Kestner did also state that the State's new Stormwater Regulations are promoting immediate infiltration of stormwater back to groundwater, rather than creating a series of detention ponds, and that this stormwater plan is consistent with the new regulations. Member Mainello inquired as to an area noted on one of the residential lots adjacent to Betts Road, marked as a 50 foot right-of-way for future road construction. Attorney Doyle explained that this 50 foot right-of-way, which will be put into the deed for this residential lot as a deed restriction, was put in place for potential road construction to the Hudson Hills PDD, but that no future plan for road construction is made. Chairman Oster

inquired whether the Applicant was looking for any initial approval for preliminary grading of the subdivision road. Attorney Doyle stated that his client would be requesting an excavation permit for preliminary grading work for the subdivision road. The Planning Board generally discussed the road grading issue at this stage of the application process, and determined that this was a question for the Town Building Department. However, the Planning Board did recommend that the grading permit be issued, subject to the requirement that the area be restored to its original condition in the event this project did not move forward to final approval, and that the Town consider requiring some sort of financial security to insure restoration. The Board confirmed that SEQRA had been completed on this application. Thereupon, Member Wetmiller made a motion to grant preliminary subdivision approval on the major subdivision application subject to final engineering review comments by Mr. Kestner's office. The motion was seconded by Member Esser. The motion was unanimously approved, and preliminary subdivision approval granted on the application. This matter has been placed on the May 5 agenda for consideration of the final subdivision plat.

Also in connection with the Berkshire Properties PDD matter, Attorney Doyle confirmed that his client had filed a waiver of subdivision application to divide off the 5± acre parcel for transfer to the Town of Brunswick for recreation and/or open space use consistent with the PDD approval. Again, SEQRA has been completed on this project. Upon motion of Member Mainello, seconded by Member Wetmiller, the waiver of subdivision application was unanimously approved.

The site plan application by Sphere STP, II, LLC for construction of a proposed Tractor Supply Store at 864 Route 7 (Tax Map #91.00-2-18) has been adjourned at the request of the

Applicant to the May 5 meeting. Mr. Kestner confirmed that the Applicant still needed to respond to the comment letter by NYSDOT.

The next item of business on the agenda was the waiver of subdivision application by Deb Roden for property located on White Church Road (Tax Map #103.-7-18.2). Deb Roden was present on the application. The Applicant seeks to divide an existing building lot into three pieces: a western portion to be merged into an adjacent residential parcel, a center portion to create an access area to adjacent agricultural property, and an eastern portion to be merged into an adjacent residential parcel. An existing building lot will be eliminated as a result of the application. The Planning Board generally reviewed the application with Ms. Roden to confirm the intent of the Applicants. Chairman Oster inquired whether there were any questions or comments regarding the application. Hearing none, Member Tarbox made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Wetmiller. The motion was unanimously approved, and a negative declaration adopted. Thereupon, Member Tarbox made a motion to approve the waiver of subdivision application subject to the following conditions:

1. This waiver application results in the elimination of one building lot, and the waiver does not create any new or additional building lots;
2. The western portion of this subdivision must be merged into the adjacent western residential parcel, with proof of legal merger filed with the Town Building Department;
3. The eastern portion of this subdivision must be legally merged into the eastern adjacent residential parcel, with proof of legal merger filed with the Town Building Department;
4. The center portion of the subdivision must be merged into the adjacent agricultural parcel located to the rear of this current lot, with proof of legal merger filed with the Town Building Department.



Member Mainello seconded the motion subject to the stated conditions. The motion was unanimously approved, and a waiver of subdivision approved subject to the stated conditions.

One item of new business was discussed.

An application for site plan approval has been submitted to the Planning Board in conjunction with the proposed Stoneledge residential project located in the City of Troy, with a portion of the project site located in the Town of Brunswick adjacent to Oakwood Avenue. The project site is located adjacent to Farrell Road and the existing High Point project. A portion of the project site located in the Town of Brunswick consists of a proposed access road off Oakwood Avenue into the project site located in the City of Troy. The Planning Board had several questions regarding the application, including whether the proposed access road would be a public road or private road, the location of a stormwater detention pond on property located in the Town of Brunswick, and the status of this matter under SEQRA before the City of Troy Planning Board. This matter has been placed on the May 5 agenda for further discussion, with the intent of coordinating with the City of Troy Planning Board to answer these and other questions the Brunswick Planning Board may have on this application.

One item of old business was discussed.

The Oakwood Property Management, LLC site plan applications pending before the Planning Board, and the related action of the Petitions to Rezone Parcels located on Oakwood Avenue pending before the Brunswick Town Board, were discussed. Attorney Terresa Bakner was present for Oakwood Property Management, LLC. Attorney Gilchrist reviewed the procedural history and status of both the Petitions to Rezone property as well as the pending site plan applications before the Planning Board. Also present was the Town's consulting engineer on these applications, Ronald Laberge, P.E., who reported to the Board that based upon his

technical review, as well as the technical review of his sub-consultant Sterling Environmental Engineering, P.C. with respect to noise impact issues, the applications were complete for purposes of moving the applications to public hearing. Attorney Gilchrist then reported that this matter has been discussed by the Brunswick Town Board at its April 14 meeting, and that the Town Board determined that the Petitions to Rezone were complete to move forward to public hearing, and concurred that a joint meeting and joint public hearing with the Planning Board on these related applications would be appropriate. The Brunswick Town Board recommended that a special meeting be scheduled for purposes of holding a joint meeting and joint public hearing on the applications submitted by Oakwood Property Management, LLC, both with respect to the Petitions to Rezone Parcels as well as the site plan applications. The Planning Board generally concurred that this was an appropriate procedure, and concurred that a special meeting and joint public hearing be scheduled. Accordingly, a special meeting and joint public hearing will be scheduled for purposes of conducting public hearing by both the Town Board and Planning Board regarding the Petitions to Rezone and site plan applications by Oakwood Property Management, LLC.

The **index** for the April 21, 2011 meeting is as follows:

1. Tamarac Auto Sales, LLC – site plan – approved subject to conditions;
2. Farrell – major subdivision – 5/5/11 (public hearing to commence at 7:00 p.m.);
3. Berkshire Properties, LLC – major subdivision – preliminary subdivision approval – final plat consideration at 5/5/11 meeting;
4. Berkshire Properties, LLC – waiver of subdivision – approved;
5. Sphere STP, II, LLC – site plan – 5/5/11;
6. Roden – waiver of subdivision – approved with conditions;

7. Stoneledge project – site plan – 5/5/11;
8. Oakwood Property Management, LLC – site plan – joint public hearing to be scheduled with Brunswick Town Board.

The **proposed agenda** for the May 5, 2011 meeting currently is as follows:

1. Farrell – major subdivision (public hearing to commence at 7:00 p.m.);
2. Berkshire Properties, LLC PDD – major subdivision;
3. Sphere STP II, LLC – site plan;
4. Wal-Mart Real Estate Business Trust – Brunswick Square PDD amendment – referral and recommendation/site plan;
5. Stoneledge project – site plan.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD May 5, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER, GORDON CHRISTIAN, KEVIN MAINELLO, DAVID TARBOX and VINCE WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board opened a public hearing on the proposed major subdivision by Charles Farrell for property located at the intersection of McChesney Avenue Extension and Town Office Road (Tax Map ID# 102-2-3.12). The Notice of Public Hearing was read into the record. Brian Holbriiter and Scott Reese were present for the Applicant. Chairman Oster requested that a short presentation of the project be made. Mr. Holbriiter presented an overview of the project, which seeks approval for 23 residential lots on 54.75 acres of land. The project includes a proposed new public road connecting Town Office Road with McChesney Avenue Extension, off which 21 of the residential lots would be accessed, with the remaining two residential lots having access directly off Town Office Road. The proposed residential lots average 2.5 acres in size. Private well and private septic are being proposed for the residential lots. Mr. Holbriiter stated that the Applicant is now responding to initial comments by the Town engineer and the Rensselaer County Health Department. Chairman Oster then opened the floor for receipt of public comment. Robert Duncan, 41 McChesney Avenue Extension, raised concern regarding potential traffic and whether a traffic study has been undertaken; whether the project

would impact his real property taxes; whether the projected number of school children would impact the Brittonkill District; whether the wells and/or septic will effect his property; and whether this project would impact the Town overall. Mr. Duncan stated that there was a large amount of runoff this Spring, but as soon as the test wells were installed on the project site and a pump test undertaken, he experienced a significant amount of water in his basement which he had never had before. Mr. Holbriiter stated that with current stormwater requirements, the construction of this project should improve surfacewater runoff conditions from the project site onto the Duncan property. Mr. Duncan also had questions regarding adequate law enforcement, and the impact of the project upon his property value. Mr. Duncan also stated that he is operating a farm, and wants to be able to insure that he has the ability to continue farming without complaints from additional nearby residences. Mr. Duncan stated that when he moves equipment including tractors on a public road, traffic becomes an issue and that the addition of 23 lots at this location will only add to problems. Mr. Duncan stated that this project will not help him at all. Mike Seddon, 494 McChesney Avenue Extension, stated that he owns property directly opposite this project site on McChesney Avenue Extension, that his home is an historic 1850 farmhouse, and does not want to see his property impacted from the project. Mr. Seddon stated that there are already groundwater and drainage problems that currently exist, that if you dig down a couple of feet you hit groundwater, that his project is downhill from this proposed project, and that he has concern regarding surfacewater and groundwater impacts upon his property. Mr. Seddon is very concerned that his house could be rendered uninhabitable if stormwater facilities fail, and there is additional runoff that impacts his property. In particular, Mr. Seddon stated that he wanted to make sure that some entity had accountability and responsibility in the event his property is impacted from the project, and against which entity

would he have recourse if damage occurred. Mr. Reese stated that NYSDEC was involved in the review of this project as well as from a stormwater regulatory standpoint, both in terms of surfacewater quantity and quality. DEC will be reviewing the erosion and sediment control plan as well as a full stormwater pollution prevent plan, as will the Town of Brunswick as a MS4 community. Mr. Seddon stated that stormwater runoff must be looked at carefully, especially the impact upon his historic home. Mr. Seddon reiterated that he wants some accountability or avenue of recourse built into the process for any mistakes, unforeseen occurrences, or other condition which may impact his property from this project. Mr. Seddon also identified the creek which runs through the project site and along his property boundary, which is a tributary to the Poestenkill. This creek runs sparsely in the Summer, but runs very vigorously in the Spring and Fall. Mr. Seddon wanted to make sure that this creek was not in any way diverted, rerouted, impacted, or ecologically damaged, as this will affect the Seddon property. Mr. Seddon stated that upon his review of the project plans, stormwater basins that flow into this creek are a major concern. Mr. Seddon also stated that his review of the project application documents showed that 6 acres of trees needed to be removed from the project site, and that this raises significant surfacewater and groundwater impact issues. Mr. Holbriiter responded that the figure 6 acres was not correct, and should be no more than 1 acre of trees or vegetation removed as a result of this project. Mr. Seddon also stated that 700 tons of earth/soil are projected to be moved on the site, and wants to know how that will impact groundwater flow and what the site will look like upon completion. Mr. Seddon also stated that he reviewed the pump test report, and finds it to be incomplete and repetitive, and suggests that further testing should be done. Mr. Seddon also stated that a stormwater basin is proposed to be located directly in front of his house, and is very interested in what it will look like and potential impact in terms of mosquitos or other insects.

Mr. Seddon questioned why a stormwater basin needs to be located in front of his property. Mr. Reese responded that this is a low point of the project site, and that the stormwater facilities have been designed to be located on the project site which would be most effective for stormwater control. Mr. Seddon also suggested that inquiry be made with National Grid to determine whether natural gas can be brought to the site for power, which would be much cleaner than wood or oil fired furnace, especially with 23 homes being proposed. Mr. Holbriter stated that he will look into this. Mr. Seddon also raised the possibility of extending public water and public sewer to the project, and whether this project is close enough to extend the public water and public sewer. Mr. Holbriter stated that they did look into that issue, and that the closest connection was approximately one mile away, and that the project would need more density to justify the cost of extending public water and public sewer and the Applicant did not want to increase the density on the site. Mr. Seddon also questioned whether these homes would be marketable in today's real estate market. Mr. Seddon questioned what the build-out schedule would be, since the longer the build-out is the more impact there would be on the neighbors, and suggested that a much smaller project be proposed for this location. Mr. Seddon stated that he is not opposed to development in general, but was looking out for his property and the overall best interest of the Town. Mr. Seddon also requested that the public hearing remain open until all requested data has been submitted for public review. John Ontkeen, 4 Town Office Road, commented that drainage that is proposed near the test well location must remain open and drain as it does now. Mr. Ontkeen also stated that the project will have impact on deer and other wildlife, and have an overall impact on the area. Mr. Ontkeen stated that he was not against development, but this project needs more study. Peter St. Germain, 490 McChesney Avenue Extension, concurred that the project would affect wildlife. Mr. St. Germain stated that after the

Sugar Hill Apartments was built, he got sand in his well water, and that this project would cause more groundwater impacts. Mr. St. Germain stated that all the plants and vegetation on his property will be eaten by deer, since 60 acres of open area will be lost to this project. Mr. St. Germain questioned the location of the proposed subdivision road, and raised concern about the projected traffic in terms of number of cars, speed, and safety concerns because there is a sight distance issue on McChesney Avenue Extension. Mr. St. Germain questioned the style of the proposed homes, and how this would impact real property taxes in the area. Debbie DuJack, 82 Town Office Road, questioned the projected value of the homes and style of the homes, since this would affect total number of school children and total projected traffic volumes. Jim DuJack, 70 Town Office Road, stated that he lives directly across Town Office Road from the proposed subdivision road location. Mr. DuJack stated that surfacewater volumes vary greatly over the course of the year, with significant seasonal variations, and that this should be considered in conjunction with this project. Mr. DuJack also stated that he needed assurance from the Town of Brunswick that the right to farm is protected, and that there should be conditions or notifications set forth in any action on this project that farms exist in the area and are allowed to continue in farm operation without opposition from new residential owners. John Tamorow, Town of Grafton, stated that he owns property adjacent to the project site, and questioned whether there would be any barriers or fencing between the project site and his property. Mr. Holbriiter stated that a significant hedgerow between the project site and the Tamorow property would be maintained. Larry Funk, 20 Lance Avenue, asked whether a homeowner association would be created for ownership and operation of the stormwater basins. Chairman Oster asked if there were any further public comments. Hearing none, Chairman Oster suggested to the Planning Board that the public hearing remain open until the Applicant has responded to the comments



received. The Planning Board concurred. Accordingly, the public hearing has been adjourned and will remain open without date. At this point, the project Applicant, Charles Farrell, was present and stated that the types of homes would be based on market conditions, but that he was proposing to have homes between 1,700-3,000 square feet, similar in style to the homes in the area, a farmhouse style house and not a contemporary look, with 3-4 bedrooms with attached garages, and hopes to create a family style neighborhood.

The Planning Board then opened its regular business meeting.

The minutes of the April 21, 2011 Planning Board meeting were reviewed. Upon motion of Member Wetmiller, seconded by Member Christian, the minutes were unanimously approved as drafted.

The first item of business on the agenda was the major subdivision application by Charles Farrell for property located at the intersection of McChesney Avenue Extension and Town Office Road (Tax Map ID #102-2-3.12). Chairman Oster stated that a number of public comments were received on this application, including traffic, stormwater management, groundwater impacts, affects on adjacent properties, impacts to the creek on the project site, volume of vegetation and tree removal, responsibility or recourse in the event of impacts to adjacent properties, investigation of bringing natural gas to the project site, and the issue of public water and public sewer. Chairman Oster inquired whether there was adequate room within the road right-of-way for water/sewer line installation in the future, in the event public utilities were extended in the future. Mr. Kestner stated that the 60 foot right-of-way for the proposed subdivision road provides adequate room for water and sewer line installation in the future. Chairman Oster also stated the public comments included impact to wildlife, effect on property taxes, a visual rendering of what the stormwater basins on the project would look like,

information on the proposed type and size of the homes, and that the Planning Board is still looking for information on the driveway to proposed Lot 6. The Applicant will need to respond to all of these comments. This matter has been tentatively placed on the June 2 Planning Board agenda.

The next item of business on the agenda was the major subdivision application by Berkshire Properties, LLC for the Berkshire Properties PDD project. Attorney William Doyle was present for the Applicant. Attorney Doyle handed up renderings for the types of homes that are being proposed for the 10 lot subdivision. Attorney Doyle also handed up written responses to the comments received at the public hearing. Attorney Doyle also briefly reviewed technical information submitted including first floor elevations and right-of-way issue at the end of Betts Road which is identified in one residential lot. Attorney Doyle generally discussed the proposed house styles, which will largely be dependent on market considerations, but would be consistent with the style of homes in the area. Attorney Doyle confirmed that a homeowner association would need to be created for ownership and operation of the stormwater facilities in connection with the residential subdivision. Attorney Doyle did confirm that deed restrictions would be included for this project, which would place certain restrictions on these residential lots, and that the proposed deed restrictions would be submitted to the Town for review. The Planning Board generally discussed the requirement for the homeowner association and ownership and operation of stormwater facilities, which will include an easement for the benefit of the Town to access these stormwater facilities in the event the property owners do not properly maintain them. Member Wetmiller inquired whether there would be any notation on the project plans concerning the ownership and operation of the stormwater facilities by the homeowners association. Attorney Doyle stated that such a note will be placed on the final subdivision plat which will

then be recorded in the County Clerk's Office, and that all deeds to this residential subdivision will reference the membership of the homeowner association and so notice will be placed in the chain of title that a homeowner association exists for the purpose of ownership and operation of the stormwater facilities. Attorney Doyle stated that the draft homeowner association documents will be submitted to the Town for review. Member Tarbox inquired about the status of test wells for potable water. Mr. Kestner stated that test wells are being currently investigated. Mr. Kestner also confirmed that test holes for septic have been done on 7 of the proposed lots, currently being completed on the final 3 proposed lots. Mr. Kestner reported that at the final subdivision plat stage, he still needs to review information on all final grading and stormwater compliance issues, and that the project is not ready for final approval. Mr. Kestner did report, however, that the proposed subdivision road grades have been reviewed and accepted, and that the Town could consider issuance of an excavation permit for initial grading of the subdivision road area as long as adequate financial security was in place and escrow established for oversight. Attorney Doyle stated that the Applicant is requesting the issuance of an initial grading permit to start preliminary grading in the road area, and that the Applicant was working on reviewing numbers for proposed financial security for the benefit of the Town in connection with any grading permits. The Planning Board confirmed that this was a determination for the Town Building Department, but again recommended that a grading permit be issued as long as there was adequate financial security in place. Attorney Doyle confirmed that he had prepared the Deed for the parcel to be transferred to the Town for open space and/or recreation use, and that the Deed has been sent directly to the Town Attorney for review. Mr. Kestner confirmed that the parcel to be conveyed to the Town had been pinned in the field. Member Mainello generally discussed the location of the right-of-way shown in one of the residential lots at the end of Betts Road, and that

the configuration of that right-of-way was discussed. Attorney Doyle stated that Member Mainello's comments regarding the location of that right-of-way will be reviewed with the Applicant's engineer. Mr. Kreiger reported that the Highway Department raised comments regarding the subdivision road having a 50 foot right-of-way width, and the use of a "Miami curb" as part of the subdivision road. Mr. Kreiger reported that the Highway Department did not want a "Miami curb" included due to future maintenance issues. Mr. Kestner stated that the 50 foot right-of-way width for the subdivision road was approved by the Town Board as part of the PDD approval, and that this right-of-way width does provide sufficient area for future utility installation. Mr. Kestner also stated that he would review the "Miami curb" issue with the project engineer, and review the general Town use of wing gutters. Cindy Robinson, Betts Road, was present and inquired about the proposed berm or vegetative screen between the commercial portion of the Berkshire Properties PDD and her house, and whether water and sewer could be extended to her house. The Planning Board stated that the project before the Board at this meeting was the residential subdivision only, and that a site plan for the commercial portion of the Berkshire Properties PDD needed to be submitted in the future, and such comments would be appropriate in connection with the commercial site plan application. This matter has been placed on the May 19 agenda for further discussion.

The next item of business on the agenda was the site plan application by Sphere STP, II, LLC, which proposes to construct a Tractor Supply Store on approximately 4 acres of property located at 864 Route 7 (Tax Map No. 91.00-2-18). Rod Ives of Napierala Consulting Professional Engineers and Tom Cooney of Sphere STP, II, LLC were present for the Applicant. Mr. Ives stated that a revised set of final site plan documents have been delivered to the Town approximately 2 weeks ago which principally address stormwater compliance issues. Mr. Ives

also handed up a letter from NYSDOT dated April 26, 2011 which granted conceptual approval for the project. The NYSDOT conceptual approval addresses both the proposed access driveway location off NYS Route 7 and stormwater discharge calculations for facilities discharging to NYSDOT stormwater system. Mr. Kestner confirmed that the stormwater pollution prevention plan is in approvable form, and does include the required green infrastructure practices now required by NYSDEC. Mr. Ives explained that under the SWPPP, while the project initially included permeable pavement, it was determined that permeable pavement is not practical for this project site, and has now been replaced with a series of storm planters and bioretention basins which do comply with NYSDEC's current green infrastructure requirements. Member Wetmiller inquired how these facilities handle stormwater from a very big storm. Mr. Ives explained that the storm planters and bioretention basins would overflow, and direct the stormwater to additional detention basins on site which were designed to handle the 100 year storm event. Chairman Oster inquired as to the status of the grading plan with respect to the adjacent A&S Diesel site. Mr. Ives explained that the grading has been revised to have only approximately 5 foot of encroachment onto the adjacent A&S Diesel site, and that it was his understanding that Gary Joy, owner of A&S Diesel, was in agreement with the revised grading plan. Mr. Kestner confirmed, stating that he had spoken with Gary Joy, and that Mr. Joy was agreeable to the revised grading plan with approximately 5 foot encroachment onto his property with the stipulation that no additional stormwater would be discharged onto his property. Chairman Oster inquired whether all engineering comments have been addressed. Mr. Kestner confirmed that all engineering issues have been addressed, and that the project is ready for action. Member Czornyj inquired as to the location of signage on McChesney Avenue. Mr. Ives explained that the final location had not yet been determined, but that a map note had been added

to the site plan indicating that final location of all required signage must be worked out with the Town Highway Department. The Planning Board reviewed the issue of the split rail fence along the rear property line, and maintenance of all existing vegetation and trees are along the rear property line. Further, the Planning Board reiterated that vegetative in-fill to fill in any vegetative gaps along the rear property line occasioned as a result of construction activities, and include 6 foot conifers as additional vegetative buffer. A representative of the Brunswick No. 1 Fire Department asked whether the entrance to the parking lot off NYS Route 7 was for customers only. Mr. Ives stated that that entrance was for customers only, and provided an access of 24 feet in width with a 33 foot turning radius, which was compliant with NYSDOT requirements. The Brunswick No. 1 Fire Department is also requesting that a Knox box be installed at the Tractor Supply Store. The Applicant was in agreement with that request. Chairman Oster inquired whether there were any further comments. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Tarbox. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the site plan subject to the following conditions:

1. Final approval of the project SWPPP by the Town of Brunswick, and execution of the SWPPP Notice of Intent as a MS4 community;
2. Installation of split rail fence along rear property line, subject to inspection and approval by Brunswick Building Department and consulting engineer;
3. Vegetative in-fill with 6 foot conifers along the property line in areas of sparse vegetation due to construction activities, subject to inspection and approval by the Brunswick Building Department and consulting engineer;
4. Installation of Knox box at Tractor Supply Store in coordination with Brunswick No. 1 Fire Department;
5. Letter from Gary Joy, A&S Diesel, consenting to grading onto the A&S Diesel parcel as set forth on the approved grading plan;

6. All necessary and applicable approvals for public water and public sewer connections;
7. Consultation with Brunswick Highway Department on signage on McChesney Avenue as set forth on the final site plan; and
8. All final engineering comments.

Such motion was seconded by Member Wetmiller. The motion was unanimously approved, and the site plan approved subject to the stated conditions.

The next item of business on the agenda was the Wal-Mart Real Estate Business Trust/Brunswick Square PDD amendment application, upon referral from the Brunswick Town Board for recommendation. The Applicant was represented by Mary Elizabeth Slevin, Adam Fishel, Amy Dake, and Greg Ottman. Attorney Slevin presented a brief overview of the proposed Brunswick Square PDD amendment, which includes an expansion of the Wal-Mart Store plus addition of the former DiGiovanni parcel to the PDD project site for purposes of stormwater management and wetland enhancement. Mr. Fishel generally reviewed the site layout, proposed wetland improvements, proposed drainage improvements including reconstruction of a section of McChesney Avenue and installation of new drainage facilities under McChesney Avenue. Ms. Dake generally reviewed the traffic assessment report, concluding that off-site mitigation is required and that NYSDOT has already granted conceptual approval of the traffic analysis. Mr. Ottman generally reviewed architectural issues, including a proposed new building facade and signage. Finally, all necessary project approvals were discussed. The Planning Board questioned the McChesney Avenue reconstruction, which proposes to raise a certain portion of McChesney Avenue approximately 1 foot, and questions whether that section of McChesney Avenue located in proximity to the Wal-Mart entrance could be raised any higher. There was general discussion

concerning road elevation construction and stormwater issues. Member Tarbox commented that he did not approve of the loss of greenspace along NYS Route 7. Mr. Fishel replied that the required greenspace was met on the entire parcel, which now would include the former DiGiovanni parcel, and that the additional parking was needed. The Planning Board commented that these number of proposed parking spaces were proposed by Wal-Mart, and not required pursuant to the Town parking requirements. Member Czornyj concurred that he wanted to see greenspace maintained in the front of the project site along NYS Route 7. Attorney Slevin discussed the parking space issues and requirements and ratios which Wal-Mart was seeking to achieve regarding its proposed expansion, and concluded that the current number of proposed parking spaces are less than what was originally approved in the Brunswick Square PDD. Attorney Slevin also commented that the minimum greenspace requirements are met on the current proposal, but that the greenspace directly adjacent to NYS Route 7 is lost and replaced with greenspace along McChesney Avenue. Member Czornyj also raised the issue of sidewalks along McChesney Avenue connecting the Wal-Mart Store with the pedestrian walkway that is being constructed in connection with the Duncan Meadows PDD project. This matter has been set down for the May 19 agenda for further discussion concerning the Planning Board's recommendation to the Town Board on the PDD amendment.

The next item of business on the agenda was a site plan application submitted by Boswell engineering in connection with the proposed Stoneledge Terrace project in the City of Troy, with proposed access to the project off Oakwood Avenue situated in the Town of Brunswick. Dominic Arico of Boswell Engineering was present for the Applicant. Mr. Arico presented an overview of the project, which is set on an approximate 50 acre parcel and proposes 240 apartment units. None of the proposed apartment buildings are located in the Town of



Brunswick. The only proposed use of the property located in Brunswick adjacent to Oakwood Avenue is for the access road into the apartment project, as well as stormwater basins. The balance of the project site, including all proposed buildings and amenities, are located in the City of Troy. Mr. Arico stated that the City of Troy had already rezoned the parcel to PDD, and that the project was before the City of Troy Planning Board on site plan review. Mr. Arico indicated that the Troy Planning Board had brought the project through the SEQRA process through an Environmental Impact Statement, which included traffic studies, grading plans, design plans, and stormwater compliance. Mr. Arico confirmed that the only items on this project that are located within the Town of Brunswick is the access road off Oakwood Avenue and stormwater basins. Mr. Arico stated that the road for this project would remain private, and that the stormwater basins would be privately owned. Member Czornyj inquired whether the Town of Brunswick receives any percentage of the real property taxes, and questioned why all the apartment buildings were located in the City of Troy. Mr. Arico also stated that the water connection is proposed from Farrell Road and Gurley Avenue, and that the proposed sewer is gravity fed to the City of Troy sewer system, except for a small pump station which is required for a certain section of the project site. Mr. Arico confirmed that the City of Troy Fire Department has jurisdiction over the project site. The Planning Board commented that the road system for this project connecting Gurley Avenue with Oakwood Avenue could potentially become a through road, creating additional traffic on Oakwood Avenue. Mr. Arico stated that given the road design, it is unlikely that anyone would use the project road system as a through road. The Planning Board had several issues concerning the stormwater plan, road location, and also referred the matter to the Town Building Department for an initial zoning compliance review concerning that portion of the project located in the Town of Brunswick. Mr. Arico stated that he

would file a complete set of all the project plans, Environmental Impact Statement, and stormwater pollution prevention plan for review by the Planning Board. This matter has been set down for the May 19 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 Hernick for property located at 421 Bonesteel Lane. The Applicant seeks to divide an existing 4.9± parcel into two properties, which will include a 2.9± acre parcel with the existing house, and a 2.0± acre parcel with existing barns and outbuildings to be used for residential construction. The Applicant has stated that he is intent on constructing a new residence on the 2.0± acre parcel on which the barns and outbuildings sit, but needs to sell the 2.9± acre parcel with the existing house in order to finance his new home construction. The Planning Board considered the option of conditioning any approval on obtaining a building permit on new home construction on the 2.0± acre parcel within 30 days of project action, and to complete the construction of the residence within 12 months or require that all existing bonds and outbuildings be removed from the site. This matter is placed on the May 19 agenda for further discussion.

The second item of new business discussed was the site plan application by Snyder for property located at 1802 NY Route 7. This project site is approximately 11.6 acres, and the Applicant seeks to operate a dog kennel at that location. This matter is placed on the May 19 agenda for discussion.

The **index** for the May 5, 2011 meeting is as follows:

1. Farrell – major subdivision – 6/2/11;
2. Berkshire Properties PDD – major residential subdivision – 5/19/11;
3. Sphere STP, II, LLC – site plan – approved with conditions;

4. Wal-Mart Real Estate Business Trust – Brunswick Square PDD amendment – referral and recommendation – 5/19/11;
5. Boswell Engineering - Stoneledge Terrace site plan – 5/19/11;
6. Hernick – waiver of subdivision – 5/19/11;
7. Snyder – site plan – 5/19/11.

The **proposed agenda** for the May 19, 2011 meeting currently is as follows:

1. Berkshire Properties PDD – major subdivision;
2. Wal-Mart Real Estate Business Trust – Brunswick Square PDD amendment – referral and recommendation;
3. Boswell Engineering - Stoneledge Terrace site plan;
4. Hernick – waiver of subdivision;
5. Snyder – site plan;
6. Oakwood Property Management, LLC – recommendation on rezone petition for Tax Map Parcels 90-1-12.2 and 90-1-13.1.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD May 19, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER, GORDON CHRISTIAN, KEVIN MAINELLO, DAVID TARBOX and VINCE WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board reviewed the draft minutes of the May 5, 2011 Planning Board meeting. Two corrections were noted. At Page 4, the name "Ontkeen" is corrected to "Hakeem". At Page 15, the term "bonds" is corrected to "barn". Member Czornyj made a motion to approve the draft minutes as corrected, which motion was seconded by Member Christian. The motion was unanimously approved, and the minutes approved as corrected.

The first item of business on the agenda was the Berkshire Properties PDD major subdivision application. Attorney William Doyle was present for the Applicant. Mr. Doyle stated that all submissions had been made regarding the final plat consideration. Mr. Kestner confirmed that he had received the revised final subdivision plat, and that the future right-of-way for the end of Betts Road within one of the residential lots had been addressed per the Planning Board comments, and that the topography and home elevations for the lots had been supplied. Chairman Oster inquired whether there were any further issues to address on the application. Hearing none, Chairman Oster noted that application was ready for consideration of final plat approval. Attorney Gilchrist stated that SEQRA had been completed on this application pursuant

to coordinated environmental review undertaken by the Town Board, and that the Planning Board was in the position to proceed to action on the final plat. Attorney Gilchrist and Mr. Kestner then reviewed proposed conditions to be attached to final subdivision plat approval for the Planning Board's consideration. Upon discussion, the Planning Board concurred that conditions were appropriate. Thereupon, Member Czornyj made a motion to approve the Berkshire Properties PDD major subdivision final plat subject to the following conditions:

- a. With respect to the residential subdivision portion of the Berkshire Properties PDD, a bonding security agreement for the proposed subdivision road in form and content acceptable to the Town Board and Town Attorney must be executed by the Applicant.
- b. With respect to the residential subdivision portion of the Berkshire Properties PDD, the Applicant must provide to the Town of Brunswick a performance bond or other acceptable financial undertaking for the construction of the proposed subdivision roadway. The form and content of such performance bond or other acceptable financial undertaking is subject to approval by the Town Board, Town Attorney, and Town Consulting Engineer as to form, content, and amount.
- c. With respect to the residential subdivision portion of the Berkshire Properties PDD, a declaration of easement and road maintenance agreement in form and content acceptable to the Town Board and Town Attorney must be executed by the Applicant and recorded in the Office of the Rensselaer County Clerk at the expense of the Applicant. Proof of such filing at the Office of the Rensselaer County Clerk must be provided to the Town of Brunswick by the Applicant.
- d. With respect to the residential subdivision portion of the Berkshire Properties PDD, until the subdivision roadway is completed, offered for dedication and accepted by the Town Board, the Applicant shall be responsible for all subdivision roadway maintenance, including paving, repairing, and snow plowing, for the benefit of all homeowners within the Berkshire Properties residential subdivision, to insure that all roadways are open, passable, and accessible to Betts Road, and further that all such roadways are open, passable, and accessible to and by emergency vehicles. In addition, until such time as the subdivision roadway is offered for dedication and accepted by the

Town Board, the Applicant shall be responsible for the maintenance of a sign at the entrance to the residential subdivision, providing the following: "NOTICE: this subdivision road is being maintained by the developer. Upon completion and final inspection, this roadway will be taken over by the Town of Brunswick".

- e. With respect to the residential subdivision portion of the Berkshire Properties PDD, the subdivision roadway is designed to be a public roadway. Upon construction of this subdivision roadway in compliance with applicable specifications, the Applicant shall offer for dedication such subdivision roadway to the Town of Brunswick.
- f. Approval by the Rensselaer County Health Department with respect to private water and private septic facilities.
- g. The Applicant shall pay the sum of \$5,000 as a park and recreation fee. This amount shall be required to be paid by the Applicant on a \$500 per lot basis at such time as the Applicant applies for issuance of a building permit for residential construction on the residential subdivision portion of the Berkshire Properties PDD.
- h. The Applicant must comply with all New York State Department of Environmental Conservation (NYSDEC) Stormwater Regulations and Town of Brunswick Local Laws concerning stormwater compliance. In addition to any mandatory notice of intent to commence construction activities, the Applicant must complete a full Erosion and Sediment Control Plan (ESCP) and Stormwater Pollution Prevention Plan (SWPPP) in compliance with NYSDEC Stormwater Regulations. The Applicant shall supply a complete copy of the ESCP and SWPPP to the Town of Brunswick, and shall not commence any grading or construction activities on the Berkshire Properties PDD site until such time as the Town has executed the NYSDEC Notice of Intent to commence construction activities in its capacity as a MS-4 community.
- i. All stormwater management facilities for the Berkshire Properties PDD action shall be constructed in compliance with the approved SWPPP. The Town of Brunswick shall not own or otherwise be responsible for future operation or maintenance of such stormwater management facilities. The Town of Brunswick shall have no responsibility or liability with respect to such stormwater management facilities. The stormwater management facilities proposed for the residential subdivision and commercial portions of the Berkshire Properties PDD shall be as follows:

(i) Residential Subdivision: All stormwater management facilities shall be owned and maintained by a homeowners association for this

residential subdivision. This obligation shall be set forth in homeowner association documents. The Town of Brunswick shall be granted an easement for access to such stormwater management facilities pursuant to homeowner association documents. The form and content of the homeowners association documents as to stormwater management facility ownership, operation, maintenance, insurance and access, including the easement granted in favor of the Town of Brunswick for access as described herein, shall be subject to review by the Town Board and Town Attorney. The homeowners association must further execute a Stormwater Management Facilities Maintenance Agreement with the Town of Brunswick. The form and content of the Stormwater Management Facilities Maintenance Agreement shall be subject to approval by the Town Board and Town Attorney.

- j. The Applicant must comply with all requirements of the United States Army Corps of Engineers and New York State Department of Environmental Conservation concerning wetlands, wetlands buffers, and restrictions on the project site.
- k. All site work and construction activities on the Berkshire Properties PDD site, both with respect to the residential subdivision and commercial lots, shall be limited to the following hours of operation: Monday – Friday, 7:00 a.m. – 7:00 p.m.; Saturday, 7:00 a.m. – 5:00 p.m.; no site work or construction activity shall be permitted on Sundays or legal holidays.
- l. The following note shall be placed on all plans and specifications for the Berkshire Properties PDD project:

The undersigned Applicant for the property and undersigned owner of the property state that they are familiar with all conditions of the Town Board of the Town of Brunswick on the Berkshire Properties Planned Development District, and consent to all said conditions.

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Date

- m. The Applicant shall provide the Town of Brunswick GIS data, including but not limited to property boundary area, roads, utilities, control points, and drainage elements.

- n. The Applicant shall pay all consulting review fees incurred by the Town Board in connection with the review of the Berkshire Properties PDD application. A final accounting for all such fees shall be made, and all such fees shall be paid by the Applicant within 30 days of notification of such a final accounting.
- o. The Applicant shall be required to establish at the Town of Brunswick an engineering review escrow account in an amount to be determined by the Town Board upon review with its consulting engineer. The Applicant must submit an estimate for projected infrastructure costs, including subdivision roads, public water, public sewer, and stormwater facilities; and further, the Applicant must submit an estimated construction schedule. This information will be used by the Town in considering an appropriate engineering review amount, which amount is anticipated to be five (5) percent of the total estimated infrastructure construction costs. The Town Board shall retain an engineer for the purpose of providing engineering review and oversight on all construction plans and site construction activities related to the Berkshire Properties PDD project infrastructure. In addition, such consulting engineer shall assist the Town Building Department, as necessary, in all mandatory inspections pursuant to all applicable codes. All fees for engineering oversight shall be the responsibility of the Applicant, and shall be paid out of the escrow account established pursuant to this paragraph. The amount of such escrow account shall be subject to review from time to time by the Town Board during construction activities on the Berkshire Properties project. At no time shall such account be in an amount less than \$5,000. In the event the Applicant fails to maintain such escrow account in a minimum balance of \$5,000, a Stop Work Order shall be issued by the Town of Brunswick Building Department on all construction activities at the site. The Applicant shall be entitled to an accounting of all invoices of engineering review fees. At the conclusion of construction and completion of engineering oversight activities, and upon a final accounting of all engineering fees, all funds remaining in such escrow account shall be returned to the Applicant.
- p. All final engineering review comments of Brunswick Building Department and consulting engineer on final plat and project plans.
- q. Subdivision road plan shall include the Town's standard wing gutter specification and eliminate the use of "Miami curb".

Member Mainello seconded the conditions subject to the stated conditions. There was some discussion concerning the potential future installation of public utilities near Lot #1. It was determined that this issue would be addressed through the proposed condition subjecting the approval to final engineering comments. Hearing no further discussion on the motion to approve



the final plat subject to the stated conditions, the motion was unanimously approved, and conditional final subdivision plat approval granted for the Berkshire Properties PDD major subdivision.

The next item of business on the agenda was the application by Wal-Mart Real Estate Business Trust for amendment to the Brunswick Square PDD. The matter has been referred to the Planning Board from the Town Board for recommendation on the PDD application. Mary Elizabeth Slevin, Esq. and Adam Fishel, P.E. were present for the Applicant. Attorney Slevin briefly overviewed the PDD application, seeking a 30,000± building expansion to the existing Wal-Mart Store plus a geographic expansion to the PDD site to include the former DiGiovanni parcel for the purpose of stormwater facilities and wetland enhancement. Mr. Fishel generally reviewed the proposed site plan layout, discussing store entrances, truck access, parking, greenspace, wetland enhancement, stormwater facilities, and proposed upgrades to McChesney Avenue. Chairman Oster raised concern regarding the proposed parking spaces along Route 7 and the elimination of existing greenspace, that he was not in favor of parking cars right along Route 7 in that location, and that the Planning Board has been promoting greenspace for commercial uses along the Route 7 corridor. Chairman Oster noted that he had also received a letter from Jim Murray, who owns property on McChesney Avenue, which included comments concerning greenspace on this application. Chairman Oster also noted that the Town has continued to address the automobile dealerships on Route 7 and maintenance of greenspace which remains an important issue for the Town. Member Czornyj concurred that greenspace was an important issue, and also commented that the proposed revisions to the main entrance to the Wal-Mart Store off Route 7 may create a hazard, particularly proposing crosswalks and travel ways. Mr. Fishel responded regarding total percentage of greenspace on the project, which Mr.

Fishel reports is at 34% greenspace on the existing Wal-Mart site under the proposal, not including the green area of the DiGiovanni parcel. Also, Mr. Fishel made a point of stating that the prior application by Wal-Mart to construct a supercenter store on property along Betts Road would have resulted in the elimination of a significant green area of the Town and that this proposal limits greenspace impacts and still meets greenspace requirements for the project. Member Czornyj asked whether the prior application on Betts Road was withdrawn because of wetland impacts. Attorney Slevin stated that the wetland impact issue was not the reason the prior application was withdrawn; rather, the prior application was withdrawn based on community opposition and Wal-Mart's response to public comments that the public would rather see the existing store site expanded. The Planning Board Members, Mr. Kestner, and Mr. Fishel then held extended discussion regarding the greenspace area along Route 7, and various options to maintain greenspace along Route 7 while still maintaining proposed parking areas. Issues discussed included the elimination of half of the proposed parking spots along Route 7, and particularly those adjacent to the Route 7 right-of-way; agreement with Johnston Associates for sharing of parking spaces in the parking lot for the entire Brunswick Plaza; maintaining a limited lawn with some trees in the proposed parking lot area; and keeping the greenspace on the Wal-Mart parking area along Route 7 aligned with the greenspace of the parking area along the Johnston Associates parking area to maintain a consistent green corridor along the Route 7 right-of-way. Greenspace and lighting impacts on the south side of the parking lot adjacent to McChesney Avenue opposite the Murray property was also discussed, including the maintenance of an existing berm to the maximum extent practicable, potential installation of a board-on-board fence, additional vegetative buffer, and adjustment to poll lights to reduce any light spillage from the Wal-Mart site. The Planning Board also commented on the proposed free standing poll sign

for Wal-Mart, and the comments of the ZBA regarding the proposed height of the sign and the total sign area. The Planning Board questioned the proposed public bus route and pick up areas on the site. Mr. Fishel stated that Wal-Mart was still coordinating with CDTA and that the bus route had not yet been finalized. The Planning Board raised comments concerning the proposed box culvert under McChesney Avenue, and the proposed work in raising the elevation of McChesney Avenue. Mr. Fishel stated that he was still in discussion with the Rensselaer County Highway Department. Mr. Kestner noted that the location of waterline and sewer line in that location must also be taken into account. Member Czornyj raised the issue of extending public sidewalk along McChesney Avenue to connect with the sidewalk areas that will be constructed in connection with the Duncan Meadows PDD project. Mr. Fishel stated that he had discussed this issue with the Rensselaer County Highway Department, and that the County Highway Department is in agreement with the same sidewalk detail approved for the Duncan Meadows project, and that Wal-Mart will work on incorporating the sidewalk into the project plan. After further general discussion, the Planning Board Members concurred that an overall positive recommendation on the application should be forwarded to the Planning Board, subject to conditions as discussed at this meeting. Attorney Gilchrist was directed to draft a proposed recommendation document to be further reviewed at the June 2 meeting.

The next item of business on the agenda was the application by Boswell Engineering for the Stoneledge Terrace site plan. Dominic Arico of Boswell Engineering was present for the Applicant. Chairman Oster noted that he had received a written communication from the Chief of the Center Brunswick Fire Company, noting that the area of the proposed access road off Oakwood Avenue will be in the Center Brunswick Fire District, and that the Center Brunswick Fire Department will be required to respond to all emergencies in this area. The Center

Brunswick Fire Department would like the Planning Board to consider this potential impact to fire services by this new intersection, including responding to any automobile accidents or other emergencies. Also, the Center Brunswick Fire Department noted that this section of Oakwood Avenue does not have any access to water or fire hydrants, and suggested that the Planning Board investigate the provision of a fire hydrant in relation to this project in this section of Oakwood Avenue. An email dated May 19, 2011 from Larry Funk, Chief of the Center Brunswick Fire Company, to the Planning Board was noted for the record. Mr. Arico stated that he would coordinate with both the Center Brunswick Fire Department and the City of Troy on that issue, but providing a fire hydrant in this general area would not be a problem. Mr. Arico handed up a specific layout and landscaping plan for that portion of the project road located within the Town of Brunswick. Mr. Arico also stated that he had given a revised set of plans to Mr. Kestner, provided Mr. Kestner with a full copy of the stormwater pollution prevention plan, as well as the Draft Environmental Impact Statement and Traffic Study for the project. Mr. Kestner stated that he has received the SWPPP, and is in the process of reviewing that plan. Mr. Kestner did discuss drainage from the Brunswick portion of this site, which will discharge under Oakwood Avenue and then drain on the easterly side of Oakwood Avenue in a southern direction, then crossing Oakwood Avenue again and discharging through the Oakwood Cemetery and ponds, ultimately discharging to the area of Ross Valve. Mr. Kestner wanted the opportunity to review the SWPPP in detail. Member Esser inquired as to the specifications for this proposed road, and whether this will be a public road. Mr. Arico stated that this will not be a public road, and therefore the public road specifications are not applicable. Mr. Arico also stated that there were no utilities planned for the access road in Brunswick, except for the stormwater detention facilities noted on the plan. Attorney Gilchrist stated that the Town of Brunswick, as a MS-4

community, must review the SWPPP in detail, as the Town has certain responsibilities under the stormwater regulations for stormwater facilities within the Town. Further, the Planning Board would need complete information as to the ownership entity for this Stoneledge project, in light of the fact that the Town of Brunswick will not own, maintain, repair, or otherwise be responsible for the stormwater detention basins located on the Brunswick portion of this project, and that the Town will require a stormwater management facility maintenance agreement with the legal entity that will own and operate these stormwater facilities. Attorney Gilchrist also requested further information from the Applicant as to the final SEQRA determination by the City of Troy Planning Board on this action. Mr. Kestner also inquired whether the Rensselaer County Highway Department had granted an approval for this road location. Mr. Arico said that conceptual approval had been issued, but a specific permit had not yet been applied for. The Planning Board noted that there was also an initial zoning issue which remained with the Building Department for determination. This matter is placed on the June 2 agenda for further discussion.

The next item of business on the agenda was the waiver of subdivision application by Hernick for property located at 421 Bonesteel Lane. Mr. Hernick was present on the application. The Applicant seeks to divide an existing 4.9± parcel into two lots, one lot being 2.9± acres in size on which the existing house is located, and a 2.0± acre parcel with existing barn and outbuildings proposed to be used for residential construction. The Planning Board generally discussed this application, and determined that based on this application, it is appropriate to grant the waiver approval subject to the condition that a Building Permit for the construction of a new house on the 2.0± acre lot be applied for within 30 days from subdivision approval, and that the house construction must be completed within 12 months from the date of the issuance of the

Building Permit. The Planning Board determined that if these conditions were not met, then the removal of the barn and outbuildings must occur on the 2.0± acre lot. The Planning Board generally concurred that this approach was appropriate on this application. Thereupon, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Tarbox. The motion was unanimously approved, and a negative declaration adopted. Member Czornyj then made a motion to approve this waiver of subdivision application subject to the following conditions:

1. The Building Permit for house construction on the 2.0± acre lot must be submitted to the Brunswick Building Department within 30 days of the date of subdivision approval;
2. House construction on the 2.0± acre parcel must be completed within 12 months from the date of the issuance of the subject Building Permit;
3. If the house construction is not completed within the 12 month period on the 2.0± acre lot, then the existing barn and outbuildings must be removed from that lot;
4. Rensselaer County Health Department approval for septic on the 2.0± acre lot.

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

The next item of business on the agenda was the site plan application by Snyder for the operation of a dog kennel at 1802 NY Route 7. No one was present on the application. The Planning Board directed Mr. Kreiger to follow up with Snyder, review the issue of the steepness of the driveway for use in connection with a commercial operation, require additional topographic information for review by the Planning Board on that issue, and inform Snyder that this matter is tentatively placed on the June 2 agenda.

The next item of business on the agenda was the referral by the Brunswick Town Board of the application by Oakwood Property Management, LLC to rezone two parcels of property on Oakwood Avenue, Tax Map Parcels 90-1-12.2 and 90-1-13.1. Terresa Bakner, Esq. and Scott Reese were present for the Applicant, Oakwood Property Management, LLC. Also in attendance were Sean Gallivan and Brendan Gallivan of Oakwood Property Management, LLC. Attorney Bakner generally reviewed the proposal to rezone these two parcels to Brunswick Zoning District B-6, and that the property owner does not have any particular project being proposed in connection with the rezoning. Chairman Oster inquired whether the existing Memorandum of Agreement in this matter included the exclusion of a filling station as a B-6 use for these two parcels. Attorney Bakner stated that that provision was not included in that Memorandum of Agreement, but rather came up during subsequent discussions with the property owners in the North Forty Subdivision and Town officials. Attorney Bakner stated that Oakwood Property Management, LLC takes no position on that issue, and that will be a decision that will be made by the Town Board. Attorney Bakner noted that following the public hearing, which included both the application to rezone these two parcels as well as the pending site plan application before the Planning Board, Oakwood Property Management, LLC has retained Dr. Henry Scarton to assist Oakwood Property Management, LLC in consideration of mitigation measures to address potential noise impacts. Chairman Oster noted for the record that the discussion at this meeting would be limited to consideration of a recommendation of the Town Board on the proposed rezoning of these two parcels from current zoning designations to B-6, and that this Planning Board meeting would not include discussion on the proposed site plan. The Planning Board generally reviewed the Brunswick Zoning Code, and specifically all of the primary permitted uses as well as the special permit uses within the B-6 Zone under the Brunswick

Zoning Code. The Planning Board generally discussed the current zoning designations for these parcels, as well as the uses that would be allowed in the B-6 Zone at this location. Attorney Gilchrist noted for the record that the consideration by the Planning Board for its recommendation to the Town Board on the rezoning application should specifically address the Planning Board's consideration of whether those two parcels are appropriate for Zoning District B-6 uses, given its location as well as existing surrounding land uses. Attorney Gilchrist noted that the determination by the Planning Board should not be viewed as a "resolution" of issues surrounding the present operations on these two parcels, but must focus on the Planning Board's determination from a planning perspective as to whether those parcels would be appropriate for the allowable uses within the B-6 Zoning District. Upon further discussion, the Planning Board Members generally concurred that the B-6 uses allowed under the Brunswick Zoning Code would be appropriate uses for this parcel, and generally did not have any opposition to the rezoning of these two parcels to the B-6 zoning designation. However, the Planning Board Members did want to explore the issue of eliminating the "filling station" use as one of the allowable B-6 uses on these two parcels in light of comment by the owners within the North Forty Subdivision. Attorney Gilchrist was directed to research that issue. Attorney Gilchrist was also directed to draft a recommendation to the Town Board on the rezoning applications, subject to review and discussion by the Planning Board at its June 2 meeting. This matter is placed on the June 2 agenda for consideration of the written recommendation to the Town Board on the rezone applications, and also for purposes of discussing the pending site plan applications for Tax Map Parcels 90-1-14 and 90-1-15.

One item of old business was discussed.



Chairman Oster noted that he was in receipt of communication from Larry Funk, Chief of the Center Brunswick Fire Department, concerning the proposed Farrell major subdivision located at McChesney Avenue Extension and Town Office Road. The fire department noted that this location does not have any municipal water service, and that the fire department recommends that as part of the construction of stormwater detention basins, a design for a firefighting water holding area with a dry hydrant be considered.

Mr. Kreiger reported that a site plan application would be submitted shortly by Brunswick Associates of Albany, L.P. in conjunction with the Brunswick Woods Apartment construction that is currently underway. Mr. Kreiger understands that the owner is seeking to upgrade the existing clubhouse at the apartment complex, which would also convert an existing maintenance garage to additional clubhouse space, and there would be a proposal to construct a new maintenance garage facility at the apartment complex. This will require an amendment to the approved site plan, an application for which should be submitted shortly. The matter will be considered upon receipt of a complete application.

The **index** for the May 19, 2011 meeting is as follows:

1. Berkshire Properties PDD – major subdivision – conditional final plat approval;
2. Wal-Mart Real Estate Business Trust – Brunswick Square PDD amendment referral and recommendation – 6/2/11;
3. Boswell Engineering - Stoneledge Terrace site plan – 6/2/11;
4. Hernick – waiver of subdivision – conditional final approval;
5. Snyder – site plan – 6/2/11;
6. Oakwood Property Management, LLC – Town Board referral of Petition to Rezone Tax Map Parcels 90-1-12.2 and 90-1-13.1 for recommendation – 6/2/11.

The **proposed agenda** for the June 2, 2011 meeting currently is as follows:

1. Charles Farrell – major subdivision;
2. Wal-Mart Real Estate Business Trust – Brunswick Square PDD amendment – referral and recommendation;
3. Boswell Engineering - Stoneledge Terrace site plan;
4. Snyder – site plan;
5. Oakwood Property Management, LLC – recommendation on rezone petition for Tax Map Parcels 90-1-12.2 and 90-1-13.1, and site plan review for Tax Map Parcels 90-1-14 and 90-1-15.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD June 2, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER, GORDON CHRISTIAN, KEVIN MAINELLO, DAVID TARBOX and VINCE WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

The draft minutes of the May 19, 2011 meeting were reviewed by the Planning Board. Upon motion by Member Czornyj, seconded by Member Christian, the draft minutes of the May 19 meeting were unanimously approved without amendment.

The first item of business on the agenda was the major subdivision application by Charles Farrell for property located at the intersection of McChesney Avenue Extension and Town Office Road (Tax Map ID No. 102-2-3.12). Brian Holbriiter and Scott Reese were present for the Applicant. Mr. Holbriiter had submitted a written response to the comments received at the public hearing, and generally reviewed that written response with the Planning Board. Regarding comments concerning traffic, Mr. Holbriiter stated that the proposed new public subdivision road will have access onto two County Highways (Town Office Road and McChesney Avenue Extension) and that posted speed limit on each of these County Highways is 35 mph. Mr. Holbriiter also stated that access to State Highways is in close proximity to the subdivision road, including 1.3 miles to Route 7 at the end of Town Office Road, 1.9 miles to Route 7 at the end of McChesney Avenue, and 1.1 miles to Route 2. Mr. Holbriiter also reviewed sight distances in

both directions at the terminus of the proposed subdivision road on Town Office Road and McChesney Avenue Extension, and all sight distance requirements are met. Mr. Holbriiter also reviewed projected trip generation information. Mr. Holbriiter also commented that based on his observation, the traffic on McChesney Avenue Extension and Town Office Road traveled at or slightly above the posted speed limit of 35 mph, and that a majority of the traffic at peak times on McChesney Avenue Extension is proceeding east to Route 2, and not west toward Route 7. Mr. Holbriiter also stated that the owner was coordinating with the Rensselaer County Highway Department, and that the County Highway Department has not expressed any concern regarding traffic impact. Chairman Oster requested that the owner obtain a letter from the Rensselaer County Highway Department on that issue. Mr. Holbriiter also addressed potential school district impact issues. Mr. Holbriiter stated that according to the 2010 U.S. Census, on average there is less than 1 child projected per residential household. In that regard, Mr. Holbriiter stated that with 23 proposed lots, it is reasonable to anticipate approximately 23 school age children from this project from the Brittonkill School District. According to his research, there is approximately 1,400 students in the Brittonkill District, and the assimilation of 23 additional students is not significant. The Planning Board directed the owner to address that issue directly with the Brittonkill Superintendent. Regarding property tax and home value impacts, Mr. Holbriiter confirmed that the Applicant is proposing moderately priced homes that will benefit the residential tax base in the Town without significantly impacting the value of surrounding homes. Mr. Holbriiter stated that these homes should be consistent with the existing homes in the area. On the issue of existing farms, Mr. Holbriiter stated that the Town of Brunswick has a right to farm law, and that the Applicant was willing to place a note on the plat indicating that Brunswick has the right to farm law and that there are existing farms in proximity to this

subdivision. Chairman Oster stated that such a plat note would be appropriate, and that the Planning Board has experience with this issue on other projects where a notation has been made to alert future owners that surrounding properties are used for agricultural purposes and that Brunswick has a right to farm law. In terms of drainage, Mr. Holbriter stated that the current NYSDEC Stormwater Regulations apply, and are very strict. The Stormwater Regulations require that no increase to stormwater flows can result from the project as compared to preconstruction conditions, and that the stormwater plan for this project complies with these state requirements. Chairman Oster noted that the Center Brunswick Fire Department Chief had requested that the Applicant investigate creating a pond on site for purposes of installation of a dry hydrant for fire fighting purposes. Mr. Reese responded that creating such a pond for firefighting purposes is problematic given that the current Stormwater Regulations promote detention basin infiltration to groundwater, and that the stream which traverses the project site is under the authority of the Army Corps of Engineers. Mr. Reese did state that there was an existing pond located off the project site which could serve for firefighting purposes, but it is beyond the Applicant's control since it is off the project site. The Planning Board Members generally stated that the request of the Fire Department to investigate that issue had been followed, and if it is not feasible to create such a pond for firefighting purposes on the project site due to Stormwater Regulations and Stream Regulations, then that feature should not be included in project plan. Mr. Holbriter stated that with respect to accountability for stormwater facilities, it would be the responsibility of the builder/developer to do inspections during construction and provide compliance reports to the Town, and that the homeowners' association for this project would have responsibility for ownership and maintenance for the stormwater facilities upon buildout. Mr. Holbriter stated that in terms of protection of the stream on the

project site, it is noted that the stream flows through an Army Corps of Engineers regulated wetland, and therefore the Applicant will be staying away from both the wetland area and the stream as part of the project proposal. Mr. Holbriiter confirmed that the only wetland impact on this project is the stream culvert located adjacent to Town Office Road, and that the Applicant was coordinating with the Army Corps of Engineers and the Rensselaer County Highway Department on that issue. Mr. Holbriiter addressed the comment on the stream leaving the project site and going onto the property owned by Seddon, and that Mr. Holbriiter had obtained information concerning the first floor elevation of the Seddon home and the elevation of the stream, and it appears that there is several feet elevation difference between the stream and the first floor elevation. Mr. Holbriiter did note that there is likely to be an 8' basement, but that he did not have any information concerning the basement of the home as to whether it was a concrete floor or earth floor. Mr. Holbriiter confirmed that the Applicant must comply with Wetland and Stream Protection Requirements, and that the Applicant could not impact the stream to a point where the flow to the Seddon property is impacted. Mr. Holbriiter also confirmed that Stormwater Regulations require no increase in offsite stormwater flow as a result of construction activities. Mr. Kestner did state that he had done a site visit to the Seddon property, and that surface water flows are being examined as part of this project. Mr. Holbriiter confirmed that the original long Environmental Assessment Form was incorrect in terms of tree removal and earth removal from the project. Mr. Holbriiter stated that no more than one quarter acre of treed area would be impacted by the project, and that a total amount of 750 ton of soil removal is anticipated from the project. In terms of soil removal, Mr. Holbriiter noted that that volume is below any NYSDEC Mining Regulation, and will amount to approximately 30 dump trucks at most. Mr. Holbriiter explained that most of the soil removal is for road construction,

and that the Applicant is trying to balance the grading on the rest of the project site in terms of cuts and fills. In terms of the well and water testing undertaken by the Applicant, Mr. Holbriter stated that the Applicant has complied with the requirements of the Rensselaer County Health Department, which require the installation of one test well for every 8 proposed lots. Here, the total of 3 test wells were drilled given the proposed 23 lots. Further, Mr. Holbriter stated that the County requires one pump test while the other test wells are monitored, and that the Applicant had complied with this requirement. Mr. Holbriter further stated that the County required water quality testing on one test well, and that the Applicant had complied with this requirement. Mr. Holbriter stated that in terms of the pump test, the test well had produced 17 gallons per minute average over a 24 hour period, and that there was no drawdown impact on the 2 monitoring wells on the site. Further, Mr. Holbriter stated that he did not receive any complaints in terms of lack of groundwater from any surrounding properties during the term of the pump test. Mr. Holbriter concluded that given the results of the pump test, there was adequate groundwater supply for all 23 proposed lots. Mr. Kestner stated that he will be setting up a meeting with the Applicant and the Rensselaer County Health Department to address his concern regarding the location of the test wells and the monitoring wells on the project site, and that this meeting should be set up before the next Planning Board meeting. Regarding the comments concerning the appearance of the proposed stormwater facilities, Mr. Holbriter had provided copies of pictures of stormwater detention areas that are being proposed for this project site for review by the Board. Member Wetmiller had a question regarding future maintenance of the detention facilities and vegetation. Mr. Holbriter confirmed that the homeowners' association for this subdivision would be required to maintain the stormwater facilities in the future. Mr. Holbriter also stated that he had addressed the comment concerning impact to wildlife on the project site, and also that no trees or

other vegetation is being proposed to be removed along the property line adjacent to McChesney Avenue Extension. In terms of the comment of availability of natural gas, Mr. Holbriiter stated that the natural gas line is approximately one mile away from the project site, and similar to the water and sewer extension issue, it is not economically feasible to extend a gas line to the project site without adding additional density. The Planning Board generally discussed the Applicant's response to the public comments, stating that the Applicant still needed to supply to the Planning Board a letter from the Rensselaer County Highway Department concerning traffic impact, information directly from the Brittonkill School District concerning any impacts to the school, and also the results of the proposed meeting with Mr. Kestner and the Rensselaer County Health Department concerning well and water issues. The Planning Board determined that aside from these three outstanding issues, the Applicant had addressed the remaining comments received during the public hearing. Member Czornyj raised a question concerning the driveway for proposed Lot 6 in terms of its proximity to an Army Corps Wetland. Member Czornyj suggested that in the event this project is approved, that the Applicant install the driveway on this lot, since the Town has recently experienced a situation where a subdivision was approved but not immediately built and thereafter was impacted by a wetland which had expanded in size from the time of the initial project review. Mr. Holbriiter stated that this would not be an issue, as Lot 6 is proposed to be one of the first lots to be developed, and that the driveway installation would not result in any wetland impacts. Also, Mr. Holbriiter stated that the wetlands on this project site are regulated by the Army Corps of Engineers, which do not include any regulatory setback area as opposed to NYSDEC wetlands. This matter has been placed on the June 16 agenda for continuation of the public hearing, which will commence at 7:00 p.m.



The second item of business on the agenda was the Wal-Mart Real Estate Business Trust application to amend the Brunswick Square Planned Development District, upon referral from the Town Board for recommendation by the Planning Board. Attorney Mary Elizabeth Slevin, Esq. and Adam Fishel, P.E. were present for the Applicant. Mr. Fishel generally discussed a proposed amendment to the plan to include a revised landscaping plan along the Route 7 corridor, as well as proposed changes to the berm and greenspace area near the southern portion of the site and entrance onto McChesney Avenue. The Planning Board generally reviewed and discussed a proposed recommendation to the Town Board on the PDD amendment request, concluding that in general a positive recommendation would be made to the Town Board subject to identified considerations. The Planning Board then raised the issue of proposed outdoor display/sales area in the parking lot. Mr. Fishel confirmed that Wal-Mart would like to include an area for retail display/sales in the parking lot, which could be done either through an area shown on the site plan or an agreement to request a permit for such display area on an annual basis from the Town Building Department. After extended discussion on the issue, the Planning Board determined that it would make a recommendation to the Town Board against permitting any outdoor display/sales area in the parking lot, but that continued display of items on the sidewalk adjacent to the building in proximity to the garden center would be acceptable. After completing its deliberation, Member Czornyj made a motion to approve a recommendation to the Town Board on this PDD action, which motion was seconded by Member Tarbox. The motion was unanimously approved, and a recommendation completed. The Planning Board directed Attorney Gilchrist to add a specific provision concerning a recommendation against any outdoor display/sales area in the parking lot, and forward the final recommendation from the Planning Board to the Town Board for its consideration.

The next item of business on the agenda was the site plan application submitted by Boswell Engineering for the proposed Stoneledge Terrace project, a condominium and apartment project located primarily in the City of Troy with a portion of the project site located in the Town of Brunswick adjacent to Oakwood Avenue and Farrell Road. Victor Caponera, Esq. was present for the Applicant. Mr. Caponera stated that only 6% of the project site was located in Brunswick, that there were no buildings or structures proposed for the Brunswick portion of the project, and that the request was for approval of the interior private road and stormwater facilities on the Brunswick portion of the project. Mr. Caponera also stated that it was his understanding that all documents requested by the Planning Board for review in connection with this application have been received by the Town either from the Applicant or from the City of Troy, including DEIS, SEQRA Findings, the Stormwater Plan, and other project documents. Chairman Oster stated that based on the Board's previous discussion, there was a potential issue concerning zoning compliance. Mr. Kreiger, as Brunswick Code Enforcement Officer, stated that the proposed use of the Brunswick property was not consistent with the zoning designation of "school and cemetery" in which the property is located. Accordingly, the zoning compliance issue must be resolved prior to the Planning Board addressing the site plan application. Mr. Caponera disagreed with this zoning interpretation, but requested that a written determination concerning this zoning compliance matter be issued by the Building Department. Thereafter, Mr. Caponera asked the Planning Board whether there were any questions or comments regarding the site plan review of this project as well, so that these questions and comments can be addressed while the zoning compliance issue was being addressed. Mr. Kestner stated that there were stormwater issues which needed to be addressed, including the fact that the current stormwater plan directs approximately 30% of the project drainage to stormwater facilities to be located in Brunswick,

while only 6% of the project site is located in Brunswick. Mr. Caponera and Dominic Arico, project engineer, stated that stormwater was being redirected from one point in the City of Troy to another point in the City of Troy, and should not impact the Town of Brunswick. There was general discussion regarding current stormwater MS4 responsibilities, as well as where the detention ponds were located, where drainage facilities and drainage culverts were located along Oakwood Avenue, and ownership and maintenance responsibilities concerning the stormwater facilities. Mr. Kestner also raised an issue which had initially been raised by the Center Brunswick Fire Company concerning the request for a fire hydrant to be located on this project site within the Town of Brunswick. There was general discussion regarding issues associated with locating a fire hydrant extension from the City of Troy to be situated within the Town of Brunswick, and agreed that this matter would be further investigated. This matter has been tentatively placed on the June 16 agenda for further discussion.

The next item of business on the agenda was the site plan application by Snyder for property located at 1802 NY Route 7. The Applicant seeks to operate a dog kennel on an approximate 11.6 acre parcel. The Applicant explained that he was looking to build an oversized garage, and walled area for a kennel for housing a maximum of 10 dogs. The Planning Board raised the issue of the steepness of the current driveway, noting that the Town standards for a commercial driveway has a maximum slope of 10%, and that the existing driveway is significantly greater than 10% in slope. The Applicant concurred, stating that he did not think it would be feasible to regrade the property to obtain a 10% slope for the driveway. Attorney Gilchrist stated that he would need to research the issue of whether the Applicant would require a variance from the Zoning Board of Appeals or a waiver of commercial driveway standards from

the Town Board, or whether there was another procedural option available to the Applicant. This matter has been tentatively placed on the June 16 agenda for further discussion.

The next item of business on the agenda was the Oakwood Property Management, LLC applications, including a referral from the Brunswick Town Board of the petition to rezone Tax Map Parcels 90-1-12.2 and 90-1-13.1 to "B-6", and also site plan review for Tax Map Parcels 90-1-14 and 90-1-15. Ronald Laberge, PE was present as consulting engineer to the Planning Board on these applications. Terresa Bakner, Esq. and Scott Reese were present for the Applicant. The Planning Board generally reviewed a draft recommendation on the petitions to rezone based on deliberations held at a previous meeting. Attorney Bakner then stated that upon further consideration, and based upon the inability to market the parcels in the current poor economic conditions, the Applicants would prefer to maintain the option of a "filling station" as a B-6 use for the subject parcels, despite the request by the adjoining residences in the North Forty Subdivision that the "filling station" use be eliminated. While the Applicant had initially agreed with this proposal, upon further consideration, the Applicant would like to have the ability to maintain a "filling station" option as a special permit use within the B-6 zone. The Planning Board understood the request of the Applicant, but maintained its recommendation that the "filling station" special use within the B-6 zone be eliminated by the Town Board on this rezoning petition. Member Czornyj made a motion to adopt its recommendation on the rezoning petition to the Town Board, which motion was seconded by Member Tarbox. The motion was unanimously approved, and a final recommendation on the rezoning petitions made. The Planning Board directed that the final recommendation be forwarded to the Town Board and the Applicant. Thereafter, the Planning Board continued its deliberation on the site plan applications for Tax Map Parcels 90-1-14 and 90-1-15, located in the Industrial Zoning District. Attorney

Bakner stated that Brendan Gallivan and Sean Gallivan were not able to attend the meeting due to a conflict, and requested that the site plan discussion be continued at the June 16 Planning Board meeting when the Gallivans could be present. Also, Attorney Bakner explained that the Gallivans had retained Dr. Henry Scarton for additional noise mitigation assessment, and that Dr. Scarton was still working on his report, which would be helpful for the Planning Board during their site plan deliberations. The Planning Board was agreeable to place the site plan review matter on its June 16 agenda. Member Czornyj raised an issue concerning the Applicant's requested lot line adjustment options, which were presented as a way of bringing the existing auto building adjacent to Oakwood Avenue in compliance with setback requirements, and also to allow the Applicant to propose a minor lot line adjustment to the rear of the parcel to allow adequate access around the equipment and stockpile areas. Member Czornyj noted that three options had been presented by the Applicant, but that option 2 and option 3 were significant lot line adjustments that appeared to him to significantly expand the proposed industrial area. Further, Member Czornyj stated that even with respect to option 1 and in his opinion, the Applicant was requesting too much room around the equipment and stockpile area for access than should be allowed. Mr. Laberge reviewed the lot line adjustment options, and reiterated that the proposal was previously discussed so as to correct building setback issues for the auto building, and also to provide for a realistic work area around the equipment and stockpile location to the rear of the property so as to avoid compliance issues in the future. The Planning Board generally discussed the proposed lot line adjustments as they relate to the current memorandum of agreement between Oakwood Property Management, LLC and the Town of Brunswick. The Planning Board then generally discussed the number of trucks on the property, and the area for parking on the industrial site plan. The Planning Board noted that it appeared

employees were parking on the shoulders of the access driveways off Oakwood Avenue, and there appeared to be inadequate parking on the current site. The Planning Board discussed means to address parking issues on the site, which include identifying and limiting the areas for truck parking and employee parking on the site plan, as well as potentially limiting the number of trucks or vehicles on the site. Attorney Bakner explained that limiting the total number of trucks is problematic in connection with the Gallivan operations, since the types of trucks and sizes of trucks vary at any given time and vary throughout different seasons. In this way, Attorney Bakner stated that at one time of the year a smaller truck may be used to a greater extent so that a larger total number of trucks could be parked within one area, whereas during a different time of the year a larger truck may be used to a greater extent so that a lesser number of trucks could be parked at any one time. Attorney Bakner argued that given the variability of the operations during different points of the year, limiting the total number of vehicles or trucks to be parked on the site was problematic. The Planning Board generally discussed the option of clearly delineating all parking areas on the site plan, which Attorney Bakner will discuss with her clients. The Planning Board next discussed the material processing area marked on the site plan, and whether the current proposed site plan identified specific locations for mulch piles. Mr. Reese explained that the area does not show specific mulch pile or material pile locations, due to the need of the company to have flexibility as to specific locations of piles at any one time and different types of materials for the piles. Mr. Reese stressed that all material processing would be within the area marked on the site plan, and that no pile would be greater than 30 feet in height. The Planning Board wanted to further consider specific areas for processed material piles. This matter is placed on the June 16 agenda for further discussion.

One item of new business was discussed.

An application to amend the Brunswick West Apartments site plan has been submitted by Brunswick Associates of Albany, LP. Tim Owens was present for the Applicant, and presented the proposed site plan amendment to the Planning Board. Mr. Owens generally reviewed a proposal to relocate the "k garage" from its original location to a location in a parking lot, consistent with other similar garages on the site. Mr. Owens explained that during the build out of the apartment building extensions, the Applicant had determined that the alternate location for the garage was preferable to the original location for the "k garage", and requested the ability to relocate the "k garage" to a similar parking lot area. Mr. Owens stressed that there was no change to the overall number of parking spaces available on the site as a result of this modification. Next, Mr. Owens explained that the Applicant was looking to renovate and expand its existing clubhouse, which would include expanding clubhouse facilities to an area of the existing clubhouse building housed by a garage, and therefore the Applicant would need permission to construct a separate freestanding garage facility near the expanded clubhouse. Mr. Owens explained the proposal to the Planning Board, stressing that the total number of parking spots available on the project site remained compliant with the project approvals. The Planning Board determined that these two site plan amendments were minor changes and consistent with the underlying PDD approval, will not create any additional facilities but rather relocate facilities and provide for a limited expansion of previously approved facilities, and that this matter can be addressed presently. Member Czornyj made a motion to adopt a negative declaration under SEQRA with respect to these two minor site plan modifications, which motion was seconded by Member Tarbox. The motion was unanimously approved, and a negative declaration adopted. Thereupon, Member Mainello made a motion to approve these two minor amendments to the existing site plan, subject to the condition that the Applicant submit a final as-built plan to the

Brunswick Building Department so that these changes are on file at the Town of Brunswick. Member Esser seconded the motion subject to the stated condition. The motion was unanimously approved, and the two minor site plan modifications approved subject to the stated condition.

The **index** for the June 2, 2011 meeting is as follows:

1. Farrell – major subdivision – 6/16/11 (public hearing to be reconvened at 7:00 p.m.);
2. Wal-Mart Real Estate Business Trust – Brunswick Square PDD amendment - recommendation adopted;
3. Boswell Engineering - Stoneledge Terrace site plan – 6/16/11 (tentative);
4. Snyder – site plan – 6/16/11 (tentative);
5. Oakwood Property Management, LLC – recommendation completed on rezone petition – site plan 6/16/11;
6. Brunswick Associates of Albany, LP – minor amendment to Brunswick West Apartments PDD site plan – approved subject to condition.

The **tentative agenda** for the June 16, 2011 meeting currently is as follows:

1. Farrell – major subdivision (public hearing to reconvene at 7:00 p.m.);
2. Boswell Engineering - Stoneledge Terrace site plan (tentative);
3. Snyder – site plan (tentative);
4. Oakwood Property Management, LLC – site plan.



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

**RECOMMENDATION ON APPLICATION BY WAL-MART  
REAL ESTATE BUSINESS TRUST TO AMEND THE BRUNSWICK SQUARE  
PLANNED DEVELOPMENT DISTRICT  
June 2, 2011**

Wal-Mart Real Estate Business Trust ("Applicant") has filed an application with the Town of Brunswick to amend the existing Brunswick Square Planned Development District ("PDD").

The Applicant seeks to amend the Brunswick Square PDD to permit the expansion of the existing Wal-Mart Store, add approximately 7.5 acres to the PDD site, and construct additional stormwater management facilities and perform wetland enhancement activities as part of the project. The existing Wal-Mart Store located at the Brunswick Square Plaza is a 129,000± square foot building. The Applicant seeks to expand the building to approximately 164,500 square feet of floor area plus an attached seasonal fenced outdoor garden area. The building expansion is proposed to include grocery, pharmacy, photo center, garden center, vestibules including recycle center and storage, receiving, mechanical and other ancillary uses. The garden center is proposed to include an open-air display on the building's northwest side with entry from within the main building. The additional 7.5± acre parcel sought to be included in the Brunswick Square PDD is located across and along McChesney Avenue to the south of the existing Wal-Mart Store, and is proposed to be used for stormwater control facilities and wetland creation.

The Town of Brunswick Town Board ("Town Board") referred this application to amend the Brunswick Square PDD to the Brunswick Planning Board ("Planning Board") for review and recommendation.

A copy of the application to amend the Brunswick Square PDD was provided to the Planning Board for review and consideration. Also, a site plan application for the proposed amendments and site improvements was also filed directly with the Planning Board by the Applicant. The Planning Board heard a presentation of this proposal by the Applicant at its meeting held May 5, 2011. Presentations were made by the Applicant's counsel, engineer, traffic engineer, and architect. The Planning Board also discussed the application at its May 19, 2011 meeting, at which time the Applicant's counsel and engineer were present and participated in the discussion.

After due deliberation, the Planning Board provides the Town Board with a positive overall recommendation on this application, subject to the following comments:

1. The Applicant's proposal to eliminate greenspace adjacent to its parking lot along Route 7 is not acceptable. While the Planning Board is cognizant of the

Applicant's preferred parking layout and total number of parking spaces, and while the Planning Board is not opposed in concept to the requested number of parking spaces in excess of that number required by the Town of Brunswick Code, the Planning Board recommends that the Town Board investigate alternatives to the loss of greenspace along the Route 7 corridor, which may include elimination of the proposed parking spaces immediately adjacent to Route 7 and replace that area with lawn/vegetation; shift the parking space layout in a southerly direction to allow for greenspace between the Route 7 sidewalk and the Wal-Mart parking spaces; eliminate a limited number of parking spaces along the Route 7 corridor and stagger trees or other vegetation within the proposed parking spaces; maintain some greenspace in front of the Wal-Mart parking area so it aligns with the greenspace in front of the Johnston Associates greenspace area; or agreement with Johnston Associates for sharing of parking spaces in the Brunswick Square Plaza.

2. The Town Board should require maintenance of the existing berm located at the Brunswick Square Plaza's entrance/exit on McChesney Avenue on the southerly side of the site to the maximum extent practicable. This may include berm maintenance, fencing, or other vegetative screening so as to reduce impacts to residences located on McChesney Avenue.
3. The Town Board should carefully review the proposed light pole locations so as to reduce light spillage onto McChesney Avenue and Route 7 to the maximum extent practicable.
4. Attention should be paid to the proposed sidewalk/cross walk areas in the main entrance way off Route 7 opposite Brunswick Road, so as to reduce potential safety hazards.
5. The proposed single pole sign for the Wal-Mart Store should be consistent in size and scale to other current commercial signs located on the Route 7 corridor.
6. Attention should be paid to the proposed highway and drainage improvements on McChesney Avenue, particularly in relation to the Wal-Mart sewer pump station elevation. Coordination with the Rensselaer County Highway Department should be pursued.
7. The Town Board should require the extension of a sidewalk/walkway area on McChesney Avenue. Sidewalk/walkway areas were mandated for McChesney Avenue and McChesney Avenue Extension in connection with the Duncan Meadows Planned Development District, and the Town Board should explore requiring the Applicant to extend the sidewalk/walkway area on McChesney Avenue through the Wal-Mart entrance.

8. The maintenance of the mandated delivery truck entrance, routing through the parking lot, and exit from the parking lot should be required and confirmed for all delivery trucks to the Brunswick Square Plaza.
9. The Planning Board recommends that no outdoor display/sales area be allowed in the parking lot. An outdoor display/sales area in the parking lot raises concerns regarding vehicle/pedestrian safety and overall appearance of the site. The Planning Board recommends that the outdoor display of merchandise be allowed to continue on the sidewalk area adjacent to the building in proximity to the garden center.

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

**RECOMMENDATION ON APPLICATION BY OAKWOOD PROPERTY  
MANAGEMENT, LLC TO REZONE TWO PARCELS LOCATED ON OAKWOOD  
AVENUE (TAX MAP PARCEL NOS. 90-1-12.2 AND 90-1-13.1)**

**June 2, 2011**

Oakwood Property Management, LLC has filed an application with the Town of Brunswick to rezone two parcels of property located on Oakwood Avenue, Tax Map Parcel Nos. 90-1-12.2 and 90-1-13.1, from the current zoning designations "Schools and Cemetery" and "A-40", respectively, to "B-6" Zoning District. In compliance with Section 14 of the Town of Brunswick Zoning Ordinance, and pursuant to Resolution adopted December 29, 2010, the Town of Brunswick Town Board ("Town Board") referred such application for rezoning to the Town of Brunswick Planning Board ("Planning Board") for report and recommendation.

A copy of such application for rezoning was provided to the Planning Board for review and consideration. The Planning Board also participated in a joint special meeting and joint public hearing with the Town Board conducted on May 10, 2011, at which time the Planning Board members heard and considered public comments on such application for rezoning. Further, the Planning Board deliberated on such application for rezoning at its meeting held May 19, 2011. Specifically, the Planning Board considered each of the permitted principal uses and special permit uses for the "B-6" Zoning District, which include:

- Private dwellings
- Churches and other places of worship and religious instruction; parish houses, rectories; convents in connection with schools
- Public schools; private schools offering general instruction
- Public recreation buildings and grounds, not carried on for gain
- Governmental buildings and uses, libraries, police and fire stations
- Retail stores and shops
- Personal service shops – barber shops, beauty parlors, shoe repair, laundrettes
- Banks, professional offices, studios
- Restaurants, cafes, tea rooms
- Undertaking establishments
- Public utility offices and sub-stations
- Veterinary hospital
- Designated local shopping center (special permit use)
- Filling station (special permit use)

- Auto court (special permit use)
- Public garages (special permit use)

The Planning Board notes that the requested area to be rezoned excludes a 101-foot strip of land generally adjacent to the North Forty Subdivision, exclusive of an area recently transferred by Oakwood Property Management, LLC to an adjoining neighboring property in the North Forty Subdivision owned by Murray. This general 101-foot strip of land would remain in its current zoning classifications of "Schools and Cemetery" and "A-40".

After due deliberation, the Planning Board recommends that the Town Board approve the rezoning of Tax Map Parcels 90-1-12.2 and 90-1-13.1 to the "B-6" Zoning District, subject to further consideration of restricting the allowable uses listed in the "B-6" Zoning District for these two parcels so as to eliminate "filling station" as a special permit use. It is noted that a comment letter has been received from counsel for property owners located in the North Forty Subdivision that such property owners "do not object to the rezone of these two (2) tax parcels to B-6 with the applicant's agreement that a use of the parcels as a filling station be excluded" (Memorandum of Attorney Donald Zee, 11/30/10 copy attached). Further, the Planning Board recommends that the Town Board consider mandating that this 101-foot strip of land remain as a greenspace buffer in the event the rezoned area is utilized for a "B-6" use.

The Planning Board finds that the commercial zoning district "B-6" for these two parcels is an appropriate use of the property for this location on Oakwood Avenue, subject to further consideration of eliminating a "filling station" as a special permit use at that location. Further, the "B-6" zoning designation allows for an appropriate buffer and transitional zone between residences located in the North Forty Subdivision and the industrially-zoned parcels located immediately adjacent and to the north of the subject parcels sought to be rezoned.

The Planning Board also takes notice that these two parcels were formerly owned by a religious institution, and the St. Peter's Cemetery is located immediately to the south. Upon the sale of these parcels by such religious institution to Oakwood Property Management, LLC, it is clear that an extension of the cemetery use will not occur on these parcels. Accordingly, a transition zone between the residential use to the east (North Forty Subdivision) and the existing industrial use to the north is appropriate and provides a use of these parcels that will not significantly impair residential use to the east nor create a material conflict with the industrial use to the north.

Finally, the Planning Board notes that even in the event these parcels are rezoned to "B-6", any future proposed use in the "B-6" zone will require site plan review by the Planning Board, and may also require a special permit from the Town of Brunswick Zoning Board of Appeals. Subsequent Planning Board review of any specific proposed use will address all potential significant adverse impacts and site plan review criteria.

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LINDA S. LEARY

ANDREW BRICK

LEGAL ASSISTANT  
CHERI A. McGEARY

**MEMORANDUM**

**TO:** Andrew Gilchrist  
**FROM:** Donald Zee, P.C. via Lori Turonis  
**DATE:** November 30, 2010  
**RE:** Oakwood Property Application

This memo is to reaffirm my request that our clients and the general public be permitted to be present at the Planning Board's anticipated site inspection of the Gallivan operation.

Additionally, as to the Planning Board's proposed recommendation for the rezone to B-6 and Oakwood Property's request for a waiver of the subdivision, please be advised that:

1. our clients do not object to the rezone of the two (2) tax parcels to B-6 with the applicant's agreement that a use of the parcels as a filling station be excluded; and
2. our clients do not object to the waiver of the subdivision, however, we are concerned about the timing of the granting of the subdivision.

According to Teresa Bakner, the lands subject to the waiver request is to be deeded to Mr. Murray, however, this land is also to include the part of the berm that is to be constructed per the remediation plan and which is to act as a noise and visual buffer.

We would request that any waiver include:

1. a requirement that the berm be built;
2. the landscaping per my letter of November 18th be required; and
3. a no disturbance restriction be filed regarding the berm and landscaping so that it may not be torn down, removed, etc. in the future.

Thank you for your consideration.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD June 16, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER, GORDON CHRISTIAN, KEVIN MAINELLO, DAVID TARBOX and VINCE WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

Chairman Oster reviewed the tentative agenda for the meeting, which included the reconvening of the public hearing on the Charles Farrell major subdivision, the Stoneledge Terrace site plan application, the Snyder site plan application, and the Oakwood Property Management, LLC site plan application. Chairman Oster noted that the Stoneledge Terrace site plan application was removed from the agenda because the applicant was still in the process of resolving zoning issues associated with the proposal. Chairman Oster also noted that Oakwood Property Management, LLC site plan application had been removed from the agenda because the applicant had withdrawn the application.

The Planning Board reconvened the public hearing on the major subdivision application by Charles Farrell for property located at the intersection located at McChesney Avenue Extension and Town Office Road (Tax Map ID No. 102-2-3.12). Brian Holbritter and Scott Reese were present for the applicant. Mr. Holbritter noted that, following the June 2, 2011 Planning Board meeting, there remained three outstanding issues for the Applicant to address: (1) the Planning Board had requested that the Applicant obtain a letter from the Rensselaer

County Highway Department concerning the traffic impacts associated with the project; (2) the Planning Board had requested that the applicant consult the Brittonkill School District Superintendent concerning the addition of approximately twenty-three school age children to the district resulting from the project; and (3) Mr. Kestner requested that he, along with the applicant's consultants, meet with the Rensselaer County Health Department concerning well and water issues.

Concerning the Planning Board's request that the applicant obtain a letter from the Rensselaer County Highway Department concerning potential traffic impacts, Mr. Holbitter indicated that he had obtain the requested letter and he presented the letter to Mr. Kestner, the Planning Board, and Mr. Kreiger. Concerning the Planning Board's request that the applicant consult with the Brittonkill School District Superintendent concerning the addition of approximately twenty-three school age children to the district, Mr. Holbitter indicated that he had contacted the Superintendent and asked whether the Superintendent had any concerns with respect to adding 25-30 students to the district, and the Superintendent indicated that the school district was not concerned with the addition of 25-30 students, especially given that enrollment is currently down. Concerning the proposal by Mr. Kestner to meet with the applicant's consultants and the Rensselaer County Heath Department regarding water and well issues, Mr. Holbitter relayed that he, Mr. Kestner, and the project engineer held a meeting on Monday, but that neither the County Engineer, nor a representative from the County Heath Department were able to attend. Mr. Kestner relayed that the County Health Department had nonetheless informed him that it would like water quality test results on the two remaining test wells on which water quality tests were not performed. Mr. Kestner also stated that he was working with the project engineer on developing expanded yield testing from the test wells. Mr. Kestner also asked the



applicant to obtain well logs from the County wells on adjacent properties if available. Member Czornyj had a question concerning the difference in test results between the tests performed by Mr. Kenneally, and the tests performed by Gould. It was confirmed that the County Health Department would be basing its determination on the Gould tests, as Mr. Kenneally was not approved by the County to conduct the type of testing that was performed. Mr. Kestner would nonetheless like to understand the difference between the test results. Mr. Kenneally responded that the difference in tests results was likely due to the test well having been hydrofracked.

Mr. Holbriiter also indicated that, at the Monday meeting, Mr. Kestner had raised the issue of the driveway on proposed Lot 6. Mr. Reese indicated that the proposed driveway had been revised and submitted to Mr. Kestner. Mr. Reese explained the changes that had been made to the private driveway on Lot 6 to accommodate emergency vehicle access.

At this point, the Planning Board requested that Mr. Holbriiter and Mr. Reese briefly review how the public comments received thus far had been addressed at the prior meeting. Mr. Holbriiter and Mr. Reese briefly reviewed the comments that had been received and the manner in which they were addressed, including with respect to traffic impacts, impacts on the school district, impacts on property taxes and homes values, the right to farm law, drainage, stormwater, and stream protection impacts, tree removal and earth removal volumes, water testing, appearance of stormwater management areas, impacts to wildlife, preservation of the natural buffers, and access to natural gas supply lines.

At this point, the Planning Board invited the public to submit comments on the project. Michael Seddon, 494 McChesney Avenue Extension, stated that he had retained attorney David Everett from the law firm of Whiteman, Osterman and Hanna, who had authored a letter outlining a number of issues associated with the project that he requested the Planning Board

ensure were addressed prior to granting approval. Mr. Seddon submitted the letter to the Planning Board. Mr. Seddon also stated that he was concerned that the project had not met all of the requirements of the Town of Brunswick Local Law No. 5 of 2007 concerning stormwater management. Peter Meskoskey, 168 Town Office Road stated that he did not see anything in the application materials regarding setting aside an area for parkland or the payment of a park and recreation fee of \$500 per lot. The Planning Board responded that the developer would be required to \$500 per lot. Mr. Meskoskey also stated he was concerned with the Town Office Road and McChesney Avenue entrances to the subdivision. He stated that he was aware of an accident that occurred three weeks ago as well as an accident that occurred a month and a half ago on those roads. He also stated that he has observed many people exceeding the speed limit in the area of the project. He also stated that, given "cut through" traffic, traffic along these roads is heavier than otherwise conveyed and he asked whether the site distances were shown on the subdivision plan. Mr. Holbriiter indicated that the site distances were actually not shown on the subdivision plan, and that they were instead addressed in the document submitted at the June 2, 2011 Planning Board meeting, wherein the applicant addressed the comments submitted by the public. Mr. Meskoskey also stated that the site distance on McChesney Avenue Extension to the east of the proposed subdivision road is not likely 400 feet, but is instead, according to his measurements, between 260 and 300 feet, given the fact that there is a blind hill in that area. Mr. Holbriiter explained to Mr. Meskoskey and the Planning Board how he measured the site distance. He also indicated that the site distance to the east on McChesney Avenue Extension was approximately 435 feet. Mr. Meskoskey would like the site distance verified by the Planning Board. Mr. Kestner also explained the process of measuring site distance. Mr. Holbriiter explained that he would be willing to coordinate with Mr. Meskoskey to show him

how site distance is measured in the area of the subdivision access road on McChesney Avenue Extension. Mr. Holbriiter also explained that in measuring the site distances he complied with Department of Transportation regulations that require that the measurement of required site distance be increased by a stated percentage for "rural highways", in part to account for cars traveling in excess of the speed limit. Mr. Oster noted that the speed limit on McChesney Avenue Extension was posted as 35 miles per hour, and that McChesney Avenue Extension is a County road, and therefore the issue of vehicles exceeding the speed limit is a County issue and an enforcement issue. Peter St. Germain, 490 McChesney Avenue Extension, said that he has also observed speeding in the area of the subdivision project. He has concerns also about the site distance on McChesney Avenue Extension because of a hill in the road that obscures the view of traveling cars. He also noted that very few people actually travel the speed limit on McChesney Avenue Extension.

At this point, Chairman Oster discussed whether the Planning Board should close the public hearing or allow it to remain open. Attorney Kenney suggested that the Planning Board consider keeping the public hearing open given the fact that Whiteman, Osterman and Hanna had submitted an extensive letter that the Board has not yet had an opportunity to review. Attorney Kenney suggested that the Planning Board and the applicant review the letter to determine whether the comments therein have already been addressed or whether there are any new comments raised in the letter that need to be addressed by the applicant. The Planning Board determined to keep the public hearing open.

The Planning Board then opened the public meeting. The draft minutes of the June 2, 2011 meeting were reviewed. No corrections were noted. A motion was made and seconded to approve the minutes and the motion was approved unanimously.

The first item of business on the agenda was the major subdivision application of Charles Farrell for property located at the intersection of McChesney Avenue Extension and Town Office Road (Tax Map ID No. 102-2-3.12). The Planning Board acknowledged receipt of the letter from David Everett, attorney for Michael and Josie Seddon. Chairman Oster indicated that the Planning Board should review the letter and commented that the applicant would probably also prefer to review the letter. Brian Holbriiter, representing the applicant, indicated that he would like to review the letter and address any issues that have not yet been addressed, if any. At this point, Chairman Oster explained that the Planning Board retains engineering and legal consultants for the purpose of reviewing technical and legal issues associated with any project and to get recommendations concerning technical and legal issues. Chairman Oster noted that the Planning Board works closely with their consultants and that the Planning Board engineer, Mr. Kestner, will review and discuss the issues raised in the letter with the applicant's consultants. The Planning Board and the applicant agreed that the application would be tentatively scheduled to be on the agenda for the next Planning Board meeting, July 7, 2011. Attorney Kenney noted that the Planning Board should consider allowing a segment of the July 7, 2011 meeting for public comment on the proposal since the public hearing remained open. Mr. Kestner also noted that there was a comment received at the public hearing held on May 5, 2011 concerning the Farrell application that the basement of Mr. Duncan's home on McChesney Avenue Extension flooded as soon as the test wells were installed on the project site and a pump test conducted. Mr. Kestner would like to obtain more information concerning whether the tests wells and the flooding of Mr. Duncan's basement were related in any way, including the elevation of the Duncan basement. Mr. Kestner also noted that the County had relayed to him that it had received a call from an unidentified woman who said her well was affected during the

pump test, but that no further information was available. There was general discussion concerning the well testing differences between Mr. Kenneally and Mr. Gould. Mr. Kestner confirmed that the Health Department will use the Gould well logs because Mr. Kenneally is not County-approved, but Mr. Kestner requested that Mr. Gould update the well log, given the differences between his tests and Mr. Kenneally's tests. The Planning Board asked whether the applicant had an illustration or a picture of the proposed homes and Mr. Holbriiter indicated that he will provide one. The Planning Board also requested that Mr. Holbriiter provide updated plans to reflect the changes that have been made in the project. Mr. Holbriiter indicated that the cost of producing the plans is high and requested that the Board consider narrowing its request in an effort to reduce costs. The Planning Board determined that it would accept from Mr. Holbriiter just the sheets which needed to be updated and that would be relevant for the Planning Board to review. Mr. Holbriiter indicated that he would be willing to provide a full set of updated plans to Mr. Kestner. Member Wetmiller had a question concerning how the number of trips added by the project were calculated. Mr. Reese explained that the traffic impact is determined by using a mathematical formula based in part on the number of homes in the project. Member Czornyj commented that the result does not seem to necessarily reflect accurately the amount of traffic added. Mr. Reese explained that the calculation concerns the number of trips added during the peak period and that the actual cumulative number of trips added in any given day may be different, but that the number of additional trips during the peak traffic hours is what is important in assessing potential traffic impacts. Member Czornyj also inquired whether the other developments on McChensey Avenue Extension were taken into account in assessing traffic impacts. Mr. Reese indicated that the County has records that can be reviewed, and that if the records are not current then the traffic numbers can be updated

accordingly. Member Esser noted that not all traffic would be entering on McChesney Avenue Extension, as the subdivision also had an access point at Town Office Road, and some residents would be using that access point. Chairman Oster asked the applicant to take these comments into consideration and perform further traffic analysis. The Planning Board determined that the Farrell subdivision would be on the agenda for the July 7, 2011 meeting with a public hearing to be held at the beginning of the meeting, at 7:00 p.m. Mr. Meskoskey commented that nearby car dealerships use this area for test drives and that service vehicles like UPS and FedEx should also be taken into account. Chairman Oster noted that those types of comments should be made during the public hearing part of the meeting. Attorney Kenney indicated he will send out notices of the public hearing to be held on July 7, 2011 to the adjacent property owners.

The next item of business on the agenda was the Boswell Engineering Stoneledge Terrace site plan application. Chairman Oster noted that the matter had been removed from the agenda, as the applicant still needed to resolve outstanding zoning issues.

The next item of business on the agenda was the Snyder site plan application. Mr. Snyder further discussed his proposal to operate a dog kennel on an approximate 11.6 acre parcel located at 1802 NY Route 7. Concerning the issue of the grade of the driveway, Mr. Snyder indicated that the average grade of the driveway was 9.4%, which is below the maximum 10% grade allowed by the Fire Code. He further indicated that for portions of the driveway that currently exceed the 10% grade, an excavator has indicated that the driveway can be graded to comply with the maximum grade limitation. The Planning Board requested that Mr. Snyder provide updated plans showing the grading plan for the driveway. Mr. Kreiger explained to the applicant that the Fire Code required that the grade of the driveway be no greater than 10%, but that if the driveway could not be graded such that it would come into compliance, the applicant

could seek approval directly from the Fire Chief. Mr. Kreiger also explained that the Town requires that the driveway have a grade of no greater than 12%, and that if the driveway cannot be graded to come into compliance with that standard, then a waiver can be sought from the Town Board. Mr. Kestner also indicated that the applicant should consult DOT concerning obtaining a minor commercial driveway permit for the project. Member Czornyj explained to the applicant that he should inform DOT of the approximate number of vehicles that would be entering and exiting the driveway. Chairman Oster informed the applicant that there may be a public hearing on his application. He also reminded the applicant that a road profile for the driveway must be submitted. The Snyder site plan application will be on the July 7, 2011 agenda.

The next item of business on the agenda was the Oakwood Property Management, LLC site plan application. Chairman Oster indicated that the application was removed from the agenda as the applicant had withdrawn its application. There was general discussion concerning the fact that there was a Town Board meeting concerning the Oakwood property site scheduled for Monday, June 20, 2011, following the Zoning Board of Appeals meeting.

Two items of new business were discussed.

Jamie Kenneally submitted a minor subdivision application for property located on Cooksboro Road near Route 7. The property is a 13 acre site and the proposal calls for four separate lots with no separate subdivision roads. Mr. Kenneally submitted a survey prepared by Brian Holbriiter which indicates wetlands and wetland buffer areas. Mr. Kenneally indicated that two of the lots have no wetlands and the other two have wetlands but there is sufficient area on those lots to build. Mr. Kenneally also indicated that a representative from DEC has indicated that the subdivision proposal is acceptable as long as the wetlands buffer area is respected. Mr.

Kenneally indicated that Steven Dean, his engineer, is currently designing septic systems. Mr. Kenneally also noted that he had submitted applications for four driveway permits to the Rensselaer County Highway Department and was notified today that the four driveway permits were issued and had been sent to him in the mail. There was general discussion of the location of septic and wells with respect to adjacent properties. The Planning Board requested that the subdivision plans show topographical lines going beyond the property lines at five-foot intervals. Mr. Kreiger noted that the property site is currently zoned A40. The Planning Board requested that the applicant provide each Board member with a copy of the subdivision plans. Chairman Oster advised the applicant that there would be an escrow fee of \$500 required for technical and legal review by the Planning Board. He also advised the applicant that the subdivision would require the payment of \$500 per lot as a park and recreation fee. The application will be on the agenda for the meeting held on July 7, 2011.

The next item of new business was the Feathers Furniture site plan application for property located on Route 7. Rob Feathers appeared for the applicant. Mr. Feathers explained that the proposal is to utilize a portion of the space of the Feathers Furniture building as an area to be leased for a dance studio, which is currently operating on the opposite side of Route 7. He indicated that the building is approximately 19,000 square feet, and that the portion to be rented to the dance studio is approximately 3,000 square feet. Chairman Oster asked whether the adjacent Gendron's lot was part of the same parcel. Mr. Kreiger indicated that he would look into that issue. The Planning Board noted that the site plan application was necessary because it proposes to add parking on the side of the building. There was general discussion concerning whether the east side of the building contained enough area to allow a sufficient number of parking spaces with adequate driving lanes and turn-arounds, as well as green space. Member



Esser advised the applicant that proposed lighting for the parking area should be shown. Member Czornyj indicated that the applicant should show any proposed pedestrian sidewalks or other walkways. The applicant indicated that the furniture store closes at 6:00 pm on some nights and 7:00pm on other nights, and that the business of the dance studio begins to pick up around the same time. Chairman Oster indicated that additional detail will be required on the site plan including showing the pavement boundaries, the lighting, any sidewalks, and similar matters. The Planning Board advised the applicant that the proposed changes should be shown on the latest approved site plan. Mr. Kreiger indicated he will check the prior site plans so the applicant can work off the latest approved site plan and the applicant agreed that he will meet with John Kreiger to further develop his application. Mr. Kreiger noted that he had preliminarily calculated the required number of parking spaces as 15 parking spaces for the dance studio, and 27 parking spaces for the furniture store. A question arose concerning whether the minimum number of parking spaces would be 27 spaces (for instance, if the two businesses are operating at different hours) or if 42 spaces would be required regardless of operating hours of the businesses. The Planning Board advised that the entire site would need to include 35% green space. The Planning Board determined after general discussion that the applicant would be required to pay \$1,500 into escrow for the Planning Board's review costs. Chairman Oster also advised the applicant that the site plan application would be likely subject to a public hearing. The matter will be on the July 7, 2011 agenda.

The index for the June 16, 2011 meeting is as follows:

1. Farrell – major subdivision – 7/7/11 (public hearing to be reconvened at 7:00 p.m.);
2. Boswell Engineering - Stoneledge Terrace site plan – 7/7/11 (tentative);
3. Snyder – site plan – 7/7/11;
4. Oakwood Property Management, LLC – application withdrawn; no further action at this time;
5. Kenneally – minor subdivision – 7/7/11;
6. Feathers Furniture – site plan – 7/7/11.

The tentative agenda for the July 7, 2011 meeting currently is as follows:

1. Farrell – major subdivision (public hearing to reconvene at 7:00 p.m.);
2. Boswell Engineering – Stoneledge Terrace site plan (tentative);
3. Snyder – site plan;
4. Kenneally – minor subdivision – 7/7/11;
5. Feathers Furniture – site plan – 7/7/11.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD July 7, 2011**

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

ABSENT were MICHAEL CZORNYJ, KEVIN MAINELLO, GORDON CHRISTIAN and JOHN KREIGER, Code Enforcement Officer.

ALSO PRESENT was MARK LINDSAY KESTNER, JR., PE.

Chairman Oster reviewed the tentative agenda for the meeting, noting that the Boswell Engineering - Stoneledge Terrace site plan is taken off the agenda, and that the Snyder site plan and Feathers Furniture site plan matters have been adjourned to the July 21 meeting upon request of the Applicants.

Chairman Oster then continued the public hearing, which remains open on the Charles Farrell Double Day Estates major subdivision application. Chairman Oster opened the floor for receipt of additional public comment. Pete Meskosky, 168 Town Office Road, stated that he had met in the field with Brian Holbriiter, one of the project consultants, to confirm the sight distance measurements for the project for entrances onto Town Office Road and McChesney Avenue Extension. Mr. Meskosky thanked Mr. Holbriiter for working with him in the field on this issue. Mr. Meskosky confirmed that all of the sight distances for the entrances do meet DOT Sight Distance Requirements for Town Office Road and McChesney Avenue Extension at the posted speed limits. Mr. Meskosky stated that he is still concerned regarding safety, and while the sight distances meet the 35 mph sight distance requirements, vehicles do tend to go faster than 35 mph

on these roads. Mr. Meskosky stated that if the Planning Board could take a look at any additional measures that could improve safety, including signage or possibly considering a longer sight distance in this case. Mr. Meskosky confirmed that safety was his primary issue, and that he simply wanted to make sure that the project is done correctly, but did confirm that it currently meets all legal requirements for sight distances. Chairman Oster stated that the Planning Board has addressed the issue of signage on existing public roads for purposes of safety on prior applications, and the issue should be looked at in this case as well. Chairman Oster confirmed that he had spoken with Member Czornyj, and that Member Czornyj had also gone out to this site and can also understand the concern regarding sight distance and stopping distance for the project entrances. The Planning Board will look into the issue of signage and coordinate with the Rensselaer County Highway Department on that issue. Mr. Holbitter confirmed that he, Charles Farrell, Attorney William Doyle, and Steve Dean, the project engineer had met with Mark Kestner and Bob Grimsley of Kestner Engineering, and that the Applicant continues to address the issues raised in the letter by Whiteman, Osterman & Hanna, on behalf of Seddon, and also continuing to do additional groundwater investigation. Mr. Holbitter also confirmed that he felt it was a good meeting with Mr. Meskosky in the field, and that the Applicant has no objection to coordinating with the County Highway Department on additional signage. Mrs. Seddon was present, and inquired whether the public hearing would close. Chairman Oster confirmed that the public hearing would not be closed. The Planning Board then discussed procedural issues, and determined that the public hearing would be adjourned and reconvened at its August 4 meeting at 7:00 p.m.

The Planning Board then reviewed the draft minutes of the June 16, 2011. Upon motion of Member Wetmiller, seconded by Member Esser, the minutes were unanimously approved as drafted.

The first item of business on the agenda was the Charles Farrell Double Day Estates major subdivision application. The Planning Board had no further comment at this time, and will review the additional technical information which will be submitted by the Applicant. The Applicant is attempting to complete all technical information for submission by or about July 21 to the Planning Board and to Mark Kestner, which will allow Board Members and Mr. Kestner to review that information prior to the August 4 meeting. Also, this information will be on file at the Town Offices for public review prior to the August 4 meeting.

The second item of business on the agenda was the minor subdivision application submitted by Jamie Kenneally for property located on Cooksboro Road near Route 7. The Applicant proposes a four lot subdivision on a 13 acre site. Jamie Kenneally was present. Mr. Kenneally stated that he had paid all application fees, established the review escrow, and has already paid the \$500 per lot park and recreation fee. Mr. Kenneally reviewed the revised subdivision map with topography extended per prior Planning Board comments, discussed an NYSDEC letter confirming the wetland delineation done for the site, and stated that the Rensselaer County Highway Department has issued an approval for driveway entrances for each lot. The specific driveway entrances have been painted on Cooksboro Road. Chairman Oster raised a question concerning whether the application is characterized as a minor or major subdivision, given a prior waiver of subdivision which created this 13 acre parcel occurring within the last 7 years. Attorney Gilchrist stated that the prior waiver was complete, that Mr. Kenneally had been a third-party purchaser of the 13 acre parcel, and that his application seeking

4 lots is properly considered a minor subdivision application. The Board questioned whether the Town of Pittstown needs to be placed on notice of this application, given that the property abuts the municipal boundary. Attorney Gilchrist will place the Town of Pittstown on notice concerning this application. Member Wetmiller raised a question concerning the sight distances for the driveways. It was confirmed that Rensselaer County Highway Department has already issued permits for each of the driveways, and that such issue is resolved. The specific driveway locations are painted on Cooksboro Road for the Planning Board members to view. The Planning Board noted that given more than one acre being disturbed as part of the subdivision proposal, an Erosion and Sediment Control Plan will be required. The submission of the Erosion and Sediment Control Plan is required before the application can move forward to public hearing. Member Wetmiller inquired whether there would be any fill coming into the site for lot preparation. Mr. Kenneally stated that the only fill that will be brought to the site is for the septic systems, and that no additional fill will be used. Grading of the four lots was then discussed. There was also discussion concerning the property being located in an agricultural district, and whether an Agricultural Data Statement will be required. Mr. Kenneally will coordinate with Mr. Kreiger on that issue. This matter is placed on the July 21 agenda for a determination of application completeness, including the Erosion and Sediment Control Plan and Agricultural Data Statement (if required).

No new items of business were discussed.

The Planning Board notes for the record that it appreciates the services provided by Thomas Kenney, Esq. in relation to the Farrell Double Day Estates major subdivision application. Attorney Gilchrist will hereafter represent the Planning Board regarding that application.

The index for the July 7, 2011 meeting is as follows:

1. Charles Farrell – Double Day Estates major subdivision – 8/4/11 (public hearing to reconvene at 7:00 p.m.);
2. Boswell Engineering - Stoneledge Terrace site plan – adjourned without date;
3. Snyder – site plan – 7/21/11;
4. Kenneally – minor subdivision – 7/21/11;
5. Feathers Furniture – site plan – 7/21/11.

The proposed agenda for the July 21, 2011 meeting currently is as follows:

1. Snyder – site plan;
2. Kenneally – minor subdivision;
3. Feathers Furniture – site plan;
4. Oakwood Property Management, LLC – Brunswick Zoning Board of Appeals referral of appeals for advisory opinion.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD July 21, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, KEVIN MAINELLO, DAVID TARBOX and VINCE WETMILLER.

ABSENT was FRANK ESSER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

Chairman Oster reviewed the tentative agenda for the meeting, noting that the Snyder site plan has been adjourned to the August 4<sup>th</sup> meeting upon request of the Applicant.

The Planning Board then reviewed the draft minutes of the July 7, 2011 meeting. The only change to the meeting minutes was that Applicant Jamie Kennelly's name had been misspelled throughout and should be corrected. Upon motion of Member Wetmiller, seconded by Member Tarbox, the minutes were unanimously approved with the change in spelling.

The first item of business on the agenda was the Snyder site plan application. As previously noted the matter was adjourned at the request of the Applicant until the August 4<sup>th</sup> meeting. According to John Kreiger, the clearing and grading of the driveway had been started, and the excavator believes he can get the driveway down to an 8° grade. The Applicant will get the Planning Board drawings for review.

The second item of business on the agenda was the minor site plan application submitted by Jamie Kennelly for property located on Cooksboro Road near Route 7. The Applicant proposes a four lot subdivision on a 13 acre site. Jamie Kennelly was present on the application.



Mr. Kennelly advised the Planning Board that his engineer did not have the erosion and sediment control plan finished. Mr. Kennelly stated that the Board will have said plan by the August 4<sup>th</sup> meeting, with the hope of scheduling a public hearing for August 18. Member Czornyj asked if there will be a negative pitch to the driveway. Mr. Kennelly said that a negative pitch on both sides of the driveway will be obtainable, and further said that the Rensselaer County Highway Superintendent has signed off on the driveway sketch plan. Attorney Coan will place the Town of Pittstown on notice of the Kennelly site plan application given that the property abuts the municipal boundary. This matter is placed on the August 4<sup>th</sup> agenda.

The next item of business on the agenda was the Feathers Furniture site plan application. Applicant, Rob Feathers was present. The Planning Board received drawings handed up at the meeting by the Applicant. Chairman Oster reviewed the drawing for completeness. The Applicant also handed up pamphlets with respect to the dance studio that will be operating at the site. The Applicant advised that additional parking will be created at the back of the building and that the parking plan has been reviewed by the Fire Chief. It is the Applicant's intention to excavate some of the rear slope to provide for the additional parking. Chairman Oster asked if the rear parking would be used by employees, and the Applicant said yes.

The Applicant further described that there would be lighting on the sides and back of the building and that there is existing lighting in the front. Chairman Oster suggested that the lighting should be in the form of downlighting, and Mr. Kestner indicated that he would like to see a picture of the fixtures Applicant intends to install.

Mark Kestner was further concerned that the Fire Chief would want a fire lane along side of the building, but as shown on the plan, the fire lane has been eliminated. According to the Applicant the Fire Chief did not indicate that he wanted a fire lane. The Applicant indicated that

the Fire Chief had driven around the building, but may not have recognized that there will be parking along the side. The Applicant did advise the Board that he intended to remove the fence along the back. Mark Kestner suggested that the existing fence be shown on Applicant's drawing, but being shown as removed.

Member Christian asked what was in the current space to which the Applicant replied nothing; the space is currently empty. The Applicant stated it was a steel structure with no walls. Member Wetmiller asked if the front door would swing out. According to Mark Kestner, the Fire Code requires the front doors on commercial properties to swing out. There will be a window in the door per the Applicant. Mark Kestner asked if there were any overhangs over the doors, and the Applicant said there would be a gutter.

Chairman Oster opined that the parking spaces looked to be about 17'. Mark Kestner indicated that the parking spaces should be 19' x 9'. Member Czornyj asked whether the Applicant could put parking on an angle so as to provide ease of access for fire service. The Planning Board stated that it would like to see angle parking on the right side of the building, but could extend the parking if necessary on the angle around the back. Currently there are two handicap parking spots in the front of Feathers Furniture. John Kreiger will look at the issue of how many handicap spots are required and where they have to be located given the two uses.

The Applicant stated that the main entrance to the dance studio would be the front of the building and that the studio would be used when Feathers Furniture is typically closed.

The Applicant agreed to change the parking to be angled parking with a through driveway around the building. The Applicant will also verify the greenspace percentage and will locate outside lighting on the drawings. In addition, the Applicant will show where the stormwater flows will be on the map. Member Czornyj indicated he would like a light over the

door and on the corners of the building. The Applicant indicated that the loading dock is already lit. The parking areas may be gravel, but the Planning Board wants the area shown on the site plan. In addition, traffic directionals will be painted on the pavement. Member Czornyj stated that if the side entrance will be used for the dance studio, an area in front of the dance studio should be designated as a sidewalk. It was noted that a 4' sidewalk would be acceptable.

The Applicant indicated that requested revisions to the site plan will be supplied to the Planning Board in advance of the public hearing, which the Planning Board scheduled for the 4<sup>th</sup> of August. Finally, the Applicant will provide the Fire Chief with a copy of the revised drawings.

No new items of business were discussed.

There was one item of old business. With respect to the Farrell Doubleday Estates major subdivision application, it was noted that the application will not go to public hearing on the 4<sup>th</sup> as the Applicant still needs to conduct hydraulic well testing. The Planning Board further noted that drawdown testing should be done so neighbors will know whether or not they may be affected.

The Planning Board has received referrals from the Zoning Board of Appeals requesting advisory opinions on two appeals filed by Oakwood Property Management, LLC regarding two Notices of Violation issued by the Brunswick Building Department. The Planning Board reviewed the Notices of Violation, the two appeals filed by Oakwood Property Management, and deliberated on the matter. Based on such deliberation, a draft advisory opinion will be prepared for discussion at the August 4 meeting.

The index for the July 21, 2011 meeting is as follows:

1. Snyder – site plan – adjourned until 8/4/11 per Applicant;
2. Kennelly – minor subdivision – 8/4/11;

3. Feathers Furniture – site plan – 8/4/11;
4. Oakwood Property Management, LLC – referral by Brunswick Zoning Board of Appeals for advisory opinion – 8/4/11.

The tentative agenda for the August 4, 2011 meeting currently is as follows:

1. Snyder – site plan;
2. Kennelly – minor subdivision;
3. Feathers Furniture – public hearing on site plan;
4. Oakwood Property Management, LLC – referral by Brunswick Zoning Board of Appeals for advisory opinion.

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

ADVISORY OPINION

APPEALS OF OAKWOOD PROPERTY MANAGEMENT, LLC  
TO NOTICES OF VIOLATION ISSUED BY BRUNSWICK BUILDING DEPARTMENT

REFERRAL BY BRUNSWICK ZONING BOARD OF APPEALS  
PURSUANT TO BRUNSWICK ZONING ORDINANCE SECTION 12(c)

Before the Planning Board for consideration are two appeals filed by Oakwood Property Management, LLC ("Oakwood Property Management") with the Town of Brunswick Zoning Board of Appeals. Oakwood Property Management has filed such appeals regarding two Notices of Violation issued by the Town of Brunswick Building Department as described below. The matters come before the Planning Board upon referral by the Zoning Board of Appeals pursuant to Section 12(c) of the Brunswick Zoning Ordinance.

The Brunswick Building Department issued two Notices of Violation to Oakwood Property Management regarding activities occurring at 215 Oakwood Avenue. The first Notice of Violation issued by the Brunswick Building Department is dated June 10, 2010. Oakwood Property Management filed an appeal of that Notice of Violation with the Zoning Board of Appeals on or about August 6, 2010. The second Notice of Violation issued by the Brunswick Building Department is dated June 21, 2011. Oakwood Property Management filed an appeal of that Notice of Violation with the Zoning Board of Appeals on June 24, 2011.

The Notices of Violations and appeals filed by Oakwood Property Management have been reviewed by the Planning Board. The Planning Board considered such Notices of Violation and the appeals at its meeting held July 21, 2011. Further, the Planning Board took notice of a site plan approved by the Planning Board for 215 Oakwood Avenue (specifically, Tax Map #90.-1-14, hereinafter referred to as "Parcel 14"). Parcel 14 is an approximate 5 acre parcel located in the Industrial District on the Town of Brunswick Zoning Map. This site plan was approved by the Planning Board on April 18, 2002, and the Planning Board reviewed that site plan during its consideration of the subject appeals. The Planning Board also took notice of an amendment to that 2002 site plan approved by the Planning Board for Parcel 14. Such site plan amendment was approved on May 6, 2004 (the site plan approved in 2004 has the same 2002 date as the site plan approved on April 18, 2002), and reviewed that site plan during its consideration of such appeals. The Planning Board also took notice of a map of existing conditions for the Oakwood

Property Management site prepared by Harold Berger, P.E. and dated August 7, 2008, and reviewed that site plan in consideration of such appeals. It is noted that the Berger map of existing conditions includes Parcel 14, as well as two adjacent parcels identified as Tax Map #90.-1-13.1 (hereinafter referred to as "Parcel 13.1") and Tax Map #90.-1-12.2 (hereinafter referred to as "Parcel 12.2").

The Planning Board also reviewed its minutes of prior meetings at which any matter pertinent to Oakwood Property Management, Sean Gallivan, and/or Brendan Gallivan had previously been discussed by the Planning Board. These minutes include meetings held on the following dates:

February 7, 2002  
February 21, 2002  
April 4, 2002  
April 18, 2002  
February 20, 2003  
April 15, 2004  
May 6, 2004  
July 1, 2004  
February 17, 2005  
March 3, 2005  
March 17, 2005  
April 21, 2005  
May 5, 2005  
February 2, 2006  
February 16, 2006  
July 6, 2006  
July 20, 2006  
August 3, 2006  
August 17, 2006  
June 21, 2007  
August 16, 2007  
September 6, 2007  
September 20, 2007  
October 4, 2007  
October 18, 2007  
November 1, 2007  
October 2, 2008  
October 16, 2008  
November 6, 2008  
November 20, 2008  
December 4, 2008  
December 18, 2008  
August 19, 2010  
September 16, 2010  
October 21, 2010

November 18, 2010  
December 2, 2010  
December 16, 2010

In reviewing the appeals filed by Oakwood Property Management, the Planning Board determined that points of law raised by Oakwood Property Management pertaining to interpretation of the Brunswick Zoning Ordinance are properly within the exclusive jurisdiction of the Zoning Board of Appeals. Further, in reviewing the appeals filed by Oakwood Property Management, the Planning Board also determined that points of law raised by Oakwood Property Management pertaining to common law zoning principles, statutory construction, administrative res judicata, constitutional principles, and vested rights are legal issues which are to be determined by the Zoning Board of Appeals.

However, to the extent the appeals filed by Oakwood Property Management challenge the Notices of Violation issued by the Brunswick Building Department concerning alleged violations of the site plan approved by the Planning Board on April 18, 2002, the Planning Board is fully cognizant of the facts and circumstances of such site plan, discussions before the Planning Board by the Applicant, deliberations by the Planning Board, approval conditions, and the extent of activities allowed pursuant to such site plan approval issued April 18, 2002. To that extent, the Planning Board renders the following advisory opinion on the appeals filed by Oakwood Property Management.

After deliberation, the Planning Board makes the following findings:

1. Prior to site plan review and approval of the 2002 site plan, both Sean Gallivan and Brendan Gallivan were informed that all operations and specific locations of operations needed to be shown on the 2002 site plan, and that such operations and specific locations shown on the site plan would be binding on future site operations:

“Chairman Malone indicated that the application should move forward, but that the Applicants needed to retain a licensed engineer to prepare an appropriate site plan which can then be stamped and sealed and submitted for a complete site plan application. Member Czornyj confirmed that the site plan needs to show everything that is already permitted on site (including the car lot), and everything that the Applicant proposes for the site. The Applicants understood that everything that they propose to do at the property needs to be included in the submitted site plan.” Minutes of the Planning Board meeting held February 7, 2002.

“Mr. Kestner also generally discussed the proposed Gallivan site plan application on Oakwood Avenue. Mr. Kestner discussed a recent site visit which he had made to the Gallivan operation on Deepkill Road, and a discussion he had with Mr. Gallivan. Mr. Kestner reiterated that the site plan application which may ultimately be filed with the Town in connection with the Oakwood Avenue property needs to include all operations and specific locations of operations which the Applicant anticipates on the Oakwood Avenue site. Mr. Kestner reiterated to Mr. Gallivan that what appeared on an approved site plan would be binding upon the Applicant in terms of what that Applicant could do on the property. Accordingly, all anticipated operations should be shown on the site plan.” Minutes of the Planning Board meeting held February 21, 2002.

2. At a meeting held April 4, 2002 regarding the site plan for Parcel 14, the parking areas on the site plan were discussed, and Sean Gallivan deemed such delineated parking areas to be adequate for his employees:

“The parking area around the existing building will remain in its current layout, which the Applicant deems adequate parking for its employees.” Minutes of the Planning Board meeting held April 4, 2002.

3. At its meeting held April 4, 2002 regarding the site plan for Parcel 14, Sean Gallivan stated that the area to the rear of Parcel 14 would be used only for wood recycling and mulch operations:

“An access road will be created to the rear of the site, which will be dedicated to a wood recycling and mulch operation. The Applicant has already obtained a registration certificate from the New York State Department of Environmental Conservation for this activity.” Minutes of the Planning Board meeting held April 4, 2002.

4. At its meeting held April 4, 2002 regarding the site plan for Parcel 14, Sean Gallivan also discussed installation of berms and plantings on Parcel 14:

“Mr. Gallivan highlighted the attempt to enhance the curb appeal of the site, adding berms and plantings.” Minutes of the Planning Board meeting held April 4, 2002.



5. At its meeting held April 4, 2002 regarding the site plan for Parcel 14, hours of operation for the proposed activities were discussed:

“Member Oster inquired of the Applicant as to the hours of operation for the grinding equipment in connection with the wood recycling and mulch operation. Mr. Gallivan stated that hours of operation had not yet been established but that noise from the grinding equipment would not be excessive beyond the property line. Chairman Malone recommended a limit on hours of operation for the grinding equipment to 7:00 a.m. to 7:00 p.m.”

Ultimately, the Planning Board did limit the hours of operation for the grinding operation to 7:00 a.m. to 7:00 p.m.:

“To alleviate any noise impact, Mr. Gallivan agreed to operating hour restrictions on the tub grinding to 7:00 a.m. to 7:00 p.m.”  
Minutes of the Planning Board meeting held April 18, 2002.

6. At its meeting held April 4, 2002 regarding the site plan for Parcel 14, the goal of addressing any visual impact from Oakwood Avenue was discussed:

“An objective of the Board is to ensure that the mulch stockpiles are not visible from Oakwood Avenue. Mr. Kestner stated that the stockpile elevation should be determined through topographical contours being placed on the site plan. Member Czornyj stated that a more detailed site plan was required, including topographical contours with cross-sections, specific locations of berms, and detail on plantings (including type and height of trees to be planted).”  
Minutes of the Planning Board held April 4, 2002.

7. The issue of visibility of the industrial operations on Parcel 14 from the eastern direction (i.e., from the North Forty subdivision), or from the rear of Parcel 14, was not considered significant by the Planning Board due to the presence of significant vegetation and tree/forest buffer located on Parcel 12.2 and Parcel 13.1, which were not owned by Oakwood Property Management in 2002.

8. At its meeting held April 18, 2002 regarding the site plan for Parcel 14, a 30' height restriction on mulch piles was discussed, together with berm and plantings to create a visual buffer between the mulch pile and Oakwood Avenue:

“Mr. Gallivan stated that the elevations of the property show that a pile of mulch 30' in height could not be seen from Oakwood Avenue, even without the placement of a berm and vegetative buffer. Further, Mr. Gallivan stated that a 4' berm would be installed in front the area of mulch piles, and 6'-7' spruce trees

would be planted on top of the berm. The details of the vegetative plantings is set forth on the site plan. Mr. Gallivan stated with the installation of the berm and vegetative buffer, any issue of visual impact from the mulch piles would be minimal at the site. In addition, the Gallivans sought to enhance the curb appeal of the entire property and toward that end would be installing vegetative buffers at the road side, and the parking area, and the berm and vegetative buffer described above in front of the mulch stockpiles. Member Bradley opined that visual impact of the mulch stockpiles is also lessened by the fact that cars traveling on Oakwood Avenue go by this site at great speed. Chairman Malone stated that the Board did not want the height of the stockpiles to get out of hand and create a visual impact to the public. Chairman Malone and Member Tarbox inquired of the Applicant as to how high the mulch stockpiles were planned at this site. Mr. Gallivan responded that the mulch stockpiles on this site would be 30' in height or less, they would not be greater than 30' in height at any time. With this understanding and condition, the Board was satisfied with the visual impact issue." Minutes of the Planning Board meeting held April 18, 2002.

9. At its meeting held April 18, 2002 regarding the site plan for Parcel 14, the issue of noise regarding industrial operations was discussed:

"Member Oster then inquired as to the noise generated by the tub grinders in the mulch production process. Mr. Gallivan stated that the tub grinders, in full operation, are at 97 decibels. To alleviate any noise impact, Mr. Gallivan agreed to operating hour restrictions on the tub grinders to 7:00 a.m. to 7:00 p.m. Member Bradley opined that the noise generated by the tub grinders would be attenuated given the distance to Oakwood Avenue and any property owners adjacent to Oakwood Avenue. Mr. Kestner also stated that the berm and vegetative buffers would also provide noise attenuation. Chairman Malone informed the Applicant that if noise became an issue, the Town would require Mr. Gallivan to appear before the Planning Board concerning elevated noise and would require noise reduction as part of an amendment to the site plan. Mr. Gallivan agreed to such condition." Minutes of the Planning Board meeting held April 18, 2002.

10. At its meeting held April 18, 2002, the Planning Board approved the site plan for Parcel 14.

11. Based on several site visits made by the Planning Board members to the Oakwood Property Management operation at 215 Oakwood Avenue, the Planning Board has observed the following current conditions on Parcel 14:
  - (a) mulch piles have expanded and are larger in diameter than shown on the approved 2002 site plan;
  - (b) vehicle parking has significantly expanded and is located in areas not approved for parking, including access driveways directly off Oakwood Avenue, and near, or possibly on, a septic system;
  - (c) vehicles/equipment parking has also extended to the rear of Parcel 14 along the tree/ridgeline, which was not shown on the approved 2002 site plan;
  - (d) activities are occurring behind the garage building on Parcel 14 which are not shown on the approved 2002 site plan, including stockpiling of material, equipment storage, and employee parking;
  - (e) a vehicle wash area is evident behind the office building, which is not shown on the approved 2002 site plan;
  - (f) trees that were required to be planted along the fence line pursuant to the approved 2002 site plan have not been planted;
  - (g) lighting has been installed to the rear of Parcel 14 (flood lights) which are not shown on the 2002 site plan;
  - (h) expansion of activities to the rear of Parcel 14 has occurred, including construction of a block retaining wall, bays, and conveyor system, none of which is shown on the 2002 site plan;
  - (i) a large truck parking area has been created behind the hedgerow on Parcel 14, which is not shown on the approved 2002 site plan;
  - (j) grinder and/or grinding operations have extended beyond the area depicted on the approved 2002 site plan for Parcel 14, extending onto the adjacent Parcel 13.1;
  - (k) a mulch dying process is occurring on Parcel 14, but was not included in the site plan application in 2002, or shown on the approved 2002 site plan;
  - (l) only one fuel storage tank is shown on the approved 2002 site plan located to the rear of the office building; however, there are currently multiple fuel storage tanks located to the rear of the office building on Parcel 14, possibly up to 5 fuel storage tanks;
  - (m) snow plowing trucks are operating out of Parcel 14 during the winter season; such operations were not included within the site plan application in 2002 nor shown on the approved 2002 site plan;
  - (n) topsoil blending which is occurring at 215 Oakwood Avenue was not discussed or included in the site plan application submitted in 2002;
  - (o) internal access roads running from Parcel 14 to Parcel 13.1 and Parcel 12.2 are not shown on the approved 2002 site plan.
  
12. Based on several site visits made by Planning Board members to the Oakwood Property Management operation at 215 Oakwood Avenue, the Planning Board has observed the following conditions on the adjacent Parcel 13.1 and Parcel 12.2:

- (a) industrial operations conducted by Oakwood Property Management and related companies have expanded onto Parcel 13.1 and Parcel 12.2, including grinding, mulch production and storage, (mulch piles which appear to be greater than 30' in height), topsoil blending, equipment storage (including additional grinders), truck parking and a cover-all storage building;
- (b) industrial operations approved pursuant to the 2002 site plan have been significantly expanded onto Parcel 13.1 and Parcel 12.2.

Based on these findings, it is the opinion of the Planning Board that the Notice of Violation issued by the Brunswick Building Department alleging violations of the 2002 site plan approval for Parcel 14 should be upheld. As set forth above, multiple industrial operations are occurring on Parcel 14 beyond areas approved on the 2002 site plan, including expansion of industrial operations onto Parcel 13.1 and Parcel 12.2. Moreover, and as set forth above, certain industrial operations are occurring on Parcel 14 which were not included in the site plan application submitted by Gallivan in 2002 nor approved by the Planning Board pursuant to site plan approval in 2002.

The Planning Board also finds that Oakwood Property Management (and specifically Sean Gallivan) had knowledge of the need to include all proposed industrial operations on the site plan in 2002, including specific industrial activities and locations. The Planning Board further finds that Oakwood Property Management (and specifically Sean Gallivan) had knowledge of the need to amend the approved site plan if any changes were proposed to the operations at 215 Oakwood Avenue. In this regard, the Planning Board takes notice of the fact that Sean Gallivan filed a site plan application in 2004 to expand the garage building on Parcel 14, cognizant of the need to amend the site plan for a limited building expansion. Regarding the garage building expansion, and based on site visits made by Planning Board Members, the Planning Board further finds that the garage expansion is not constructed in the location depicted on the site plan amendment approved in 2004, and a setback violation for such structure may exist and should be investigated by the Brunswick Building Department.

As early as February 2, 2006, the Planning Board raised concern regarding compliance by Oakwood Property Management with the approved 2002 site plan for Parcel 14. At its meeting held February 2, 2006, the following discussion took place:

“An application for waiver of subdivision has been received from Sean Gallivan, for property located on McChesney Avenue Extension. Gallivan seeks to divide an existing 2.5 acre parcel in half, with a single family home and barn on one parcel, and a second vacant building parcel created. The Planning Board Members had questions regarding setbacks, and wanted additional information pursuant to the Town Regulations, including lot dimensions, lot lines, and existing well and septic locations. The Planning Board had concerns regarding the compliance of this Applicant with recent site plan and subdivision approvals.” Minutes of the Planning Board meeting held February 2, 2006.

Oakwood Property Management and Sean Gallivan have been on notice of a compliance issue concerning the approved 2002 site plan for Parcel 14 since at least February 2006.

At a Planning Board meeting held June 21, 2007, Sean Gallivan conceded that his industrial operations at 215 Oakwood Avenue have expanded beyond the original 2002 site approval:

“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 located 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.” Minutes of the Planning Board meeting held June 21, 2007.

Finally, the Planning Board finds that it reviewed and approved a site plan for Parcel 14 in 2002 which was limited to an industrial operation of a specific scope and scale. It was in light of such scope and scale of the industrial operations that conditions were placed on the 2002 site plan approval. Specifically, hours of operations were imposed only on the operation of the tub grinder, in light of the limited scope and scale of the proposed industrial operation, as well as existing vegetation/forest that existed on Parcel 13.1 and Parcel 12.2 which were not owned by Oakwood Property Management in 2002. It was not presented by the Applicant nor considered by the Planning Board that significant expansion of industrial operations, including types of activities/equipment and area, would occur. The 2002 site plan approval was, and is, limited to the activities and areas shown on the approved 2002 site plan, and the description of the industrial activities presented by Oakwood Property Management and Sean Gallivan in 2002. The Planning Board recommends that the Zoning Board of Appeals review the minutes of the Planning Board meetings held April 4, 2002 and April 18, 2002, as well as the approved 2002 site plan, copies of which are attached to this advisory opinion.

Town of Brunswick Planning Board  
August 4, 2011

Chairman Oster	<u>Aye</u>
Member Czornyj	<u>Aye</u>
Member Christian	<u>Aye</u>
Member Mainello	<u>Aye</u>
Member Esser	<u>Aye</u>
Member Wetmiller	<u>Aye</u>
Member Tarbox	<u>Aye</u>

**MINUTES OF THE PLANNING BOARD MEETING HELD April 4, 2002:**

**PRESENT** were Chairman SHAWN MALONE, WILLIAM BRADLEY, MICHAEL CZORNYJ, FRANK ESSER, RUSSELL OSTER, DAVID TARBOX, JOSEPH WETMILLER, and WILLIAM L. AUSTIN.

**ALSO PRESENT** was MARK KESTNER, Kestner Engineers P.C., consulting engineer to the Board.

The first item of business on the Agenda was the KHRIS FITZGERALD application for minor subdivision approval. Appearing for the applicant was Khris Fitzgerald. Mr. Fitzgerald presented a redesigned subdivision, which provided each parcel with access to Creek Road, thereby eliminating any right-of-way issues. The application consists of two existing lots and adds a third lot. Specifically, one of the existing lots, on which a residential house sits, is enlarged through a lot-line adjustment. The second lot, currently undeveloped, is split into two lots, each with road frontage on Creek Road. Member Czornyj advised the applicant that the private road specifications for the Town of Brunswick were applicable to each of the roadways to be constructed on each lot. Member Czornyj then inquired whether this application constitutes a minor subdivision or a waiver of subdivision requirements. Upon review of the regulations, it was determined by the Board that this application qualifies for a waiver of subdivision requirements. Upon final discussion of the application, Member Czornyj moved to adopt a negative declaration under SEQRA, said motion

being seconded by Member Wetmiller. The motion was carried 7 - 0. Thereupon, Chairman Malone moved to approve a waiver of subdivision for the application, said motion being seconded by Member Bradley. The motion was approved 7- 0. Accordingly, the FITZGERALD application for minor subdivision approval, amended upon discussion to a waiver of subdivision requirements, is approved.

The next item of business on the agenda was the POLLOCK PLAZA PHASE IIIA. Appearing on behalf of the applicant was Robert Pollock, Attorney John Barrett, and Greg Bestwick. Initially, Mr. Bestwick presented drawings of roof-line enhancements on the east elevation, and reviewed the roof-line enhancements on the north elevation. The Board generally discussed the appearance of these roof-line enhancements, which constitute the facades to be installed along the north and east roof-line of the building. Mr. Kestner provided a letter dated April 4, 2002, listing his comments on the status of building and site construction. The Kestner April 4, 2002 letter is discussed further below. Chairman Malone inquired as to the sidewalk area in the front of the building. Mr. Bestwick responded that a 4' planting strip extends out from the front of the building, and thereafter a 5' concrete sidewalk exists prior to the parking area. Mr. Bestwick repeated that the applicant intends to plant azalea and juniper within the 4' planting strip in front of the building. Members Esser and Czornyj inquired as to the amount of encroachment by parked cars over the 5' concrete sidewalk (the sidewalk is approximately 6" higher in elevation than the parking pavement). Mr. Bestwick concurred that there could be up to a 2' reduction in the 5' sidewalk, due to cars parking in the front of the building. However, Mr. Bestwick opined that the remaining 3' sidewalk is adequate, even for handicap access. Chairman Malone inquired whether a precast curb could be installed in the front parking spaces to eliminate any overhang onto the sidewalk by parked cars. Mr. Bestwick stated that such precast curbing could be installed, but raised the issue of snow removal.

Mr. Kestner then stated that the canopy originally planned under the approved site plan would cover all of the sidewalk, and that the current canopies over the entrance-ways do not cover the sidewalk. This presents an issue of snow removal not only in the parking area, but also in the front walkway area. Mr. Bestwick assured that all of these access areas would be routinely shoveled in the winter. Member Wetmiller then stated that a precast curbing in the front parking spaces would not obstruct handicap parking. On this issue, Member Czornyj opined that the handicapped space currently planned was insufficient, and was located in a difficult area as it was located near the automobile travel-way. On this point, Member Esser concurred. Chairman Malone then directed Mr. Kestner to review the items listed in his April 4, 2002 letter, which constitute "punch list" items still to be completed on the project, for which an escrow account will need to be established. Mr. Kestner's April 4, 2002 letter is attached hereto, and incorporated into these minutes. Upon completion by Mr. Kestner, Chairman Malone inquired of the Board Members as to any further comments other than the stucco application to the foundation and exterior of the south and west sides of the building, and the roof-line enhancements. Member Esser identified the handicap parking issue as well as the precast curb issue in the front parking spaces. Mr. Kestner concurred that a precast curb would provide a full 5' walkway in front of the building as well as providing safety to persons on the walkway when cars are parking. Chairman Malone concurred that the precast curbing would provide for better safety. It was determined that the precast curbing should be installed two feet from the edge of the concrete walkway. Member Tarbox next identified the satellite dish located on the roof of the building. Mr. Bestwick responded that a special pad had already been installed for the installation of the dish, and that if the dish was moved to the rear of the roof area it would be visible from residences on Goodman Avenue. Mr. Bestwick also opined that the installation of roof-line facades on the north roof-line would help block the dish from sight. Discussion followed concerning



the "maintenance" sign and "no left turn" sign on Goodman Avenue, with the Board concurring that both of these signs should be removed. Mr. Bestwick then inquired of the Board whether they had had the opportunity to view the sample of the stucco material applied to a building in the existing Brunswick Plaza. Members Oster, Czornyj and Esser viewed the sample, and thought that it looked good. Member Wetmiller likewise thought the sample looked good, but proper installation on the subject building was necessary due to the concrete block lines on the upper portion of the south and west exterior of the building. Mr. Kestner then stated he had investigated the Thoro-Stucco material and determined that another product (Thoro-Coat) could be applied not only on concrete block but also on precast and poured concrete. Mr. Bestwick stated that a similar product would be used to the Thoro-Stucco and/or Thoro-Coat, just from a different manufacturer. The appearance will be the same, as well as the color. Mr. Bestwick stated that the applicant agreed to apply a stucco material which can be placed not only on concrete block but also on poured concrete foundation, as long as the product works. The Board was in agreement that the stucco material should be applied from grade to the roof-line. Chairman Malone then identified the only remaining issue as the roof-line facade. Upon discussion, the Board concurred that Option number 2 was preferable to be installed on both the north and east roof-line of the building. Attorney Barrett then stated that if a roof-line facade was to be required, the Board should consider fiberglass material, not masonry. The fiberglass material is lighter, and would provide greater safety than installing masonry block along the roof-line. The Board concurred that fiberglass would be acceptable, as long as it matched in appearance to the masonry block. The applicant agreed to provide a sample of one fiberglass facade prior to installation for review by the Board. Finally, the issue of handicap parking was discussed. It was determined that a waiver of total parking space requirements should be granted, eliminating one parking spot. Thus, a total of 55 parking spots would be provided, as opposed to the required

56 spots. This would allow the handicap parking space to be moved to the west, removing it from the automobile travelway in the front parking area. Additionally, the installation of the precast curbing in the front parking spots would be required. Chairman Malone then reviewed all items discussed and agreed upon for the record. These include:

1. The roof-line facade identified in Option Number 2 would be installed on the north and east side of the building. The applicant would use fiberglass for the manufacture of the facades, and allow the Board an inspection of the first fiberglass model made prior to installation. If the Board deems the fiberglass facade to be unacceptable in appearance, then the applicant would investigate other materials and/or use masonry block for the facades. The color of the facades would match the color of the block on the north and east exterior of the building.
2. A stucco material (manufacturer to be determined) will be applied by the applicant to the west and south exterior of the building, from the grade to roof-line. This will cover both the concrete block and poured concrete foundation on both the west and south exterior of the building. The color of the stucco material will be tan or similar color to blend in with the color of the block on the north and east side of the building.
3. A waiver of total required parking spaces was approved, reducing the required amount of 56 spaces to a total of 55 spaces. Further, the applicant will shift the handicap parking space for this building to the west, thereby removing the handicap parking space from the area of the automobile travelway in the front parking area. The "island" curbing in the front parking area will remain as is currently constructed. Precast concrete curbing will be installed in the parking spaces along the walkway in the front of the building, except for the handicap parking space, and will be installed two feet from the walkway curb.
4. The punch list items identified in the Kestner April 4, 2002 letter will be completed by the applicant.
5. The applicant will prepare an estimate of costs associated with the roof-line facades, application of the stucco material to the south and west exterior of the building, and the punch list items identified in the Kestner April 4, 2002 letter. These estimates will serve as the basis for establishing an escrow for the completion of these items by the applicant.

On the issue of the escrow account, Attorney Barrett proposed that Mr. Pollack establish a cash

escrow for each of the items, with the Town releasing the cash escrow to Mr. Pollack upon completion of each item and acceptance by the Town Engineer. This would allow Mr. Pollack to pay his contractor for each completed item. This was acceptable to the Board, as long as it was understood that the Town would not be paying the Pollack contractors directly but would merely be releasing escrow funds to Mr. Pollack upon review and acceptance of each completed item by the Town Engineer. Attorney Barrett also raised the issue of a Temporary Certificate of Occupancy. Attorney Gilchrist repeated that the issue of a Temporary Certificate of Occupancy was not within the jurisdiction of the Planning Board, and no further action on that issue should be taken by the Board. This matter will be placed on the Agenda for the April 18, 2002 Meeting.

The next item of business on the Agenda was the GALLIVAN site plan. Appearing on behalf of the applicants were Brendan Gallivan and Sean Gallivan. This application concerns property located in the industrial zone on Oakwood Avenue. Mr. Gallivan handed to the Board a site plan, including additional detail than previously submitted. The site plan shows a used car lot on the site, which has already been approved by the Planning Board. An ice cream stand which had previously existed on the site has been removed. The parking area around the existing building will remain in its current layout, which the applicant deems adequate parking for its employees. An access road will be created to the rear of the site, which will be dedicated to a wood recycling and mulch operation. The applicant has already obtained a registration certificate from the New York State Department of Environmental Conservation for this activity. Mr. Gallivan highlighted the attempt to enhance the curb appeal of the site, adding berms and plantings. Member Oster inquired whether the entire site plan was subject to Planning Board jurisdiction, given that certain features on the site (including the used car lot) has already been approved by the Planning Board. Both Mr. Kestner and Attorney Gilchrist stated that if there were any change in the existing site plan and/or use of the

property, then the Planning Board had jurisdiction over the entire site and needed to review and approve all aspects of the submitted site plan. Members Tarbox and Wetmiller indicated that the layout of the features in the site plan appeared acceptable. Member Oster inquired of the applicant as to the hours of operation for the grinding equipment in connection with the wood recycling and mulch operation. Mr. Gallivan stated that hours of operation had not yet been established but that noise from the grinding equipment would not be excessive beyond the property line. Chairman Malone recommended a limitation on hours of operation for the grinding equipment to 7:00 a.m. through 7:00 p.m. The Board generally discussed several issues which needed clarification, including truck traffic, noise assessment, mulch stockpile location and size, berm construction, and plantings (including detail as to the type of plantings proposed) and visual assessment. An objective of the Board is to ensure that the mulch stockpiles are not visible from Oakwood Avenue. Mr. Kestner stated that the stockpile elevation should be determined through topographical contours being placed on the site plan. Member Czornyj stated that a more detailed site plan was required, including topographical contours with cross-sections, specific location of berms, and detail on plantings (including type and height of trees to be planted). The Board directed the applicant to have its engineer work directly with Mr. Kestner on the requirements for the site plan. A long environmental assessment form under SEQRA was provided to the applicant for completion and submission to the Board. Mr. Gallivan inquired as to whether he could commence operations on the site. Member Czornyj, in concurrence with the Board, stated that operations could not commence on the site until the site plan review process was completed. Specifically, any activities occurring on the site currently under a previously approved site plan could continue, but any additions to the site which had not yet been reviewed and approved by the Planning Board could not occur, which includes the grinding equipment in connection with the wood recycling and mulch operations. This

matter will be placed on the Agenda for the Board's April 18, 2002 Meeting.

Three items of new business were discussed by Mr. Austin.

First, an application has been received from LINDA MARSHALL, 317 Rockwell Road, for waiver of subdivision and/or minor subdivision. Applicant seeks to subdivide 6.607 ± acres. The Board was unclear as to the information contained on the application documents, including whether this subdivision had already been approved in 1998. The Board directed Mr. Austin to obtain additional information and clarification of the application, and would schedule the matter for its April 18, 2002 Meeting.

The second item of new business discussed was the RENSSELAER HONDA facility located on Route 7. A change from the approved site plan in terms of exterior material on the front of the building as well as lighting needs to be discussed. This matter will be placed on the Board's April 18, 2002 Agenda for further discussion.

The third item of new business concerned an application for waiver of subdivision regulations submitted by WILLIAM DAYTON for property located off Tamarac Road. This matter will be placed on the Board's April 18, 2002 Agenda.

Member Czornyj made a motion to approve the proposed Minutes of the March 21, 2002 Meeting, as amended for a name correction, which motion was seconded by Chairman Malone. The motion was approved 7 - 0.

The **index** for the April 4, 2002 meeting is as follows:

- a. Khris Fitzgerald - minor subdivision application amended to waiver of subdivision - approved
- b. Pollock Plaza Phase III - amended site plan application - 4/18/02
- c. Gallivan - site plan application - 4/18/02.

The agenda for the April 18, 2002 meeting currently is as follows:

- a. Pollock Plaza Phase III - amended site plan
- b. Gallivan - site plan application
- c. Linda Marshall - waiver of subdivision and/or minor subdivision
- d. Rensselaer Honda - amended site plan
- e. William Dayton - waiver of subdivision

**MINUTES OF THE PLANNING BOARD MEETING HELD April 18, 2002:**

**PRESENT** were Chairman SHAWN MALONE, WILLIAM BRADLEY, MICHAEL CZORNYJ, FRANK ESSER, RUSSELL OSTER, DAVID TARBOX, and WILLIAM L. AUSTIN.

**ABSENT** was JOSEPH WETMILLER.

**ALSO PRESENT** was MARK KESTNER, Kestner Engineers P.C., consulting engineer to the Board.

The first item of business on the Agenda was the POLLOCK PLAZA PHASE IIIA. Appearing on behalf of the applicant was Robert Pollock and Greg Bestwick. Chairman Malone identified the letter sent by Mr. Pollock to the Board dated April 16, 2002 concerning this matter. Mr. Pollock reiterated the statements contained in his April 16 letter to the effect that the installation of a facade along the north and east side of the building was cost prohibitive, after having received an estimate from his contractor. Mr. Pollock proposed to the Board that the roof-line in its as-built condition be allowed to be maintained, and that he be required only to apply the stucco material to the west and south exterior of the building. Member Esser stated that the stucco material must be applied from grade to the roof-line on the west and south exterior of the building, rather than prior drawings which show the stucco material only from the top of the foundation to the roof-line. Mr. Pollock agreed to apply the stucco material from grade to the roof-line on the west and south exterior of the building. Chairman Malone stated that as long as the stucco was applied from grade to the

roof-line on the west and south exterior of the building, and all further requirements set forth in the April 4, 2002 Minutes, numbers 2-5, at pages 5-6 thereof were complied with, he would not oppose maintaining the roof-line on the north and east side of the building in its current as-built condition. However, Chairman Malone expressly stated that he wanted no misunderstanding as to these required conditions, to which Mr. Pollock expressly agreed. Member Czornyj raised the issue of the satellite dish located on the roof of the building. Mr. Pollock responded that the satellite dish will be moved if possible. Mr. Bestwick stated that the satellite dish will be relocated behind the rooftop units in the back of the building, and this should eliminate the visual effect of the satellite dish. Member Oster inquired whether the dish could be painted in a neutral color. Mr. Pollock stated that he would ask his contractor and, if possible, the dish would be painted in a neutral color. Chairman Malone concurred that he would like the satellite dish moved to the rear of the building roof. Following discussion concerning the pre-cast concrete curbing in the parking spaces along the walkway in the front of the building, it was determined that 6' curbing would be installed, which would provide 3' walking areas between parked cars. Member Czornyj reiterated that the stucco material to be applied to the west and south exterior of the building must be sufficient to cover the masonry block lines. Mr. Pollock disclosed that a new stucco material from a different manufacturer would be used, and that the manufacturing specifications identified that the mortar joints would be covered. Member Esser inquired, given that a new stucco material would be used, whether a sample could be supplied to the Board Members for inspection prior to application on the exterior of the building. Mr. Pollock agreed to put a sample of the new stucco material on the back of the GoodWill building in the Pollock Plaza for inspection by the Board Members. Chairman Malone determined that the Board would hold this matter in abeyance until the sample of the stucco material was applied and available for inspection by the Board Members. Mr. Kestner inquired whether the applicant had



prepared an estimate for the items contained in his punchlist letter of April 4, 2002. Mr. Pollock responded that an estimate of \$5,000 had been prepared to cover the items listed in the Kestner punchlist letter. Mr. Kestner opined that \$5,000 would be acceptable to cover the items in his punchlist letter. Mr. Pollock stated that he would establish a \$5,000 escrow with the Town immediately for the completion of these items. Mr. Austin requested that the applicant supply building plans and drawings consistent with the conditions identified in the April 4 Minutes. Mr. Kestner stated that he would work directly with Mr. Bestwick to have accurate building plans and drawings prepared and submitted to Mr. Austin. Chairman Malone stated that this matter would be placed on the Agenda for the first meeting in June, with the goal of having the applicant complete the stucco application and punchlist items on or before that meeting date so that the Board could act upon the amended site plan application.

The next item of business on the Agenda was the site plan application of GALLIVAN. Appearing on behalf of the applicant were Sean Gallivan and Brendan Gallivan. The applicant handed up a new, detailed site plan for the site, including site elevations. Mr. Kestner stated that he had visited the site on the afternoon of April 18, and had discussed the matter directly with Mr. Gallivan at that time. Mr. Gallivan stated that the elevations of the property show that a pile of mulch 30' in height could not be seen from Oakwood Avenue, even without the placement of a berm and vegetative buffer. Further, Mr. Gallivan stated that a 4' berm would be installed in front of the area of mulch piles, and 6' - 7' spruce trees would be planted on top of the berm. The details of the vegetative plantings is set forth on the site plan. Mr. Gallivan stated that with the installation of the berm and vegetative buffer, any issue of visual impact from the mulch piles would be minimal at the site. In addition, the Gallivans sought to enhance the curb appeal of the entire property and toward that end would be installing vegetative buffers at the roadside, and the parking area, and the berm

and vegetative buffer described above in front of the mulch stockpiles. Member Bradley opined that visual impact of the mulch stockpiles is also lessened by the fact that cars traveling on Oakwood Avenue go by this site at great speed. Chairman Malone stated that the Board did not want the height of the stockpiles to get out of hand and create a visual impact to the public. Chairman Malone and Member Tarbox inquired of the applicant as to how high the mulch stockpiles were planned at this site. Mr. Gallivan responded that the mulch stockpiles on this site would be 30' in height or less, and would not be greater than 30' in height at any time. With this understanding and condition, the Board was satisfied with the visual impact issue. Member Oster then inquired as to the noise generated by the tub grinders in the mulch production process. Mr. Gallivan stated that the tub grinders, in full operation, are at 97 decibels. To alleviate any noise impact, Mr. Gallivan agreed to operating hour restrictions on the tub grinders to 7 a.m. to 7 p.m. Member Bradley also opined that the noise generated by the tub grinders would be attenuated given the distance to Oakwood Avenue and any property owners adjacent to Oakwood Avenue. Mr. Kestner also stated that the berm and vegetative buffers would also provide noise attenuation. Chairman Malone informed the applicant that if noise became an issue, the Town would require Mr. Gallivan to appear in front of the Planning Board concerning elevated noise and would require noise reduction as part of an amendment to the site plan. Mr. Gallivan agreed to such condition. Mr. Gallivan handed up to the Board Members a completed full Environmental Assessment Form ("EAF"). The Board reviewed in its entirety the full EAF, noting a correction being made to #16 on the EAF Form. Upon their review and discussion of the full EAF, Member Bradley moved to adopt a negative declaration concerning the application. Member Oster seconded such motion and the motion was unanimously approved by the Board. Accordingly, a negative declaration was adopted for the application. Chairman Malone inquired of the Board Members as to any additional questions on the site plan. Hearing none,

Chairman Malone made a motion to approve the site plan. This motion was seconded by Member Bradley and unanimously approved by the Board. Accordingly, the site plan of Gallivan was approved.

The next item of business on the Agenda was the waiver of subdivision of LINDA MARSHALL. Ms. Marshall appeared on the application. Following discussion concerning the application and map, it was determined by the Board Members that the only matter for discussion before the Planning Board was an application to subdivide one lot owned by Ms. Marshall into two lots. An application for waiver of that subdivision had been made. It is the owner's intent to transfer the second lot to an adjoining property owner. Member Tarbox stated that the second lot would remain a separate lot even after transfer to the adjoining property owner, and could be used as a building lot. Following such discussion, Member Bradley made a motion to adopt a negative declaration in connection with the application, which motion was seconded by Member Czornyj. The negative declaration was unanimously adopted by the Board. Thereafter, Member Esser made a motion to approve a waiver of subdivision for this application, which motion was seconded by Member Oster. The motion was unanimously approved, and a waiver of subdivision granted on the application.

The next item of business on the Agenda was the waiver of subdivision application by ROBERT DAYTON. Robert Dayton appeared on the application. Mr. Dayton seeks to divide a 4.24 acre parcel into two lots, with the plan of constructing a single family residence on one of the lots. Member Tarbox noted that the property was within 500' of an agricultural district, and therefore an agricultural statement should be filled out in connection with the application. Mr. Austin provided an agricultural statement to Mr. Dayton for completion. This matter will be placed on the Agenda for the May 2, 2002 Meeting.

The next item of business on the Agenda was an appearance by Andrew James of RENSSELAER HONDA. Mr. James informed the Board that the Honda Corporation reviewed the exterior work performed at the Rensselaer Honda facility, and determined that the exterior building material did not meet corporate standards. Accordingly, Mr. James informed the Board that a different material would be applied to the exterior of the building in the area of the recent improvements. No amendments to the approved site plan was necessary in connection with this matter.

The **index** for the April 18, 2002 meeting is as follows:

- a. Pollock Plaza Phase III - amended site plan application - 6/6/02
- b. Gallivan - site plan application - approved.
- c. Linda Marshall - waiver of subdivision - approved.
- d. Robert Dayton - waiver of subdivision - 4/2/02.
- e. Rensselaer Honda - site plan - no action.

The **agenda** for the May 2, 2002 meeting currently is as follows:

- a. Robert Dayton - waiver of subdivision.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD August 4, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER, GORDON CHRISTIAN, KEVIN MAINELLO, DAVID TARBOX and VINCE WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

Chairman Oster reviewed the agenda for the meeting, noting that the Kennelly minor subdivision application has been adjourned to the August 18 meeting at the request of the Applicant. Also, Chairman Oster noted that he would open the regular meeting of the Planning Board, and then adjourn the regular meeting for purposes of conducting a public hearing on the Feathers Furniture site plan which had been noticed for public hearing at 7:15 p.m. Thereafter, Chairman Oster will reconvene the regular meeting of the Planning Board.

The first item of business on the agenda was the site plan application by Snyder for property located at 1802 NY Route 7. The Applicant seeks to operate a dog kennel on an 11.6 acre parcel. Mr. Snyder was present for the application, and updated the Planning Board that work on the existing driveway was nearly complete, and that the driveway would now be at a 7% grade. Mr. Snyder said that a new survey had not yet been done. Chairman Oster informed Mr. Snyder that a new site plan with current topography would need to be prepared, and submitted to the Planning Board on the site plan application. Mr. Snyder understands that, but inquired whether there were any conceptual problems that the Planning Board had with this application

before Snyder moved forward with having another survey prepared. Chairman Oster noted that the driveway grade was the significant issue on this application, and he did not see any other significant issues. The Planning Board generally concurred. Mr. Kestner stated that in completing the grading of the driveway, Mr. Snyder's contractor should have the shoulders graded so that they are on a 3:1 slope. Member Tarbox inquired as to how many dogs Mr. Snyder was seeking to have at any one time. Mr. Snyder said that he was hoping to have approximately 10 dogs. Member Tarbox stated that with only 10 dogs, there would not appear to be any need for conditions on hours of operation. Chairman Oster continued that issue, advising Mr. Snyder that if there were any significant expansion, he would need to come back before the Planning Board to amend the site plan. Upon further discussion, the Planning Board determined that it should limit the total number of dogs to be housed at the kennel at any one time to 20, after which Snyder would need to seek an amendment to the site plan. Mr. Snyder was agreeable with that limitation. The Planning Board will also investigate any New York State requirements for operation of a dog kennel for consideration in conjunction with the site plan. Regarding the driveway, Mr. Kestner also advised Mr. Snyder to obtain a letter from the New York State Department of Transportation concerning the commercial use of the driveway off Route 7. The Planning Board discussed holding a public hearing on this site plan application, and determined to schedule and hold the public hearing at its August 18 meeting at 7:00 p.m.

Chairman Oster again noted that the minor subdivision application of Jamie Kennelly has been adjourned to the August 18 meeting.

Chairman Oster then adjourned the regular business meeting of the Planning Board, and moved to open the public hearing on the Feathers Furniture site plan application.

The notice of public hearing for the Feathers Furniture site plan application was read into the record. That notice was published in the Troy Record, placed on the Town website, placed on the Town Sign Board, and mailed to all adjacent property owners. Rob Feathers was present for the Applicant. Mr. Feathers generally reviewed the site plan proposal, where he seeks to utilize a portion of the space of the Feathers Furniture building as an area to be leased for a dance studio, which is currently operating on the opposite side of Route 7. Mr. Feathers explained that the building is approximately 19,000 square feet, and he is seeking to separate out approximately 3,000 square feet to rent to the dance studio. Mr. Feathers explained that the dance studio generally operates during evening hours from 6:00 to 10:00 p.m. Chairman Oster then opened the public hearing for receipt of public comment. No one wished to present any public comment. Thereupon, the Planning Board closed the public hearing.

Chairman Oster then reconvened the general meeting of the Planning Board.

The next item of business on the agenda was the site plan application by Feathers Furniture. The Planning Board notes that it is in receipt of a letter from the Brunswick Fire Company No. 1 dated August 4, 2011. In that letter, the Fire Department, after reviewing the site plan, recommends that the proposed parking spaces on the east side of the building be modified. Currently, the Applicant is proposing 12 parking spaces along the east wall of the building. The Fire Department recommends that the first 4 spots on the east side of the building before the new entrance be deleted, which would provide necessary room for movement of a ladder truck. The Planning Board concurred with this recommendation, and the Applicant indicated it was in agreement with that recommendation. The Planning Board also reviewed the width of the gravel driveway proposed for the rear of the store building, currently being proposed at 38' wide. Mr. Kestner noted that the private driveway standard is a 16' wide driveway with 3' shoulders, for a

total of 22'. By reducing the area of gravel to the rear of the building from the proposed 38' to 22', additional greenspace can be achieved to the rear of the building. The Planning Board is directing the client to reduce the width of the gravel driveway to the rear of the store building to 22', and add greenspace. Member Czornyj noted that the grading proposed to the east side of the site is in close proximity to an existing utility pole. Mr. Kestner stated that with the elimination of 4 parking spaces on the east side of the building per the Fire Department's recommendation, the full grading near the utility pole may not be required, and that he would coordinate with the Applicant's contractor on grading in that location. Chairman Oster raised the issue of two air conditioning units on the site. Mr. Feathers confirmed that the air conditioning units would be relocated. Concerning the total parking spaces required, Chairman Oster inquired of Mr. Kreiger as to whether the 4 parking spaces eliminated on the east side of the building raised any issue on total parking spaces required. Mr. Kreiger noted that with the proposed uses on the site, a total of 42 parking spaces are required, and with the elimination of the 4 parking spaces on the east side of the building, there is still a total of 42 parking spaces provided. Chairman Oster also raised the issue of total greenspace on the space. Chairman Oster asked Mr. Kestner as to whether greenspace on the site would achieve 35% once the gravel roadway to the rear of the building is reduced in width. Mr. Kestner stated that with the reduced - width gravel driveway to the rear of the building, the site is approximately 30-31% greenspace. Chairman Oster inquired of the Planning Board whether it deemed 30% greenspace adequate for this site, and whether a waiver would be entertained. The Planning Board generally concurred that 30% greenspace was adequate for this site. The Applicant reviewed the detail for bumpers for parking spots to eliminate vehicles encroaching on sidewalk areas, and also reviewed spec sheets on the proposed lights. Member Czornyj concurred that all pavements areas will be striped for parking spaces.



Chairman Oster noted that for the gravel road to the rear of the building, where parking spaces are proposed, installation of the bumpers should be made so as to designate parking space areas. The Applicant was agreeable with that condition. It is noted that the site plan has been referred to the Rensselaer County Planning Department, and that no comments or objection had been received from the County Planning Department on this matter. Chairman Oster inquired whether there were any further issues on this application. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Mainello. The motion was unanimously approved, and a negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the site plan subject to the following conditions:

1. Submit a revised site plan showing the elimination of 4 parking spaces on the east side of the building;
2. On the revised site plan, reduce the width of the gravel driveway from 38' to 22' (16' wide driveway with 3' shoulder), and add greenspace, and add a note on the site plan showing total percentage of greenspace on the site;
3. A minimum of 30% greenspace is allowable as a waiver of total greenspace requirements on this site plan;
4. On the revised site plan, add a notation of the direction of stormwater flow;
5. On the revised site plan, add a general location block and north arrow;
6. Install signage or arrows painted on the pavement showing direction of traffic flow.

Member Tarbox seconded the motion subject to the stated conditions. The motion was unanimously approved, and the Feathers site plan application approved subject to the stated conditions.

The next item of business on the agenda was the appeals filed by Oakwood Property Management, LLC with the Brunswick Zoning Board of Appeals from Notices of Violation from the Brunswick Building Department. This matter comes before the Planning Board upon referral by the Zoning Board of Appeals pursuant to Brunswick Zoning Ordinance Section 12(c). Following deliberation on this matter held July 21, 2011, a Draft Advisory Opinion had been prepared and was reviewed by the Planning Board. Following deliberation, an Advisory Opinion was adopted by the Planning Board, and will be forwarded to the Zoning Board of Appeals for consideration in connection with the appeals filed by Oakwood Property Management, LLC. It is noted for the record that a letter has been received from Michael Schongar, dated July 22, 2011 regarding the Oakwood Property Management matter.

No new matters of business were received by the Planning Board.

The index for the August 4, 2011 meeting is as follows:

1. Snyder – site plan – 8/18/11 (public hearing at 7:00 p.m.);
2. Kennelly – minor subdivision – 8/18/11;
3. Feathers Furniture – site plan – approved with conditions;
4. Oakwood Property Management, LLC – referral from Brunswick Zoning Board of Appeals – advisory opinion adopted.

The proposed agenda for the August 18, 2011 meeting currently is as follows:

1. Snyder – site plan (public hearing at 7:00 p.m.);
2. Kennelly – minor subdivision.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD August 18, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, FRANK ESSER, GORDON CHRISTIAN, KEVIN MAINELLO, DAVID TARBOX and VINCE WETMILLER.

ABSENT was MICHAEL CZORNYJ.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

Chairman Oster noted that the Kennelly minor subdivision application matter has been adjourned to the September 1 meeting at the request of the Applicant.

The Planning Board opened a public hearing regarding the site plan application filed by James Snyder, seeking approval to operate a dog kennel at 1802 NY Route 7. The Notice of Public Hearing was read into the record, and such notice was published in The Troy Record, placed on the Town Sign Board, placed on the Town website, and mailed to all adjacent property owners. Chairman Oster requested the Applicant to present an overview of the project. Mr. Snyder stated that he was seeking to operate a kennel for approximately 10 dogs on his property. Mr. Snyder noted that he had regraded his driveway for access, and was waiting for NYSDOT approval for use of the driveway for commercial purposes. Chairman Oster then allowed public comment. Paul Gower, 1792 NY Route 7, handed up a written statement submitted by him and John Erickson, also residing at 1792 NY Route 7, and read that statement into the record. Mr. Gower indicated that he and Mr. Erickson have no initial objections to Mr. Snyder operating a kennel at his property, and have no reason to believe that Mr. Snyder would knowingly run such

an operation in a manner other than full consideration of the wellbeing of both the animals and his neighbors; however, Mr. Gower and Mr. Erickson do raise concern regarding possible disruptive noises, sanitation and disposal of waste material, and clarification as to the full range of animals which may be housed at this location. Hearing no further comments from the public on this application, the Planning Board then closed the public hearing on the Snyder site plan application.

The Planning Board reviewed the draft minutes of the July 21, 2011 meeting. Upon motion of Member Mainello, seconded by Member Esser, the July 21 minutes were unanimously approved as drafted.

The Planning Board reviewed the draft minutes of the August 4, 2011 meeting. Upon motion of Member Wetmiller, seconded by Member Tarbox, the minutes of the August 4 meeting were unanimously approved as drafted.

The next item of business on the agenda was the site plan application of James Snyder for property located at 1802 NY Route 7, seeking approval for operation of a kennel. Chairman Oster noted that comments had been received during the public hearing concerning noise and sanitation, and also the type of animals to be kept at the kennel. Mr. Snyder stated that with respect to all waste from the kennel operation, waste would be properly bagged and picked up as part of the regular solid waste disposal from that property. In terms of noise, Mr. Snyder stated that the animals would be kept in an insulated garage building, which is approximately 400' from the nearest residence. In addition, the Snyder home is located between the garage building and the closest off-site residence. Mr. Snyder did state that he would like to have a fenced area for animal exercise, but that the fenced area was not currently shown on the site plan. Mr. Snyder stated that he would put the fenced area on the opposite side of the garage building, further

removed from the off-site residence. Member Wetmiller stated that any outdoor exercise of animals, whether in the fenced area or simply walking animals, should occur at all times with supervision and oversight, and that animals should not simply be kept outside in a fenced area which could result in excessive noise to neighbors. Mr. Snyder concurred, and stated that any outdoor animal activities would be supervised at all times. Upon further discussion, it was determined that Mr. Snyder would not include any fenced area on the current site plan, but would rather commence the kennel operation with the garage building only, and if the business succeeded, Mr. Snyder would come back to the Planning Board for an amendment to the site plan to add a fenced area. In terms of the types of animals to be kept at the kennel, Mr. Snyder stated that 99% of the animals would be dogs, 1% may be cats, and that he will only accept small, caged domesticated animals at the kennel. The Planning Board discussed the best way to attach an appropriate definition to the types of animals that could be housed at the kennel. It was determined that Attorney Gilchrist would research for an appropriate definition for the type of domesticated animals that would be allowed, and that the current approval would be limited to dogs, cats, and other small, caged, domesticated animals. Mr. Snyder was agreeable to this limitation. Chairman Oster inquired whether there were any further questions or comments by the Board members concerning this site plan application. Hearing none, Member Tarbox made a motion to adopt a Negative Declaration pursuant to SEQRA, which motion was seconded by Member Wetmiller. The motion was approved 6/0, and a SEQRA Negative Declaration was adopted. Thereupon, Member Wetmiller made a motion to approve the Snyder site plan application subject to the following conditions:

1. The kennel is limited to no more than a total of 20 animals at any one time, and limited to dogs, cats, and small, caged domesticated animals (specific definition consistent with this limitation to be discussed at September 1 meeting, which was agreed to by Mr. Snyder);

2. All times when the animals are outside the insulated, garage building must be under owner and/or manager supervision, and any fenced area for the animal use on the property will be subject to a site plan amendment to be reviewed by the Planning Board;
3. Approval by NYSDOT for use of the driveway as a commercial driveway, with proof of such approval filed with the Brunswick Building Department; and
4. Compliance with all applicable County and State regulations for the operations of a kennel.

Member Mainello seconded the motion subject to the stated conditions. The motion was approved 6/0, and the Snyder site plan application approved subject to the stated conditions.

Three items of new business were discussed.

The first item of new business concerned the Brunswick Woods PDD amendment, and specifically the waiver of subdivision for this property previously approved by the Planning Board in September 2010. The Applicant, through Paul Goldman, Esq., has refiled the waiver of subdivision application, updated to August 18, 2011 for consideration by the Planning Board. Mr. Goldman explained that the reason for this application was that the owner had not filed the approved plat in the office of the Rensselaer County Clerk within applicable timeframes. Accordingly, the owner is requesting that the approval be updated, and that the approved plat be stamped and re-signed, so that it can be recorded in the Office of the Rensselaer County Clerk within applicable timeframes. Mr. Goldman confirmed that there were no changes to the subdivision plat, and that the current application is being submitted only to comply with applicable filing timeframes. Upon confirming that there were no changes to the previously-approved plat for property, the Planning Board was willing to entertain the application for purposes of updating the approval to comply with applicable filing timeframes. It was noted that this project had already been reviewed pursuant to SEQRA, and that a Negative Declaration is on file. The Planning Board had no further questions regarding the application. Member Christian

made a motion to approve the current waiver application for the purpose of updating the previous approval to comply with filing timeframe requirements, which motion was seconded by Member Wetmiller. The motion was unanimously approved, and the prior subdivision plat approval was thereupon updated for purpose of compliance with applicable filing requirements.

The next item of business discussed was the site plan application submitted by Wal-Mart Real Estate Business Trust in furtherance of the Brunswick Square Planned Development District amendment, which had been approved by the Brunswick Town Board on August 11, 2011. John Stockli, Esq. was present for the Applicant. The resolution approving the Brunswick Square PDD amendment was reviewed by the Planning Board, with particular attention to the conditions attached to the approval which will be pertinent to the site plan review which will be undertaken by the Planning Board. Mr. Kestner specifically reviewed with the Planning Board members the amendments to the plans concerning parking as well as greenspace/vegetation plans. In particular, the proposed vegetation plantings along NYS Route 7 were discussed, as well as appropriate vegetative screening for the entrance to the Brunswick Square/Wal-Mart Store off McChesney Avenue. Mr. Kestner also briefly reviewed the Applicant's letter dated August 12, 2011 which specifically responded to the comments raised by the Planning Board in its written recommendation to the Town Board on the PDD amendment application. The Planning Board directed the Applicant to coordinate with the Brunswick No. 1 Fire Department on all emergency access and fire code compliance issues, so that the issues could be incorporated as early as possible into the site plan review. This matter is placed on the September 1 agenda for further discussion.

The third item of new business discussed was a site plan application submitted by New York Light Energy LLC for installation of a solar panel array on the Sycaway Creamery property

located at 42 Duncan Lane. William Heffernan and Mark Richardson of New York Light Energy LLC were present on the application. New York Light Energy seeks to install two (2) solar facilities at ground level at 42 Duncan Lane (Tax Parcel #90.-2-9.2, a 6.17 acre parcel). The solar facilities will be constructed on a rack system, and each occupy an area of approximately 150' x 300', for a total area of approximately 300' x 300'. The solar panel array will be on an angle, with a total height at the highest point being approximately 8' off grade. New York Light Energy has entered into a power purchase agreement with the owner, and will sell power generated from the solar panel array to the property owner, as well as selling excess power back to the grid. Chairman Oster inquired why these panels are not being installed on roof tops on structures that already exist on the property. Mr. Heffernan explained that there were only two barn buildings on the property that would be suitable, but that they are located across the existing road over 1,000' from the connection point to the existing electric grid, and further that the barn structures would not be able to support the additional load from the weight of the solar panels. The Planning Board noted that the proposed location for the solar panel array is the area which has been recently filled by the property owner. Chairman Oster inquired about any safety considerations or access considerations. Mr. Richardson stated that he could not perceive any potential safety risk to the public, other than an individual who may be injured who may trespass onto the property or seek to damage the equipment. This led to a discussion regarding the equipment, including the wiring for this facility and the operation of the solar panel units. The Planning Board inquired into other solar panel installations by New York Light Energy. Mr. Heffernan responded that installations have been completed in Saratoga, Clifton Park, Colonie, and Averill Park, but most of these installations have been on roofs. The Planning Board inquired whether there were any other local installations by New York Light Energy at the



ground surface. Mr. Heffernan stated that a ground level installation had been created at the former BASF facility in Rensselaer. Member Wetmiller asked whether the panels get hot so as to create a safety issue. Mr. Richardson stated that while the panels do get warm, they do not rise to a temperature to cause any burn or injury. The Planning Board inquired about the ground installation, and whether permanent footers would be installed. Mr. Richardson stated that this particular installation includes pre-cast footers which will be placed on the ground surface, creating a weighted ballast configuration. Member Esser inquired as to maintenance of the ground surface between the solar panels, including weeds and overgrown brush. The Applicant was not clear as to whose responsibility it would be between the property owner and New York Light Energy for property maintenance. Member Mainello inquired whether the solar panels were reflective, and would a glare situation result. Mr. Richardson stated that excessive glare would not result from the solar panels. The Planning Board inquired about maintenance of the solar panels during the winter season, and whether snow removal from the solar panels is anticipated. Mr. Richardson stated that there would be no snow removal during the winter season, and given the angle of the solar panels together with the heat generated during sunny periods would result in the snow shedding off of the solar panels without any specific maintenance. It was confirmed that the solar panels would be angled in a southerly direction toward NYS Route 7. The Planning Board noted that while this is before the Board for concept review, the owner of the property must sign the site plan application form or submit a written statement that it consents to the site plan application and installation of the solar panels on the property. The Planning Board also stated that a full site plan application needs to be submitted, compliant with the Town Site Plan Regulations. The Planning Board requested that New York Light Energy inform the Board as to the closest location of a ground solar panel system, other

than the BASF site, so that the Planning Board members and engineer could visit that location. Also, the Planning Board requested that the area proposed on the Duncan property for the solar panel array be staked and flagged in the field for review by the Planning Board members. This matter has been placed on the September 1 agenda for further discussion.

The index for the August 18, 2011 meeting is as follows:

1. Snyder – site plan – approved with conditions;
2. Kennelly – minor subdivision – adjourned to 9/1/11 at request of Applicant;
3. Brunswick Associates of Albany, LP – waiver of subdivision – approved;
4. Wal-Mart Real Estate Business Trust – site plan – 9/1/11;
5. New York Light Energy LLC – site plan – 9/1/11.

The proposed agenda for the September 1, 2011 meeting currently is as follows:

1. Kennelly – minor subdivision;
2. Wal-Mart Real Estate Business Trust – site plan;
3. New York Light Energy LLC – site plan.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD September 1, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER and VINCE WETMILLER.

ABSENT were DAVE TARBOX, KEVIN MAINELLO and GORDON CHRISTIAN.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

Chairman Oster reviewed the agenda for the September 1 meeting, noting that the Wal-Mart Real Estate Business Trust site plan application has been adjourned to the September 15 meeting at the request of the Applicant, and the New York Light Energy LLC site plan has also been adjourned to the September 15 meeting at the request of the Applicant.

The draft minutes of the August 18, 2011 meeting were reviewed. At page 6, during the discussion of the New York Light Energy LLC site plan application, the fifth line is corrected to note that the total area proposed to be occupied by the solar facilities is 150' x 200'. With that correction noted, Member Wetmiller made a motion to approve the minutes, which motion was seconded by Member Esser. The minutes were then unanimously approved as corrected.

The first item of business on the agenda was the minor subdivision application by Jamie Kennelly for property located on Cooksboro Road. Jamie Kennelly was present on the application. Mr. Kennelly stated that an Erosion and Sediment Control Plan had been prepared and submitted to the Planning Board's engineer, Mark Kestner, PE. Mr. Kestner confirmed that he is in receipt of the Erosion and Sediment Control Plan, and has reviewed that plan and

determined that it was adequate to move the application forward to public hearing, although the full engineering report for the plan needs to be submitted. The Board noted that the subdivision plat has been amended to extend topographic contours off the site property boundaries, that wells have been located, driveway locations for the lots have been identified, and a driveway profile has been provided. Mr. Kennelly noted that the permits issued by Rensselaer County for the driveways do show a negative pitch for each driveway. The Planning Board determined that the County Highway Department should review the driveway constructions for the required negative pitch before the Town of Brunswick issued any CO's for the subject lots. Member Esser inquired whether the wells meet all setback requirements. The Planning Board noted that the wells are under the jurisdiction of the Rensselaer County Health Department, but did note that the wells should be 25' off the property line, and that proposed Lot 3 may need to be amended. Mr. Kennelly stated that he does have adequate room on Lot 3 to address any setback issue. Mr. Kennelly also noted that he anticipated having notice from the Rensselaer County Health Department that his septic plan is in approvable form prior to the next Planning Board meeting. The Planning Board determined that the minor subdivision application is complete for purposes of scheduling the public hearing. Chairman Oster scheduled the public hearing for the September 15 meeting commencing at 7:00 p.m.

Mr. Kreiger noted that there were no items of new business.

One item of old business was discussed. With respect to the Snyder site plan approval for the operation of a kennel at 1802 NY Route 7, which was approved with conditions at the August 18 meeting, Condition #1 noted that the approval was limited to no more than a total of 20 animals at any one time, and limited to dogs, cats, and small caged domesticated animals, a specific definition of which would be investigated and discussed at the September 1 meeting.

Attorney Gilchrist reported that after research, definitions of "domesticated animal" do not provide much specific guidance for future use by the Town, and that a specific listing of the types of animals permitted to be boarded at the kennel would be a better approach. The Planning Board determined that it would contact Mr. Snyder, request that he provide a list of specific animals which he seeks to have boarded at the kennel, and that the matter will be further discussed at the September 15 meeting.

Chairman Oster also noted for the record that he had a meeting with the Rensselaer County Chamber of Commerce concerning pending items in the Town of Brunswick, and the that the Chamber noted that it would like to be more involved with commercial development opportunities in the Town of Brunswick.

The index for the September 1, 2011 meeting is as follows:

1. Kennelly – minor subdivision – 9/15/11 (public hearing to commence at 7:00 p.m.);
2. Wal-Mart Real Estate Business Trust – Brunswick Square PDD amendment - site plan – 9/15/11;
3. New York Light Energy LLC – site plan – 9/15/11.

The proposed agenda for the September 15, 2011 meeting currently is as follows:

1. Kennelly – minor subdivision – public hearing to commence at 7:00 p.m.;
2. Snyder – site plan;
3. Wal-Mart Real Estate Business Trust – Brunswick Square PDD amendment - site plan;
4. New York Light Energy LLC – site plan.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD September 15, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER, GORDON CHRISTIAN, DAVID TARBOX and VINCE WETMILLER.

ABSENT was KEVIN MAINELLO.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board opened a public hearing concerning the minor subdivision application by James Kennelly for property located on Cooksboro Road near NYS Route 7. Chairman Oster reviewed the public hearing guidelines. The Notice of Public Hearing was read into the record, noting that the notice was published in the Troy Record, placed on the Town Sign Board, placed on the Town website, and mailed to owners of all adjacent properties. Chairman Oster requested the Applicant to present a brief overview of the project. James Kennelly generally reviewed the proposed four lot layout covering a 13 acre parcel, with driveway locations and septic locations noted. Mr. Kennelly explained that all driveways enter and exit onto Cooksboro Road, which is a County Highway and that the County Highway Department has issued permits for each of the proposed driveways. Mr. Kennelly also stated that the Rensselaer County Health Department has approved the septic designs for each of these lots. Further, Mr. Kennelly stated that wetlands have been identified and delineated on the project site, and that NYSDEC had reviewed the wetland areas and concurred that all proposed construction was outside of wetland areas and the 100 foot buffer. Chairman Oster then

requested any public comment. David White, 1927 Route 7, stated that he had moved to his house for purpose of seclusion, and that he had a 15 year old autistic child and wanted to know how much privacy would be lost as a result of the subdivision proposal. Mr. Kennelly reviewed the lot layout in relation to the White parcel, stating that there was existing wooded area between proposed Lot 3 and the White property and that no other tree clearing is being proposed. Mr. Kennelly also offered to plant white pines to provide an additional buffer. Jeremy Dunteman, 71 Cooksboro Road, raised the same issue concerning privacy in relation to Lot 3. Again, Mr. Kennelly reviewed the lot layout in relation to the Dunteman parcel, and again offered to plant white pines as an additional vegetative buffer. Mr. Dunteman stated that the project site was wet. Mr. Kennelly reviewed the drainage plan, as well as the wetland location and maintenance of the wetland and buffer areas. Mr. Dunteman raised a question concerning the septic systems. Mr. Kennelly explained that all of the septic systems have been approved by the Rensselaer County Department of Health. Bernie Barber, Route 7, inquired as to the type of houses being proposed for construction. Mr. Kennelly explained that he would either sell lots to persons wanting to build in Brunswick, or that he would construct the homes. Mr. Kennelly explained that he was proposing a ranch style house, and that some of the lots would have walkout basements given grades. Mr. Barber raised a question regarding the wetland border. Mr. Kennelly and Mr. Kestner reviewed the DEC wetland location, as well as the 100 foot buffer area. Mr. Barber wanted to confirm that there were no driveways being proposed directly onto Route 7. Mr. Kennelly stated that all driveways will connect to Cooksboro Road. Hearing no further comment, Chairman Oster closed the public hearing on the Kennelly minor subdivision application.

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

The Planning Board reviewed the draft minutes of the September 1, 2011 meeting. Upon motion by Member Czornyj, seconded by Member Wetmiller, the minutes were unanimously approved as drafted.

The first item of business on the agenda was the minor subdivision application by James Kennelly for property located on Cooksboro Road near Route 7. Chairman Oster reviewed the public comments received during the public hearing, which have all been addressed by Mr. Kennelly. Specifically, the maintenance of a vegetative buffer as well as planting of white pines on Lot 3 to maintain a vegetative buffer between the White parcel and Dunteman parcel was discussed. After further discussion, it was determined that additional white pines would not need to be planted on the project site, but rather the final subdivision plat would identify an existing forested area on Lot 3, and a map note would be added restricting the cutting of any trees with a 2.5 inch diameter at breast height within that forested area identified on Lot 3. Mr. Kennelly was agreeable to this condition. Chairman Oster confirmed that the septic systems for each of the proposed lots have been approved by the Rensselaer County Department of Health. Chairman Oster also confirmed that an Erosion and Sediment Control Plan had been submitted by Mr. Kennelly, which was reviewed and accepted by Mr. Kestner. Chairman Oster inquired whether any of the Planning Board members had any issue with any of the driveway locations. Member Czornyj stated that the driveway locations were acceptable, but he requested that an as-built drawing of the driveway profile be submitted to the Building Department concerning Lot 2, since the grade was approaching the maximum 12%. Member Esser also noted that the map indicated the driveways would be asphalt. Mr. Kennelly stated that the asphalt note was an error, and that the driveways will be gravel. This was acceptable to the Planning Board, and a corrected map note will be made. It was confirmed that all fees have been paid on the application, including the



\$500.00 per lot park and recreation fee. It was also noted that an agricultural data statement had been completed and mailed to all owners of all agricultural property within 500 feet of the project site, and that Mr. Kreiger had heard from each owner and there was no objection to this project. Chairman Oster inquired whether there were any further comments or questions on the application. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Esser. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the Kennelly minor subdivision application subject to the following conditions:

1. Submission of an as-built driveway profile for Lot 2;
2. A map correction noted that the driveways will not be asphalt, but rather gravel;
3. An existing wooded area will be noted on Lot 3 on the final subdivision plat, with a map note that no tree greater than 2.5 inches in diameter at breast height will be removed within this denoted area.

Member Wetmiller seconded the motion subject to the stated conditions. The motion was unanimously approved, and the Kennelly minor subdivision application approved subject to the stated conditions.

The next item of business on the agenda was the consideration of site plan approval for James Snyder for property located at 1802 NY Route 7. At the August 18, 2011 meeting, the Planning Board approved the site plan for James Snyder for the operation of a kennel for the boarding of animals at 1802 NY Route 7. Condition #1 to the site plan approval stated as follows:

The kennel is limited to no more than a total of 20 animals at any one time, and limited to dogs, cats, and small, caged domesticated animals (specific definition consistent with this limitation to be discussed at September 1 meeting, which was agreed to by Mr. Snyder).

At the September 1 meeting, the Planning Board determined that a general definition would be difficult to apply, and rather sought to specifically list out the type of animal that would be permitted to be boarded at this kennel in addition to dogs and cats. The Planning Board thought this was important in order to avoid a situation where any dangerous or exotic animal was being boarded at this kennel. The Planning Board then requested Mr. Snyder to submit a list of the types of animals in addition to dogs and cats that he sought permission to board at this kennel.

Mr. Snyder submitted the following list of animals to be boarded at this kennel:

Dog, cat, bird, rabbit, guinea pig, hamster, gerbil, ferret,  
potbellied pig, lizard, fish.

Mr. Snyder was present, and explained that this was the total list of animals that he sought to board at this kennel, and if there were any changes in the future he would need to come back to the Planning Board for an amendment to the site plan. Member Wetmiller then made a motion to approve this list of animals as a clarification of Condition #1 attached to the site plan approval for this project issued August 18, 2011. Member Tarbox seconded the motion. The motion was unanimously approved, and the site plan approval for this project is amended accordingly.

The next item of business on the agenda was the site plan application submitted by Wal-Mart Real Estate Business Trust in conjunction with the Brunswick Square Planned Development District amendment. Attorney Mary Elizabeth Slevin and Adam Fishel, P.E. were present for the Applicant. Attorney Slevin briefly discussed procedural status. Mr. Fishel then reviewed the site plan which had been amended in accordance with the PDD approval, which in turn had considered the Planning Board comments and recommendations. Mr. Fishel generally reviewed the greenspace proposal in conjunction with the amended parking lot along NYS Route 7, as well as the amended parking area along the McChesney Avenue entrance/exit. Chairman

Oster inquired regarding the drainage and road improvements on McChesney Avenue. Mr. Fishel generally reviewed the proposal, which includes raising the elevation of McChesney Avenue by 1 foot in a certain location. Mr. Fishel explained that he was continuing to coordinate this work with both the Rensselaer County Highway Department as well as the New York State Department of Transportation. Mr. Kestrier raised the issue of the actual road reconstruction, and any proposal by Wal-Mart to close McChesney Avenue between McChesney Avenue Extension and NYS Route 7 in this location. It was Mr. Kestner's understanding that this was one option being pursued by Wal-Mart, and the total time for road closure would be approximately 3-4 weeks. Mr. Fishel explained that this was one option being proposed by Wal-Mart, and was being proposed because this would make road reconstruction tasks less complicated. Alternatively, Mr. Fishel explained that a lane closure approach for this reconstruction work could also be proposed, but this would make the road reconstruction activities more complicated and probably take a longer period of time to complete. Mr. Fishel explained that a road closure would require the approval of both the Rensselaer County Highway Department as well as the New York State Department of Transportation, since a temporary traffic light would need to be added in all likelihood at the McChesney Avenue/NYS Route 7 intersection in proximity to the new Tractor Supply Store being constructed. The Planning Board generally discussed how this issue would be handled at a public hearing, and it was determined that the actual site plan construction activities are explained and depicted on the site plan, and that the potential road closure issue is in the nature of a buildout issue, but that the public should be aware that there is the potential for a road closure in conjunction with the McChesney Avenue reconstruction, or alternatively that a reconstruction period with a limited lane closure would be proposed, but that the construction period may take a longer time. Mr. Fishel also noted that he

had corresponded with both the Fire Department and school regarding the McChesney Avenue reconstruction proposal, and that he had not received any comments from the Fire Department, and that in terms of the school district and school buses, Wal-Mart could schedule the road reconstruction work for June 2012 after the 2011-2012 school year is concluded. It was determined that at the public hearing for this site plan, both road reconstruction buildout options would be presented. Member Czornyj then inquired as to the inclusion of a sidewalk/walking area along McChesney Avenue. Mr. Fishel confirmed that Wal-Mart had agreed to install a 6 foot paved shoulder along McChesney Avenue adjacent to its property, and to carry that paved shoulder into the parking lot area via a sidewalk along the McChesney Avenue entrance/exit, and continue a cross-walk area to the Wal-Mart building. Member Tarbox inquired as to the internal truck route on the site. Mr. Fishel confirmed that the Applicant was proposing to maintain the same internal truck route as originally approved, and that all turning radius at critical points will remain the same so that trucks will be able to maneuver through the site. Mr. Fishel confirmed that signage would be added to McChesney Avenue regarding no trucks. Member Wetmiller inquired about adding a sign on Route 7 indicating that no trucks were allowed on McChesney Avenue for deliveries to the Brunswick Plaza. Mr. Kestner stated that NYSDOT controls any signage on Route 7. Member Christian stated that he felt McChesney Avenue was too narrow for large trucks. Mr. Kreiger stated that it has been his experience that the large tractor trailer is not a problem on McChesney Avenue, but that the smaller bread-style delivery trucks have been an issue on McChesney Avenue delivering to the Brunswick Plaza. The Planning Board further discussed internal truck routes on the site plan, and Mr. Fishel will clarify all internal truck routes on the site plan. The Planning Board then determined that adequate information exists on the site plan application to conduct the public hearing. The Planning Board set October 6, 2011

at 7:00 p.m. for the public hearing on the site plan in conjunction with the Brunswick Square PDD amendment.

The next item of business on the agenda was the site plan application submitted by New York Light Energy, LLC for property located at 42 Duncan Lane. The Applicant proposes to install solar facilities at ground level on the Sycaway Creamery property located at 42 Duncan Lane. William Heffernan and Mark Richardson of New York Light Energy, LLC were present for the Applicant, together with Frank Polumbo of CT Male. Mr. Heffernan explained that the proposal has been revised to include both a ground system as well as a solar panel roof application on one of the buildings used for refrigeration. Mr. Heffernan also stated that a fence had been included around the solar panel ground array for safety and maintenance purposes. Chairman Oster wanted to confirm that the underlying property owner has consented to this application. Mr. Heffernan has submitted an affidavit of Keith Duncan, owner of the property at 42 Duncan Lane, Tax Map #90.-2-9.2, authorizing New York Light Energy, LLC to act as his agent and secure Planning Board approval for the proposed solar panel installation. Mr. Kestner then generally reviewed geotechnical issues with the Applicant, including soil stability and settling. Both Mr. Polumbo and Mr. Richardson addressed these structural and geotechnical issues. Mr. Heffernan confirmed that New York Light Energy, LLC will continue to own the solar panel array system, and will be required to maintain that system in the future. Member Esser inquired whether any surplus energy was produced from this solar panel system, and what happened to any surplus energy. Mr. Heffernan stated that if there is any excess energy produced, it is sold back to the grid with the underlying property owner (Mr. Duncan) getting credit. Member Esser confirmed that part of the energy being produced was to be used in conjunction with the refrigeration building, and inquired what would happen to that energy in the

event the refrigeration building were no longer used. Mr. Heffernan again explained that this excess energy would be sold back to the grid. Mr. Heffernan did confirm that there is a 20 year agreement that will exist between New York Light Energy, LLC and Duncan for these facilities. Member Czornyj inquired whether there would be any screening between these solar panels and residents located both to the south and west directions. Mr. Polumbo stated that there were no plans for screening, and the Applicant did not consider this solar panel array to be a significant visual impact, that they will be very low to the ground, and that there is a significant distance between the location for the solar panel array and adjoining residences. Member Czornyj stated that these panels may be visible from some of the back yards of the homes in the southerly and westerly direction, principally from the west. The Planning Board will need to consider both the potential visual and aesthetic impact, as well as consider any comments which may come from adjoining property owners. Mr. Kestner then had further discussions concerning construction issues and topography issues, to which Mr. Richardson provided response. Chairman Oster inquired as to the weight of the structures, which Mr. Richardson generally calculated to be in excess of 45,000 lbs., and that the structures are rated to withstand winds of 110 miles per hour. The Planning Board discussed whether there was adequate information on the record to schedule a public hearing. Determining that adequate information is included in the record, the Planning Board scheduled a public hearing on this site plan application to the October 6 meeting to commence at 7:15 p.m.

One item of new business was discussed.

An application for waiver of subdivision has been submitted by ECM Land Development in conjunction with the Duncan Meadows Planned Development District project. Specifically,

the application seeks the subdivision of the recreation field area which the owner proposes to deed to the Town of Brunswick. This matter is placed on the October 6 agenda.

The index for the September 15, 2011 meeting is as follows:

1. Kennelly – minor subdivision – approved with conditions;
2. Snyder – site plan – clarification/amendment to site plan approval;
3. Wal-Mart Real Estate Business Trust – site plan – 10/6/11 (public hearing to commence at 7:00 p.m.);
4. New York Light Energy LLC – site plan – 10/6/11 (public hearing to commence at 7:15 p.m.);
5. ECM Land Development – waiver of subdivision – 10/6/11.

The proposed agenda for the October 6, 2011 meeting currently is as follows:

1. Wal-Mart Real Estate Business Trust – site plan – public hearing to commence at 7:00 p.m.;
2. New York Light Energy LLC – site plan – public hearing to commence at 7:15 p.m.;
3. ECM Land Development – waiver of subdivision.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD October 6, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER, GORDON CHRISTIAN, DAVID TARBOX and VINCE WETMILLER.

ABSENT was KEVIN MAINELLO.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board opened a public hearing concerning the site plan submitted by Wal-Mart Real Estate Business Trust in connection with the amendment to the Brunswick Square Planned Development District. The Notice of Public Hearing was read into the record, noting that the Public Hearing Notice was published in The Troy Record, placed on the Town Sign Board, placed on the Town website, and mailed to all property owners within 500' of the project site. Chairman Oster requested a brief presentation of the site plan by the Applicant. Adam Fishel, PE of APD Engineering gave a brief presentation of the proposed site plan, including building expansion, parking, delivery truck access, wetland enhancements, stormwater improvements, and reconstruction of McChesney Avenue, including culvert replacement. Mr. Fishel also reviewed options for the construction associated with the McChesney Avenue reconstruction, which may include closure of McChesney Avenue subject to approval of the Rensselaer County Highway Department and New York State Department of Transportation, or single lane closure on McChesney Avenue during reconstruction activities. Charles Jordan, architect for the project, also generally reviewed changes to the exterior of the Wal-Mart



building as well as signage. Chairman Oster noted that this is the second public hearing held by the Town of Brunswick concerning this project. The first public hearing was held by the Town Board regarding the proposed amendment to the Planned Development District, which was subsequently approved by the Town Board. This public hearing is being held by the Planning Board on the site plan submitted pursuant to the approved amendment to the Planned Development District. Paul Tooms asked the proposed start date for the reconstruction work as well as the duration of that reconstruction work. Mr. Fishel stated that Wal-Mart is proposing to go out to bid to contractors in March 2012 and that the project would take 12-14 months to complete. Margaret Malley, Riccardi Lane, asked how people would get in and out of Riccardi Lane during the construction project, and what impact this project would have on the creek that runs behind her property. Mr. Fishel stated that residents on Riccardi Lane would have access in and out onto McChesney Avenue during the construction project, and also stated that the project would not have an impact on the creek due to application of the stormwater regulations which require the post-construction flows from the project site to be no greater than pre-construction flows, and that the project includes stormwater improvements to the current culvert pipe located under McChesney Avenue. Hearing no further comments, Chairman Oster closed the public hearing on the site plan application by Wal-Mart Real Estate Business Trust.

The Planning Board then opened a public hearing on the site plan application submitted by New York Light Energy, LLC for the installation of solar facilities at the Sycaway Creamery property located at 42 Duncan Lane, including one building roof installation and two ground-level installations. The Notice of Public Hearing was read into the record, noting that the hearing notice was published in The Troy Record, placed on the sign board at Town Hall, placed on the Town website, and mailed to all adjacent property owners. Bill Heffernan and Mark Richardson

of New York Light Energy were present, as well as Frank Polumbo of CT Male. Mr. Heffernan presented a brief overview of the site plan, noting the type of solar panel installations and location. John Gulli, 47 Norfolk Street, stated that he was not opposed to the project in general, but was looking to see how the project would be screened from his property. Hearing no further public comments, Chairman Oster closed the public hearing on the site plan application submitted by New York Light Energy, LLC.

The Planning Board then opened its regular meeting.

The Planning Board reviewed the draft minutes of the September 15, 2011 meeting. Upon motion by Member Czornyj, seconded by Member Wetmiller, the minutes of the September 15, 2011 meeting were unanimously approved as drafted.

The first item of business on the agenda was the site plan application submitted by Wal-Mart Real Estate Business Trust regarding the amendment to the Brunswick Square Planned Development District. Chairman Oster noted that the comments received at the public hearing had been addressed by Wal-Mart, both with respect to traffic flow from Riccardi Lane during construction and impacts to the creek running behind lots on Riccardi Lane. Chairman Oster stated that he would like to review two issues, the delivery truck route as well as the McChesney Avenue reconstruction. Chairman Oster inquired whether Wal-Mart had received any approval from the Rensselaer County Highway Department or the New York State Department of Transportation regarding McChesney Avenue closure during the reconstruction period. Mr. Fishel stated that he had not received approval from either agency concerning closure of McChesney Avenue reconstruction, but that this issue would be worked out during the construction phase of the project. Further, Mr. Fishel stated that it would be appropriate to place a condition on any action by the Planning Board on this site plan requiring approval from both

Rensselaer County Highway Department and New York State Department of Transportation on closure issues associated with McChesney Avenue reconstruction. Chairman Oster inquired whether Rensselaer County Highway Department approved the McChesney Avenue reconstruction proposal by Wal-Mart. Mr. Fishel stated that he had submitted plans on the McChesney Avenue reconstruction to the Rensselaer County Highway Department, and that he had received back a letter from the County Highway Department in July which did not state that the County opposed the reconstruction proposal. Member Czornyj asked whether Wal-Mart had coordinated with the Brunswick No. 1 Fire Department on potential closure of McChesney Avenue. Again, Mr. Fishel stated that he had submitted plans directly to the Brunswick No. 1 Fire Department, and that the Fire Department had no comments. Member Czornyj stated that he would like to see something from the Brunswick No. 1 Fire Department on this issue. Mr. Kestner stated that he would contact the Chief of the Brunswick No. 1 Fire Department directly. Mr. Kestner also stated that closure of McChesney Avenue would need to be coordinated with the school district. Mr. Fishel stated that the McChesney Avenue reconstruction work would not commence until after the school year concluded in June, 2012. Mr. Kestner also asked whether Wal-Mart had received any response from the New York State Department of Transportation concerning the McChesney Avenue road closure, since road closure would require the installation of a temporary traffic signal at the eastern intersection of McChesney Avenue and New York State Route 7. Mr. Fishel stated that he had not received any objection from New York State Department of Transportation, but that a formal approval has not been obtained. Mr. Kestner also stated that Town water and sewer lines along McChesney Avenue need to be considered in conjunction with the proposed McChesney Avenue reconstruction, most particularly in terms of access for repair and maintenance after the reconstruction is completed.

Mr. Fishel stated that he had been working with Mr. Kestner's office, and that a further submittal would be made to Mr. Kestner's office shortly concerning a proposal for the water and sewer line access. Chairman Oster inquired whether the McChesney Avenue reconstruction was within the Planning Board's jurisdiction, or rather solely in the jurisdiction of the Rensselaer County Highway Department and the New York State Department of Transportation. Attorney Gilchrist stated that while the reconstruction activities within the public right-of-way are within the jurisdiction of the Rensselaer County Highway Department, and that the New York State Department of Transportation would need to address the road closure issue in terms of any temporary light on Route 7, approval by the Rensselaer County Highway Department of the McChesney Avenue reconstruction, culvert replacement, proposed outlet control structures and spillway location should be obtained, even on a preliminary or conceptual basis, since redesign of the McChesney Avenue reconstruction work could impact portions of the site plan off the public right-of-way. The Planning Board determined that preliminary or conceptual approval of the McChesney Avenue reconstruction project from the Rensselaer County Highway Department needs to be obtained before the Planning Board will act on the site plan, given the potential that the site plan may need to be modified if the County does not approve the current reconstruction proposal. Mr. Fishel and the Town will coordinate with the Rensselaer County Highway Department. Chairman Oster inquired about material storage and staging during the construction project at the Wal-Mart store. Mr. Fishel stated that this information will be detailed on the construction set of drawings. Mr. Kestner also stated that the construction activities were reviewed in a meeting he held with the project architect. Mr. Kreiger stated that he also attended the meeting with the project architect and that the construction activities over the 12-14 month period will be sequenced to allow the store to remain open during the reconstruction activity. The

Planning Board next discussed the truck route for delivery of merchandise. Mr. Fishel presented a map showing the truck route currently being used by Wal-Mart delivery trucks, which accesses the site from New York State Route 7 at the signalized intersection, and proceeds along the internal roadway bisecting the property between the parking area for Wal-Mart and the parking area for the Johnston Associates retail stores, turning left at the internal road adjacent to the storefront of the Johnston Associates retail stores, and proceeding to the rear of the Wal-Mart Store. Mr. Fishel explained that the delivery trucks are unable to navigate the left hand turn at the current Trustco Bank location in order to allow the trucks to proceed to the rear of the Johnston Associates retail stores. Wal-Mart is proposing to maintain the currently-used delivery truck routes. Chairman Oster stated that he felt the use of the internal roadway on the Brunswick Square Plaza site was acceptable, as long as the delivery trucks were not proceeding into the customer parking areas. Also, Chairman Oster noted that there were limited numbers of delivery trucks during the business day, and that many truck deliveries are made at night. Member Czornyj noted that two additional stop signs need to be installed at the internal road system which was required during the Johnston Associates site plan modification, and requested that Mr. Fishel contact Johnston Associates on that issue. Attorney Mary Elizabeth Slevin, attorney for Wal-Mart on this application, stated that she would contact the attorney for Johnston Associates on that issue. This matter has been placed on the October 20 agenda for further discussion.

The next item of business on the agenda was the site plan application submitted by New York Light Energy, LLC for the installation of solar facilities at the Sycaway Creamery property located at 42 Duncan Lane, including one building roof installation and two ground-level installations. Frank Polumbo of CT Male reviewed a visual assessment prepared for this action, showing three line-of-sight profiles from two vantage points. The visual assessment map is

identified as "Visual Assessment, Sycaway Creamery, New York Light Energy", prepared by CT Male Associates, Sheet VA-1, dated September 9, 2011. Mr. Polumbo reviewed the Visual Assessment, with particular attention to the view from Norfolk Avenue and the property of Mr. Gulli. Mr. Polumbo stated that screening could be added along the westerly property line of the subject parcel, and recommended that a line along the westerly property boundary of approximately 160' has been identified as an area to mitigate any visual impact. Mr. Polumbo stated that 80' of this 160' line would require the planting of vegetation, whereas the remaining 80' is already mitigated through existing contours. In terms of the planting of vegetation, Mr. Polumbo recommended something in the nature of a high hedge, such as arbor vitea, that would not get too high but would also provide a thick visual screening. Mr. Polumbo explained that while vegetative plantings may address visual screening, the project is seeking to install solar panels designed to collect as much solar energy as possible, and that any plantings must take into account the potential for shading or shadow on the area of the solar panel. Mr. Polumbo stated that in his opinion, planting of a hedge vegetation along an 80' stretch on the westerly property line as depicted on the visual assessment map, together with maintenance of existing contours on the remaining 80' of the identified 160' subject area, would adequately mitigate any visual impacts on properties along Norfolk Street. The Planning Board generally discussed the type of vegetation to be planted, considering impact from deer. Member Czornyj noted for the record that he appreciated the preparation on the issue of visual impact and screening, and that a final planting plan could be addressed between the Applicant and the Town in conjunction with Mr. Gulli. Chairman Oster also noted for the record that this property is agricultural, and in the event the property owner sought to construct a 75' pole barn he could do so without any site plan by the Planning Board, and that this proposal only proposes solar panel installation that would be

approximately 8.5' in height. Chairman Oster noted that while screening is an important issue, it must be taken into consideration with regard to this particular project site. Member Christian asked about the projected life of the solar panels. Mr. Hefferman stated that New York Light Energy has a 20 year contract with the property owner, that the warranty associated with the type of solar panel to be installed at this location is 25 years, and that in practice these panels last as long as 30 years in the field. The Planning Board asked whether these panels result in any light glare. Mr. Richardson stated that the panels are constructed with tempered, non-reflective glass, and that reflectivity defeats the purpose of collecting the solar energy. Member Esser then inquired as to the number of trees that should be planted along the hedgerow. Mr. Polumbo stated that he would recommend that hedges be planted 7' on center, for a total of approximately 12-14 plantings over the 80' area in question. Mr. Polumbo did state that an appropriate condition to any action on the site plan would be the approval of a final vegetative plan for the area in question. Mr. Kestner and the Planning Board then generally reviewed the Environmental Assessment Form, noting several corrections that needed to be made, including the soil type, whether the property was well drained, and depth to water table. Mr. Polumbo stated that the Environmental Assessment Form was prepared based on general reference material, and that the Environmental Assessment Form should be read in conjunction with the detailed geotechnical and soils report which had been prepared and submitted on the application. Mr. Polumbo stated that he had signed the Environmental Assessment Form, and stated on the record that the complete responses on those issues should include the information contained in the geotechnical and soils report. Mr. Kestner also noted that the Environmental Assessment Form indicated that the property was located in an agricultural district whereas the project site itself is not in an agricultural district but is within 500' of an agricultural district. Chairman Oster inquired if the

Planning Board had any further questions or comments on the application. Hearing none, Member Tarbox made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Wetmiller. The motion was unanimously approved, and a negative declaration adopted. Thereupon, Member Tarbox made a motion to approve the site plan application subject to the following conditions:

1. Submission of a revised/corrected Environmental Assessment Form based on the discussion at the Planning Board meeting on October 6, 2011 and inclusion of information in the geotechnical and soils report;
2. Submission of a vegetative planting plan for an 80' area as depicted on a visual assessment map titled "Visual Assessment, Sycaway Creamery, New York Light Energy", prepared by CT Male Associates, labeled as "VA-1", and dated September 9, 2011, for review and approval by the Town Consulting Engineer and the Town Building Department;
3. No grading of the remaining 80' area of a total 160' area depicted on the Visual Assessment Map identified as "Visual Assessment, Sycaway Creamery, New York Light Energy", prepared by CT Male Associates, labeled as "VA-1", and dated September 9, 2011, and that if the property owner seeks to grade that subject area in the future, the owner must return to the Planning Board for amendment to the site plan to address additional plantings for visual screening.

Member Wetmiller seconded the motion subject to the stated conditions. The motion was unanimously approved, and the site plan approved subject to the stated conditions.

The third item of business on the agenda was the waiver of subdivision application submitted by ECM Land Development for the recreation parcel on the Duncan Meadows Planned Development District project. Francis Bossolini, PE was present for the Applicant, and explained that the application sought approval to subdivide off the recreation parcel from the Duncan Meadows Planned Development District project for transfer to the Town of Brunswick. Mr. Bossolini generally reviewed the boundaries of the recreation area, which were established in coordination with the Town consulting engineer. Attorney Gilchrist stated that SEQRA had



been completed on this project as part of the Planned Development District review, and no further action under SEQRA on this waiver application is required. Member Czornyj made a motion to approve the waiver of subdivision application, which motion was seconded by Member Esser. The motion was unanimously approved, and the waiver of subdivision application approved for the purpose of establishing the recreation parcel on the Duncan Meadows Planned Development District for transfer to the Town of Brunswick.

Two items of new business were discussed.

The first item of new business discussed was a waiver of subdivision application submitted by Robert Duncan for property located at 481 McChesney Avenue Extension. The Applicant seeks to divide off a 1.26 acre parcel from an existing 5 acre parcel for the creation of a building lot. Chairman Oster confirmed that there had been no previous waivers of subdivision for this property within the last 7 years, and that all application fees had been paid. The proposed lot has approximately 55 feet of road frontage, but the map did not include any information concerning sight distance for a proposed driveway location, and also did not indicate any proposed well and septic location. Further, an agricultural data statement is required on this application. This matter has been placed on the October 20 agenda for further discussion.

The second item of new business discussed was a minor subdivision application submitted by Eric Willson for property located at 8 Creek Road (Tax Map No. 113-04-6-6-11). The owner of the property is the Neitzel Family Trust. The property is located at the intersection of Spring Avenue Extension and Creek Road. The property totals 40 acres, and a proposal has been submitted to divide the property into four lots. The resulting lots will include two lots that have existing buildings on them, and two lots for building purposes. This matter has been placed on the October 20 agenda for concept review.

Mr. Kestner updated the Planning Board on the Doubleday Estates major subdivision application, stating that a pump test has been scheduled to be conducted during the week of October 10.

The index for the October 6, 2011 meeting is as follows:

1. Wal-Mart Real Estate Business Trust – site plan – 10/20/11;
2. New York Light Energy LLC – site plan – approved with conditions;
3. ECM Land Development – waiver of subdivision – approved;
4. Robert Duncan – waiver of subdivision – 10/20/11;
5. Willson – minor subdivision – 10/20/11.

The proposed agenda for the October 20, 2011 meeting currently is as follows:

1. Wal-Mart Real Estate Business Trust – site plan;
2. Duncan – waiver of subdivision;
3. Willson – minor subdivision.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD October 20, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, KEVIN MAINELLO, GORDON CHRISTIAN, DAVID TARBOX and VINCE WETMILLER.

ABSENT was FRANK ESSER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board reviewed the draft minutes of the October 6, 2011 meeting. Upon motion by Member Czornyj, seconded by Member Tarbox, the minutes of the October 6, 2011 meeting were unanimously approved as drafted.

The first item of business on the agenda was the site plan application submitted by Wal-Mart Real Estate Business Trust regarding the amendment to the Brunswick Square Planned Development District. The Applicant was represented by Adam Fishel, PE of APD Engineering and attorney John Stockli. With respect to the roadway improvements to be made to McChesney Avenue, Mr. Fishel reported that a meeting had been held between the Rensselaer County Highway Department, Kestner Engineering, Brunswick Highway Department and the Brunswick Water and Sewer Department on October 18. As a result of that meeting, seven (7) conditions were recommended and drafted, including recommendations made by Kestner Engineering as the Planning Board's consulting engineers, with which the Applicant agreed to comply.

Chairman Oster asked whether Brunswick No. 1 Fire Department had any comments. Mark Kestner advised the Board that he had received an email from the Chief of Brunswick No.

1 on October 12, 2011, in which the Fire Chief advised: 1) that McChesney Avenue could be closed to the public, but that he wanted access to ½ the roadway as access for emergency vehicles; 2) sprinklers are to remain operational during demolition and construction; 3) hydrants with quick connect to be used in new construction; and 4) the distance between the hydrants and building must be such that the hydrants are outside the collapse zone. The comments of Brunswick No. 1 Fire Department were incorporated in the seven proposed conditions.

Each of the conditions proposed by the Planning Board, including those recommended by Kestner Engineering and Brunswick No. 1 Fire Department, were reviewed by Chairman Oster with the Applicant's representatives.

Member Czornyj commented to Mr. Fishel that he had seen Walmart trucks turning into the parking lot before the traffic lights. Mr. Fishel stated that he would raise this as an issue with Walmart. Member Czornyj then made a motion, which was seconded by Member Mainello, to approve the site plan application subject to the following conditions:

1. Compliance with all conditions set forth in Brunswick Town Board Resolution No. 63 of 2011, which are incorporated herein in full by reference, which approved the amendment to the Brunswick Square Planned Development District;
2. Comments of Kestner Engineering, Mark L. Kestner, P.E. Consulting Engineers, set forth in an email memorandum dated October 18, 2011;
3. All issues concerning improvements to McChesney Avenue, including road reconstruction, culvert replacement, and stormwater impoundment structure, must be resolved between the Applicant and Rensselaer County Highway Department, and copies of all approvals and/or work permits issued by the Rensselaer County Highway Department for such work items must be filed with the Town of Brunswick Building Department;
4. Comments of the Brunswick No. 1 Fire Department regarding the site plan, including emergency vehicle access, fire code compliance, and hydrant specifications;
5. This approval incorporates Condition No.1(l) set forth in Brunswick Town Board Resolution No. 63 of 2011, which requires that all delivery of all stock, including

commercial stock and grocery stock, and including all types of delivery vehicles, must continue to use the truck delivery route required pursuant to the original Brunswick Square Planned Development District approval. However, the Planning Board understands that the Applicant seeks to amend the truck delivery route to remove the requirement that all delivery trucks utilize the access way to the rear of the commercial buildings located on the Johnston Associates portion of the Brunswick Square site, and amend that truck delivery route to require all delivery vehicles to proceed along the internal road/driveway in the Brunswick Square parking area and which generally bisects the Wal-Mart parking spaces and the Brunswick Associate parking spaces, and thereafter proceeding left in an easterly direction on the internal road/driveway area directly in front of the Johnston Associates retail buildings, and then proceeding easterly to the rear of the Wal-Mart Store. In the event such an application is made by the Applicant to the Brunswick Town Board for amendment to the PDD approval concerning the truck delivery access route, the Brunswick Planning Board recommends that the Brunswick Town Board approve the amended delivery truck route as described in this paragraph, in that the Planning Board finds that this amended delivery truck route further shields delivery trucks from existing homes on McChesney Avenue, and also keeps trucks away from the parking space areas on both the Wal-Mart parking area and Johnston Associates parking area while utilizing only the internal road/driveway areas within the Brunswick Square parking lot;

6. The Applicant is required to complete all inspections and, if necessary, repairs regarding existing and proposed water line and sewer line infrastructure as may be required by the Town of Brunswick, and further the Applicant shall complete all necessary dedication processes for water and sewer infrastructure, including granting an easement to the Town of Brunswick for access to such water and sewer infrastructure;
7. The Applicant shall pay all consulting review fees incurred by the Town of Brunswick in connection with the review of the amendment to the Brunswick Square PDD application and subsequent site plan review. A final accounting for all such fees shall be made, and all such fees shall be paid by the Applicant within thirty (30) days of notification of such a final accounting.

The motion was unanimously approved, and the site plan application was approved, subject to the above-stated conditions.

The second item of business on the agenda was a waiver of subdivision application submitted by Robert Duncan for property located at 481 McChesney Avenue Extension. Robert Duncan was present for the Applicant. The Applicant seeks to divide off a 1.26 acre parcel from

an existing 5 acre parcel for the creation of a building lot. John Kreiger confirmed that all application fees had been paid. Chairman Oster reminded the Applicant that he would be responsible to pay any review fees that may be incurred in connection with the application.

The Applicant confirmed there is adequate frontage and the proposed driveway, septic system and well have been located on the revised plat. Additionally, Mark Danskin, P.E., affirmed on the plat there is adequate sight distance for the proposed driveway. Chairman Oster advised the Applicant that if the proposed driveway was 150' or more in length, the driveway had to be at least 16' wide and suggested that that condition be noted on the plat.

John Krieger noted that the agricultural data statement had not been received back from Applicant prior to the meeting and, accordingly, still had to be sent out.

Chairman Oster further noted that any approval of the application will necessarily be conditioned upon receipt of Rensselaer County Department of Health approval.

This matter has been placed on the November 3, 2011 agenda.

The third item of business on the agenda was a minor subdivision application submitted by Eric Willson for property located at 8 Creek Road (Tax Map No. 113-04-6-6-11). The owner of the property is the Neitzel Family Trust. The property is located at the intersection of Spring Avenue Extension and Creek Road. The property totals 40 acres, and a proposal has been submitted to divide the property into four lots. The resulting lots will include two lots that have existing buildings on them, and two lots for building purposes. The Applicant intends to retain title to lots 1 and 3.

Applicant intends to build on lot 4 and the plans are in the sketch phase. Sight distance for that lot appears sufficient, but the distances, especially with respect to lot 3, will be checked to ensure compliance with DOT standards. The wetlands on the property will remain

undisturbed. Chairman Oster noted that a driveway from lot 3 will be difficult due to the slope on Spring Avenue Extension. The Applicant stated its intention to access lot 3 from Sharpe Road. Member Czornyj advised that the driveway must have negative pitch at the entrance, and depending on the length of the driveway, the width may have to be minimally 16' wide.

The Applicant stated that North Country Ecological Services, Inc. has delineated the wetlands on the site, and that proposed lot 4 shows the required 100' buffer around the wetlands as required by DEC.

Chairman Oster noted that the location of the septic system for the neighboring lot has not been identified on the concept drawing and thought that it should be. It was further noted that Spring Avenue Ext. is still on well water, though there is a transmission line along Spring Avenue Ext. to provide water to Poestenkill, and a water district is to be created.

Chairman Oster stated that he sees no significant issues with the Applicant's concept, but wants to see more detailed plans. Mark Kestner confirmed that the sketch plan shows the required 10' topographic intervals. Chairman Oster also stated that the application would be the subject of a public hearing and that since the property is in an Agricultural District, that an Agricultural Data Statement would be sent out.

Mark Kestner requested that the Applicant fill out a long-form Environmental Assessment Form (EAF) in light of the significant wetlands on the property.

Finally, Chairman Oster noted that lot 4 is shown as being bisected by Spring Avenue Ext. and Creek Road. While Applicant states that the small portion on the opposite side of Spring Avenue Ext. is unbuildable, Chairman Oster stated that the whole of lot 4 must be under one deed.

This matter has been tentatively placed on the November 3, 2011 agenda, provided that the Applicant submits a full set of drawings.

There were no items of new business.

The index for the October 20, 2011 meeting is as follows:

1. Wal-Mart Real Estate Business Trust – site plan – 11/3/11;
2. Robert Duncan – waiver of subdivision – 11/3/11;
3. Willson – minor subdivision – 11/3/11.

The proposed agenda for the November 3, 2011 meeting currently is as follows:

1. Duncan – waiver of subdivision;
2. Willson – minor subdivision.



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

**MINUTES OF THE PLANNING BOARD MEETING HELD November 3, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER, KEVIN MAINELLO, GORDON CHRISTIAN, DAVID TARBOX and VINCE WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

Chairman Oster reviewed the agenda and noted that the first item of business, Duncan – Waiver of Subdivision, has been adjourned until the November 17, 2011 meeting.

The Planning Board reviewed the draft minutes of the October 20, 2011 meeting. It was noted that page 4 of the minutes should be amended to reflect that the Applicant, Eric Willson on behalf of the Neitzel Family Trust, intended to retain title to lots 3 and 4. Upon motion by Member Czornyj, seconded by Member Christian, the minutes of the October 20, 2011 meeting were unanimously approved as amended.

The first item of business on the agenda was the waiver of subdivision application submitted by Robert Duncan for property located at 481 McChesney Avenue Extension. The Applicant seeks to divide off a 1.26 acre parcel from an existing 5 acre parcel for the creation of a building lot. Chairman Oster noted that the matter has been adjourned until the November 17, 2011 planning board meeting to allow the Rensselaer County Economic Development and Planning Agency opportunity to respond to the Agricultural Data Statement.

-This matter has been placed on the November 17, 2011 agenda.

The second item of business on the agenda was a minor subdivision application submitted by Eric Willson for property located at 8 Creek Road (Tax Map No. 113-04-6-6-11). The owner of the property is the Neitzel Family Trust. The property, total of 40 acres, is located at the intersection of Spring Avenue Extension and Creek Road. The Applicant has submitted a revised subdivision map showing the property divided into three lots instead of four. The subdivision will result in two lots that will have the existing buildings on them and one building lot. The Applicant stated that the sight and stop distances have been calculated, that they are adequate and that said distances are noted on the subdivision map. The only new access point will be the proposed driveway onto Creek Road.

Chairman Oster advised the Applicant that if the current application is amended to subdivide the property into 3 lots and at some later point the Applicant decides to further subdivide the resultant lots, that the Applicant will have to come back before the Planning Board on a minor subdivision application. If the Applicant were to wait seven (7) years, the Applicant could, at that point, seek a waiver of subdivision. The Applicant indicated his understanding.

Chairman Oster noted that the Planning Board had received the Full EAF as prepared by the Applicant.

The issue was raised regarding the fact that the septic systems and wells for the existing houses are not compliant with current Rensselaer County Health Department regulations. Mr. Kestner stated that based on the map, it appears that the existing wells are 40' and 20' respectively from the septic systems. The Applicant stated that he thought the septic system for the older house on Creek Road and Spring Street was reconstructed by County as part of road reconstruction work done in 1990 or 1991. With respect to the existing house on the hill, the Applicant thought the septic system was developed sometime around 1961.

Chairman Oster explained the Board's difficulty in acting on the application without input from the Rensselaer County Department of Health. Attorney Coan then explained that the Applicant had two options: to go to the Rensselaer County Department of Health first to resolve the issues concerning the location of the septic systems vis-à-vis the wells, and then schedule a public hearing on the application; or a public hearing can be scheduled on the application, but that public hearing will be kept open until such time as the Rensselaer County Department of Health has commented on the situation and the public has a chance to consider and/or comment on the same. The Applicant stated that he would like the public hearing to be scheduled and to be kept open while the Rensselaer County Department of Health reviewed the issue.

Mr. Kestner stated he wants the issue of the septic system ironed out and noted that the site distance for the proposed driveway may be close. He suggested that the Applicant speak with the County Highway Department. In addition, Mr. Kestner would like a copy of the wetland delineation. He also noted that the driveway to lot 1 does not meet current driveway specifications, but that it was constructed approximately 50 years ago and could be deemed to be grandfathered. Member Czornyj does not think that much can be done about the existing driveway grade at this point.

Chairman Oster asked if the wetlands had been delineated for Army Corps of Engineers purposes. The Applicant responded that the wetlands had not been delineated according to Army Corps. criteria, but that the Applicant did not intend to disturb any wetlands. The Applicant acknowledged that North County Ecological Services did not walk the site with any representative of the NYS Department of Environmental Conservation or the Army Corps., nor does the Applicant have any letter from the Army Corps. stating the Corps. agrees with North County Ecological Services' delineation.

The Applicant was reminded that stamped drawings must be on file with the Town Clerk at least ten (10) days prior to the public hearing.

Chairman Oster then reviewed the EAF as submitted by the Applicant. He noted that with respect to item 14, the Applicant must answer whether any there will be any increase/decrease in the surface area of any existing water body as a result of the proposed project. The Applicant was advised to review the response to item 16 with regard to whether the house will generate any solid waste. With respect to item 18, it was suggested that the Applicant check "yes" with respect to the use of herbicides/pesticides in connection with residential lawn care. Item 22 needs to be answered, though the Applicant stated that he was not sure whether he would connect to the public water supply once available.

The matter was then scheduled for a public hearing on the application on November 17, 2011, at 7:00 p.m., with the understanding that the public hearing would be kept open until the Rensselaer County Department of Health commented on the existing wells and septic systems and that the Applicant file stamped plans with the Brunswick Town Clerk at least ten (10) days before the hearing. This matter has been tentatively placed on the November 17, 2011 agenda.

There were three items of new business.

The first of item of new business was a waiver of subdivision application submitted by Jane Spickler on behalf of owner, Anne Decatur, for property located at the intersection of Tamarac and Lockrow Roads. The property totals approximately 20 acres, and a proposal has been submitted to divide the property into two lots, consisting of a 17.98 acre lot with the existing house, and a 2.02 acre building lot.

The Applicant advised the Planning Board that the building lot will have adequate frontage on Tamarac Road, Lockrow Road and Curtis Lane.

Chairman Oster explained to the Applicant that in the event she wanted to subdivide the property into 3 lots (a lot with the existing house, and two building lots), the application would have to be made as a minor subdivision application, which would require a more extensive review. The Applicant indicated she would like to proceed with the waiver of subdivision application and try and sell the resulting building lot. She further indicated her understanding that in the event she could not sell the single building lot, that she would come back to the Board with a minor subdivision application to further divide the 2.02 acre parcel into two building lots.

The matter has been placed on the November 17, 2011 agenda.

The second item of new business was an application by Johnston Associates, LLC to amend Brunswick Square Plaza's existing site plan to add additional storage space at the rear of the plaza, adjacent to the existing utility room. The Applicant, represented by Paul Engster, indicated that the additional storage space would be approximately 20' x 10' x 12', with sheet metal siding and a peaked roof. The structure would not be attached to the existing utility room, would be on a slab, with electricity, but no heat. Member Mainello requested a sketch or photographs of the proposed structure.

Mr. Engster indicated that he would be checking with National Grid as to whether there is a required set back from the generator that is currently on site. In addition, the Applicant will submit an amended site plan focused on the area of the proposed storage shed.

Mr. Engster also advised that he will be installing additional stop signs in the Plaza parking lot, to control traffic approaching the Plaza stores, moving from Walmart to the Plaza stores, and traffic leaving Trustco and/or entering the lot from Route 7/Hoosick Street. Mr. Engster stated that the stops signs would not infringe on Walmart property.

This matter has been placed on the November 17, 2011 agenda.

The third item of new business was a solar application submitted by Brunswick Harley concerning the ground portion of the equipment. Mr. Kreiger indicated that part of the solar system has already been installed on the roof, but that site plan approval was not required because of the installation on the building. The ground portion of the equipment requires site plan approval. According to the application, the remaining solar equipment will be installed on a canopy mount. The Applicant still needs to submit survey drawings.

This matter was placed on the November 17, 2011 agenda.

The index for the November 3, 2011 meeting is as follows:

1. Robert Duncan – waiver of subdivision – 11/3/11;
2. Willson – minor subdivision – 11/17/11 (public hearing to commence at 7:00 p.m.);
3. Decatur – wavier of subdivision – 11/17/11;
4. Johnston Associates – amendment of site plan – 11/17/11; and
5. Brunswick Harley – site plan review of solar application – 11/17/11.

The proposed agenda for the November 17, 2011 meeting currently is as follows:

1. Willson – minor subdivision – public hearing (to commence at 7:00 p.m.);
2. Duncan – waiver of subdivision;
3. Decatur – waiver of subdivision;
4. Johnston Associates – amendment of site plan; and
5. Brunswick Harley – site plan review of solar application.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD November 17, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, FRANK ESSER, KEVIN MAINELLO, GORDON CHRISTIAN, DAVID TARBOX and VINCE WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board opened a public hearing concerning the minor subdivision application by Eric Willson for property located at 8 Creek Road (Tax Map No.: 113-04-6-6-11). Chairman Oster reviewed the public hearing guidelines. The Notice of Public Hearing was read into the record by Attorney Coan. Chairman Oster requested the Applicant present a brief overview of the project. The Applicant, by and through his consultant, generally reviewed the change in the site plan going from a proposed 4 lot subdivision to a 3 lot subdivision, 2 lots with existing residences and 1 proposed building lot. The Applicant's consultant explained that the Rensselaer Department of Health had been contacted about the 2 existing wells and septic systems and the proximity to each other, and that the Department of Health had sent a letter to, among others, the Town's consulting engineer.

Chairman Oster then requested any public comment. Jean Cody Hill, 242 Sharpe Road, expressed concern about water resources and stated that she was not part of a water district but has a well. Applicant's consultant explained that there is a well currently proposed for lot 3 and that the lots with the existing residences already have wells. The consultant further explained that

the Applicant will tie lot 2 into the public water supply once available. He further stated that the Applicant will determine whether there is sufficient area on lot 1 to install a new septic system in the event the current one fails in the future. If there is insufficient area to construct a new septic system, the Applicant will tie into the public water supply. Ms. Hill also expressed concern that at some point there would be additional development next to her. Chairman Oster explained that if and when the Applicant decided to develop the property beyond that described in the instant application, the Applicant would have to come back before the Planning Board for approval.

Next, Pat Smith, 55 Creek Road, stated that he lives across the street from the proposed driveway for lot 3. He was interested in reviewing the proposed layout and wanted to know if trees would be removed and/or whether any wetlands would be disturbed. Applicant's consultant stated that the applicant would not be disturbing any woods or wetlands and that proposed driveway would be approximately 130' off wetland boundary.

Mark Kestner then stated that he had received a letter from the Rensselaer County Department of Health dated November 9, 2011 with respect to lot 2, which contains conditions with which the Applicant agreed to comply. Specifically, the Applicant agreed to connect lot 2 to the public water supply. According to Mr. Kestner, because the well and septic on lot 1 are not currently in failure mode, the County Department of Health cannot require that the Applicant construct a new system at this time. Hearing no further comments, Chairman Oster closed the public hearing on the Willson minor subdivision application.

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

Chairman Oster reviewed the agenda.



The Planning Board reviewed the draft minutes of the November 3, 2011 meeting. Upon motion by Member Czornyj, seconded by Member Wetmiller, the minutes of the November 3, 2011 meeting were unanimously approved.

The first item of business on the agenda was the Willson 3 lot minor subdivision application for property located at 8 Creek Road (Tax Map No. 113-04-6-6-11). Chairman Oster reviewed the public comments received during the public hearing, which have all been addressed by the Applicant. Mr. Kreiger noted that the County had responded to the Agricultural Data Statement and advised that local conditions prevail.

Mr. Kestner stated that he had received the wetland report from the Applicant. While there was no letter from the New York State Department of Environmental Conservation or Army Corps of Engineers stating that the DEC and/or the Corps agree with the delineation, Mr. Kestner stated that the Applicant used methodologies approved by both the DEC and Army Corps for the delineation. Mr. Kestner further stated that Applicant will not impact any federal wetlands and that the plans show 100' buffer around the State wetlands.

Chairman Oster asked the Applicant if the EAF had been corrected, and Applicant stated that he had submitted an amended EAF with the corrections. Mr. Kestner asked if the project is in a 100 year flood plain; Applicant said it is not.

Chairman Oster asked whether there were any further questions or comments on 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 unanimously approved, and a SEQRA negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the Willson minor subdivision application subject to the following conditions:

1. Applicant must comply with the terms and conditions set forth in the Rensselaer County Health Department correspondence dated November 9, 2011;
2. Applicant must hook up lot 2 to the public water supply once available;
3. Given the presence of State and Federal wetlands on site, Applicant must comply with all State and Federal wetland regulations and that compliance must be confirmed at the time Applicant applies for a building permit; and
4. Applicant must obtain a driveway permit from the County Highway Department for driveway access to Creek Road.

Member Wetmiller seconded the motion subject to the stated conditions. The motion was unanimously approved, and the Willson minor subdivision application approved subject to the stated conditions.

The second item of business on the agenda was the waiver of subdivision application submitted by Robert Duncan for property located at 481 McChesney Avenue Extension to divide off a 1.26 acre parcel from a 5 acre parcel for a building lot. Mr. Kreiger advised the County had responded to the Agricultural Data Statement and advised local conditions prevail. The Applicant was not present and the matter was tentatively moved to agenda for the December 1, 2011 meeting.

The third of item of business was the Decatur waiver of subdivision application for property located at the intersection of Tamarac and Lockrow Roads. The property totals approximately 20 acres, and a proposal has been submitted to divide the property into two lots, consisting of a 17.98 acre lot with the existing house, and a 2.02 acre building lot. Chairman Oster asked if there were any changes to the application, and Applicant said no, there were not. The Applicant indicated there was still no final determination on where the proposed driveway would be located. The Town's Consulting Engineer recommended that driveway access be off of Lockrow Road. John Kreiger confirmed all fees had been paid. Hearing no other questions or

comments, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Wetmiller. The motion was unanimously approved, and a SEQRA negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the Decatur waiver of subdivision application subject to the following conditions:

1. Planning Board recommends driveway access for proposed lot be off Lockrow or Curtis Lane and the Applicant must obtain a driveway permit issued by the Town Highway Department for such driveway; and
2. Applicant must obtain Rensselaer County Health Department approval of well and septic system for newly created lot.

Member Wetmiller seconded the motion subject to the stated conditions. The motion was unanimously approved, and the Decatur waiver of subdivision application approved subject to the stated conditions.

The fourth item of business was an application by Johnston Associates, LLC to amend Brunswick Square Plaza's existing site plan to add additional storage space at the rear of the plaza, adjacent to the existing utility room. The Applicant, appearing by Paul Engster, stated that storage space could not be constructed in the location originally proposed given the presence of utility lines. The Applicant proposed an alternate location behind Trustco on the Hoosick Street side. The size of the storage structure will be approximately 30'. Member Czornyj asked about setbacks; and Mr. Engster thought the structure would be at least 30' from Hoosick Street and 10' from side lot lines.

Chairman Oster asked whether the structure will be seen from Hoosick Street. Mr. Engster did not think much of the building would be seen. The Board also asked what effect the structure would have on greenspace. Mr. Engster acknowledged there would be a reduction in

greenspace, but that it will not put him below 35%. He will confirm the greenspace if he moves forward.

Member Wetmiller asked if there were any utilities in the newly proposed location. Mr. Engster said no. Member Czornyj inquired about lighting on the structure, to which Mr. Engster replied there will likely be security lighting. The size of the proposed structure is 25' x 12'. Member Czornyj asked Mr. Engster to pin the 4 corners of the site.

On other matters, Mr. Engster reported that the stop signs to be installed at the Plaza have been ordered. Also, he has been approached by SEFCU with the possibility of installing a banking kiosk in the parking lot closest to Hoosick Street, which will eliminate some parking spaces. Member Wetmiller inquired about lighting and Mr. Engster said it would have to comply with New York State Banking laws. John Kreiger reminded him there had been an issue with Trustco's lighting. Mr. Engster said the proposed kiosk would be approximately car window height and 5' wide, similar to an ATM. Data and electricity would come in from underground. Mr. Engster stated he still needs to consider the proposal and does not want to interfere with Trustco ATM pattern. Chairman Oster would like additional detail on the proposal.

Mr. Engster will submit an actual site plan for the storage unit and requested to be placed on the December 15, 2011 agenda.

The fifth item of business was a solar power application submitted by Brunswick Harley concerning the ground portion of the equipment. The matter was adjourned until the December 1, 2011 meeting.

There was one item of old business.

New York Light Energy, LLC requested a lot line adjustment and amendment of site plan because the solar rays could not be installed on the slope as originally thought. To avoid a zoning

violation that would be created by the proper placement of the rays, New York Light will acquire land from the neighboring Duncan property and add it to the Creamery property to maintain the required setbacks. The Applicant stated that Duncan had already executed documents necessary to transfer property. Hearing no further discussion, Member Tarbox moved to approve the lot line adjustment, subject to condition that property acquired from Duncan be merged into the Creamery deed. Member Mainello seconded the motion subject to the stated condition. The motion was unanimously approved and the lot line adjustment subject to condition approved.

With respect to the amendment of the site plan, the rays will now be placed flat on the ground and may be moved if necessary. There will be no changes in grade/topography of site. Revised planting plans will be submitted to Planning Board. The Applicant did state that solar rays will be closer to the embankment so there should be no negative impact on view.

John Kreiger confirmed all application fees had been paid. Member Czornyj stated that he wants the Applicant to speak with the neighbor who had commented at the public hearing about the visual impacts. Mark Kestner and John Kreiger will go out with Applicant to address any negative visual impacts as a result of the change in placement of the rays.

Hearing no further discussion, Member Czornyj made a motion to approve the application to amend the site plan, subject to the condition that the Applicant meet with the neighbor, the Town's Consulting Engineer and Building Inspector, and agrees to make any modifications to the berm and plantings as may be required by the Consulting Engineer and Building Inspector to address any negative visual impacts. The motion, subject to the stated conditions, was seconded by Member Wetmiller. The motion was unanimously approved and the amendment of the site plan approved subject to the stated conditions.

There were two items of new business.

The first item of new business is a site plan application by Planet Fitness (David Leon), which proposes to open at the Rite Aid located at 660 Hoosick Street. Rite Aid is going out of business. The plan is to remodel the existing space. The Applicant will fund an escrow account before the next meeting and will submit a sketch plan for review. According to Mr. Kreiger, Planet Fitness would operate 24 hours per day Monday through Friday, and 7:00 a.m. to 7:00 p.m. Saturday and Sunday. Member Czornyj noted there will be a need for a traffic study and coordination with the Department of Transportation.

The second item of new business was that the Town Board has referred the application to amend the Duncan Meadows PDD to eliminate the age restricted housing requirement to the Planning Board for recommendation. This matter has been placed on the agenda for the December 1, 2011 meeting.

Finally, John Kreiger advised the Board that the Tractor Supply is open and that it will be extending the split rail fence down the side and will install a chain link fence at the base of the wall due to falling rocks. The fence will be 6' in height.

The index for the November 17, 2011 meeting is as follows:

1. Willson – minor subdivision – approved with conditions;
2. Decatur – waiver of subdivision – approved with conditions;
3. Johnston Associates – amendment of site plan – 12/15/11;
4. New York Light Energy, LLC – lot line adjustment and amendment of site plan – approved with conditions; and
5. Planet Fitness – site plan – 12/1/11.

The proposed agenda for the December 1, 2011 meeting currently is as follows:

1. Duncan – waiver of subdivision;

2. Brunswick Harley – site plan review of solar application;
3. Planet Fitness – site plan; and
4. Duncan Meadows PDD – recommendation requested on application to amend site plan review.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD December 1, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, KEVIN MAINELLO, GORDON CHRISTIAN, DAVID TARBOX and VINCE WETMILLER.

ABSENT was FRANK ESSER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board reviewed the draft minutes of the November 17, 2011 meeting. Upon motion of Member Wetmiller, seconded by Member Czornyj, the draft minutes of the November 17, 2011 meeting were unanimously approved.

The first item of business on the agenda was the waiver of subdivision application by Robert Duncan for property located at 481 McChesney Avenue Extension. Mr. Duncan was not present for the matter, and the Planning Board adjourned this matter until later in the meeting to provide an opportunity for Mr. Duncan to be present.

The next item of business on the agenda was the site plan application submitted by Monolith Solar Associates for the installation of a solar panel system at the Brunswick Harley Davidson facility on Route 7. Steven Erby of Monolith Solar Associates was present on the application. Mr. Erby explained that the proposed solar panel system is a carport-type system proposed to be located on the southwest corner of the project site. The carport-type system would allow motorcycles to park under the solar panel canopy, but also allow electric cars or motorcycles to plug in to the system as a charging station. Mr. Erby explained that the carport-



type system was not fully enclosed, and was not designed to be used for long-term storage. Chairman Oster confirmed that all application fees had been paid, and that an escrow account would need to be established for engineering review. Mr. Erby confirmed that the Applicant would file the necessary escrow for engineering review. Member Wetmiller inquired as to the size of the overall carport-type solar facility. Mr. Erby estimated that the full length of the solar facility would be approximately 100', that the panels are shatter proof and designed to withstand a hail storm with 50 mph winds. Mr. Erby confirmed that trailer and motorcycle parking was being proposed for beneath the carport-type system, but that long-term storage was not being proposed. Mr. Erby stated that the main function of the system would be for power generation, and that only a secondary function would be for short-term storage only. Mr. Erby stated that the systems were fully engineered and predesigned for installation. Mr. Erby stated that the ground surface is not proposed to be concrete, but would be crusher run only. Mr. Erby explained that the Brunswick Harley Davidson facility was moving more toward green power, that it had already undertaken a NYSERDA Energy Audit, had already changed out certain light fixtures, and were currently installing solar panels on the roof of the existing building. This carport-type facility would be an additional green energy power source for the Brunswick Harley Davidson facility. Mr. Kestner went through the dimensions of the carport-type facility, which appears to be approximately 19' deep and approximately 11'-12' high. Mr. Kestner inquired as to the protection of the structure from any cars hitting it, particularly since there is wiring associated with the structure. Mr. Erby stated that there is a brick protection system proposed for the base of the structure, and that the wiring is within the structural column, then installed underground to be connected to the building. Chairman Oster inquired as to whether there would be any grading proposed for this location. Mr. Erby stated that there would be very minimal grading for this

project, and that the location of the proposed carport-type solar facility is relatively flat at present. Member Czornyj stated that a site plan would need to be submitted showing the both current and proposed final grade for the project. Mr. Erby thought that the site plan with current and proposed topography had already been dropped off at the Town, and would confirm that the site plan with the topography is delivered to the Town immediately. Mr. Erby confirmed that the location of the proposed solar panel facility is significantly removed from the septic area for the Brunswick Harley Davidson property. Chairman Oster inquired regarding potential visual impact to neighboring properties. Mr. Erby responded that with respect to the neighbor on the same side of Route 7, there has already been discussion and that such neighbor does not have any objection, but rather would like solar panels installed on his house as well. Chairman Oster inquired as to the property owners on the opposite side of Route 7. Mr. Erby responded as to the beneficial visual impact of solar panels in general, but then also stated that given the layout of the Brunswick Harley Davidson site it would be difficult to see the solar panel facility from the opposite side of Route 7, and that it would look only like a carport. Member Wetmiller inquired whether this application should be forwarded to the Fire Company for review. The Board determined that the application should be forwarded to the Center Brunswick Fire Department for review and comment. Mr. Erby explained that Monolith Solar Associates does seminars and meeting through NYSERDA for fire companies, and is currently scheduled to meet with the Center Brunswick Fire Company in December. The Planning Board determined that this application was complete for purposes of scheduling a public hearing. The Planning Board has set a public hearing on this site plan application for December 15, 2011 at 7:00 p.m.

At this point, the Planning Board noted that Robert Duncan had arrived at the meeting for purposes of his application for waiver of subdivision. The Planning Board confirmed that an

Agricultural Data Statement had been submitted and served on the necessary property owners, and that no comments had been received. Chairman Oster inquired whether there were any further questions or comments from the Planning Board. Hearing none, Member Czornyj made a motion to adopt a negative declaration 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 of subdivision application subject to Rensselaer County Health Department approval for water and septic, and also subject to Rensselaer County Highway Department driveway permit. Member Christian seconded the motion subject to the stated conditions. The motion was unanimously approved, and the Duncan waiver of subdivision application approved subject to the stated conditions.

The next item of business on the agenda was the concept site plan application by Planet Fitness for operation of a Planet Fitness facility at 660 Hoosick Street, which was the site of the former Rite Aid Pharmacy. Walter Kubow, P.E. of Chazen Engineering appeared for the Applicant. Mr. Kubow presented the sketch site plan for conceptual review. Mr. Kubow reviewed the proposed site, which will include several parcels in addition to the former Rite Aid parcel itself, and will total approximately 3.2 acres. Mr. Kubow explained that the proposed owner of this Planet Fitness location, David Leon, was currently under contract to purchase several parcels including the former Rite Aid parcel to include within the site plan for the proposed Planet Fitness. Mr. Kubow explained that there was no proposed physical alteration to the former Rite Aid building, but there would simply be interior renovations and new signage. Mr. Kubow did explain that the proposal would include approximately 1,500 square feet of additional asphalt, adding 2 additional rows of parking. Mr. Kubow explained that the access proposed for the Planet Fitness will stay as currently designed, with no changes proposed. Mr.

Kubow explained that there was an overhead utility on the Rite Aid site, and that the Applicant was in discussions with National Grid to put that overhead utility underground. The location of the underground utility is the same location for proposed additional parking. Mr. Kubow confirmed that the Applicant will need to do a survey and will need to assess stormwater impacts. The Planning Board generally discussed stormwater runoff from this site, including the parcel directly adjacent to Hillcrest Avenue and discharge to the Duncan Farm property on the opposite side of Route 7. The Planning Board stated that the project should be designed to shed as much stormwater as possible to the rear of the parcel. Mr. Kubow confirmed that the acquisition of additional parcels would serve as additional greenspace, and that the Applicant would have an accurate greenspace percentage after the survey is completed. Member Mainello asked specifically about the increase in parking spaces. Mr. Kubow stated that there were 60 existing parking spaces, and that the site plan would propose an additional 73 parking spaces, for a total of 133 parking spaces on the site. Chairman Oster then inquired as to the anticipated total number of people using the Planet Fitness facility at any one time. Mr. Kubow stated that this would be dependent on the fire code building rating, but did confirm that the Applicant was proposing more parking spaces than were minimally required under the Town Code. The Planning Board confirmed that this site plan would likewise need to be reviewed by the Fire Company. Mr. Kubow did note that the B-15 zoning only covered a portion of the project site to a certain distance from Route 7, and that the balance of the site is in a residential zoning district. However, Mr. Kreiger did note that the existing Rite Aid building was partially located in the residential district, beyond the B-15 zoning district line. That issue will need to be further reviewed by the Building Department. Member Wetmiller inquired whether there would be any issue regarding sewage capacity when a building is converted from a drug store to a fitness

center, which will include a locker room and showers. Mr. Kubow stated that he will need to calculate the full water usage figures in connection with the site plan. The Planning Board inquired as to the proposed hours of operation. Mr. Kubow stated that it is his understanding that the Planet Fitness facility would be open 24 hours a day from Monday through Friday, and then 7:00 a.m. to 7:00 p.m. on Saturday and Sunday. The Planning Board noted that this would raise an issue concerning lights in the parking lot, and that the Applicant should be prepared to address that issue. This matter has tentatively been placed on the Planning Board agenda for its January 5, 2012 meeting.

The next item of business on the agenda was the Duncan Meadows Planned Development District proposed amendment, which had been referred to the Planning Board by the Brunswick Town Board for recommendation. Andrew Brick, Esq. was present on behalf of the Applicant. Mr. Brick generally described the proposed amendment, which is to remove the age restriction from the 50 apartment units approved for the project. Mr. Brick explained that the requested amendment was driven primarily by economic issues, in that financing has been very difficult to secure. Mr. Brick stated that the Applicant still feels that apartments will be rented by seniors, but that the age restriction is proposed to be removed. Mr. Brick handed up to the Planning Board several articles from other areas in the northeastern portion of the country where owners were seeking to remove age restrictions due to current economic conditions. Mr. Brick did explain to the Planning Board that additional information concerning traffic, school impacts, and water and sewer had been prepared and reviewed by the Town Board and consulting engineer. Chairman Oster noted for the record that the Town Board should consider that the total number of apartments both constructed and approved for construction in the Town has increased recently, including the Glen project at Sugar Hill as well as the expansion of the Brunswick

Woods Apartments, and that this project proposes an additional 50 apartments without any age restriction. As the Town is currently proceeding through an update to the comprehensive plan, Chairman Oster thought that this should be an issue to be considered by the Town Board in connection with this request to amend the Duncan Meadows PDD. Chairman Oster noted that this was not a negative observation for this project in particular, but an overall observation that the Town Board should consider. Mr. Brick did note that the Applicant would still need to appear before the Planning Board for site plan review for the proposed apartments portion of the Duncan Meadows PDD project, and that all issues concerning building location, elevations, parking, sidewalks and similar issues would need to be addressed during the site plan review. Mr. Brick did state that based upon the Applicant's assessment, and based upon data obtained from the Capital District Regional Planning Commission, a total number of 9 additional students could be generated for the Brittonkill School District as a result of the elimination of the age restriction for the apartments, but that utilizing other metrics used for projected student generation from other locations, the number of projected students could be as low as 3-4. Member Tarbox inquired whether there would be any changes in the total number of parking space requirements. Mr. Brick stated that there would not be any proposed additional parking, since 2 parking spaces per apartment unit had been proposed even in connection with the senior apartments, and that this meets Town Code requirements. Mr. Kestner confirmed that his office had reviewed the proposed increase in water and sewer use, and that adequate water supply and sewage capacity was available. The Planning Board then generally discussed the elimination of the age restriction, and its impact on the overall project, and generally concluded that this did not amount to a significant impact on the existing approval. The Planning Board directed Attorney Gilchrist to draft a recommendation for review at the December 15 meeting.

The index for the December 1, 2011 meeting is as follows:

1. Duncan – waiver of subdivision – approved with conditions;
2. Monolith Solar Associates – site plan (Brunswick Harley Davidson) – 12/15/11 (public hearing at 7:00 p.m.);
3. Planet Fitness – site plan – 1/5/12 (tentative);
4. Duncan Meadows Planned Development District amendment – recommendation (12/15/11).

The proposed agenda for the December 15, 2011 meeting currently is as follows:

1. Monolith Solar Associates – site plan (Brunswick Harley Davidson) (public hearing to commence at 7:00 p.m.);
2. Duncan Meadows Planned Development District amendment – recommendation;
3. Johnston Associates – amendment to site plan;
4. Wal-Mart Real Estate Business Trust – amendment to site plan.

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

**MINUTES OF THE PLANNING BOARD MEETING HELD December 15, 2011**

PRESENT were CHAIRMAN RUSSELL OSTER, MICHAEL CZORNYJ, KEVIN MAINELLO, GORDON CHRISTIAN, FRANK ESSER and VINCE WETMILLER.

ABSENT was DAVID TARBOX.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer, and MARK KESTNER, Consulting Engineer to the Planning Board.

Chairman Oster reviewed the tentative agenda for the meeting, noting that the public hearing on the site plan application submitted by Monolith Solar Associates is cancelled and will be renoticed for the January 5, 2012 Planning Board meeting commencing at 7:00 p.m.

The draft minutes of the December 1, 2011 meeting were reviewed. Page 2 at line 7 was corrected, replacing "a hail storm with 50 mph winds" with "a 50 mph golf ball rated hail". With the stated correction, a motion was made by Member Czornyj to approve the December 1 minutes as corrected, which motion was seconded by Member Wetmiller. The motion was approved 6/0, and the minutes of the December 1 meeting were approved as corrected.

The first item of business on the agenda was the site plan application submitted by Monolith Solar Associates for the installation of a carport-type solar panel system to be located on the southwest corner of the Brunswick Harley Davidson facility located on Route 7. Steven Erby of Monolith Solar Associates was present on the application. Mr. Erby stated that the error in the public hearing notification was not the fault of Monolith, and requested the right to start the project by grading and installing footings in order to meet project timeframes. Attorney



Gilchrist advised the Planning Board that such a request was properly addressed to the Town Building Department, and was not an issue that should be addressed by the Planning Board. Attorney Gilchrist did note that there is a site plan application pending for the proposed work, and that the Town Building Department needs to consider the pendency of the site plan application with respect to any request for grading permits and/or building permits, and if necessary seek the advice of the Town Attorney. Member Esser raised a question regarding the components of the structure of the solar panel system, and questioned what would happen if the structure were hit by a car or other vehicles. Mr. Erby generally discussed the solar panel structure, and emphasized the fact that the system was pre-engineered, and the plans already bore the stamp of a licensed professional engineer. There was extended discussion regarding the structure supporting the solar panels. The Planning Board confirmed that the public hearing on this application was rescheduled and now set for January 5, 2012 commencing at 7:00 p.m.

The next item of business on the agenda was the Duncan Meadows Planned Development District amendment, upon referral for recommendation by the Brunswick Town Board. Following presentation of the proposed amendment by the Applicant and deliberation by the Planning Board at its December 1 meeting, the Planning Board directed Attorney Gilchrist to prepare a draft recommendation based on that deliberation. Attorney Gilchrist had prepared a draft recommendation and had distributed that draft recommendation to each Planning Board member prior to the December 15 meeting. The Planning Board then generally reviewed the contents of the draft recommendation, which does provide a positive recommendation to the Town Board on the proposed Duncan Meadows PDD amendment. Following review of the draft recommendation, the recommendation was offered by Member Czornyj and seconded by Member Christian. Following a roll call vote, the Duncan Meadows PDD amendment

recommendation was approved by a vote of 6/0 (Tarbox absent). The Planning Board directed that this final recommendation be transmitted to the Brunswick Town Board in connection with the PDD amendment application.

The next item of business on the agenda was the application to amend the site plan for the Brunswick Square Plaza submitted by Johnston Associates. The Applicant seeks to amend the existing site plan to add a storage shed at the rear of the existing commercial structure. There was no one present on behalf of Johnston Associates, and the matter was adjourned.

The next item of business on the agenda was the application by Wal-Mart Real Estate Business Trust to amend the site plan in connection with the Wal-Mart expansion at the Brunswick Square Plaza. Mary Beth Slevin, Esq., Adam Fishel, P.E. of APD Engineering, and representatives of MPW Engineering, fire protection consultants were present for the Applicant. Mr. Fishel explained that the Applicant was proposing to add a water storage tank for fire protection and to relocate the fire protection pump house on the northeast rear corner of the store building. Mr. Fishel explained that the proposed water storage tank has dimensions of 20' in diameter and 25' tall, with a capacity of 71,000± gallons. Mr. Fishel explained that the pump house was to be relocated from its existing position to the rear of the Wal-Mart store and to be relocated next to the proposed water storage tank. Mr. Fishel explained that the building foot print would be modified slightly, but that the total square footage of the store remained the same. Member Esser raised a question regarding a comment letter received from the Brunswick Fire Company No. 1 dated December 15, 2011 regarding the Wal-Mart expansion project. Mr. Fishel explained that he had only recently seen the comment letter dated December 15, 2011 from the Brunswick No. 1 Fire Department, and that the Applicant would be prepared to put a response together to those comments if necessary. Mr. Fishel also raised the point that certain of the

comments in the 12/15/11 comment letter from the Brunswick No. 1 Fire Department addressed issues that were previously reviewed in the site plan approved by the Planning Board on October 20, 2011. Attorney Gilchrist stated that the PDD amendment approved by the Brunswick Town Board pursuant to Resolution No. 63 of 2011, which was incorporated in full in the Planning Board's site plan approval of October 20, 2011, required all issues concerning emergency vehicle access and fire code compliance to be coordinated with the Brunswick No. 1 Fire Company, Town of Brunswick Planning Board, and Town consulting engineer as part of the site plan review, and that further under the site plan approval granted by the Planning Board on October 20, 2011, such approval was conditioned on comments of the Brunswick No. 1 Fire Department regarding emergency vehicle access, fire code compliance and hydrant specifications. Accordingly, Attorney Gilchrist stated that the site plan approval granted by the Planning Board on October 20, 2011 required the coordination between the Brunswick No. 1 Fire Department, Town Building Department, Town consulting engineer, and the Applicant on resolving all issues associated with emergency vehicle access, fire code compliance, and hydrant specifications, and any comments on the 12/15/11 comment memorandum from the Brunswick No. 1 Fire Department addressing the site plan approved by the Planning Board on October 20, 2011 did not require any further discussion by the Planning Board but rather required resolution between the Brunswick No. 1 Fire Department, Town Building Department, Town consulting engineer, and the Applicant prior to the issuance of any work permits. Further, Attorney Gilchrist stated that with respect to issues raised in the 12/15/11 Brunswick No. 1 Fire Department memorandum addressing the current site plan requesting approval for the installation of the water storage tank, such issues need to be resolved in the context of the current site plan review by the Planning Board. Mr. Kestner raised certain questions regarding the structure of

the proposed water storage tank, and the fact that it was to be painted to match the color scheme of the adjacent building. Mr. Fishel and the representatives of MPW Engineering confirmed that the water storage tank was aluminum and that the appropriate paint application would be made for the tank type and that it would be painted to match the color scheme of the adjacent building. Mr. Fishel showed a rendering of the proposed tank installation and relocated pump house, which also shows a ladder and safety railing at the top of the tank, and bollards installed to provide safety around the base of the tank. The Planning Board generally discussed the height of the water storage tank in relation to the height of the building. Chairman Oster stated that in his opinion, the tank installation was being proposed for purposes of public safety, and necessary for appropriate fire flow and fire protection in connection with the store expansion, and further that this proposal did not significantly change the footprint of the building or change the total square footage of the building from the approved site plan, and concluded that in his opinion this did not present a significant change to the approved site plan and would not require an additional public hearing. Member Czornyj concurred that the tank was being installed as a safety feature, and Member Wetmiller also confirmed that the basic building footprint and size would not be changing. The Planning Board generally concurred that this did not result in a significant modification to the approved site plan, and concurred that a public hearing on the application is not required. Member Czornyj did ask why the tank was being proposed at this time. Mr. Fishel stated that the Applicant was completing a fire flow test at the time of the site plan approval in October of 2011, and that since this was an existing building it had not been anticipated that there would be a fire flow issue, but it was ultimately determined that additional pressure for the building expansion would be required. The Planning Board generally discussed the Tibbitts Avenue water tank as well as the Town of Brunswick water tank, and whether changing the

origin of the flow to the Brunswick water storage tank would still require the installation of the proposed water storage tank. Mr. Fishel stated that the Applicant had looked at these various alternatives, and determined that the addition of this water storage tank was the preferred option. Member Mainello wanted to make sure that the ladder installed on the water tank would be safe and not subject to vandalism or raise a safety concern regarding people getting on top of the water tank. Mr. Kestner stated that there are ways to secure the ladder or place its height on the water tank so that it was not easily accessible by kids, and that the issue was primarily addressed by OSHA. Member Mainello also inquired about the distance between the water storage tank and the building. Mr. Fishel stated that the tank was located to meet all required collapsed distances to keep the building structure safe. Chairman Oster inquired whether the tank had any external valves so that a fire department could use the tank for water if necessary. The representative of MPW Engineering stated that the tank was for Wal-Mart building purposes only, and that there were no external valves or fittings. The Planning Board also generally discussed the circulation of the water in the storage tank through the sprinkler system, and whether the water was tested or flushed. The representative of MPW Engineering stated that the system was tested on an annual basis, but that the water in the tank was not flushed or otherwise tested. The Planning Board inquired whether this action was subject to SEQRA. Attorney Gilchrist stated that the proposal to add a water storage tank was not part of the prior PDD amendment action which had been subject to full SEQRA review, and therefore the Planning Board should make a determination of environmental significance under SEQRA concerning the addition of the water storage tank and relocation of the pump house. It was noted that a short Environmental Assessment Form is submitted on the application. Upon review and deliberation, the Planning Board moved forward to make a determination of environmental significance under

SEORA. Upon motion of Member Wetmiller, seconded by Member Esser, a negative declaration was adopted by a 6/0 vote. Next, Member Mainello raised an issue which had been previously discussed by Mr. Kestner, concerning the Brunswick No. 1 Fire Department's memorandum recommending that 3 fire hydrants on the Wal-Mart site be replaced with new hydrants in connection with the building expansion. Member Mainello thought that the comment was a good idea, because the new hydrant could be put in place and tapped into the water system while the existing hydrant was still in place, which would insure that the site was not without hydrant fire protection at any time. Member Wetmiller than said since there were 3 hydrants on site, the installation of one new hydrant would then allow an older hydrant to be relocated and tapped into the system at the second hydrant location, and similarly the same approach with the third hydrant location, so that the necessity of only having one new hydrant installed would allow the plaza never to be out of hydrant protection services, which would minimize any exposure. Mr. Fishel stated that the Applicant was willing to entertain all of these issues during its discussion with the Town Building Department, Town consulting engineer, and Brunswick No. 1 Fire Department and resolve these issues prior to the construction project. Chairman Oster inquired whether there were any further questions or comments regarding the installation of a proposed water tank and the relocation of a pump house. Hearing none, Member Czornyj made a motion to approve this application to amend the site plan and allow the installation of the water storage tank and relocation of the existing pump house upon the following conditions:

1. Resolution of issues raised by the Brunswick No. 1 Fire Department in its memorandum dated December 15, 2011 through discussion with the Town Building Department, Town consulting engineer, Brunswick No. 1 Fire Department, and the Applicant prior to the issuance of any building permits for the project;

2. The water storage tank must be painted in the same color scheme as the adjacent Wal-Mart building at all times;
3. No antenna or other equipment may be installed on the water storage tank without further Town of Brunswick review; and
4. The ladder to be installed on the water storage tank should meet all OSHA requirements but also minimize risk of vandalism and safety concerns.

Member Wetmiller seconded the motion subject to the stated conditions. The motion was approved 6/0 and the amendment to the Wal-Mart Real Estate Business Trust site plan was approved, subject to the stated conditions.

Prior to leaving the meeting, the representatives of Wal-Mart Real Estate Business Trust noted that it had applied to the Brunswick Town Board to further amend the Planned Development District to allow the alternative truck delivery route on the internal parking area to the Brunswick Square Plaza, as discussed during the Planning Board's site plan review. Attorney Slevin noted that the shed being proposed by Johnston Associates is located to the rear of the existing Johnston Associates commercial units, and wanted to make sure that it was located in such a way as to not impede delivery trucks in the event the modified internal truck delivery route was not approved by the Brunswick Town Board. It was confirmed that the proposed location of the storage shed was not in the travel lane. The Planning Board confirmed that Mr. Fishel would be provided with a copy of the site plan submitted by Johnston Associates for the addition of the storage shed once the same has been received by the Planning Board.

The Planning Board then generally discussed the Monolith Solar Associates site plan application which had been on the agenda previously, and specifically the issue of safety of the structure in the event it was hit by a car or other vehicle. It appeared to the Planning Board members that while the engineering plans had been stamped by a licensed professional engineer,

they may be designed to take the structural load of the solar panels themselves, but it was unclear whether they were also designed to withstand the impact of a vehicle. The Planning Board generally discussed the proposed use of the carport-type facility for vehicle or equipment short term storage, which raises the concern about impact of vehicles or the movement of equipment impacting the structure supporting the solar panels. This issue will be discussed at the January 5, 2012 meeting, with one option considered by the Planning Board to be the requirement to install bollards around the base of the structural elements supporting the solar panel array.

The index for the December 15, 2011 meeting is as follows:

1. Monolith Solar Associates – site plan – 1/5/12 (public hearing at 7:00 p.m.);
2. ECM Land Development, LLC – Duncan Meadows Planned Development District amendment – recommendation;
3. Johnston Associates – site plan – 1/5/12 (tentative);
4. Wal-Mart Real Estate Business Trust – amendment to site plan – approved subject to conditions.

The proposed agenda for the January 5, 2012 meeting currently is as follows:

1. Monolith Solar Associates – site plan (public hearing to commence at 7:00 p.m.);
2. Johnston Associates – amendment to site plan;
3. Planet Fitness – site plan (tentative).



**TOWN OF BRUNSWICK  
PLANNING BOARD  
REGULAR MEETING**

December 15, 2011

**RESOLUTION ADOPTING A RECOMMENDATION  
ON THE PROPOSED AMENDMENT TO THE  
DUNCAN MEADOWS PLANNED DEVELOPMENT DISTRICT**

**WHEREAS**, the Town Board of the Town of Brunswick ("Town Board"), received an application by ECM Land Development, LLC ("Applicant") for a Planned Development District ("PDD") seeking approval for a mixed use residential project consisting of 78 townhomes, 88 condominium units, and 50 senior citizen apartment units, located on approximately 91 acres of land bounded by McChesney Avenue and McChesney Avenue Extension; and

**WHEREAS**, the Brunswick Town Board referred the Duncan Meadows PDD application to the Planning Board of the Town of Brunswick ("Planning Board") for its review and recommendation; and

**WHEREAS**, the Planning Board adopted a recommendation on the Duncan Meadows PDD application at its meeting held May 6, 2010, and forwarded that recommendation to the Brunswick Town Board for consideration; and

**WHEREAS**, the Brunswick Town Board approved the Duncan Meadows PDD pursuant to Resolution No. 62 of 2010, duly adopted on August 12, 2010; and

**WHEREAS**, the Duncan Meadows PDD approval included 50 rental units intended for senior citizen use, which were intended to carry a minimum age requirement; and

**WHEREAS**, the Applicant has now submitted an application to the Brunswick Town Board to amend the Duncan Meadows PDD to eliminate the age restriction associated with the 50 apartment units; and

**WHEREAS**, the Brunswick Town Board has referred this proposed amendment to the Duncan Meadows PDD to the Planning Board for review and recommendation; and

**WHEREAS**, the Applicant appeared before the Brunswick Planning Board to review the proposed amendment to the Duncan Meadows PDD with the Planning Board members; and

**WHEREAS**, the Planning Board members discussed the proposed amendment to the Duncan Meadows PDD at its meeting held December 1, 2011, 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 generally finds that this proposed amendment to the Duncan Meadows PDD will not result in any significant impacts which were not adequately analyzed and considered in the prior project review, and while the proposed elimination of the age restriction on the apartment units may result in changes to potential traffic counts, school-age children, and public water and public sewer requirements, the Planning Board finds that these changes are not significant, and therefore recommends that the Brunswick Town Board approve the proposed amendment to the Duncan Meadows PDD to eliminate the age restriction on the 50 rental units.
2. However, having made such recommendation, the Brunswick Planning Board also suggests that the Brunswick Town Board consider the total number of apartment units in the Town of Brunswick, both existing and approved for construction, with particular regard to the number of apartment units recently approved for construction in the Town. This includes the additional apartments approved in the Sugar Hill Apartment Complex (the "Glen"), as well as the additional apartments approved for Brunswick Woods. The Duncan Meadows PDD apartments would add an additional 50 apartment units without any age restriction. While the Planning Board does not make this general comment as a negative observation for this particular project, it is a general comment which the Planning Board considers appropriate for consideration by the Brunswick Town Board.
3. The apartment units of the Duncan Meadows PDD have not received site plan approval by the Planning Board, and the Applicant will be required to submit an application for site plan review for such apartment units.

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

<b>PLANNING BOARD CHAIRMAN OSTER</b>	<b>VOTING</b> <u>Yes</u>
<b>MEMBER CZORNYJ</b>	<b>VOTING</b> <u>Yes</u>
<b>MEMBER ESSER</b>	<b>VOTING</b> <u>Yes</u>
<b>MEMBER CHRISTIAN</b>	<b>VOTING</b> <u>Yes</u>
<b>MEMBER TARBOX</b>	<b>VOTING</b> <u>Absent</u>
<b>MEMBER WETMILLER</b>	<b>VOTING</b> <u>Yes</u>
<b>MEMBER MAINELLO</b>	<b>VOTING</b> <u>Yes</u>

The foregoing Resolution was thereupon declared duly adopted.

December 15, 2011