

# TOWN OF PATTERSON

## PLANNING BOARD MEETING

May 6, 2004

### AGENDA & MINUTES

APPROVED  
7/11/04 MB

- |  | Page #  |   |
|--|---------|---|
| 1) Thomas Subdivision – Public Hearing               | 1 – 3   | Public hearing held & closed<br>Board issued a negative SEQRA determination &<br>Granted a conditional Preliminary Subdivision Approval<br>Positive Recommendation to the Town Board for a 280a |
| 2) Ryder Site Wetlands Watercourse<br>Public Hearing | 3 – 5   | Public hearing held & closed<br>Board issued a negative SEQRA determination &<br>Granted a Wetlands Permit with conditions  |
| 3) D.E.W. Amended Site Plan – Public Hearing         | 6 – 7   | Public hearing held & closed  |
| 4) Bodies in Motion Sign Application                 | 7 – 8   | Board issued a negative SEQRA determination<br>Board approved sign application  |
| 5) Ling Nail Salon (Ally Nails) Application          | 8 – 10  | Board issued a negative SEQRA determination<br>Board approved sign application  |
| 6) Wunner Lot Line Adjustment                        | 10      | Board issued a negative SEQRA determination<br>Board granted a Conditional Approval   |
| 7) Verizon Site Plan                                 | 11 – 12 | Board scheduled Public Hearing for June 3, 2004   |
| 8) South Patterson Business Park                     | 8       | No one present, Board to do a site walk   |
| 9) Alpine Restaurant Site Plan                       | 13 – 16 | Discussion on parking, dumpster & stream<br>Board scheduled a Public Hearing for June 3, 2004   |
| 10) D.E.W Amended Site Plan                          | 16 – 18 | Board issued a negative SEQRA determination<br>Board granted a Conditional Approval   |
| 11) JCG Associates Subdivision                       | 18 – 19 | Wetlands to be flagged<br>Cluster Plan to be submitted<br>A site walk to be scheduled   |
| 12) Fox Run Condominiums                             | 19 – 25 | Discussion on vested rights<br>Reviewed a sketch plan<br>Board recommended Town Board to hire special Counsel   |
| 13) New England Equine Practice Site Plan            | 25 – 29 | Stream crossing & clean up discussed<br>Board declared their intent for Lead Agency<br>Board scheduled a public hearing for June 3, 2004  |
| 14) Ralph Burdick Site Plan                          | 29      | Board granted Conditional Final Site Plan Approval  |
| 15) Minutes  | 29      | Board approved 3/4/04, 3/25/04, 4/1/04, 4/15/04 Minutes   |

<b>16) Other Business</b>	
<b>a. Triple J Subdivision</b>	29
<b>b. Ant Rock Wetlands</b>	29- 31

**PLANNING DEPARTMENT**

P.O. Box 470  
1142 Route 311  
Patterson, NY 12563

Melissa Brichta  
*Secretary*

Richard Williams  
*Town Planner*

Telephone (914) 878-6500  
FAX (914) 878-2019



**TOWN OF PATTERSON  
PLANNING & ZONING OFFICE**

**ZONING BOARD OF APPEALS**

Howard Buzzutto, Chairman  
Mary Bodor  
Marianne Burdick  
Ginny Nacerino  
Lars Olenius

**PLANNING BOARD**

Herb Schech, Chairman  
Michael Montesano  
David Pierro  
Shawn Rogan  
Maria Di Salvo

**Planning Board  
May 6, 2004 Meeting Minutes**

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

**APPROVED**  
7/1/04 MAB

Present were: Chairman Herb Schech, Board Member Mike Montesano, Board Member Dave Pierro, Board Member Shawn Rogan, Board Member Maria Di Salvo, Rich Williams, Town Planner, Gene Richards, Town Engineer and Craig Bumgarner, Town Attorney.

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

There were approximately 19 audience members.

**1) THOMAS SUBDIVISION – Public Hearing**

The Secretary read the legal notice.

Ms. Theresa Ryan, Insite Engineering and Mr. & Mrs. Thomas were present.

Ms. Ryan stated the Thomas' own a piece of property on Route 164 in the Town of Patterson. The property consists of 62.9 acres. The property contains an existing residence with a driveway and it comes off approximately across from Couch Road. They are proposing to subdivide the property in to four residential lots. One lot will contain the existing residence and there will be three new lots which we are putting basically in the front corner of the property adjacent to 164. The property is in an R-4 Zoning District which means it has to have a minimum of four acres for each lot. The lots provided that. The lots range in size of four acres to forty-four acres. Each one of the new lots and the existing lot will be served by individual septic systems and wells. The Applicant has also put a conservation easement on the property. That is in the green area and that consists of about 32.2 acres which is more than half of the property. The three new lots are going to be served by a common driveway, a sixteen foot wide common driveway. The common driveway is basically following the existing drive in this portion referring to the plan. The existing driveway comes in right now and that is going to be relocated for better circulation, movement of emergency vehicles up to this area about three hundred feet of the existing driveway is going to be relocated.

The stormwater basins will deal with quality and quantity, the stormwater issues, and the stormwater basins and the common drive are going to be maintained by the property owners that are going to be using them on this property.

Chairman Schech asked is there any comments from the audience. There were none. Chairman Schech asked for a motion to close the public hearing.

Board Member Rogan made a motion in the matter of the Thomas Subdivision that the Planning Board closes 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 Rogan	-	aye
Board Member Di Salvo	-	aye
Chairman Schech	-	aye

All in favor and motion carried by a vote of 5 to 0.

Chairman Schech stated Theresa you have to get together with Rich on the easement wording I believe.

Rich Williams stated yes we have been meeting and we are working on it.

Rich Williams stated I did do a resolution for preliminary subdivision approval.

Board Member Rogan asked do you want to do a preliminary approval with adding a condition of you guys finishing the easement work.

Rich William stated that is in there.

Board Member Rogan asked have we finished SEQRA on this.

Rich Williams stated it is in the there.

Board Member Rogan made a motion introducing the resolution granting Preliminary Subdivision Approval to the Thomas Subdivision contingent upon satisfying the four general and one special condition contained in the Planning Board May 6, 2004 resolution. Board Member Montesano seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member Di Salvo	-	aye
Chairman Schech	-	aye

All in favor and motion carried by a vote of 5 to 0.

Ms. Ryan asked can we get a referral at this point for the 280a.

Rich Williams stated you actually don't need a referral to go to the Town Board to start the process but the Town Board is not going to take an action without a recommendation.

Board Member Rogan made a motion in the matter of the Thomas Subdivision that the Planning Board makes a positive recommendation on the 280a for the approval of that subdivision to the Town Board. Board Member Di Salvo seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member Di Salvo	-	aye
Chairman Schech	-	aye

All in favor and motion carried by a vote of 5 to 0.

Ms. Ryan thanked the Board.

## 2) **RYDER SITE PLAN WETLANDS WATERCOURSE PERMIT -Public Hearing**

The Secretary read the legal notice.

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

Ms. Ryan stated the Applicant owns a commercial property on Route 311 in the Town of Patterson. The property contains an existing building, one story in the front and below it has garage doors for storage. There are two existing entrances with paved parking in front and a paved access drive to the back portion. The back portion is right directly behind the building it consists of gravel which needs to be upgraded. The proposal is to put a new gravel surface on the existing parking area behind the building, put new gutters on the building, put roof drains to discharge to an existing drainage channel behind the building and we are also proposing to make some pavement resurfacing in certain areas to improve the drainage in the existing parking lot. There is also a small piece of pavement that crosses over the parking that is going to be removed, topsoil and seeded. Some of this work is within the one hundred foot wetland buffer and a small portion is in the wetlands itself just for the roof drains and that is why we are here for the wetlands permit.

Chairman Schech asked did you get the memo from Ted.

Ms. Ryan replied yes.

Chairman Schech asked is it okay.

Ms. Ryan replied we have no problems with anything.

Chairman Schech asked is there any comments from the audience. There were none.

Board Member Rogan made a motion in the matter of Ryder Wetlands Application that the Planning Board closes 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 Rogan	-	aye
Board Member Di Salvo	-	aye
Chairman Schech	-	aye

All in favor and motion carried by a vote of 5 to 0.

Chairman Schech asked they really are going to re-pave the front.

Ms. Ryan replied yes in those areas that we have shown.

Chairman Schech asked what do you mean areas, isn't the entire front except for the planted area.

Ms. Ryan stated actually there is some low spots where the water is collecting and preventing it from leaving the site. It is ponding there so this is only to provide positive drainage so that we can get all of the water over to this existing drainage ditch.

Chairman Schech asked and you can do that with just patching.

Ms. Ryan replied yes should be able to. We have a lot of spot shots from the surveyor so by raising certain portions of that parking lot it should.

Chairman Schech asked is everyone happy with that.

Board Member Rogan stated let's get it done.

Board Member Montesano stated it is going to look like hell.

Board Member Pierro asked is there going to be any impact to that grass swale in front of the building. I thought we had discussed pitching water into that.

Ms. Ryan replied that is right I did forget to mention that there is an existing concrete curb here right now and that has got to be removed so that this water that might pond here is going to come to this swale which pitches this way already thank you.

Board Member Pierro stated I am not an engineer but I thought that was the biggest part of the problem with the ponding in the front of the lot.

Chairman Schech asked the concrete curb isn't that State mandated the curbing.

Ms. Ryan replied no. It is just on the property line. The concrete curb is mandated in the right of way right in here.

Chairman Schech stated as long as it drains the right way.

Board Member Montesano stated I think it is going to look like hell if you are just going to patch it up.

Chairman Schech stated it is his building he has to rent it.

Board Member Pierro stated he is going to fill up low areas.

Board Member Montesano replied yes but now all right you guys are satisfied. If you don't want it to look neat fine.

Board Member Pierro asked can we force the Applicant to pave the whole parking lot once he fills the,

Rich Williams replied no and I don't think it is so much of the patches it is just a top coating. It is a thin skim layer.

Ms. Ryan stated it is just very thin some of it is just a couple tenths of an inch.

Rich Williams stated if I might Mr. Chairman, just to reinforce something that had been said previously if we could somehow get the dumpster to actually be stored in the dumpster enclosure.

Ms. Ryan replied I will talk to the Applicant.

Board Member Pierro stated it looked like there was a new dumpster enclosure installed there this week.

Rich Williams stated it has been there for awhile it just has been in the parking lot.

Board Member Pierro asked it is in there I didn't see a dumpster.

Board Member Montesano stated it is not in the enclosure.

Board Member Pierro stated I looked at it purposely a couple days ago there was no dumpster on the site.

Chairman Schech stated let's make a condition that the dumpster be in the enclosure.

Board Member Pierro made a motion in the matter of the Ryder Property Wetlands Watercourse Permit that the Planning Board grants the permit with the three conditions listed in the April 28, 2004 memo by Ted Kozlowski. Board Member Rogan seconded the motion.

Board Member Rogan asked can you add the condition of the dumpster to the permit.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member Di Salvo	-	aye
Chairman Schech	-	aye

All in favor and motion carried by a vote of 5 to 0.

### 3) DEW SITE PLAN – Public Hearing

The Secretary read the legal notice.

Mr. Richard Clark, Engineer with Harry Nichols and Mr. Dan Finney and Mr. Bill Finney, Applicants were present.

Mr. Clark stated we are here for an amended site plan that was previously approved and prepared by Insite Engineering for the purpose of additional access and ease of traffic circulation around the building a request was asked to move the building back further but we are limited to about ten feet. We had a memo from the Town Engineer on March 24<sup>th</sup> which we responded to on April 20<sup>th</sup>. At that time we answered five comments and prepared for the public hearing.

Chairman Schech asked do you have the latest comments from the Town Engineer, May 6<sup>th</sup>.

Mr. Clark replied I don't have anything.

Gene Richards stated I faxed it this morning.

The Board handed Mr. Clark a copy of the comments.

Chairman Schech asked if there were any comments from the audience. There were no comments.

Board Member Rogan made a motion in the matter of D.E.W. Site Plan that the Planning Board closes 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 Rogan	-	aye
Board Member Di Salvo	-	aye
Chairman Schech	-	aye

All in favor and motion carried by a vote of 5 to 0.

Board Member Rogan asked the main reason this change in the building location was necessitated was for maneuvering of the trucks.

Mr. Finney replied yes to be able to access the front of the building better with your truck and trailer.

Board Member Rogan asked do you still have enough room to maintain the back of the building without going over the property line.

Mr. Finney replied yes. We are going to get away with a grass swale in the back.

Board Member Rogan asked and Rich they have already received approval from Zoning for the setback.

Mr. Finney replied yes.

Rich Williams shook his head yes.

Board Member Pierro asked what is required at this time Rich.

Rich Williams replied the outstanding issues are outlined in the memo.

Board Member Pierro asked there is no further action by this Board at this time.

Board Member Rogan stated once they address the comments we have to approve the amended site plan.

Chairman Schech stated there is quite a few comments here. There is eight of them on the May 6, 2004 memo that you have to take care of first.

Board Member Rogan stated it sounds like though if we take care of the technical aspects, Board Member Pierro stated we can probably get this wrapped up on,

Mr. Clark stated I apologize for not checking the fax machine.

Chairman Schech stated the main one basically is the Putnam County Health you have to reapply.

Mr. Clark stated I will have to check with Harry on that.

Mr. Clark thanked the Board.

#### **4) BODIES IN MOTION – Sign Application**

The Applicant was present.

Board Member Rogan asked this is the old sneaker location by the Alpine.

The Board replied yes.

Board Member Pierro asked how much square footage does the bike take.

Board Member Rogan stated the question that we had and this kind of in jest take it for what it is worth, the bike that is shown in the picture that is part of the sign we wanted to try and figure out what the square footage of the bike was. You are only allowed so many square feet for a sign we were kind of kidding saying we wondered how big the bike was.

Board Member Pierro stated no bigger than it is, than the picture is.

The Applicant stated it has been out there for years and I looked at it (unable to hear the rest of his statement).

Chairman Schech stated I don't have any problems with this sign.

The Board agreed.

Board Member Rogan made a motion in the matter of Bodies in Motion Sign Application, Route 22 the Planning Board grants a negative determination significance of SEQRA and approves the sign application not to exceed 15 square feet. Board Member Pierro seconded the motion.

Rich Williams stated there are two signs there.

Chairman Schech stated there is one on the building too.

Board Member Rogan stated I make a motion to amend the motion to include the second sign as submitted in the photograph.

Board Member Pierro seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member Di Salvo	-	aye
Chairman Schech	-	aye

All in favor and motion carried by a vote of 5 to 0.

##### **5) LING NAIL SALON – Sign Application**

The Applicant was present.

Board Member Rogan stated I drove by this yellow and blue are the basics out there.

Chairman Schech stated I think the sign on the building looks all right.

The Applicant stated the sign is 2' by 10'.

Board Member Rogan stated 2 by 10 so you have 20 and the application says what.

Board Member Pierro stated 25.

Board Member Rogan asked did we get colors on this.

The Secretary stated it is written on there we don't have a color rendering.

Chairman Schech stated as long as you take the sign out, put this sign up and take the one out of the window.

The Applicant asked we have to take the one out of the window.

Board Member Pierro replied yes.

Chairman Schech replied once you get this one up. They will see the one on the building better.

Board Member Rogan made a motion in the matter Ling Nail (Ally Nails), Route 22, Patterson Sign Application that the Planning Board grants a negative determination of significance of SEQRA and approves the sign application for a 2' by 20' sign as per schematic attached the application with the colors green, red, blue and yellow, is that correct.

The Applicant replied no.

Board Member Pierro stated the raceway behind the letters will be pink and sea pearl.

The Applicant stated yes the sea pearl.

Board Member Di Salvo asked the sign is in red.

Board Member Montesano stated yes.

Board Member Rogan stated so we have sea pearl, red and what are the other colors.

The Applicant stated the raceway is sea pearl.

Board Member Rogan asked sea pearl and red and that is it.

The Applicant replied that is it.

Board Member Montesano seconded the motion.

Board Member Montesano stated as long as he takes the sign out of the window.

Board Member Rogan stated the approval is conditioned on the fact that you have to remove the sign from the window.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member Di Salvo	-	aye
Chairman Schech	-	aye

All in favor and motion carried by a vote of 5 to 0.

#### 6) WUNNER LOT LINE ADJUSTMENT

Mr. Magliatoitchell Wunner was present.

Board Member Rogan asked what is the purpose of this lot line adjustment.

Mr. Wunner stated there is an existing stone wall and it is a natural boundary between the lots.

Chairman Schech stated and you are moving it over to the stone wall.

Mr. Wunner stated yes.

The Secretary stated he was granted a variance.

Board Member Rogan asked is everyone okay with this.

The Board replied yes.

Board Member Pierro made a motion in the matter of Wunner Lot Line Adjustment that the Planning Board declares a negative SEQRA determination and approve the resolution as written with the six comments and one special condition as well as the four items listed in the Project Review written by Rich Williams on April 29, 2004. Board Member Di Salvo seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member Di Salvo	-	aye
Chairman Schech	-	aye

All in favor and motion carried by a vote of 5 to 0.

**7) VERIZON SITE PLAN**

An Architect from William F. Collins, Architects was present representing the Applicant.

Chairman Schech asked Craig, do we have to have a public hearing on this.

Board Member Rogan stated we had a public hearing on this already. We gave them a conditional approval they did not meet the conditions so that is why they are back in, do they have to have another.

The Secretary stated it is a whole new application.

Craig Bumgarner stated yes you have to treat it,

The Representative stated actually we were approved but then the approval expired.

Board Member Rogan stated right you did not meet the conditions of the approval. You didn't do the work basically.

Board Member Pierro stated we can set a public hearing.

Chairman Schech stated so we will set a public hearing for the next meeting.

Chairman Schech stated site walk.

Board Member Rogan made a motion in the matter of Verizon Site Plan that the Planning Board schedules the public hearing for June 3, 2004. Board Member Di Salvo seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member Di Salvo	-	aye
Chairman Schech	-	aye

All in favor and motion carried by a vote of 5 to 0.

The Representative asked what will we be addressing that can't be addressed this evening.

The Secretary stated it is a whole new application process. You have to start from the very beginning.

Chairman Schech stated we have to advertise it.

Board Member Pierro stated and the public has to have a comment period.

Board Member Rogan stated your neighbors don't know that you are here tonight.

The Representative stated I thought that it already had gone through the entire process, again we submitted a couple of months ago.

Board Member Rogan stated the good news is that we have already cleared up the technical review last time around and if nothing has changed.

The Representative stated we are coming to the cooling season which is the real time the generator will be (too many talking unable to transcribe). I don't know if there is anyway to expedite this but the generator they have there now is not at all capable of handling the loads.

Board Member Rogan stated we have the public hearing next meeting we will probably have it done then.

Chairman Schech stated we can close it out next meeting.

Board Member Rogan stated we are looking at 30 days.

Board Member Rogan stated just think if you started a month earlier we would have been done tonight.

The Representative stated I think we started a couple of months ago but I think that she must have misunderstood something about the requirements.

Rich Williams stated a couple of months ago she submitted the revised plans I guess they changed the location of the trees that is what she submitted a couple of months ago and then we had a conversation about, I talked to her a couple of times about the approvals expired a long time ago.

The Secretary advised the Representative that he had to the notifications and provide us the return receipts.

Board Member Rogan asked you guys have a form for that right.

The Secretary replied no.

Board Member Rogan stated other agencies within the County have a notification form that you fill out maybe I will copy you on it that you can get an idea.

The Representative thanked the Board.

## **8) SOUTH PATTERSON BUSINESS PARK**

Chairman Schech stated the plan did change a little bit. Is anyone here for them.

There was no one present to represent the application.

Chairman Schech stated we still have to do a site walk and Ted is not around yet.

9) **ALPINE RESTAURANT SITE PLAN**

Mr. Nick Magliato, Applicant was present

Board Member Rogan stated the Wetlands Inspector said that he thought that the site needed a little bit of cleaning along the stream.

Mr. Magliatoagliato stated there is some wood over there yes.

Board Member Rogan stated and also he said that the dumpster enclosure looked like it had been backed into.

Mr. Magliatoagliato stated that is from AWD. I am in the process of telling them that they have to repair it. They were the ones that damaged it.

Board Member Rogan stated Rich, refresh my memory real quick because I am little bit fuzzy on why we are at this point. We are looking for site plan approval for the Alpine there has been some time that has lapsed and it feels like a year I don't know how long it has been.

Rich Williams replied longer.

Board Member Rogan asked and what was the void in action. What was the purpose of that.

Mr. Magliatoagliato stated we had gotten Peder Scott the first time around, he charged x amount of dollars and then we went to another one to get an additional approval and that was time lapse also.

Board Member Rogan stated so just a slow process on your engineers.

Board Member Pierro stated now we are at the stage where they reduced the seating. They reduced the parking and thus reduced seating.

Rich Williams stated at this point, I mean there has been some back and forth between the Board and the property owner about whether they were going to use that area on the other side of the right of way for parking and the latest plan does not make use of that property. We are down to I believe 53 parking spaces which will significantly limit the occupancy of the restaurant if this Board finds that acceptable.

Chairman Schech stated you have to if you don't have the parking.

Mr. Magliatoagliato stated we are willing to live with it.

Board Member Pierro asked how many spaces do we have Rich.

Chairman Schech replied 53.

Board Member Pierro asked and what does that do to the occupancy.

Chairman Schech stated 110.

Rich Williams replied about 106. It is two seats for every parking space. What we are going to be doing is again, if you find this real you are going to establish the number of parking spaces. You are also going to want to put in the resolution acknowledging a certain occupancy based on the available parking. There might be some wiggle room or again, find things acceptable to maybe increase the occupancy somewhat but not a lot.

Board Member Rogan asked do you have any idea what the safe occupancy ratings on the fire inspector is.

Mr. Magliatoagliato stated 140 or 150.

Board Member Rogan asked do you have any idea off hand I am sorry I am asking you all these questions but what your Health Department approval is for seating.

Mr. Magliatoagliato replied I don't know.

Board Member Rogan stated because in all of these the lowest number will prevail well no not really because you can have seating say Health Department says a 100 seats but you have a bar so it is different as long as you don't exceed your fire occupancy you are okay. The Health Department is chairs, seating where you are going to be served. I don't recall off hand what you seating is.

Board Member Pierro stated if the Applicant is happy with the status of it now then where would we go from here into writing a resolution on it.

Rich Williams stated I could have a resolution prepared for the next meeting by then we will have any recommendations back in by Ted.

Board Member Pierro asked but if we agree to this resolution Rich does that say they can't ever use that parking that is on the southerly lot.

Board Member Rogan stated they would have to do a amended site plan.

Rich Williams stated they would have to amend it.

Board Member Rogan stated then we increase their occupancy based on that. Anything can be changed in the future.

Chairman Schech stated we had it all drawn up for parking over there.

Board Member Pierro stated I remember. Mr. Magliatoagliato owns that and he has partners in it that don't want to grant the use.

Mr. Magliato stated that is why we had to make a change in plans because the partners wouldn't allow him to use it.

Board Member Pierro stated on a permanent basis. They are allowing to use it on a as needed basis now but they are not allowing it to be part of the permanent,

Mr. Magliato stated we never used it though Dave.

Rich Williams stated you use it every day. Every day people park along that, Mr. Magliato stated not the adjacent property you are talking about.

Rich Williams stated well then you are parking in the Ryder's right of way which you legally can't do.

Mr. Magliato stated I have an agreement with them.

Chairman Schech stated that is not what we understand.

Mr. Magliato stated they use my parking lot in the winter time for the snow and the skiers and I can use it in the summer time. That is an agreement I have with Bob Conklin and the Ryder's.

Rich Williams stated but again there is no site plan for that strip of land as a parking lot. It is a right of way that takes a car from one road to the other.

Board Member Rogan asked Rich, can you get a written easement of use. If he were to get a written easement from the Ryder's stating that he is allowed to use that property, let's say he is renting it for \$1.00 a year type of thing would we then be able to incorporate that into the site plan. It would then be conditioned on the extent of that easement being maintained.

Rich Williams stated the Ryder's who own the property would actually have to come in as a party to the application.

Craig Bumgarner stated let's jump in here. I don't want to extend to beyond where it needs to. The Applicant is basically saying I am happy with the space we have and we are trying to make more spaces for him.

Board Member Rogan stated I think what Rich is gearing, Chairman Schech stated well I don't think he is going to be happy, Board Member Rogan stated making what they are doing legal because what they are doing and what they are approved for,

Craig Bumgarner stated that is an enforcement issue that is not a site plan issue.

Chairman Schech stated as long as he is happy with 106 occupancy.

Board Member Pierro stated then let's put the resolution together as it is now.

Board Member Rogan asked have we done a public hearing on this.

Rich Williams replied I don't know it has been well over a year.

Board Member Pierro stated well if we haven't done the public hearing can we set one.

Board Member Pierro made a motion to schedule a public hearing in the matter of Alpine Restaurant that the Planning Board schedules a public hearing for June 3, 2004. Board Member Rogan seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member Di Salvo	-	aye
Chairman Schech	-	aye

All in favor and motion carried by a vote of 5 to 0.

Mr. Magliato asked so I understand this better we are going to have a public hearing to find out everything is acceptable as far as the parking spots are concerned.

Board Member Rogan stated the overall site plan.

Board Member Pierro stated we have to do a public comment period on it.

#### 10) **D.E.W. AMENDED SITE PLAN - Discussion**

Gene Richards asked Mr. Chairman can I interrupt for a few minutes to which the Chairman replied sure.

Gene Richards stated I just had a conversation with Dan Finney of D.E.W. Construction out in the hallway on his project. He and his engineer are stating that they have never seen comments that were issued last month and what had happened at the time Rich reviewed the project and then he asked me to review it, I gave him some additional comments and I think what had happened is he prepared a revised memo and issued it but they are saying they never saw it so that is why most of the comments in my memo are kind of carry over's from last month and they are claiming they didn't see them so they couldn't have addressed them. Rich is saying that he did in fact send it to Harry.

Rich Williams stated I absolutely faxed it and had a conversation with him, absolutely.

Board Member Pierro asked so you would like to re-visit D.E.W.'s site application tonight.

Gene Richards stated and what they are telling me and this is totally up to the Board, they are saying that they have a building coming next month, it is a pre-fab building I guess and they need to get their foundation in now so they can put up the building that is coming. The comments in my memo are not monumental they can be addressed fairly easily if Harry does put the attention to it. So, if you would want to consider granting conditional approval tonight conditioned upon satisfying Dufresne-Henry's letter dated today I can support that again it is nothing that earth shaking. They will have to in my opinion and I think Dick Clark agrees go back to the Health Department to get re-approval because they are shifting the well. They are modifying a plan that was reviewed and approved previously by DOH.

Board Member Pierro asked Rich or Craig do you have any issues with this process at this point.

Board Member Rogan asked Gene how comfortable are you with this because you are the one being put on, Mr. Finney will be at Harry's office tomorrow morning bright and early camping out.

Mr. Clark stated the location of the well was simply shifted back about ten feet so I don't see any problems what so ever with getting Health Department re-approval.

Chairman Schech asked that has nothing to do with the septic systems.

Mr. Clark replied no the septic system stays the same. The parking area moved back ten and the well moved proportionally back ten feet. The same layout. The same geometry and everything it just moved ten feet.

Chairman Schech stated I can go along with that but if we don't get a revised plan in by next meeting I am going to personally see to it there is a Stop Work Order put on the job. Is that fair.

Mr. Finney replied that is fair.

Rich Williams stated Herb, the process would be they would have to revise the plans, get them back in and you can grant a conditional approval for your signature. They cannot actually pull a building permit and start construction until you sign off.

Board Member Rogan stated that is a pretty good checks and balances.

Board Member Pierro stated I would be happy with that.

Mr. Finney stated there already is a building permit issued on this.

Rich Williams stated it will be invalidated in the morning.

Mr. Finney stated if you invalidate it I can't actually dig the foundation that I need to dig so I can get the building up next month.

Board Member Montesano stated you can't have a building permit if we don't give an approval. If we give you a conditional approval, Chairman Schech stated there is no signed plan how can they get a building permit.

Board Member Rogan stated this man is not saying, he didn't make the mistake.

Board Member Pierro stated he got the building permit off the last plan and then it was revised to move the building.

Board Member Rogan stated the fault isn't with this man.

Board Member Pierro stated your building permit is technically invalid because you revised the plan.

Board Member Rogan stated but it just hasn't been pulled.

Board Member Pierro made a motion in the matter of D.E.W. Construction Amended Site Plan that the Planning Board grants a negative determination of SEQRA and the Planning Board grants conditional final approval conditioned upon resolving the issues in the Dufresne-Henry May 6, 2004 memo. Board Member Montesano seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member Di Salvo	-	aye
Chairman Schech	-	aye

All in favor and motion carried by a vote of 5 to 0.

Board Member Rogan stated if you have problems with the Building Inspector that is not our we can't help you on that.

#### 11) JCG ASSOCIATES SUBDIVISION

Mr. Richard Clark, Engineer with Harry Nichols, P.E. was present representing the Applicant.

Chairman Schech stated three lot subdivision on Cushman Road. This is in back of the cemetery right.

Board Member Pierro asked isn't there a Stop Work Order issued here.

The Secretary replied no that is Putnam Lake.

Board Member Pierro stated no weren't they in the wetlands this past week.

The Secretary replied no that is Werlau.

Board Member Rogan stated we haven't been out to this site yet.

Board Member Montesano stated no we haven't.

Board Member Rogan stated we would like to.

Chairman Schech stated we want to do a site walk so flag the house locations,

Mr. Clark stated according to the memo that I just received there are (unable to hear his statement).

Board Member Rogan asked Mr. Clark to use the microphone he could not hear him.

Mr. Clark stated we are in the open space overlay district and according to the memo the layout presently up on the Board doesn't comply with that Chapter 139. You want the wetlands flagged also so we owe you a new layout,

Board Member Rogan stated resolve those first. I would rather wait the house locations may change. Once you get those issues resolved we will be happy to. I will tell you what though once you get a layout that conforms if Rich says okay this is something that sounds like it is ready to be reviewed I think that if you said it is ready to be flagged you know what we want. We want driveway, house, septic systems so I think that would be fair so if you get to that point in a week's time let Rich know. I don't know how everybody else feels about that.

Mr. Clark stated we probably would not be able to get the wetlands flagged by everybody else.

Board Member Rogan asked right but I don't want you to have to hold up just in terms of placing flags for a meeting when we might be able to get out there prior to the meeting.

Chairman Schech stated it seems to run about six weeks for flagging.

## 12) FOX RUN CONDOMINIUMS PHASE II

Mr. Donald Cappillino, and Bob Marvin, Attorneys with Cappillino & Rothschild and Dave Johnson, Engineer with Zarecki & Associates.

Mr. Cappillino introduced himself, Bob Marvin and Dave Johnson to the Board.

Mr. Cappillino stated we have two issues here simply the Fox Run project has been in existence for a long time 1969 it started here and in 1970 they came in for an approval for a multi-family project and the final plat was signed in 1972. What our purpose is now there is a second section that has not been developed and we would like to develop that. We believe we have constitutionally vested rights to complete the 126 units but we are not looking to build the 126 units. We think we have a better plan, less intense so we think we have a good plan and what we would like to concentrate on is to getting your support for a good plan showing that it fits and that it works well and then the vehicle for the approval is something we can work on. We think we can do this, we are not going to waive our rights to build out the 126 units unless we have an arrangement or satisfy you. Our job is to satisfy you that we have a good development that is what we are here for to show you that what we are proposing is good and Dave will take care of that. I don't profess to be the professional on that. I want you to know as well why we think it is good and right and fair that we do have a constitutionally vested right in this project because there may be some confusion because of lapse of time. I am not going to make my legal argument to you. I am just going to show you what has happened here. We have this information at your fingertips. I am not sure that it has all been gathered and shown to you in one place if I may. In 1972 we have a signed integrated site development plan; note 1 on the map says and we have listed that for you in the submission, note 1 says Forest Haven residential community is a private development of 330 family dwelling units as further defined under the zoning ordinance of the town and under the general site data on the drawing. I think it is clear that this approval this site plan approval was for the 330 units and under the general site data there is design criteria and it shows a total of 330 dwelling units.

Board Member Rogan asked excuse me for a second, does that have an expiration date on it like a normal subdivision would.

Mr. Cappillino replied there is no expiration date.

Board Member Rogan asked was there a time frame at that,

Rich Williams stated this is a site plan it is not a subdivision.

Mr. Cappillino stated this is a site plan and then number six talks about a basic water plan shall be installed in Stage 1 with the basic well and storage, etc. As a result of this approval the entire water system was put in to service the full facility. Note #7 talks about a sewage treatment plant and as a result of this approval the sewage treatment plant to treat the entire 330 units was developed and built. So everything here that was approved and it was built for the full project and it is referred to as an integrated site plan. I think that is important. Well then ultimately there were a bunch of intervening matters and there came a time when in 1986 they came back they were trying to I believe convert this from multi-family dwellings to condominium units and they did that as well and when they did this and this is on the Final Subdivision Plat for Forest Haven dated August 28, 1986 revised November 14, 1986, it is filed map #2193 in the Putnam County Clerk's office on December 2, 1986 and that map says under note #9 Applicant and the Patterson Planning Board have agreed that the general approval of July 2, 1970 which is I think the resolution approval that ultimately resulted in this site plan approval. It says that that unit count of 330 units shall remain in effect for parcels one and two. It goes on to say the Applicant in number ten, the Applicant and Patterson Planning Board further agree that 204 have been constructed on Parcel 1 and then number 12 says the Applicant agrees upon conveyance of Parcel 1 the Applicant will reserve an easement essentially to serve parcel 2 that is the access. The whole idea here is this is an overall plan. It was partially developed. The law in the State of New York provides that if the Applicant does things to further the full subdivision, expends money that he is entitled to build out the rest of the subdivision and the two seminal cases come out of the Town of Southeast and I think they are pretty clear. They are very similar to this set of circumstances with time lapses in between and all the rest. Here the Applicant comes in and says well they agreed as recently as the second time in 86 and then there were letters from the Town Attorneys as recently as 1990 saying that the subdivision had constitutionally vested rights to complete what they were doing. So, the 126 units we think they have a right to build. (TAPE ENDED)

(TAPE HAD PROBLEMS – Part of the discussion was missed)

Board Member Montesano stated and then let the Attorneys get together and straighten it out

Mr. Cappillino stated just a couple of things on that point. We don't want to spend tens of thousands of dollars on engineering this to find out that there is a problem with that however we are very comfortable in the fact that if you like the project, you think it works that we will get to that particular point. As far as the legal position is concerned that I want to make it clear back in 1972 there is no question that the Board had full authority to grant the approval for the 330 units. Back in 1986 there was some question about with zoning changes whether or not they could still build out and there are clear records of Attorney's opinions for the Town from Ray Maguire, from another Attorney Paul, Rich Williams stated Schwartzberg. Mr. Cappillino stated and I hate to do this to you but letters from the Applicant's Counsel at the time, Curtiss, Leibell saying we are entitled to a constitutionally vested right to continue as recently as 1990 Schwartzberg said yes you can continue. So, I think the law is clear. Certainly, you can always try to find a

small distinction between the reported cases and the facts here and try to drum it up and say you can't do it, you can't do it.

Board Member Montesano asked wasn't there a pool or something involved in one of those.

Rich Williams stated there is a swimming pool on the site I don't recall it being involved in any.

Board Member Montesano stated no I was wondering during the course of that time period in the eighties I remember something about a pool being involved in that project when it was trying to be made into condominiums. At the time there was supposed to be one parcel was going to have a pool put in along with the housing and I thought at that time the housing had been dropped down and I am trying to remember when that was that this pool was going to be put in as an embellishment of the idea of getting them turned into condominiums. It never materialized as far as I recall.

Chairman Schech stated the pool was there at one time. They did have a pool.

Mr. Cappillino stated there was no agreement and in fact the approvals indicate that the 330 unit count remained. That is perfectly clear. There is no question about that. That the Board when it made the changes in 1986 and perfectly clear that they expected that the remaining 126 units would be available on Parcel 2. That is clear from the record. There is no question. We are coming in and saying okay we think that our position is very strong, it is very, very close I mean I never get a case that is on all fours with the previous case. You can only find some distinction. This one is very, very close so however you can always find something and you pay a lawyer to find the distinction, they can find a distinction and we can't fight and we can do that. My client does not want to spend money on me. He is better off and the Town is better off to spend the money on making this a better project perhaps cutting back on some of the units he thinks he can legally put in, in order to make this a better project. We want to get you to the point where you are comfortable with the concept of where we are and what we are doing and if you are comfortable with that I am confident that we can make the legal case. We can get the Town on the worse case basis you can say you know we really like this now and even though we have had a recent zoning amendment that is a general zoning amendment and in this particular case you might want to zone this to allow this to be completed in light of all those circumstances and do it that way. We don't think that you have to do that. We don't think that is even economically whatever. This is a singular case basis. It is not going to affect anything else in the Town. This is a very unique set of circumstances. One that I think we have a very strong argument that we should be able to complete. That is where we are and if I may if you don't have any further questions on the point I would like to have Dave talk to you a little bit about what we want to do.

Chairman Schech stated I would rather talk to Town Counsel first which we are going to have to get somebody else.

Rich Williams stated yes we are going to have to get somebody new.

Chairman Schech asked how long is that going to take.

Mr. Cappillino stated if I may, the reason we are here tonight and we are doing this right now is that we think if we make a presentation to you that is a good zoning plan that there is a general zoning planning that has been passed but that does not affect this particular parcel. If we can show you that this is good planning

that this is appropriate that this fits that you could then support the particular project regardless of the other circumstances and what the vehicle is to get us there.

Board Member Rogan asked not for nothing but do you think that whether or not the Planning Board supports or does not support in the sense that we like it or don't like that it is going to have any impression on the legalities of whether or not you can do it.

Mr. Cappillino replied I think it does yes because I think it is, Board Member Rogan stated really it does not sound as strong as it sounded five minutes ago.

Mr. Cappillino stated I think that it is a question of how strongly the Town wants to resist something that you believe is good planning. Would the Town want to really, we are doing something good and the facts are strongly on our side do you really want to do that for the purpose of just,

Board Member Rogan stated I understand that.

Board Member Pierro stated I have no problem listening to ten or fifteen minutes for Mr. Johnson to show what you are talking about but I have a quick question. What was the zoning back then and what is the current zoning now for this parcel.

Rich Williams stated the zoning on this was approved apparently allowed multi-family housing on the site. Shortly, there after the zoning was changed in 1976 to make it R-40, single-family residential. The multi-family aspect was eliminated out of the Code. It has existed that way since that time.

Chairman Schech asked is this still R-40.

Rich Williams replied no we changed it from R-40 to R-4.

Board Member Rogan stated in 2003.

Rich Williams stated if I could just add a couple of more things while I have the floor, right at the time we were getting ready I think a couple of weeks before we adopted the zoning I was contacted, they brought to my attention that they did have some easements and wanted to keep their rights to build multi-family housing out there. At the time, I wasn't that familiar with what was going on but I didn't see where they had the rights. I do agree with Mr. Cappillino one of the determinant factors in whether you have vested rights or not is whether you actually expended funds towards the approvals that were granted.

Board Member Rogan asked for instance if they built the septic system for the entire, for those proposed units.

Rich Williams replied the waste water treatment plant, if the waste water treatment plant is currently sized to handle the additional capacity, if the water treatment system has been sized to handle the total capacity, if there is a road network in and there is stormwater management already in these would be things that if they had been constructed they would go towards that argument that the vested rights have been vested. I did ask for additional information. I didn't get anything back.

Mr. Cappillino stated that may be of our failing and lack of communication. I was brought in later and differently and I did not know that was an outstanding request. We will be glad to meet with you and go

through it and layout for you how and why in detail what approvals we do have, how big the plans are, etc, to try to make you feel comfortable with that.

Rich Williams stated I think at this point I would love to see it but I think you need to be submitting this to the Board. For example one of the things that I had suggested was getting a letter from the DEP saying that the capacity is there and you can tie into the plant with no problem.

Mr. Cappillino stated I am told by the engineer that is not a problem. That has been resolved.

Chairman Schech stated the plant was just updated but it was updated for what is there not for what is in the future as far as I know.

Rich Williams asked Mr. Johnson it has not been,

Mr. Johnson stated no it is being designed for the full capacity.

Board Member Pierro stated and I understand it was built for the full capacity.

Mr. Johnson stated it was built for the full capacity under DEP's new micro-filtration program, Milnes Engineering in Pennsylvania has been retained by the DEP. The reason I didn't get a letter previously is because it was up in the air whether they were going to be actually hired by the DEP or not to do that. Folchetti the previous engineer has been let go by the DEP. I did have Milnes look into it and they did say the full capacity for sewage treatment was going to be utilized so that is the whole site including Phase II that we are talking about.

Mr. Cappillino stated so if I may,

Board Member Rogan stated I would say turn it over he really has the details. We are just looking at a concept right now.

Board Member Pierro stated right but we will make no opinion on whether we like or dislike what you are telling us.

Mr. Johnson stated it is real brief, Don's kind of take on it was really the important part of it. If we can get through that what we would like to present to the Board would be our concept of how we feel this lays out the best. We have done a lot of research with previous submissions from 1970, 1986, 1990 and a bunch of different Environmental Impact Studies that were done to try to determine what the big sticking points were way back when on each submission. What some of the problem areas were. What some of the concerns were of the residents, Planning Board at the time, Town Engineer, etc. We came up with a concept and I think everyone has a copy of this if not we can get it to you. Essentially, this is just showing two stub roads coming in from the Phase I to reach the better parcels of land which are on the west side of that parcel. There is a small wet area in the middle. The slope, it is steep as you can see on this side and those are some of the big concerns on some of the original submissions. We are going to concentrate on making it a low impact development, scaling it down from previous submissions and essentially not getting too greedy with it making it a real nice project for the town and something that we can all work with. At this point, if we can get through the vested rights issue we are looking to work with the Board to come up with a good plan.

Board Member Montesano asked how many buildings do you expect to put up roughly.

Board Member Pierro stated I count twenty.

Mr. Johnson replied we are going to be looking at unit count and then trying to back down maybe do bigger buildings but less of them. Whatever has less of an environmental impact we will work with that. What you see on the plan right now is very sketchy, very concept so that can easily change.

Board Member Pierro asked so you have twenty individual quads correct, four unit buildings.

Mr. Johnson replied a mixture.

Chairman Schech stated let's see what happens and we will talk to new Town Counsel.

Board Member Rogan asked Rich, this seems just looking at the plans seems to bring up concern for the lengths of these roadways just that alone based on what we are doing in some of these subdivisions the length already is well outside what would even be considered by today's standards.

Rich Williams stated it would not meet our current standards like roads or driveways.

Board Member Rogan stated what is there would not meet it. I don't know how long it is but anyway I just thought I would mention it.

Mr. Johnson replied I figured you would ask that, he showed the Board another sketch.

Board Member Rogan asked do you have any idea where the beginning of one of these roads starts the radius of the old road how far it is to the entrance of Bullet Hole.

Mr. Johnson replied I can go by some stationing here, it is approximately 1500.

Board Member Rogan stated so you are already basically at that limit already and you are going another almost 1700. I just thought I would bring it up.

Chairman Schech stated so there are a few things to iron out.

Board Member Pierro asked Rich, should we agree to notify the Town Board that we request special counsel.

Rich Williams replied if that is what you see to be appropriate.

Board Member Pierro replied yes.

Board Member Rogan stated I agree.

Board Member Pierro asked on a motion.

Rich Williams replied yes

Board Member Pierro made a motion in the matter of Fox Run Condominiums Phase II that the Planning Board contact the Town Board and requests special counsel due to the circumstances of a possible conflict of interest. Board Member Montesano seconded the motion.

Chairman Schech stated due to circumstances of the Town Counsel recusing himself.

Chairman Schech asked all in favor.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member Di Salvo	-	aye
Chairman Schech	-	aye

All in favor and motion carried by a vote of 5 to 0.

Mr. Cappillino asked in the meantime if we have details about what happened in the past should we just get in touch with Rich.

Board Member Rogan stated that would be great.

Mr. Cappillino & Mr. Johnson thanked the Board.

### 13) NEW ENGLAND EQUINE SITE PLAN

Mr. Joe Buschynski, Bibbo Associates was present representing the Applicant.

Chairman Schech stated about the stream crossing, we suggest that you clean up the other side of the stream. Do not disturb the concrete culvert right.

Rich Williams stated Gene and I both have given memos on this.

Board Member Rogan asked and are they along the same lines or do we have a difference of opinions here.

Rich Williams replied no I mean I think that everybody thinks that the other side of the stream should be cleaned up. They just need to do it.

Mr. Buschynski stated there is no doubt about the material coming across.

Board Member Pierro stated I know Mr. Lepler thought that you could put a steel plate over that concrete and get the heavy material out of there.

Mr. Buschynski stated the current owner feels that he doesn't even need a plate that what is there will suffice.

Board Member Pierro stated but we don't want to create a bigger mess.

Mr. Buschynski stated that is how it got there.

Rich Williams stated first off I have got to ask you do you agree with the owner, second I want to remind you that probably when it got there the steel culvert, metal culvert wasn't there and he was going across that concrete bridge and perhaps that is actually how it collapsed in the first place.

Mr. Buschynski stated I couldn't surmise.

Board Member Pierro stated I think most of us feel we can get this site cleaned up and this project well on its way without disturbing that stream bed now and without putting the weight on the Applicant for the remediation. We are hoping to bring in experts from the State and other organizations to try and come up with a plan and maybe even a source of funding from the outside to take care of the stream bed. There is many years of degradation there. It is in poor shape. We don't want to make it worse and we don't want to push this project away because that stream bed got made worse by taking the material out of there. Rich, is that along the lines.

Rich Williams stated that is along the lines. I think what we have talked about subsequent to that meeting that we had out on the site was that the issue with the stream crossing is really a separate issue not so much the debris that has to come up but the stream and that crossing are really separate issues from this application and we really should break the two apart and deal with them separately at this point rather than have one weighing down the other one and so that was my recommendation at least to the Board is we will take a look at the stream crossing separate from everything else because really you can move this project forward (unable to hear the rest of his statement).

Chairman Schech stated otherwise you are going to have DEP, DEC, Army Corp and everybody and his uncle looking at you and the project will be lingering here for years.

Mr. Buschynski stated what developed since we last appeared one of my responses indicated a session with the DEC was scheduled, we asked them if there was anyway that could be moved up and it was. There was an inspection last week. The DEC has indicated that they now consider the wetland to the south to be connected to part of the larger DP-22. So any activity within a hundred feet, this blue line is subject to DEC regulations as well as the Town's. So, we do have to go through their permit process particularly with the water quality basin and we are taking some parking lot out and putting drainage swales to the basins that is within a hundred feet. It is also subject to DEP review. The work is taking place within a hundred feet wetlands subject to DEC then it triggers a threshold with DEP but in my mind we have already done the work it is just doing an application.

Chairman Schech stated we just didn't want to get involved with remediating the stream in-between.

Mr. Buschynski replied we wouldn't either.

Rich Williams asked Joe, I am wondering would you consider this project a re-development of the site.

Mr. Buschynski asked re-development in the sense.

Rich Williams stated it was an existing development. I mention this because you might want to call Pat Feracane. DEC when they are looking at stormwater in this regards has a slightly different strategy, an intern strategy so to speak on how they treat re-development projects which might lessen some of the, you might want to talk to Pat and see if he would agree with that. It might help you out.

Mr. Buschynski stated as we talked here before there are some reasons and support of this location it is currently lawn. It is currently disturbed area. We aren't taking out buffer and vegetation. We are actually enhancing that area with this feature as buffer so, we believe it will be favorably received. It is just a time issue going through that process.

Chairman Schech stated I think you are enhancing the site. You have all my support on it.

Board Member Montesano stated our support is there I think.

Board Member Rogan stated definitely.

Chairman Schech asked and you got the reviews from Rich and Gene.

Mr. Buschynski replied yes.

Chairman Schech asked anything else guys.

Mr. Buschynski stated Rich in his memo had mentioned a couple of procedural items that we would like the Board to consider; forwarding the request for Lead Agency.

Board Member Montesano made a motion in the matter of New England Equine Practice that the Planning Board declares their intent for Lead Agency. Board Member Pierro seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member Di Salvo	-	aye
Chairman Schech	-	aye

All in favor and motion carried by a vote of 5 to 0.

Mr. Buschynski asked if the Board would be in favor of scheduling a public hearing on the site plan.

Rich Williams stated the concern that I have with that is that starts the clock ticking. The Board has to act within 62 days unless the Applicant agrees to waive that.

(unable to hear Mr. Buschynski) Mr. Buschynski asked Mr. Cooke, Applicant if they agreed to a waiver which the Applicant replied yes.

Board Member Rogan stated we certainly are not going to be approving this project at the next meeting. We can always set it for the meeting after.

Board Member Montesano stated we have the representative stating that he is going to give us the extensions if we require them.

Board Member Rogan asked Rich, the technical aspects of the project are they at this point under control what I mean by that is it going to change.

Rich Williams stated let me phrase it this way I don't see significant revisions to the current layout.

Board Member Rogan stated then that is where the public would be, I think I would just want Joe and maybe even the Applicant to go on record stating that if we hold a public hearing that we are not going to be held to the 62 day time frame for an action of approval or denial on this project because we don't want to be forced into a situation where we have to make a harsh decision.

Mr. Cooke stated we agree to that.

Mr. Buschynski stated we agree.

Rich Williams stated there is one other issue that you need to consider is typically we hold the public hearing jointly with the wetlands watercourse application,

Board Member Pierro stated and that is not in.

Rich Williams stated it is in but I don't know that Ted, we don't have anything in writing that it is complete.

Board Member Rogan stated then let's set a public hearing for the next meeting conditioned on the fact because Ted will be back in a week.

Rich Williams stated from everything I have heard it sounds like everything is set to go.

Board Member Rogan made a motion in the matter of New England Equine Practice that the Planning Board schedules a public hearing for June 3, 2004 conditioned on the fact that the Wetlands Inspector agrees that the application is complete and that the Applicant and Engineer waive the 62 day requirement.

Rich Williams stated nothing personal Joe but we are going to need that in writing.

Board Member Montesano seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member Di Salvo	-	aye
Chairman Schech	-	aye

All in favor and motion carried by a vote of 5 to 0.

**14) RALPH BURDICK SITE PLAN**

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

Board Member Rogan made a motion in the matter of Ralph Burdick Site Plan that the Planning Board introduces the resolution for Final Site Plan approval contingent upon the five general conditions, and two special conditions contained in a resolution dated May 6, 2004. Board Member Pierro seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	aye
Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member Di Salvo	-	aye
Chairman Schech	-	aye

All in favor and motion carried by a vote of 5 to 0.

**15) MINUTES**

Board Member Rogan made a motion to approve the March 4, 2004, March 25, 2004, April 1, 2004 and April 15, 2004 minutes. Board Member Di Salvo seconded the motion. All in favor and minutes were approved by a vote on 5 to 0.

**16) OTHER BUSINESS**

**a. Triple J Subdivision**

Rich Williams stated I met with the people from Triple J gave them the direction that they should look at either using a lot for a residential or for stormwater. He is going to take a look at that but he also indicated that he might be coming to the Board at the next meeting to explain to us what is going on.

**b. Ant Rock**

Board Member Di Salvo asked what is going on with Ant Rock.

The Secretary stated a Stop Work Order was issued.

Rich Williams stated I am still not clear on whether a Stop Work Order was issued for the whole site.

Board Member Rogan stated I don't think it was.

Board Member Di Salvo stated you were going to see if you could get a picture of what the house looked like.

Chairman Schech stated we have all of that.

Board Member Rogan stated based on the hearsay that I heard about the meeting between Health Department, Building Department and our Town Supervisor a Stop Work Order was not issued for the overall site.

Chairman Schech stated I talked to Paul and I told him to put a Stop Work Order on it.

The Secretary stated it is my fault I have a memo that I must have forgot to copy for the Board.

Rich Williams stated

Board Member Rogan stated based on the hearsay that I heard about the meeting between Health Department, Building Department and our Town Supervisor a Stop Work Order was not issued for the overall site.

Chairman Schech stated I talked to Paul and I told him to put a Stop Work Order on it.

The Secretary stated it is my fault I have a memo that I must have forgot to copy for the Board.

Rich Williams stated he issued a Stop Work Order for the stream so the guy couldn't do anything in one stream and maybe I am just not getting all the information.

Board Member Montesano stated let's see what this memo says and then I think we are going to have to do something about this.

Rich Williams stated while she is getting the memo without getting excited so that we can be very clear we need to think about why we are going to issue a Stop Work Order.

The Secretary read it is to Anthony La Rocca regarding 6 Garland Road Stop Work Order. Dear Mr. La Rocca, please be advised that effective today May 6, 2004 all work at 6 Garland Road is to stop until further notice. I have posted a Stop Work Order at the site. The reason for this action is a directive from the Town of Patterson Planning Board due to the fact that the application for a wetland permit was erroneous. Please contact this office or for further information contact Rich Williams, Town Planner as to what your next step should be.

Board Member Rogan stated the straight forward answer is that they applied for a permit for an action and they did not do that action so in my opinion the permit is void. They need to come in for a wetlands permit. We waived it but we waived it based on a certain situation. That situation does not exist.

Board Member Pierro stated they were going to build on the existing structure.  
(Too many talking at the same time unable to transcribe)

Rich Williams stated the application said renovation, second story addition no increase in bedroom count.

Chairman Schech stated there was no problem as long as he maintained the existing structure but he took it down, increased the footprint.

Board Member Rogan stated and he exhumed the site.

Board Member Rogan made a motion to adjourn the meeting. Board Member Pierro seconded the motion. All in favor and meeting adjourned at 9:19 p.m.