

TOWN OF PATTERSON
PLANNING BOARD MEETING
January 6, 2005

AGENDA & MINUTES

	Page #	
1) Carroll Property Wetlands Watercourse Permit – Public Hearing	1 - 2	Public hearing held & closed Board granted a conditional approval
2) Paddock View Estates –Public Hearing	3 -	Public hearing held & closed
3) Budakowski Subdivision – Public Hearing	8 – 12	Public hearing held not closed Legal issues discussed with regards to road
4) New England Equine Center Site Plan	13 – 14	Granted Conditional Final Site Plan approval
5) Poppy’s Place Site Plan	14 – 20	Discussion on site plan issues, wetlands & cleaning up site
6) Parker Subdivision – Bond Reduction	20 – 21	Recommendation to Town Board to reduce the bond amount to \$5,500.00
7) Telecom Site Plan	21 – 27	Waived requirement of USGS Datum on plan Discussion of wetlands & ACOE determination, driveway surface
8) D’Ottavio Site Plan	27	Applicant Engineer & Town Engineer to meet & go over outstanding issues
9) Action Autobody Site Plan	27 – 28	Discussion on size of buildings, Special Use Permit
10) Mushkolaj Site Plan	28 – 32	Discussion on expanding the building & storage trailers, wetlands note on the plan
11) South Patterson Business Park	32 – 34	Issued a Negative SEQRA Determination, un-coordinated review Public Hearing scheduled for 2/3/05 Wetland line discussion
12) Triple J Wetlands Watercourse Permit	34	Discussed later in meeting
13) Burdick Farms Subdivision	34	Acknowledged the receipt of the FEIS
14) Patterson Crossing Site Plan	34 – 37	Positive SEQRA determination Public Hearing for Scoping Session scheduled for 1/30/05, written comments until 2/21/05
15) Fox Run Phase II Site Plan	37 – 41	Review of concept plan Legal issues discussion
16) Yonkers Avenue Site Plan	41 – 44	Review of site plan Discussion on parking & uses of site

- | | | |
|---|---------|---|
| 17) Moretti Subdivision | 44 – 46 | Initial review of plan
Road frontage discussion
Declared a minor subdivision
Site walk to be scheduled |
| 18) Triple J Wetlands Watercourse Permit | 46 – 48 | Discussion on changes to the ponds per DEP |
| 19) Minutes | 49 | No minutes approved |
| 20) Other Business | 49 – 50 | Bear Hill staked for site walk |

Planning Board
January 6, 2005 Meeting Minutes

Held at the Patterson Town Hall
1142 Route 311
Patterson, NY 12563

Present were: Chairman Schech and Board Member Mike Montesano, Board Member Dave Pierro, Board Member Maria Di Salvo, Rich Williams, Town Planner, and Gene Richards, Representative from Town Engineer's Office, Anthony Molé, Town Attorney and Ted Kozlowski, Town ECI.

Meeting called to order at 7:30 p.m.

There were approximately 34 audience members.

Rich Williams, Town Planner took the seat of the Secretary in her absence.

1) CARROLL PROPERTY WETLANDS/WATERCOURSE PERMIT – Public Hearing

Mr. Jack Karrell, Engineer was present representing the Applicant.

Chairman Schech stated okay we have the public hearing on the Carroll property.

Board Member Pierro read the legal notice for the public hearing.

Mr. Karrell stated as you know from last meeting there is a house under construction that the Carroll's are building. We are requesting a permit to divert stormwater that is coming down off the hill into the existing brook, a diversion swale, a riprap swale to protect the house somewhat from the stormwater coming off the hill.

Chairman Schech asked any comments from the audience on the Carroll property. Chairman Schech stated it is off Ludingtonville Road it abuts the State property. There were no comments from the audience.

Board Member Montesano made a motion to close the public hearing. Board Member Pierro seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Chairman Schech asked where are we at with this.

Board Member Pierro replied we have a resolution Mr. Chairman.

Rich Williams stated there was one outstanding issue that Mr. Kozlowski the Patterson ECI asked to have included in that and that is the plan be revised to show the riprap going actually down and over the bank into the pocket created by the fallen tree.

Chairman Schech asked Mr. Karrell were you notified on that.

Mr. Karrell replied yes. I will revise that I will have a plan.

Board Member Pierro asked is that written in the conditions in the resolution that we have in front of us tonight.

Rich Williams replied I don't think so.

Board Member Pierro stated I believe it is Rich, special conditions it says the void left by the fallen tree between the end of the swale and the stream is to be filled with natural stone to act as the velocity dispatcher. Is that what your concern was Richard.

Board Member Pierro asked do you want a motion Mr. Chairman.

Board Member Pierro made a motion in the matter of Carroll property that the Planning Board grants the Wetlands/Watercourse Permit according to the resolution with the nine general conditions and one special condition in the resolution dated December 2, 2004. Board Member DiSalvo seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Mr. Karrell thanked the Board.

2) PADDOCK VIEW ESTATES SUBDIVISION – Public Hearing

Board Member Pierro read the legal notice for the public hearing.

Chairman Schech asked is anyone hear from Paddock View. Do you have something to show the audience, the engineer is not here.

The Applicant replied he is coming up the stairs now.

Board Member Pierro stated I think we do have some concerns from the neighbors in the adjoining neighborhood Mr. Chairman. I noticed a group of people who were notified apparently they have some questions.

Chairman Schech stated he has to present his case first.

Mr. Dan Donahue, Engineer introduced himself to the audience. Paddock View Estates is an eighteen acre parcel located on the northerly section of Route 292. It is up here about forty feet from the intersection of Route 311. Presently there is one existing house on the property and what we propose to do is construct, subdivide the property into nine additional lots making the subdivision a total of ten lots. The subdivision will be served by individual wells, individual septic systems and a town road will be constructed approximately twelve hundred feet long, twelve hundred and fifty feet long with a cul-de-sac at the end which will give access for the homes on to the road. The road will be served by storm drainage systems; a series of catch basins which will bring the water into a detention pond prior to discharging to an existing culvert that goes out to 292. We have done deep holes and percolation tests with Putnam County Department of Health. We have been before the Board on a number of occasions with the subdivisions. We have made changes that Board has requested. One of the changes was move the detention pond a further distance away from an existing house. We are going to provide a buffer area of trees, a buffer from the existing house. That in essence is our project.

Chairman Schech asked is there any comments from the audience.

Board Member Pierro stated Mr. Chairman, I think it may cut off a lot of questions from the audience by asking Dan on the adjoining I guess it is the easterly side of this property there was a easement written into early town maps from Sugarbush Road going up a grade into this land. There is no reason or issue involving that easement for access.

The Applicant replied no the slope here is so severe.

Board Member Pierro stated some of the neighbors in the adjoining neighborhood have questions about that because they recall that was an easement into that property but our current standards just don't allow the use of that because of the steepness of the grade.

The Applicant stated you had also asked us to create a conservation easement along that ridge so we are going to keep this whole hill forever green so it can't be touch.

Mr. Donahue stated from this subdivision there will be no access on to North Street. The only access will be here.

An audience member asked that would be the major question is there an access road,

Chairman Schech stated if you make any comments you have to come up here and speak into the mic or we can't get you on tape.

An audience Member stated the trees are (hard to hear) on garages and houses and stuff.

Rich Williams stated we need him on a mic and we need a name and address.

Joe Verdi stated his name and he lives on North Street. My neighbor Lou Beckey's garage got crushed and my garage got crushed twice. The trees are a hazard to the kids, the houses and everything else around there.

Board Member Pierro stated Joe, my suggestion to you would be what you would do with any neighbor or any adjoining property now that you know who your owner is next door you have to notify him of any impending dangerous condition and then you guys can work to arrange to have that mediated.

Joe Verdi stated it just cost us a fortune right now in homeowner's insurance and stuff like that paying for all these trees that we don't even own.

Board Member Pierro stated it shouldn't you should notify the owner of that property that his tree is causing a problem and you work to resolve it. There is a method for you to do that. It is easy enough for you to come in here and get this Applicant's name.

Joe Verdi stated I tried that and they gave me Patterson Development Corporation.

The Applicant stated that is me.

Joe Verdi stated I sent certified letters.

The Applicant asked to Patterson Development Corp.

Joe Verdi replied yes. I sent two certified letters I have them at my house.

The Applicant asked to what address.

Joe Verdi stated to Mahopac.

The Applicant asked was it a P.O. Box.

Joe Verdi replied I got no response on both of them.

Board Member Pierro stated guys you can straighten this out in the back after the meeting okay.

Joe Verdi stated that is about all I got thanks.

Mike Walsh stated his name a resident of North Street. Is there any more houses being considered for this lot.

Mr. Donahue replied no for the subdivision no that is it.

Mike Walsh asked and where is the present house on it.

Mr. Donahue pointed the house out on the plan.

Board Member Pierro stated the old farmhouse Mr. Walsh.

Chairman Schech stated Herbst right on the corner with the barn in the back.

Mr. Walsh asked and that is not part of your development.

Mr. Donahue replied that is part of the entire parcel of property this is Lot #1 and there are nine additional lots proposed.

The Applicant stated we pulled the lots forward of this conservation easement to keep the houses out of the view from your road and the Town asked us to create a conservation easement so someone does not just go after we sell it to a customer, people don't go in there and just clear cut without having some sort of repercussions.

Chairman Schech stated we pulled the houses off the ridge.

Nancy Clark stated her name I live directly across the street from this. One of my questions is about this when I came over and I asked the Building Department about the pond it is going to drain across 292.

Mr. Donahue replied that is correct.

Board Member Pierro stated it currently does already.

Ms. Clark stated it does and one of my concerns about that is, is it just going to flush down into the swamp. That is where that water goes. There is dampness in the lot there which is I guess where the road is going to go and it does come under the road and it drains down into my property, my stream and then goes right directly into the swamp so I think that is an issue that has to be looked into.

Mr. Donahue replied well how this pond is going to be developed is it is going to be a wet pond there enough feed board in there so that,

Ms. Clark asked what is feed board.

Mr. Donahue replied above the water level, Rich Williams stated additional storage space.

Mr. Donahue stated the water will be down here and this will be your free board. The pond is designed so that no more flow that is presently being discharged there now, the rate of flow which is presently being discharged now is not going to increase after the development takes place.

Ms. Clark asked what about when it is being built.

Mr. Donahue replied that is the same thing. One of the first things we do is create the pond.

Ms. Clark stated the last time the Highway Department worked on the intersection they raised the road and they created a channel on the side of the road and washes my driveway out.

Mr. Donahue stated but that is over here right.

Ms. Clark replied yes.

Mr. Donahue stated we are going to have a pipe that is going to go across the road, there is an existing pipe we are going to discharge into it and what I am saying is the amount of water, the rate of flow that is going across there now during a storm that rate of flow is going to stay the same.

Ms. Clark asked and this is going to be held back (hard to hear)

Mr. Donahue replied that is going to build up in the pond and then it flows out gradually at the same rate that it would flow out before.

Ms. Clark stated I would like to know more about how it is going to go down through my property.

Mr. Donahue stated whatever water is going there now the rate of flow it is going to go there the same.

Ms. Clark asked in exactly the same path.

Mr. Donahue replied yes our end to it is right here for our project. Whatever occurs over here now is going to occur after this project is completed.

Ms. Clark stated I really want to know about that for sure because that is just going to wash things out there. That is not your problem what is on the other side of me. Have you been over to see it.

Mr. Donahue replied no I have not been over to see it.

Ms. Clark stated you ought to come over and take a look. The idea of water pouring down on my property.

Chairman Schech stated the thing is the design on this you can't discharge any more water than what is being discharged now.

Ms. Clark stated it is just seepage coming through there now.

Chairman Schech stated you can't increase the amount of discharge. So, what is there now is there you are sort of stuck with it.

Ms. Clark asked and what about traffic that is not a great intersection as it is. Where is the road going to be in relation to the traffic.

Mr. Donahue replied it is three hundred and forty feet from the intersection that you are referring to and there is a light there.

Ms. Clark stated that is a very dangerous corner.

Mr. Donahue stated that is why they did work on it and put the light there.

Chairman Schech stated that is a debate whether they did better or worse.

Ms. Clark stated they have changed it twice now and it has not really improved. There are accidents so I am concerned about water here and the traffic coming in and out.

Eddie Keasbey stated it was a little difficult to see from back there. Whose property is the pond on.

Mr. Donahue replied Lot #1.

Eddie Keasbey asked and who will be responsible for its maintenance.

Rich Williams stated we have not made that determination as of yet I believe.

Chairman Schech stated it will probably be a district.

Eddie Keasbey asked some kind of bonding to make sure that person or all of them take care of it.

Chairman Schech stated it will probably be a district Edie.

Board Member Pierro stated a shared expense amongst the nine homeowners, ten.

Eddie Keasbey stated because I know there was discussion earlier in other Planning Board Meetings about where to put this on whose property and can it be on its own property but not without giving up a lot God knows you wouldn't do that.

Chairman Schech stated we have shifted it.

Eddie Keasbey stated good.

Chairman Schech asked is there any other comments from the audience.

Ms. Clark asked what is going to happen to the barn.

Chairman Schech stated we are still discussing that.

Ms. Clark stated they are rental units now.

Board Member Pierro stated all indications are that the rental unit will lose its use once the subdivision occurs correct Rich.

Rich Williams replied it is not a permitted use on that site.

Board Member Pierro stated and the Applicant is well aware of that.

Chairman Schech stated when we are finished he will be aware of it.

Chairman Schech asked any other comments from the audience. There were no more comments.

Chairman Schech asked for a motion.

Board Member Montesano made a motion to close the public hearing. Board Member Pierro seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Mr. Donahue asked when do you think we can address SEQRA.

Board Member Pierro replied next meeting.

Chairman Schech stated the next meeting.

Mr. Donahue and the Applicant thanked the Board.

2) **BUDAKOWSKI SUBDIVISION- Public Hearing**

Mr. Jack Karrell, Engineer and Mr. Brendan Mayer, Attorney with Shamberg, Marwell were present representing the Applicant.

Board Member Pierro read the legal notice for the public hearing.

Mr. Mayer stated good evening, Mr. Chairman, Members of the Board Happy New Year to you. My name is Brendan Mayer I am an attorney with the law firm Shamberg, Marwell, Hockerman, Davis & Hollis, 55 Smith Avenue, Mt. Kisco, New York and with me is Jack Karrell the project engineer.

Chairman Schech asked the audience to please keep it down.

Mr. Mayer stated this is an application to subdivide their property. It is a twenty acre lot that would be divided into two parcels, there is an existing house on the property now. We are just going to subdivide it and hopefully build another house on four acres of the land.

Chairman Schech stated to Mr. Mayer you have to tell these people it is a public hearing.

Mr. Mayer stated sorry Mr. Chairman. This is an application it is a twenty acre parcel. The plan calls to subdivide the property into two parcels one which would be four acres and the remaining fifteen point something where the existing house already is, the plan is to build another a house on the four acre lot.

Chairman Schech asked is there any comments from the audience.

Mr. Rick O'Rourke stated good evening Mr. Chairman, Members of the Board my name is Richard O'Rourke I am a partner with the law firm of Keane & Beane P.C. We have offices in White Plains. I represent Mr. Peter O'Hara who is an adjoining property owner and I had a couple of questions that perhaps the Board could answer and then a comment. The first question I have is it is my understanding that what is being required here is a paving of the access way from the point of the new lot down to 311 is that correct.

Chairman Schech replied that is right.

Mr. O'Rourke stated it is my understanding that a portion of that property is owned by Mr. O'Hara and Mr. Baker and I am unaware of any ownership interest that the Applicant has with respect to that right of way. They have an access way for ingress and egress but I am unaware of any right or privilege they have to do any improvements on that road and I am just wondering whether there has been any information furnished to the Board with respect the parameters of the right of this property to do anything with that access way.

Chairman Schech replied there are the two attorneys.

Mr. Mayer stated I believe that this issue was dealt with back a couple of years ago I believe that the Town Attorney at that time came to the same conclusion that this is an abandoned farm road and that there is joint ownership of it and basically what the Board is proposing which my clients are ready to undertake is (unable to hear) this portion of the road.

Mr. O'Rourke replied I understand that however with respect to the abandonment there is a very significant portion of the road that extends from 311 back where the abutting property owners are not this property owner but Mr. O'Hara and Mr. Baker so consequently even with any kind of abandonment that standing alone does not provide a right or a privilege to somebody else to do something with this other than to have ingress or egress so I am just raising the issue that I think there may be a title consideration that needs to be addressed and resolved before there is any closure with respect to what is being proposed.

Chairman Schech stated this Board is requiring them to do certain things to the road now if your client disputes that then that is between the attorneys I would believe. It has nothing to do with this Board.

Mr. O'Rourke stated I might respectfully disagree with that because I don't know whether this Board is empowered to do something that is not otherwise authorized one way or the other. For example; you would not even entertain this application if the property had no access to 311.

Chairman Schech stated that is correct.

Mr. O'Rourke stated but my point is that the parameters of the easement and what is permitted and not permitted should be definitively addressed by the Planning Board prior to granting an approval and also in so far as whatever requirements you may have as to improvements of the road.

Rich Williams asked Mr. Chairman if I might,

Chairman Schech stated yes.

Rich Williams stated to cut to the chase on this maybe it is in the Board's best interest to have the Town Attorney give an opinion in writing as to whether the improvements could be made and certainly Mr. O'Rourke could submit an opinion in writing as to whether he feels the improvements could or should not be made and the Applicant has the right to make them.

Mr. Karrell asked Mr. O'Rourke represents the O'Hara's not the Baker's.

Mr. O'Rourke replied that is correct.

Mr. Karrell stated St. John's Road was abandoned it was split in two so half of it went to each property owner the portion, the only portion that is in dispute is the portion that is adjacent to Baker which your client has no involvement in. He is taking the twenty-five feet to the north, the Budakowski's are taking the twenty-five feet to the south all the way to within probably a hundred feet of 311 and then the rest of that half of twenty-five feet belongs to the Baker's so it would be a moot point for O'Hara.

Mr. O'Rourke stated but to the fact that Mr. O'Hara spoke to Mr. Baker and he has not provided any authorization for this.

Board Member Pierro asked who do you represent Sir Mr. O'Hara or Mr. Baker.

Mr. O'Rourke replied Mr. O'Hara however Mr. O'Hara is here this evening as is Mr. Baker and Mr. Baker informed Mr. O'Hara he has not provided any authorization for this so that is why I am saying to the Board that I think the proper approach here would be to resolve this issue before,

Board Member Pierro stated there has in the past been improvements to the first fifty or seventy-five feet of this roadway in the past that I am aware of. How did that come about maybe you can clear that up for us.

Rich Williams stated we don't know how that came about and we don't know what legal right anybody had that is why I suggested that maybe the Board before they make any final determination on this get a legal opinion from the people who have the expertise in this as to whether the improvements can be made or cannot be made. I don't think this is going to get resolved here tonight.

Chairman Schech stated no.

Mr. Mayer stated I don't think so either and I believe this was dealt with under the previous 280a application, this road issue came up again and I am pretty sure that it was dealt with and the Town Attorney did provide a written opinion on that as well so I would be happy to share that Mr. O'Rourke.

Board Member Pierro stated there is a long history in the files on this.

Mr. O'Rourke stated unfortunately I am not seeing that so I very much would like to see that. That would be very helpful.

Mr. O'Rourke asked how was it determined the nature of the improvements that were to be required as part of this application.

Chairman Schech replied how were they determined. They were determined because we looked forward and said that well if we are going to put in a quote driveway that eventually Mr. O'Hara is going to come

along and want to put in a road so if we are going to put in a driveway we might as well put in half of a town road spec and this way it is going to save the cost to everybody concerned.

Mr. O'Rourke stated and that is fine my only comment on that is in so far as what Mr. O'Hara plans to do in the future there is no application filed nor is there one contemplated to be filed and so frankly, all I am suggesting is that it could be anything from let's say one house which could be essentially a driveway to whatever carrying capacity and the zoning might permit. My concern in asking the question is that I certainly don't want to I would hope that the Planning Board by considering this application is not one way or the other pre-judging what Mr. O' Hara might do or setting forth obligations in the future which quite frankly I am not quite sure that the Board has the authority to do that since there is no application pending so.

Board Member Pierro stated it is not fair to ask us if we are going to afford the same opportunities to Mr. O'Hara because there is no application on his behalf.

Board Member Montesano stated I am under the impression that when we went along with this everything was going to be done at the property line to the south which had nothing to do with Mr. O'Hara's property.

Board Member Pierro stated it adjoins his,

Board Member Montesano stated yes but the object is when we discussed it, Rich Williams interjected that is not necessarily true. Let me just add some clarification to this certainly we are going to do that on the parcel that the Budakowski's own but once it gets off of their property there really has been no determination about exactly where the improvements are going to lay out and that is in part because we still have not yet received a plan showing the limits of the easement that goes through these parties.

Board Member Montesano asked we are sitting here tonight discussing something with all due respect gentlemen you three can get together and discuss it for your clients and that would probably be a lot easier than sitting here.

Mr. O'Rourke stated we are delighted to. We received the notice for public hearing I am commenting on the application. I am raising issues that go to the very threshold of whether this Board should go forward in granting an approval to this application so that is why I am here.

Board Member Montesano stated I appreciate it but no approvals I thought were being given out tonight.

Mr. O'Rourke stated I am not suggesting that but it is a public hearing and that is why I am here.

Board Member Montesano stated I appreciate that.

Mr. O'Rourke thanked the Board.

Board Member Pierro made a motion to close the public hearing. Board Member DiSalvo seconded the motion.

Chairman Schech stated hold it.

John Delemarre stated his name and he is on Route 311. I am Mr. Baker's neighbor and I am concerned about where the house would be on the building lot.

Mr. Karrell replied the house will be way up on the hill on the back. This is the present house that was built maybe two years ago, you drive in on the left and it is going to be probably a thousand feet back up on the hill.

Mr. Karrell and Mr. Delamarre reviewed the plans unable to hear their conversation to transcribe.

Board Member Pierro asked what questions do you have Sir.

Mr. Delemarre asked how about the wetlands is there any concern with the wetlands.

Chairman Schech replied yes they are all wetlands except where the portion where the house is going.

Mr. Delemarre asked no building can be done down further.

Chairman Schech replied in the wetlands no.

Mr. Karrell stated we are utilizing the existing farm road and once we get out of the wetland and the wetland buffer we are going up the hill with a driveway to the house.

Chairman Schech stated up towards the railroad tracks.

Mr. Delamarre stated that was my main concern thank you.

Chairman Schech asked any other questions. There were no other questions.

Board Member Pierro made a motion to close the public hearing. Board Member DiSalvo seconded the motion.

Mr. O'Rourke stated excuse me I would respectfully request that you not close the public hearing because we have issues that need to be resolved by way of access. I mean I don't see how until such time as the Town Attorney and the Attorneys have the opportunity to resolve that issue. I am not so sure that you should because I think it is a necessity to have that issue resolved before.

Chairman Schech deferred to Anthony Molè (Attorney with Town Attorney's office).

Mr. Molè stated I agree he is going to make a submission and you are going to make submission about the issue with the road we probably should keep the public hearing opened just to accept those submission.

Chairman Schech stated okay.

Rich Williams asked so the public hearing will remain open and be on the next agenda.

Chairman Schech replied right.

Mr. Mayer stated just for the record I just would like the Board to know that I provided Mr. Williams with the affidavits with regards to the public hearing as well as the (unable to hear).

4) **NEW ENGLAND EQUINE CENTER SITE PLAN**

Mr. Joe Buschynski, Bibbo Associates, Mr. Lepler, Dr. Bradley and Dr. Cook, Applicants were present.

Chairman Schech asked did you guys have a closing on this property.

Dr. Bradley replied they are on vacation and my son got ill.

Chairman Schech stated because I thought I saw a brand new for sale sign on the property or is just washed off.

Mr. Lepler replied it probably washed off.

Rich Williams stated if a closing is eminent we should probably receive for our file some notification when there is a change of ownership and it may require some minor revisions to the plans as far who is signing the final plans.

Unable to hear Mr. Lepler's response).

(Unable to hear Mr. Buschynski)

Rich Williams stated I don't even know that it needs to be a condition the resolution says the owner has to sign the plan whoever the current owner is. I am just looking to keep a complete file because the initial application was made with the Bonavenia's as the owners and we just want something in our file to acknowledge that ownership has changed and then they sign the plan.

Board Member Pierro asked do we have bond information on this yet Rich.

Rich Williams replied you do not.

Board Member Pierro asked so the agenda is presumptuous with final resolution bond right we are not reacting to bond issues tonight.

Rich Williams replied no but you do need to include it in the resolution that they, Chairman Schech stated the general conditions.

Board Member Pierro made a motion in the matter of Bradley Cook LLC, New England Equine Center that the Planning Board grants Final Site Plan approval with the five general conditions and five special conditions listed in the January 6, 2005 memo by Rich Williams. Board Member Montesano seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Mr. Lepler asked (unable to hear) how many sets of plans.

Rich Williams replied definitely three does any Board Member want.

Chairman Schech stated we need at least three.

Mr. Lepler asked an issue was raised on fence detail.

Mr. Buschynski stated this is our perimeter fence four by fours, eight foot on center, two by six rails, four of them and the,

Mr. Lepler stated there is a six inch round post pressure-treated it gets cut with a smooth base on the side of the board's nail, the side you would normally see as you pull around then you use a full one by six normally post, sixteen inches eight foot on center and they have to be drilled first so it doesn't split.

Rich Williams stated the issue is this typically we consider the finish side of a fence the slats and it is required by Code that the finished side goes out. What they are proposing to do is actually put what we would normally consider the finished side towards the inside.

Chairman Schech stated technically with animals they have to.

Rich Williams stated and I don't disagree. This is not a typical scenario that we run across with fencing. I just wanted to bring it to the Board's attention to react to it however you felt.

Chairman Schech stated this type of fence I don't think it would mean any difference and it actually has to be when the animals lean against it otherwise they pop off the slats.

Board Member DiSalvo asked are you going to stain it.

Mr. Lepler replied absolutely.

Board Member DiSalvo asked what color.

Mr. Lepler stated dark brown.

Chairman Schech stated thank you gentlemen.

Mr. Lepler replied than you all very much.

5) POPPY'S PLACE SITE PLAN

Mr. Bob McCormack, Applicant was present

Board Member Pierro asked do you have our site walk comments Sir.

Mr. McCormack replied yes I do

Board Member Pierro asked Mr. Chairman, may I.

Chairman Schech replied you certainly may.

Board Member Pierro stated we understand the ownership situation of this property and we understand that you are tenant but we would like you to in a show of good faith make an effort to clean the site up. We understand that you have done some improvements there but we think once the weather clears specifically there is a metal trailer flipped upside down about a hundred and fifty feet out in the back, tires are aiming towards the sky let's get that out of there. There is a stack of pallets in the stream.

Mr. McCormack asked in the stream.

Board Member Pierro replied yes.

Board Member DiSalvo stated and some buckets and stuff.

Board Member Pierro stated buckets and pallets and things like that.

Chairman Schech stated we don't really know who is responsible but, Board Member Pierro stated we are not saying that it is you but we would like to get it cleaned up.

Mr. McCormack replied okay.

Board Member Pierro stated we would like to limit the amount of disturbance or the amount of fill or the amount of usable space that you are using back there to align certain, Rich we had discussed a mark maybe beyond that Pine tree.

Rich Williams stated the Board had discussed limiting the area that the material could be stored not to extend farther back than the Pine tree that is out there.

Board Member Pierro stated I want not that I am saying that this gentleman is a dishonest man but he is in the Pine tree business he could plant any number of Pine trees out there and change the line. My recommendation is a certain number of foot, let's measure it from the stream bed to go back towards that Pine Tree.

Rich Williams stated we had that discussion at the work session and the issue is which direction the Board is going to go; if they are going to go left then he is going to show it on his plans, if they are going to go right then we are going to have to go out and delineate somehow mark it out so we know where the limits are.

Board Member Pierro stated he is limited to the north and to the south by the property lines correct.

Rich Williams replied right.

Board Member Pierro asked doesn't our Code say he can't go a certain number of feet close to the adjoining property line.

Rich Williams replied no.

Board Member Pierro stated okay then he is limited by the property lines we want to limit how far deep he can go back, Ted.

Ted Kozlowski stated I just think that there is wetlands surrounding the site. There is an issue of bringing in material. It has got to be defined. This gentleman might not be the owner tomorrow, the next guy that comes in and we have had this before on other sites and other issues. It has to be clearly defined on a site plan, all laid out and not just going by a Pine tree but by definite measured distances. You have got to determine what is going to be stored there, how high it is going to be. Those are the kinds of things that,

Chairman Schech stated in other words you need a site plan.

Ted Kozlowski stated you are going to have to.

Board Member Pierro stated there is too much going on there. I mean we don't have to do a full blown engineering of the complete site. I would be satisfied with just to the rear of the stream area and the limits of disturbance.

Ted Kozlowski stated the thing Dave is the history of the site, Poppy's Place started out as a little shed and evolved into this which myself it is not a terrible thing but we do have a wetland, we do have a stream and we don't know what is going to happen in the future there. So, I think it has to be treated like every other potential wetland situation.

Mr. McCormack asked suppose it was marked with fencing or something like that.

Ted Kozlowski replied that is all well and fine for you and today and today's world, Chairman Schech stated we need something on paper.

Ted Kozlowski stated we need it documented because if you decide to sell your business and move out of Town and another guy comes in he is going to interpret what you are interpreting may be different and then I don't want to be me as a Code Enforcement person in this Town I don't want to be going out there and arguing with the next owner well he had marked it out on this fence and it was this big and now it is this big. I want to avoid this okay so we need to determine exactly what you are doing there because you are bringing in fill and you are right on top of the wetland and you are crossing a stream. It is not so much you like I said we don't want this to evolve over time into a bigger thing than what we are considering granting right now.

Mr. McCormack asked I mean we could not accomplish it with just a sketch plan something to put on record.

Ted Kozlowski stated I think it has got to be something, that is up to the Board.

Rich Williams stated well let's ask the question because Dave had just stated something that he wasn't looking maybe for a full blown site plan but some plan showing what you are doing. Do you have an idea of what,

Board Member Pierro stated I want verifiable measurements from points certain.

Chairman Schech stated metes and bounds.

Rich Williams asked okay does it have to be a survey plan, does it have to be just with dimensions on it, do you need topo.

Board Member Pierro replied I don't think topo is required. It is pretty much a flat site.

Rich Williams stated I am just looking for what you are looking for.

Board Member Montesano stated it has got to be something with a survey on it because that is where your measurements are going to come from.

Mr. McCormack asked what about dimensions off the building somehow back to that area to tie it down a little bit.

Board Member Pierro stated if you get a copy of your current survey and work off of that.

Mr. McCormack stated I am not sure that there is one that is the problem.

Ted Kozlowski stated you have got to show the stream and you have absolutely have to show the stream on this in relation to what you want to do there. You have got to set limits. This is almost like a wetlands permit it really is.

Board Member Pierro asked I also understand that Insite had some work done or looked at the pipe and the crossing I would like that part of the permanent record as well.

Rich Williams replied we have that on file.

Chairman Schech stated just give us something that we can file, metes and bounds.

Ted Kozlowski stated the intent is not to beat you up but I need, Chairman Schech stated it does not have to be a full blown site plan, Ted stated right we need something to go back to for you and the future. We have to have it.

Mr. McCormack asked showing a survey.

Chairman Schech stated of what is there and what you are anticipating on doing.

Mr. McCormack asked in the whole area or just that one area.

Chairman Schech replied whatever area you are going to work in.

Board Member Pierro stated the area that you plan to bring material into.

Mr. McCormack asked okay in relationship to the stream.

Board Member Pierro stated the stream, the back of the building.

Board Member Montesano asked what about the stream crossing.

Chairman Schech stated the stream, the stream crossing, the building.

Board Member Pierro stated I can't believe that there is nothing filed on this already that there is no record.

Chairman Schech stated that is why we have been going through this because there is nothing.

Board Member Pierro stated we have to start with something.

Chairman Schech stated Poppy moved across the street with a couple of shrubs and then all of a sudden it grew from there.

Ms. Ryan, Insite Engineering stated there is no boundary survey on this.

Board Member Pierro asked there isn't.

Mr. McCormack replied no.

Board Member Pierro stated well that is one of the real problems because, Board Member Montesano stated so how do we know what we are doing with this. Board Member Pierro stated there is continuous intrusion to the property to the north. We don't know where it is even separated.

Rich Williams stated the property to the north is Telecom.

Board Member Pierro stated and I thought it was Tela's.

Rich Williams stated no this is Tela.

Mr. McCormack stated it is all part of the same property.

Board Member Pierro stated yes but there has been incursions into the wetland to the north in between Tela's barn there, there has been fill going on in there and we would like to get that all marked out and get some dimensions.

Board Member Montesano stated apparently we don't have the survey of this property that has been subdivided into buildings.

Chairman Schech asked they don't have a survey on that property at all.

Mr. McCormack replied not that I am aware of.

Board Member Pierro stated I think it might be time for Tela, she has a new barn built back there she has to have something. Does she even know that the barn is on her property.

A member of the audience stated Tela is no longer with us.

Board Member Pierro stated I know that Rosemary.

Mr. McCormack stated I would imagine that she knows it is on here property but I can't speak for her.

Board Member Pierro stated well maybe if she has some kind of early map in her files.

Chairman Schech stated we need something.

Ms. Ryan asked is it possible just to have something on the tax maps and an aerial photograph showing the relationships of the existing structures.

Chairman Schech stated if you can pull it off an aerial.

Board Member Pierro stated Theresa, it seems if you are going to go that far I mean is the cost of a site plan that significant.

Mr. McCormack stated it all depends on the size it.

Chairman Schech asked do you think you can pull it off an aerial adequately if you can fine.

Ms. Ryan stated the aerial photograph shows the structures.

Chairman Schech stated but it does not show boundaries.

Board Member Montesano stated it doesn't show boundaries or numbers it has got to be somewhere. It should be in the real estate office of the people that theoretically own the property.

Chairman Schech asked are you planning on buying this parcel.

Mr. McCormack replied no.

Ms. Ryan stated it is not subdivided it is just one contiguous piece.

Mr. McCormack stated she is not even interested in subdividing it.

Chairman Schech stated I don't know what to tell you we have to have something in black and white.

Ted Kozlowski stated that is required it is not just it is required for all quite frankly I don't understand why you don't have a site plan it is a commercial business. Everybody has got to have a site plan. It has just been for me personally it is bad business to just say okay just put a fence here and do what you want.

Board Member Pierro stated no we are not going to get caught up in that.

Board Member Montesano asked when Telecom came in didn't they provide us with anything and before that the tattoo parlor and the antique.

Board Member Pierro stated Telecom is just a pocket in between the two buildings.

Board Member Montesano stated what I am trying to say is I am sure they have to have something somewhere on where these alleged lots were created.

Chairman Schech stated Telecom has to have a survey.

Board Member Montesano stated apparently this is all one piece.

Board Member Pierro stated Theresa that may be something that you could look into, Telecom's survey next door they are in the process of doing something there.

Ms. Ryan stated they have a survey right but there is nothing I don't know what is available on the southern end.

Board Member Pierro stated maybe between the property to the south and Telecom's property we could put something together but we can't just go with scribbling on a piece of paper it is just not going to work for us anymore. We need something a little bit more significant. I am not saying that we need a full blown site plan but we need to get something more significant.

Chairman Schech stated just give us something that we can hang our hat on.

Board Member Pierro stated we are willing to be a little reasonable but (TAPE ENDED).

6) PARKER SUBDIVISION – Bond Reduction

Ms. Laura Parker was present.

Board Member Pierro stated Mr. Chairman I was informed by Mr. Williams that because of the inclement weather the Clerk's office has not been opened and we have been unable to verify what the actual amounts of the bonds that are.

Rich Williams stated they have been opened, Board Member Pierro stated yes but the Clerk has not been available.

Chairman Schech stated I have a note here that we should retain fifty-five hundred dollars because it still isn't complete.

Board Member Pierro asked that would be a substantial reduction wouldn't it.

Ms. Parker stated if you retained fifty-five hundred dollars that would be still a reduction yes and I would appreciate a reduction. Mr. McGinn has concluded that he had recommended that specific amount be held back in fact part of that even makes it more comfortable for you is that I have a receipt for the pole which is sitting on my property. I have C.O's here. I have completed all the site work that is why Mr. McGinn recommended it. Terry Bergendorf Collins has held up a little bit more at finishing, she has done all the field work and about eighty percent she said of the final updated as built that she would have in to you all next week but the pole is on my property, it is paid for. We have a meeting set up with Craig Lincoln as per required to have it for him to decide where it should be so that we don't decide.

Chairman Schech stated okay it has been recommended to us that we retain fifty-five hundred dollars of the existing whatever bond it is. Chairman Schech stated I will take a motion on that.

Board Member Pierro made a motion in the matter of Laura Parker Subdivision that the Planning Board reduces the bond amount to \$5,500.00. Board Member DiSalvo seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Ms. Parker thanked the Board.

7) TELECOM SITE PLAN

Ms. Theresa Ryan, Insite Engineering was present representing the Applicant.

Ms. Ryan stated I have Rich's review letter and I would like to talk to the Board about a couple of things in the review memo. One of the things is that we made a reference to what the difference is between the elevations that we show on the plan and USGS and Rich made a note of that, it still is not referencing USGS but we made a note of the difference in elevation if that is okay with the Board or do you want us to change all the elevations on the plan.

Board Member Montesano asked Rich.

Rich Williams asked Gene Richards do you have any feedback on this.

Gene Richards stated I have seen this sort of thing in the past the whole reason for trying to get everybody into USGS is so that all the available mapping references out there can be crossed check to make sure that what is shown on the site plan or subdivision pretty much is in agreement with what is on the mapping. I am a bit ambivalent on this because with Cad today it is I don't know what the difference in elevation between USGS and what you are showing.

Rich Williams stated just to be clear they are showing the formula on the plan which allows anybody looking at the plan to convert it right then and there.

Gene Richards asked but is it an even foot difference.

Rich Williams replied yes.

Gene Richards asked five feet or seven feet.

Ms. Ryan stated yes it is consistent.

Board Member Pierro asked how did we get to this point in the first place the way the engineering was done.

Rich Williams stated I think it had to do with the flood plan mapping. All flood plan mapping is reference to USGS and it is very easy in the past to take a site plan and reference it to the USGS when we did not have Cad, we didn't have GIS. The technology has evolved but sometimes our Codes don't evolve quite as rapidly. It is easier to review to have it all in one standard. It goes case by case and you know I am with Gene he used the right word ambivalent.

Board Member Pierro stated but for novices like me I would rather not be confused by it so we will let it go this time but in the future I would rather have it done correctly to USGS datum in the first place.

Ms. Ryan asked is that the consensus.

Chairman Schech replied yes.

Rich Williams stated you should do it by motion.

Board Member Pierro stated in the matter of Telecom Site Plan that the Planning Board waives the requirement of USGS datum. Do we have conditions.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Board Member Pierro asked do we need to do SEQRA on this Rich.

Rich Williams stated there is still some outstanding issues about what the requirements are going to be on this.

Ms. Ryan stated another issue is the surface of the proposed driveway and parking area. We are proposing a surface that is not paved.

Chairman Schech asked do we need a public hearing on the wetlands.

Board Member Pierro stated yes.

Board Member Pierro asked what kind of material are we talking about here.

Ms. Ryan stated we had Item-4 and Rich is recommending gravel. We have no problem with the gravel. We were proposing a pervious surface because it is adjacent to a wetland.

Board Member Pierro stated my concern is what is going to contain whatever item we use. What is going to retain it.

Rich Williams stated let's be clear Rich is not recommending Item-4.

Ms. Ryan stated no I said gravel.

Rich Williams stated or gravel. Rich is simply saying if you are going to not pave it you should use a more permeable material such as gravel.

Board Member Pierro asked but again my question is what is in the plan, we have all been to the site, what is in the plan to retain whatever surface we put down there so that it does not blow out and go down into that.

Rich Williams stated the current plan currently shows railroad ties as a border to the road that would contain whatever materials that are in between.

Board Member Pierro asked is that going to require a pipe that low area there.

Ms. Ryan replied yes it is on the plan. Now, the only part that we are proposing railroad ties is where the driveway is just to make sure that it does not go into the wetland to make sure it goes into the treatment pond.

Board Member Montesano stated railroad tie.

Ms. Ryan stated landscaping ties.

Board Member Montesano stated that lasts about what six years if that.

Ted Kozlowski stated you know there is still a wetland issue.

Board Member Montesano stated yes that is why I am wondering gravel and railroad ties to begin with.

Chairman Schech stated it has to be maintained.

Board Member Montesano replied yes but we haven't gotten the big problem out of the way yet.

Ted Kozlowski asked Theresa have you contacted Army Corp of Engineers.

Ms. Ryan replied Rich Jacobson did.

Ted Kozlowski asked has there been a response.

Ms. Ryan replied not yet.

Ted Kozlowski stated my recommendation is no road going through wetlands. I know the Applicant did try to access through the neighbor to the north, Don Flood pending on what the Army Corp. says if there is a road that has to go through there it is either a bridge span or pushing that road to the extreme north edge of the property. Right now that is going through a larger portion of the wetland that it has to.

Ms. Ryan stated and we are okay with moving that road. We are saving two trees and if the Board would prefer that we move that road closer to the Flood property we have no problem with that.

Ted Kozlowski stated we could lose the canopy habitat.

Board Member Montesano stated if he is going to get upset I know where you can find a couple of more canopy habitat items right down the road.

Ted Kozlowski stated this wetland should have a soil i.d.

Chairman Schech stated move the road to the property line which is probably the blacktop next door.

Board Member Pierro asked Rich now that we have gotten to this point where we have allowed the road to go in the big question is for me is what we are going to use this rear lot for and are we creating I might remind you guys that we did a site walk out on Route 311 during the fall and we ran across a half of dozen trucks stored on a piece of property and they say Telecom on the side and,

Rich Williams stated they didn't say Telecom.

Ms. Ryan stated that wasn't Telecom.

Rich Williams stated they said close to Telecom I don't recall what it was.

Board Member Pierro stated my concern is that we are not creating a junk yard on this site. What is his plan for that. Are you telling me they weren't Telecom's vehicles.

Rich Williams replied they were not Telecom's vehicles.

Board Member Pierro asked no relation to.

Board Member Montesano stated no they were another company.

Ted Kozlowski stated there is a bunch of stuff stored there now. There is stuff in the back.

Board Member Montesano stated my problem is if you are going to cross that stream with just gravel that trailer when it is loaded it will sink and then you are going to have to get a piece of equipment in there to pull that out.

Ted Kozlowski stated I am not recommending to this Board for a road so. I am telling you right now.

Rich Williams stated let's be clear they are going to have to put in a suitable sub-base. They are probably going to have to remove the underlying organic material and then gravel is going to go on top of that. It is not that they are just going to put some gravel down and try to drive over it.

Board Member Pierro stated right the plans are pretty extensive.

Rich Williams stated just to bring this back to some sort of assemblance and organization, the first issue really before the Board is really whether they are going to get a waiver of site plan or are you going to require them to do a site plan.

Board Member Montesano stated I would like to see a site plan.

Board Member Pierro stated yes we have to be consistent we are making Poppy's Place jump through hoops to get us a site plan. I think these guys are even more able to do a site plan on what limited amount of property that they have there. It is not that large.

Ms. Ryan stated that could be covered under the wetland permit. This would be I think would be similar to what we did on Ryder on 311 where we got a site plan waiver but we continued with a wetland permit through Ted.

Board Member Montesano stated yes but Ryder's property has, Board Member Pierro stated we had maps. Board Member Montesano stated on this property we have nothing.

Chairman Schech stated you can't get lost on Ryder's property.

Board Member Montesano stated we don't know where one property, we have an idea because there is blacktop up to the line and they tell us that is the property line but we have not seen a survey for that whole area.

Ms. Ryan stated yes this has a survey.

Rich Williams stated it does have a survey, it does have a plan. What she is proposing to do is take this plan and just proceed under a wetlands application rather than site plan. It simplifies the process considering the extent of the improvements that are going to be on the site.

Board Member Pierro stated it gives us something written to work with.

Rich Williams stated there is not a lot going on the site. There is not a lot of improvements but the down side is by going with the wetlands then you are restricted to impacts associated with the wetlands and design issues associated with the wetlands and you know really you are not going to be able to discuss outside of the wetlands issues.

Board Member Montesano stated what I am trying to find out is we couldn't get the property to the south of that because that is where Poppy's Place is right this at least we have a survey here so we should be able to get a survey,

Chairman Schech stated that is not our problem.

Board Member Montesano stated I realize that I am just trying to get something a crossed. We have got all that stuff going on.

Chairman Schech asked you want a waiver of site plan I think what we have here is enough information.

Board Member Pierro asked Ted have you reviewed that.

Ted Kozlowski stated like I said we still have to deal with the wetland issue and the Army Corp I certainly want to see what the Army Corp has to say.

Board Member Montesano stated I would rather not give any waivers.

Chairman Schech asked we haven't dealt with them yet.

Ms. Ryan replied we have made an application to them. We made an application for a wetland permit and submitted the fees and we also through the consultant made an application to the Army Corp for jurisdictional.

Ted Kozlowski asked can we get a copy of that.

Ms. Ryan replied sure.

Board Member Pierro stated I am fine.

Chairman Schech stated so once we get Army Corp. then we can go to a wetlands permit right. We need Army Corp. first.

Rich Williams replied no we don't.

Ted Kozlowski stated we don't but you can choose to wait on that and I am recommending that.

Chairman Schech stated I say we wait. How long is it going to take for Army Corp.

Ms. Ryan replied it takes awhile.

Ted Kozlowski stated it is just that again, it is a precedence putting a roadway through a wetland.

Chairman Schech stated let's wait for them there is no sense wasting our time.

Ted Kozlowski stated if we are going to do it I want to make sure everybody is on board.

Ms. Ryan asked we also need a determination on what kind of surface the Board wants for the parking.

Board Member Montesano replied let's find out if you get the right to put it in to begin with then we can come up with a surface.

Ted Kozlowski stated and just for the record when I met with Insite and the Applicant's consultant back in October or November I did ask them to start the process with Army Corp.

Ms. Ryan stated we did that. There was also a note on there that Rich mentioned to confirm the wetland line from Ted. Have you already done that.

Ted Kozlowski stated I am fine with it.

Chairman Schech stated so I guess you are not going to get too much out of this time.

Ms. Ryan stated okay thank you.

8) D'OTTAVIO SITE PLAN

Mr. Dick Clark, Engineer with Harry Nichols' office was present representing the Applicant.

Chairman Schech asked how are we doing on this development that has been going on forever.

Mr. Clark stated I didn't think forever.

Board Member Pierro stated one of the last things we asked for was clarification on a couple of issues that were outstanding. I thought there were technical stuff that Gene is looking into on D'Ottavio.

Gene Richards stated we did issue a memo for tonight's meeting. I reviewed the site plan and stormwater and there is a number of significant comments what we would recommend if the Board is agreeable is to meet with the engineer and go through the items and try to get everything resolved. Plans have been advanced and they do have a lot of information but there is still some things that we need cleaned up on the site plan and in the reports.

Chairman Schech stated you keep adding pages to these things it gets more and more every time. Are you talking to one another.

Gene Richards stated the more information that is provided by an Applicant we have to review that and that often generates comments.

Chairman Schech stated to Mr. Clark do you want to get together with them and get all this squared away please.

Mr. Clark stated yes.

9) ACTION AUTOBODY SITE PLAN

Mr. Clark, Engineer with Harry Nichols' office representing the Applicant.

Mr. Clark stated I also did receive this afternoon and I did have one question. Regarding the Special Use Permit it says it requires a minimum (unable to hear) square feet. Can the existing building fall under (unable to hear).

Rich Williams replied that is something you are going to have to take up with the Zoning Board of Appeals. Our Code is very clear that the principal building related to this type of use has a minimum size. It doesn't suggest that you can use multiple buildings to meet that. It would not be my recommendation to the ZBA because we could run into a situation where somebody would put up four, five, six sheds to meet the requirements and that is not the intent of the Code.

Mr. Clark stated because usually a Code would have a minimum area of what you have here but he does not need that much.

Rich Williams stated I understand that. His alternative is to apply for an area variance at the same time that he goes in for the special use permit. We are close.

Mr. Clark stated instead of going through that I will just tack on fifty extra square feet.

Rich Williams stated maybe but he has some difficulties with the site in that he is already very tight out there. I am dying of curiosity to see where you place the septic system.

Mr. Clark stated well there is one already there and he is putting in (unable to hear no mic).

Rich Williams asked so the Health Department is going to let you tie into the existing system.

Mr. Clark replied we are not sure yet. (Unable to hear).

Chairman Schech stated I think you have enough to work on here.

Board Member Pierro stated hey, Laura take Edie outside I can hear you guys it is disturbing thank you.

10) MUSHKOLAJ SITE PLAN

Mr. Clark, Engineer with Harry Nichols' office was present representing the Applicant.

Chairman Schech stated we need the wetlands delineated so we don't continually expand them, dump into them. We don't want any storage over the fence height. In other words if you are going to store fence material we don't want it any higher than the existing perimeter fence which I believe is six feet.

Mr. Clark asked if he were to raise that fence it would be,

Chairman Schech stated then you are going to get into all sorts of problems.

Rich Williams stated he would have to go to the Zoning Board of Appeals to obtain an area variance and they have not ever granted one.

Mr. Clark asked regarding the trailers he is now thinking that storage area that he is losing which was there, we are now contemplating a second story. He does need the area. The question is it is a pre-existing, non-conforming if we go straight up.

Rich Williams stated you still need an area variance.

Mr. Clark asked and if we went to the back which we probably can't do because (unable to hear no mic).

Rich Williams asked make the building larger.

Mr. Clark replied yes.

Rich Williams stated yes well you would run into other issues because I am assuming and I think it is a valid assumption that the wetland boundary is going to be within a hundred feet of that and it is going to be DP-22. It is regulated by the DEC which requires an action by the DEP. The DEP requirements are that you can't have any new impervious surface within a hundred feet of a wetland.

Chairman Schech stated since you are surrounded by wetlands that is fairly constrictive of the site.

Rich Williams stated you could go up but you are not going to be able to enlarge that building.

Mr. Clark stated I believe from your memo that we have to go to the ZBA anyway.

Rich Williams replied no you have been to the ZBA you got a use variance. What did you think the memo says as far as going to the ZBA. You are all squared away with the ZBA already.

Mr. Clark stated all right so if we go up we have to go back again.

Rich Williams stated if you are going to extend or enlarge any pre-existing, non-conforming aspect of the site it would require an action by the Zoning.

Fraser Mushkolaj, Applicant asked you know in one of the trailers is that oil tank, it has been there.

Chairman Schech stated the oil tank does not have to be in the trailer that could be adjacent to the building. It is just the oil tank right there is nothing else in them.

Mr. Mushkolaj replied right.

Mr. Clark stated I believe that tank is also going to have to sit in a container.

Chairman Schech stated it should be but pre-existing.

Rich Williams replied no he is changing.

Mr. Clark asked it could be nothing more than a pre-cast concrete.

Rich Williams stated tub.

Chairman Schech stated or steel they are making them out of steel now.

Rich Williams stated I think they are staying with concrete with a roof to keep the precipitation out.

Mr. Clark thanked the Board.

Board Member Pierro asked a sign application has to be a part of this as well Rich.

Rich Williams stated they should show a sign on it if they are going to have a sign.

Rich Williams asked Dick, is there some necessity that you are looking to get into this building rather quickly or do you have the time to go back to the Zoning Board.

Mr. Clark stated it is a business and he has just got so much room for storing materials, construction area to build and with the trailers that he had that was his storage because the building is being used for the construction portion when you take that away and you put all the storage into the building he can't operate.

Chairman Schech stated you have the exterior storage right.

Mr. Clark replied this is you know wood, metal.

Rich Williams stated let me throw out what I am thinking here, please Board Members jump in if you think that I am off base here if all he is proposing to do and we have architectural plans and they are consistent, he stays consistent with those plans then he can go through this whole process get this site plan approved he is not enlarging the building so he would not have to come back to amend the site plan. He has got the site plan done, he is in the building, he can use it and then if he wants to then later pursue enlarging the building upward it is just a matter of going back to the ZBA to get an area variance rather than going back to the ZBA at this juncture extending this out for two to three months.

Mr. Clark stated yes but you are still taking away the trailers.

Rich Williams stated yes. He is going to have to live with the existing site but you don't know that the ZBA is going to give him a variance in the first place. Those are your two options as I see it. You go to the ZBA now you take the time you get it the way you want it or you get in the building and then you wrestle with your operation.

Chairman Schech asked in other words did you buy the building already.

Mr. Mushkolaj replied yes.

Mr. Clark asked the trailers are just a plain eyesore.

Rich Williams replied they are not permitted by Code.

Mr. Clark asked what if we put sheds to the same dimensions as the trailers.

Rich Williams stated you still run into the same problem about being within that boundary of the wetland and not being allowed to have any new impervious area.

Mr. Clark stated well the trailer is impervious.

Rich Williams stated we don't see the trailer there it is not legally there for all intense purposes it does not exist.

Board Member Pierro stated nor is it a bargaining chip. We just want them out of there.

Mr. Mushkolaj stated the trailers were there before (unable to hear).

Chairman Schech stated it does not matter.

Rich Williams stated no they have not and we can clearly demonstrate they have not.

Chairman Schech stated you can pack up and think about it.

Mr. Clark stated right now the tank we can do something about, the storage and the trailers was the whole (unable to hear) fundamental of the property. He needs that storage because the interior portion of the building is for construction.

Chairman Schech asked is it a storage trailer or is it work trailer.

Mr. Mushkolaj stated storage.

Mr. Clark stated the trailer itself is just storage to keep the main building open for assembly and construction.

Board Member Montesano stated we don't have storage trailers.

Board Member Pierro stated we cannot make up for your purchase even though in spite of the fact that it was an illegal use there with that storage trailer. We can't make up for that. They have to come out.

Mr. Clark asked can we get an extension on that.

Rich Williams asked extension on what.

Mr. Clark replied taking the trailers out.

Board Member Montesano stated that is not up to us.

Rich Williams asked if you are asking the Planning Board to approve the site plan which lays out at what point assuming it is going to be a reasonable time those trailers have to be out by that is something you may want to ask the Board but it has got to be a reasonable time.

Mr. Clark stated what I was thinking of is a reasonable time being a time from now until we find out what is happening when we go to the ZBA.

Board Member DiSalvo asked can they get on the February calendar you would have to draw plans up for the second floor.

Mr. Clark stated again the site plan stays the same we would have to get architectures to show you.

Chairman Schech stated if a second floor would be satisfactory actually you only have to put on a half of second floor because you don't need the full twelve foot height downstairs do you.

Mr. Clark stated if he is going to go to that extent it is up to the owner how much he wants to put on (unable to hear no mic).

Chairman Schech stated we can't really help you. The trailers have to go it is an illegal use and you have to come up with some sort of solution I don't know what.

Rich Williams stated you need to figure out what you want to do out on the site and in what order you want to do it and then come back.

Mr. Clark stated okay thank you.

11) SOUTH PATTERSON BUSINESS PARK SUBDIVISION

Mr. Paul Lynch, Putnam Engineering was present representing the Applicant.

Chairman Schech stated we moved some lines around I understand.

Mr. Lynch replied yes that was an error.

Chairman Schech asked the moving of the lines.

Mr. Lynch replied yes the 999 versus the 800, 825 was an error that is being corrected.

Mr. Lynch stated that was one of those electronic errors in sending the information to my office over to the surveyors.

Chairman Schech asked Rich help.

Rich Williams asked what do you need, where we are.

Chairman Schech replied yes.

Rich Williams stated they submitted a final subdivision plat, we have declared it a minor subdivision so they submitted a final subdivision plat. I have done the review there is a number of issues that they need to address. It is up to the Board's discretion whether they feel they are significant or not significant. The next step in the process is to decide what you want to do with the SEQRA process whether you want to do a coordinated or un-coordinated. Actually, you can do an un-coordinate review because there really are no other involved agencies and then we are on to the public hearing.

Chairman Schech asked are we okay with this now.

Rich Williams stated once they revise that line. There is also some issues with the wetlands and the wetlands boundaries.

Mr. Lynch stated the wetland was flagged by Kyle Kaylor.

Ted Kozlowski stated we went out there they were a little off. Kyle contacted me about something else and I will discuss that with him when the time comes. It is a little off I feel. As I recall on that site though we were looking at the stonewall at the top of the slope from that down to the wetlands as a buffer that is going to be protected.

Rich Williams stated when we were out in the field what it appeared to us was that the wetland line was

actually about a hundred feet off of that stonewall. He showed it considerably farther back actually there used to be a pond back there and now the dam is broken and he actually showed it right on the edge of the pond and there was a wetland around that pond.

Ted Kozlowski stated in either case where ever that line is it is more than a hundred feet to that stonewall that is on top of the slope and when we all looked at it and saw it when we were out there was that there is really nothing you can do on that slope it makes a perfect buffer between whatever you do beyond that stonewall or to the east of it and that whole slope would serve as a western buffer to the wetland.

Mr. Lynch asked okay so you will talk to Kyle and meet out the field I would presume.

Ted Kozlowski replied once the snow is gone yes.

Rich Williams stated now having said all that in fact that wetland boundary line really does not affect this subdivision.

Ted Kozlowski stated we need to have this,

Mr. Lynch stated you want the right line on the plat.

Ted Kozlowski stated yes.

Chairman Schech stated okay so we can do SEQRA today right.

Rich Williams replied if you so desire.

Board Member Montesano stated and public hearing.

Rich Williams stated subject to them addressing the comments in the review memo.

Chairman Schech asked Dave do you want to do the SEQRA motion.

Board Member Pierro made a motion in the matter of South Patterson Business Park that the Planning Board declares a negative declaration under SEQRA and conducts an un-coordinated review. Board Member Montesano seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Chairman Schech asked set a public hearing for next meeting.

Board Member Pierro made a motion to schedule a public hearing for February 3, 2005 assuming all conditions are met in the memo dated December 30, 2004 in the matter of South Patterson Business Park. Board Member Montesano seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Mr. Lynch asked with regard to the driveway permit we are trying to meet with the DOT out on the property to see since there isn't a user for the lot at present it is kind of hard to get a driveway permit approved if you don't have something proposed so we are going to meet with the DOT out in the field and see if they have any problems for any location along that frontage. We will take it from there.

Rich Williams stated if you are going to be pulling in from the DOT right of way you need a driveway to do that regardless of the use.

Mr. Lynch stated I will talk to him next week thank you.

12) TRIPLE J SUBDIVISION WETLANDS WATERCOURSE PERMIT

Mr. Lynch stated we would like to go to the end of the agenda if we can.

Chairman Schech replied okay.

13) BURDICK FARMS SUBDIVISION

Chairman Schech stated all we have to do is indicate the receipt of the FEIS.

Rich Williams stated Burdick Farms is on tonight's agenda just to acknowledge that we have received the FEIS and the Board needs to begin their review for completeness. I did provide a memo outlining the next steps that the Board needs to consider as we are going through this process other than that no other action is necessary.

14) PATTERSON CROSSING SITE PLAN

Rich Williams stated Patterson Crossing we have finally received notice from the DEC that we can assume Lead Agency status so the next step in the process to make a determination of significance on the project and to assuming that you would do a positive determination set a time for a scoping session. I have

prepared a resolution the dates for the public hearing and for any written comment period has been left blank.

Chairman Schech asked what did we come up with that Monday of when.

Board Member Pierro stated January 30th.

Rich Williams stated the Board had expressed an interest in having the public hearing at the new Recreation Center because of the capacity issues. In order to minimize the interference with the on going programs down there I talked to the Recreation Director and she expressed that Monday nights would be the most suitable night. We could be in there at 7 to hold a 7:30 meeting however if the Board wanted to hold the meeting a little bit earlier to allow for more time then we would have to bump the program out that is currently using the facility on Monday night. What is your pleasure.

Chairman Schech asked check with them see how much of a problem it is going to cause if we bump the program.

Rich Williams asked are we going to put this off one more time.

Board Member DiSalvo and Board Member Pierro replied no.

Chairman Schech stated you can do that during the week.

Board Member Pierro stated I think the arrangements have already been, they understand that the option is for us to ask them to cancel.

Board Member Montesano asked who is there before we have the meeting.

Board Member DiSalvo replied volleyball.

Rich Williams replied I don't know but my suggestion would be that if you want to bump them let's do the motion to do that to set the time at whatever with a fall back to the regular 7:30 which we know we can do.

Board Member Montesano stated I have no problem with that.

Board Member Pierro stated that would be my motion. In the matter of Patterson Crossing that the Planning Board asks the recreation department to cancel their programs for January 30th,

Rich Williams interjected do the resolution because you are going to make a positive determination on the project.

Board Member Pierro stated I can't even read it.

Rich Williams stated have Maria do it then.

Board Member Montesano introduced the following resolution:

An application has been submitted to the Patterson Planning Board entitled Patterson Crossing, Be it resolved that the Patterson Planning Board hereby determines the project to have a positive determination

under SEQRA and that the Planning Board schedules a public hearing for, Board Member Pierro stated January 30th, Board Member Montesano asked do you want me to set it at 7:30.

Board Member Pierro stated no I pick 7:00.

Board Member Montesano stated or at approximately 7:00 at night or as near to that time as we can.

Rich Williams asked we are talking January 31st.

Board Member Montesano asked it is January 31st now.

Chairman Schech stated January 30th or January 31st.

Board Member DiSalvo stated you have the 20th in here.

Rich Williams stated that is the old one you have received the new one.

Board Member Pierro stated we want it to be the last Monday in January.

Rich Williams stated the last Monday in January which should be January 31st.

Board Member Montesano stated on January 31, 2005 at the Patterson Recreation Center gymnasium, 65 Front Street, Patterson, New York.

Rich Williams stated one more thing that you have to do is the resolution requests a time for the written comment period on the scope which is generally two to three weeks subsequent to the end of the public hearing.

Board Member Pierro stated three weeks later.

Board Member Montesano stated I will go along with that.

Board Member Pierro stated as part of that motion I make a motion that we designated February 21st as the end of the comment period for the scoping document.

Rich Williams asked is that all part of Mike's motion.

Board Member Montesano stated yes.

Rich Williams asked do I have a second.

Board Member Pierro seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

15) FOX RUN PHASE II SITE PLAN

Mr. Dave Johnson and Doug Schroder, Zarecki Associates, Don Cappelino, Attorney and Bob Marvin, Attorney were present representing the Applicant.

Rich Williams stated we have an application for a conceptual review not an actual application for the project.

Board Member Pierro asked can we have clarification on that Rich for the record why don't we have an application.

Rich Williams replied they have not submitted one yet.

Board Member Montesano asked so we are going to review a concept.

Rich Williams replied that is what they are requesting at this point yes.

Mr. Cappelino introduced himself to the Board. I am the Attorney for the project. I am here with Bob Marvin, my colleague on the matter, Dave Johnson and Doug Schroder from Zarecki's office the engineers. We were here last May I don't know if you remember us but we were here then. There was very little legal work done in the meantime it was all engineering work and that is really what we chose to do. We wanted to spend our time not fighting with the Town on the vested right issue that we had talked about. We thought we would first try to talk to you about what we would like to do so I will give you if I may a two minute review of this whole thing all right maybe a little longer but I will give you a very brief review of this so that you know where we are and where we are coming from then I will let the engineers talk and I will sit down.

Mr. Cappelino stated the situation simply is that back in August of 1972 this site plan was approved. That is a signed site plan from the Board for the multi-family development and ST1, Stage 1, this is Stage 1, this is Stage 2, and this is Stage 3. This has been built. Stages 4 which are these two sets of buildings, 5 and 6 have not been built okay. We claim that we have a right to build those out. On the other hand we don't want to build that we think we can build something better. So, if you really want to look at what our application will be when we come in with a real application it probably is more likely going to be something in the nature of an amended site plan application to amend that to something that we think will be much better. There is a question as to whether or not this can be built out this way and that issue was the issue that was being discussed amongst parties and the Town was going to get another Attorney because the Town Attorney had in the past represented this Applicant before and there is a render in the Town of opinions by the Town that we did have vested rights that we could complete the total 330 units. There are now 204 units in these Stages 1, 2, and 3 so the question is out of the remaining 126 units that had been approved what are we asking for. So, we came here last May and we just said we wanted to do it there is a lot of discussion around the issue and the Board said well you are talking in vague terms and concepts and what are you showing us. Can you show us something more real. So, that is what we are doing. So, this is what was here, this is what has been approved our position is we could build that. We don't think that is

what we want to build. This particular proposal is not the one we are trying to build either but I am trying to give it a history very briefly, 1989 a whole process was undertaken for the review of this with this, this is the lower part, this is the other part of this, this was being proposed for the 126 units on the property. That 126 unit proposal resulted in a generation of a Full Environmental Review and there is a lot of information concerning all of that presented to the Board and there were questions that were raised and that stopped and that is where it was and from time to time this was picked up and then not moved forward. So, at this point the owner of the property would like to move forward and so they engaged Zarecki & Associates to do this and so they are proposing instead this plan.

Board Member DiSalvo stated it is getting smaller and smaller.

Board Member Pierro stated harder and harder to read.

Mr. Cappelino stated I know we are trying to do something it is not just the prints that get smaller we think it is smaller impacts too.

Board Member Pierro stated where I come from they call that smoke and mirrors Sir.

Mr. Cappelino stated the total number of units here went from 126 in the 72 approved plan and 126 in the Bibbo, these are 68 total units. The parking spaces were reduced from 196, the second plan went up to 288 and now 129.

Board Member Pierro asked can you guys afford copies for the Board.

Mr. Cappelino asked Dave do you have copies.

Rich Williams stated they do have them.

Board Member Pierro stated I didn't see them sorry I am blinder than a bat.

Mr. Cappelino stated so we think that the advantages of what we are proposing here is a much lesser impact. We did speak to the homeowner's association we are working with them trying to make sure of the present development to make sure that what we do is consistent with what they need. We will be doing some things to help them with the roadway going through there. We are sure we will be doing some things for them and with them. The whole idea here is to make sure that this is the kind of development that you are comfortable with that we can work with. We know that there is an issue about how we are going to do it.

Chairman Schech stated well you have several issues. You have road length is number one, number two is what is the DEP going to say about their waste water treatment plant which they just re-did in order to take care of the buildings that are existing there now.

Mr. Cappelino stated I will let Dave talk about that.

Mr. Johnson stated I have spoken with (unable to hear) Engineering who is contracted with the DEP to do the upgrade for the sewage treatment plant. That sewage treatment plant has more than that excess capacity for what is there plus what is here. That plant was originally designed for a higher project which this is a part of so it is being redesigned for that entire capacity as well.

Chairman Schech stated in other words you have more work to do on it now.

Mr. Johnson replied we don't have any work to do on the sewage treatment plant. It is being done internally by the DEP right now. It is under a SPEDES Permit for the entire amount of gallons.

Mr. Johnson stated the map that we just flipped over here is a slope analysis map. The slope analysis was prepared in direct response what was included in the scoping document where steep slopes were identified as being sensitive. The development has utilized areas of lesser slopes and away from wetland areas which we did have flagged by a wetland specialist. Doug from my office can tell you what the different colors represent.

Mr. Schroder stated I looked at the slopes where steep slopes were anything over fifteen percent and I brought out those colors here so it made it easier for me to design it to avoid the slopes as much as I can. Then I took the wetlands here and the hundred foot buffer along here and I kind of snaked the roadway in as much as I can to avoid all those areas to minimize the impact anywhere along the ridge up here and the ridges up here. As you can see I came in and kind of curved it to the left going up. The total roadway length is approximately about 1300 feet. We have 17 total units, we are also proposing detention areas here and here and right along here referring to the map.

Mr. Johnson stated on this whole thing our total disturbance was I believe 6.7 acres.

Mr. Schroder stated 6.7 acres out of 44.

Chairman Schech asked this 1300 feet of road in addition to the road that is there already to get to that 1300 feet.

Mr. Johnson replied right.

Chairman Schech asked there is no other way to gain access to this.

Mr. Schroder replied no as you can see here there are steep slopes all throughout here and also in here.

Board Member Montesano stated we can still continue with this project it is pre-existing so we don't have to worry about the no town road.

Board Member Pierro stated that has yet to be determined.

Rich Williams stated that is not in my opinion.

Board Member Montesano asked my question right now is do we have the right to look at this on the fact that it does not have a Town of Patterson road. Are we still able to look at that because of its pre-existing roadway.

Rich Williams stated not trying to be coy you can look but you can't touch. You know I maintain that this does not meet our current zoning requirements. In fact I have not done a review on this because I have nothing you know no benchmark by which to compare it.

Chairman Schech stated I don't know what to tell you.

Board Member Pierro stated my personal opinion gentlemen and ladies is there is apparently a conflict between the opinions of our current Counsel and this Applicant. Our current Counsel may disagree with our Planning Consultants.

Rich Williams stated no, no let's back up. Our current Counsel has recused themselves considering this application.

Board Member Pierro stated so we are acting without Counsel at this moment.

Rich Williams stated you are currently acting without Counsel.

Board Member Pierro stated so I think we ought to reserve our comments and, Board Member Montesano stated until we find out that we can do it. Board Member Pierro stated until we either get Counsel and get an opinion until the Town decides to hire Counsel and we get an opinion on this project.

Rich Williams stated there has been some discussion about this matter with the Town Board. They felt that it was more appropriate to address this during the SEQRA process at which time they would make available Counsel. The Planning Board at the last meeting indicated that they wanted to see it at a sooner date but my understanding is that the Town Board is not going to authorize special Counsel until such time as an application is actually made.

Mr. Cappelino stated if I could just try to focus to the point here, the point is that we are trying to make the steps forward. We have come with a 1972 signed approved site plan showing that we have 330 units permitted and we claim that we can do that but we have heard some resistance to that on the Town side. We have heard that. Now, instead of my client saying to me prepare the legal documents he told me go sit in the office for another two months and let the engineers come in and try to find something that is more comfortable to the Town. Compared to what we have and looking at this we see this as a significant improvement. If you see that has a significant improvement whether you think it is correct, whether or not, I mean we can argue the legal issues and find out whether we are permitted to build the 126 units in which case if we are successful we can go ahead and build that. We are not asking for that. We are instead coming into the olive branch and saying let's look at this. If this is good development and this looks right and it works well and it is an appropriate compromise point here then consider it if this looks good. That is the nature of which this is presented. It is not presented saying okay here it is we are trying to ram anything through. We came here in May and we had something but it was sketchy and they really hadn't done a very complete review. This is much more complete. It is much farther along, they have done the slope analysis. It took them a long time and this is what resulted from that and so they are asking you how do you feel about this. Are we moving in the right direction, do you feel this is something that is better because if we can't come to an agreement then my client spent a lot of money on this and is going to have to do it. You are going to have to spend your money on your attorney and we can litigate that issue and we can end up with whatever it is or we can try to come up with something that works. I have been trying to stay out of the process and let this become a planning issue and keep the legal issues out.

Chairman Schech stated yes but I can't ask advice of my attorney.

Mr. Cappelino stated no, no that is not.

Chairman Schech stated and you are not going to get anything out of us until we can ask advice of our attorney and we don't have an attorney until you submit an application and go through the process.

Mr. Cappelino stated we can submit an application and ask for an amended site plan understanding that we reserve our rights to do that but this particular matter we were trying to do this in an informal way first. You are not binding yourself to anything that you say now.

Board Member Pierro laughed and stated yeah okay.

Mr. Cappelino stated I am not asking for anything along those lines. That just can't be without an approval from the Board. If one Board Member says you know I don't like those things I would like it laid out a different way that is never getting by me,

Chairman Schech stated I don't think you are going to get what you are seeking here tonight. I like the colors.

Board Member Pierro stated the best that I can give you Sir is that I just don't know this complex that well and,

Chairman Schech stated and until I find out our legal standing.

Board Member Pierro stated I would like to go take a look at it get an idea of how this whole place exists now.

Mr. Cappelino stated we will submit the application if that helps you get to the point where you are more comfortable, for you to get an attorney.

Chairman Schech stated that is what we need.

Mr. Cappelino stated that is okay with me, I mean that is not a problem we will do that. We will submit a formal application it will be with this and we will say for an amended site plan based upon without prejudice of our rights to build the other one we are asking you to consider that, that is all with a cover letter and your lawyer can look at it. I had written the full letter to the Town Attorney and he recused himself giving the full background of this and the legal arguments and that is when it all just fell back. We thought we could do this,

Board Member Pierro asked when was this 1972.

Rich Williams replied I think that was the original approval yes.

Chairman Schech stated I would say that is your best bet thank you.

16) YONKERS AVENUE SITE PLAN

Mr. Joe Buschynski, and Rich Williams Jr., Bibbo Associates were present representing the Applicant.

Rich Williams stated listen in the ban of full disclosure, ladies and gentlemen my son.

Mr. Buschynski stated we have a project with some history.

Board Member Montesano asked from 1972.

Board Member Pierro commented welcome to the plate.

Mr. Buschynski stated this is the mid eighties it has changed hands a couple of times since then. The current owner is Yonkers Realty and the site has a building of 39,000 square feet, the occupancy over the course of the years has changed also and the current owner what he would like to do is he is seeking an amended site plan approval to allow occupancy by the two companies currently there and a third company. Basically, their businesses involve a bus company, garage, a tile and marble company who has a warehouse section in the building and a proposal for a public garage type facility to locate a truck repair operation.

Chairman Schech asked and they are going to retain all three businesses there.

Mr. Buschynski replied yes seeking site plan approvals for occupancy by those three uses. The original site construction resulted in deficiencies with respect to compliance with the approved site plan. There were some parking areas this plan here shows you what exists, this plan is the approved plan originally it was a slightly larger parking area in the back. There is a brook running through the property. There was a small parking area proposed down front and a future reserved area necessary off to the south. The building was originally constructed for Avitech. They assembled aviation equipment. What the owner obviously wants to do is (unable to hear) to address some of those deficiencies.

Chairman Schech stated upgrade it to what it should have been.

Mr. Buschynski stated not exactly with what it should have been. We would like to ask for exceptions from all the parking that was originally approved because these uses that are there now don't require anywhere near that. They probably have right now about eight employees in addition to the warehouse for the tile business which is not really occupied by employees but it is visited. There is a very much reduced need for parking but there is a need for truck parking, there is a need for the truck repair there is a need for vehicles being stored on site and one of the issues that Rich Williams brought forward in his memorandum concerned the need to house un-licensed, dismantled vehicles within the building or within a enclosed area and I think that is one of the more difficult issues to grapple with and we would like to discuss it with you. The site has the advantage of not being,

Chairman Schech stated of being out of sight out of mind.

Mr. Buschynski stated yes and perhaps that is polite.

Chairman Schech asked what is the red highlight on the original submission.

Mr. Buschynski replied that was a future expansion of the building. In that regards for screening of I will say trucks under repair or buses. We would like to present that we really don't have visibility of that parking lot from Commerce Drive or from very few angles. This wouldn't be an inappropriate location for this type of use. We would like you to consider alternatives such as fencing.

Rich Williams stated that is exactly what it was designed to do have some sort of enclosure such as a stockade fence or chain-link fence.

Mr. Buschynski stated and it wouldn't take much of a fence to hide from down below so that is an alternative.

Rich Williams stated and that would suffice. If you don't want to comply with that requirement though that is an issue that would need to be taken up by the Zoning Board of Appeals because it is a requirement of the Zoning Code.

Mr. Buschynski stated I am sure the owner would rather comply.

Rich Williams stated it seems easy to do.

Mr. Buschynski stated the other things mentioned with respect to signs, with respect to lighting this will be taken care of.

Board Member Pierro stated my concern Rich would be a limit to how many vehicles could be stored on site, commercial vehicles.

Rich Williams replied that would be limited by the number of parking spaces provided and or the area that would be defined for storage of the vehicles.

Board Member Pierro stated because Mr. Zottola deals with some pretty heavy duty equipment and you could just see a lot of businesses like this tend to retain ownership and store it on site and it causes an environmental nightmare because they are leaking oils and fluids and things like that. I mean granted we are in a pretty dirty area with a bad history there but we don't want to contribute to any worse. We went to some lengths to make sure that the bus garage wasn't draining septic wastes out in to the old septic area.

Rich Williams stated actually it was discharging to the storm drains.

Ted Kozlowski asked discharging to what Rich.

Board Member Pierro stated into the stream.

Ted Kozlowski stated Joe, one glaring omission on the plan is the continuance of that stream which is a significant stream and the wetlands associated with it and that needs to really be shown on the plans. I went out there with Rich the other day and there is a significant contribution of roof drains that is causing erosion problems on the side of hill and that is all flowing into the stream and that really needs to be addressed by the Applicant and the Board you know there is a site plan there with a stream that stops suddenly you know it has got to be shown.

Mr. Buschynski stated we will get official topography.

Ted Kozlowski stated also you should know there is a quite a steep drop off from the building down to the stream. It is significant so what you see on that plan is really very kind to what is actually out there.

Chairman Schech stated you are going to need all catch basins with oil separators which I don't think there are any on site are there.

Rich Williams replied oil water separators no there is no oil water separators.

Chairman Schech stated indicate how many buses are being parked there because usually I see three or four buses being parked there which take up considerable amount of room.

Rich Williams asked so we can just get some clarification here, are you looking for an oil water separator for the whole parking area or just the catch,

Chairman Schech stated you are going to need at least several I would think in that area.

Rich Williams asked or where they are storing vehicles.

Chairman Schech stated they are going to be storing vehicles on the whole blacktop area.

Rich Williams stated okay well I am just trying to get clear.

Chairman Schech stated and the truck repair business if he has as many trucks over here as he had on 311 the site certainly isn't big enough.

Board Member Pierro stated we have to limit the number of stored vehicles there I would say.

Chairman Schech stated as a matter of fact I will do a quick drive by and count them because he has got a darn good thriving business and he handles a lot of stuff in and out and it is all large. Bob's isn't going in there anywhere is he, Bob's Towing.

Mr. Williams Jr. replied not to our knowledge.

Chairman Schech asked okay do you have enough to work on.

Mr. Buschynski stated there is substantial.

Chairman Schech stated and we have to find out exactly how many buses.

Mr. Buschynski stated okay.

Board Member Pierro stated we catch two or three buses during the day and most of them are out of there in five in the morning. They are there at night.

17) MORETTI SUBDIVISION

Ms. Theresa Ryan, Insite Engineering was present representing the Applicant.

Ms Ryan stated the Applicant, Christine Moretti own an 18 acre parcel in the Cornwall Ridge Estates Subdivision. The Moretti's have an existing house on the site. This is the Moretti's house referring to the plan. What they are proposing to do is subdivide the property into a 7.2 acre piece and a 10.6 acre piece. The new property, Lot 1 it has frontage it is using an existing strip of property that goes to Somerset Drive here they have about 184 feet of frontage on the lot that was pre-existing, non-conforming and because there is frontage there their Attorney's opinion is that it is also pre-existing, non-conforming that frontage.

Board Member Pierro asked why would the first house be non-conforming Rich.

Rich Williams replied because we have changed the zoning standards.

Ms. Ryan stated your zoning has changed.

Rich Williams stated don't hold me to this but I believe the original frontage was a hundred feet and it is now 225.

Ms. Ryan stated and the 225 has to be contiguous. So, there are two separate frontages and like I said their attorney's opinion is that since that this frontage already existed that is also pre-existing, non-conforming.

Rich Williams stated I don't agree with that assessment. It is only frontage if it is used for access for the principal structure simply because it abuts the road it does not meet our requirements for frontage being as you are proposing to subdivide it and change the use.

Ms. Ryan stated it is still residential use we are not changing the use.

Rich Williams stated no I understand that but right now it is just land that abuts a road it is not strictly speaking frontage because it does not provide access but it is sub-standard. Once you go to try to use it as frontage then it becomes sub-standard it is not pre-existing. It is non-conforming so it would require an area variance.

Ms. Ryan stated we will ask the Applicant's Attorney to address that.

Rich Williams asked can I ask who the Attorney is.

(I believe the Applicant) replied Williams Shilling.

Chairman Schech asked the Board you guys want to do a site walk on this or are you going to wait until they get through ZBA.

Board Member Pierro stated I know the property intimately I hunted that when it belonged to, Chairman Schech interjected intimately, Board Member Pierro stated when it belonged to the Granick's I know the property,

Ms. Ryan asked in 72.

Board Member Pierro replied no later than that.

Chairman Schech stated I would like to see it. You have got three houses built on the road we can't go to far wrong. We can find it easy enough we don't need any stakes. Rich do we need stakes no.

Rich Williams replied I don't need stakes.

Chairman Schech stated no. We will schedule a site walk when the snow leaves.

Ms. Ryan asked could you determine whether it classifies as a major or minor tonight.

Rich Williams stated you certainly could accomplish that if the Board so desires.

Chairman Schech stated it would be a minor.

Chairman Schech stated okay Theresa thank you.

Rich Williams asked was there a motion.

Board Member Montesano replied no.

Chairman Schech made a motion that the Planning Board declares the Moretti Subdivision application as a minor subdivision. Board Member DiSalvo seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 4 to 0.

Ms. Ryan stated one other thing Rich you mentioned that New York City DEP has to be put on there for the SSTS that is within two hundred feet of a State Wetland.

Rich Williams stated no, no what I have been informed by representatives of the DEP is even though they have delegated the authority they still have the authority and therefore they should be included as an involved agency because they do have the approval over the septic even though they have delegated the authority that is what I have been told and I do need to get that clarified.

Ms. Ryan asked you will talk to Joe.

Rich Williams replied actually I will probably call Jim Benson.

Ms. Ryan stated I will talk to Joe.

18) TRIPLE J SUBDIVISION WETLANDS/WATERCOURSE PERMIT

Mr. Paul Lynch, Putnam Engineering, Mr. Jay Hogan, Applicants were present.

Mr. Hogan stated we got some information from the DEP that sort of throw our whole thing into a bit of a tizzy. We had historically I guess Paul is better at explaining the time frame but maybe four years ago went to the DEP with a submission then we had two basins and that submission evolved into four basins and for the last I think approximately two years this project has gone through the DEP review with four basins and so everything we have done has been towards those four basins in the Town of Southeast and with you folks since I guess about maybe July. We were under the impression by the reviewing engineer that when we, just before Christmas that they were prepared to approve what they saw conceptually with the four

basins and indicated that if we submitted four drawings that it is probably going to fly but let's run it by our Supervisor first and it was run by a Supervisor and I found out basically today before we came here well actually Paul had that the DEP is now talking about us coming back with three ponds, two in Patterson, one in Southeast and you can explain the ramifications and honestly we are down the road right now,

Chairman Schech asked in other words they are cutting down the number of ponds from four to three.

Mr. Hogan stated we went down the road with this thing you know with final approval in Southeast on a ninety day extension of that final approval and we are going to have to ask for another ninety day extension and we have grave concerns at this point, we have been down this road so far that now I am afraid that we can't come back and get back to where we can finalize the thing before our final approvals expire, when our last extension expires. I will let Paul tell you where DEP has kind of changed direction here.

Board Member Montesano asked that is as of today.

Mr. Hogan replied well within the last week.

Mr. Lynch stated before Christmas it was our understanding that John Drake was going to try and sit down with Margaret Lloyd who is his superior who ultimately signs off on the SPP. He had to get her blessing, if he got that we were done. A phone call came in last week from John that Margaret believes there is too much disturbance she wants us to take the two ponds in Southeast combine them into one pond right now we have presently what we call two design, I think they are two design three ponds, she wants us to create a single P-5 pond. It is hard to start keeping track of all these different letters and things like that. (TAPE ENDED).

Board Member Pierro asked how does this affect us.

Mr. Lynch replied I am going to get to that. She asked us between the two ponds here convert them into a single pond. The single pond is pretty much going to take up the same area but it is going to be a different design type pond. She actually wanted us to eliminate one pond in Patterson which would be the last pond. The problem with that I have and basically the first problem that I have is when I was told you know they wanted to change things so radically at the last moment because it just doesn't make sense that you are going to make that kind of a change at this point in time. When I took the phone call I thought we were getting a blessing on being done. What happens and we had some time to start looking at the numbers and how things worked out if this became what they call P-5 and maintains that this is a quality pond my pollutant loadings actually go up. I am not going to meet the goals that the DEP has been breathing on us the last eight years. Actually my phosphorus loading that would be registered at this design point would probably go up twenty-five to thirty percent. It doesn't make sense that they would want us to change the two ponds I am being told that this is what they want me to do.

Ted Kozlowski asked and you informed DEP that is what would happen.

Mr. Lynch replied yes I have had that conversation.

Ted Kozlowski asked and there answer to you was.

Mr. Lynch stated they can live with it.

Mr. Hogan stated from what I gather there seems to be a change in philosophical direction.

Chairman Schech asked they can live with the increase in phosphorous.

Mr. Lynch replied they can live with the increase in phosphorous. Now, that does not mean that who ever is on the other side who is watching them is going or for that matter whether or not you will agree to that increase in phosphorous.

Ted Kozlowski asked have they given this to you in writing.

Mr. Lynch replied no that was a telephone conversation.

Mr. Hogan stated what we discuss tonight is to try and set up as fast a meeting as we can to make sure that this is exactly what we are talking about because this is what they have conveyed it does not make sense to us. This is against what I think we have been experiencing in any of the matters that I have been before Boards with or been involved with.

Board Member Pierro stated it sounds like somebody shook this lady's tree.

Ted Kozlowski stated maybe, maybe there is something else behind it.

Board Member Pierro stated there is something else behind it and.

Rich Williams stated I would suspect there is something else behind it but in their defense let me say this Paul, I took a look at your loading numbers and you are basically using the same type of pollutant removal through each of the different ponds and I thought they were over estimated. Once you remove the sediment you can't then remove the sediment that is already gone.

Mr. Lynch stated I am not disagreeing with you Rich. I fought that battle two years ago and that is what when Jay talks about we were led down this path it isn't because we wanted to do it, it is because they insisted that we had to use these loadings. If you look at it from the down hill side up until last week they wouldn't let use the grass or anything other than in essence cow paths which you use cow paths you are in a loading calculation there makes no sense to it but in their minds that is the closest thing we could use, use it. This is your number.

Rich Williams asked just kind of curiosity if I recall correctly a P-5 Design generally requires a four to five foot depth.

Mr. Lynch replied I am not a hundred percent familiar with it so I don't know.

Rich Williams stated well I mean now we are getting down to,

Mr. Lynch stated I don't even know if a P-5 would work there. I was more interested in how are the numbers assuming it works because again they told me they looked at it and they think it is going to work.

Chairman Schech stated this is basically where we were what two years ago.

Ted Kozlowski stated I think Jay thinks it is funny.

Board Member Montesano stated no one expects it to be funny but this is the problem when you have forty-five heads running one body.

Mr. Hogan stated we don't want to, listen you have got a lot of comments that we have to address you guys worked hard all night I think what we have to do is setup a meeting with the Supervisor down there and the person who conveyed, and we have to go to his Supervisor and find out how they conduct at this stage of the game.

Mr. Lynch stated one of the thing that we discussed also is the fact that is that type of pollutant loading going to be acceptable to the Town of Patterson. I don't want to get involved in doing the study and then ultimately it does not meet you folks.

Rich Williams stated certainly we are going to look at it in light of us being a MS-4 community and having to achieve a certain reduction of phosphorus loading and make sure that we don't have a significant increase now having said that we don't have any standards.

Mr. Hogan stated Rich for us it is absolutely the rock in the hard place because we can satisfy them and not satisfy you. We may be able to satisfy you and we are being told by them that we can't satisfy them if we satisfy you. We are just looking at each other like what the hell do we do now so we just have got to set this meeting up as fastest we can and the clock is running on us and get back here as soon as we can on it.

Mr. Hogan stated so rather than go through the issues that you have and waste the Board's time.

Rich Williams stated they may all be moot.

Mr. Hogan stated yes they might be so I don't want to do that. What we would have to do is get to them as quickly as possible and find out which direction they are going and come back here as quick as we can.

(Too many speaking at the same time unable to transcribe).

Mr. Hogan stated if Southeast can't grant us an extension beyond then we are dead in Southeast after April 26th. Again, we appreciate your time and we hope to see you real soon. Thank you very much.

19) MINUTES

Board Member Pierro asked minutes Mr. Chairman.

Chairman Schech stated I haven't had a chance to go through the minutes.

Board Member Pierro stated then we will hold on to them until next meeting.

20) OTHER BUSINESS

Board Member Pierro asked anything under other business.

Rich Williams stated there is one thing that some of you already know Bear Hill has been staked out. It is a little difficult right now with snow on the ground but it is staked out.

Chairman Schech stated which should be gone by Monday if it does not snow on Sunday.

Board Member Pierro made a motion to adjourn the meeting. Board Member Montesano seconded the motion. All in favor and meeting adjourned at 10:14 p.m.