APPROVED
10/7/04 MB

TOWN OF PATTERSON

PLANNING BOARD MEETING
September 2, 2004

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TOWN OF PATTERSON
PLANNING & ZONING OFFICE

Planning Board
September 2, 2004 Meeting Minutes

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

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, and Gene Richards, Town Engineer and Anthony Molé, Town Attorney.

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

There were approximately 19 audience members.

Chairman Schech led the salute to the flag.

1) BENDERSON DEVELOPMENT CORP. – Release Site Bond

Rich Williams stated Benderson is on the agenda tonight for a recommendation to the Town Board for the release of their site plan bond. It does not extend to the wetland bond, the wetland restoration bond that the Town is currently holding. The Town Engineer went out there and identified a number of issues that needed to be resolved prior to the bond being released so it as the discretion of the Board whether they would consider recommending that the bond be released conditioned upon those items being completed as outlined in the Town Engineer's memo or whether you simply want to postpone making a recommendation until the site improvements are completed.

Chairman Schech stated I would rather wait until the site conditions are completed before we release the bond.

Board Member Pierro stated well the bond isn't going to be released it is conditioned upon these four or five items being completed, correct.

Rich Williams replied right.

Board Member Pierro asked Rich, have you had any discussion with the people from Benderson about these issues.

Rich Williams replied I have not because Tom McGinn and Paul Piazza were taking the lead on this for the most part and Tom has been on vacation so I did not have an opportunity to talk to him about it this week.

Board Member Pierro stated and as I think we ought to in all future circumstances like this if the Applicant is not here then I don't believe we should react because if we vote on this and approve the release of the bond conditioned upon these things we don't know if this man is going to agree to it.

Rich Williams stated if you put a condition in he has got to do the work or the bond does not get released. In this particular instance Dave, the Applicant is in Buffalo.

Board Member Pierro asked they don't have local representation.

Rich Williams replied I am not sure who is representing them as far as something like this. They have certainly a contractor who is doing the work out on the site.

Board Member Rogan stated I don't feel that they need to be present for us to release the bond but I do want the work done first before we consider it.

2) MEZGER WETLANDS/WATERCOURSE PERMIT

Mr. Ralph Tarchine, Project Manager and Mr. Mezger were present.

Mr. Tarchine stated I am the Project Manager for Mr. Mezger. I don't know protocol here do you want us to go through Rich Williams' letter.

Chairman Schech replied sure.

Mr. Tarchine stated what we have is a five acre parcel located on Old Road Lane.

Board Member Pierro stated for the benefit of the audience do you have a map Sir.

Mr. Tarchine put the map on the board.

Mr. Tarchine stated it is off of Route 22. Basically, a flag lot, it is a very long driveway approximately 1500 feet it comes into the building site in the rear. We are here before you tonight to discuss wetlands permits and applications. We have been before the Zoning Board on a 280a, no frontage on a Town Road. That variance was granted with Mr. Williams's comments number one through five what the Zoning Board required. There is a twenty-five foot easement from Old Road Lane into the property which Mr. Williams

talks again in the memo. That easement should be recorded and filed within two weeks. The major area of disturbance is in the beginning which is a stream. There are two culverts being put in to pick up the water. That is pretty much the extent of the proposal.

Chairman Schech asked the culverts are in or they are going to be put in.

Mr. Tarchine replied they are proposed two, forty-two inch culverts.

Board Member Pierro stated we would like it staked.

Chairman Schech stated we want to take a look at it is the road stake.

Mr. Tarchine stated the road is staked actually it is delineated with stonewalls. What this was was an old road bed years and years ago so it is pretty well already established. It is a traveled way right now.

Chairman Schech stated okay we will take a look at it.

Mr. Tarchine stated I actually just have one question that maybe you can answer. You keep asking for alternate methods to cross. I don't know what that is.

Ted Kozlowski asked do you want to speak Rich or should I.

Rich Williams replied go ahead.

Ted Kozlowski stated Ralph you did leave out since this is a discussion on the wetlands watercourse you left out seven hundred feet of wetland that you are going to cross on that road so I would like you to discuss that with the Board too. That is based on Steve Coleman's and my site visit back in May.

Mr. Tarchine asked are you Ted.

Ted Kozlowski replied yes.

Mr. Tarchine stated we missed you in the field a couple of times. We are not crossing seven hundred feet of wetlands there is only actually two wetlands we may be encroaching on a hundred foot buffer.

Ted Kozlowski stated well that is not my perception. I was out there with Mr. Coleman and the easement goes right through a wetland and that is the new revisions to the site plan as per Steve Coleman's delineation.

Mr. Tarchine stated right well there is one wetlands right here that jogs in this is Wyndham Homes.

Ted Kozlowski stated if I may, (Ted pointed out on the plan where is was referring to).

Ted Kozlowski stated you need to address that Sir.

Mr. Tarchine stated I still did not get my question answered what is the alternative method that you want us to look into.

Board Member Pierro stated a helicopter.

Ted Kozlowski stated that is not my comment that is the Town Planner's comments. I just need you to address how you are going to cross that wetland.

Mr. Tarchine replied via the driveway.

Ted Kozlowski asked what is going to happen to the wetland that you are crossing.

Mr. Tarchine asked so you want a further study of that wetlands.

Ted Kozlowski replied I am basically asking you are you going to fill in that wetland.

Mr. Tarchine stated we have a cut and fill profile of the driveway.

Ted Kozlowski stated but you are not answering the question Ralph.

Mr. Tarchine stated I don't understand what the question is.

Rich Williams stated I think Ted's question is related to the loss of the functional values.

Ted Kozlowski replied yes. It is basically a wetland that you are going to significantly alter, you are going to cross it, you are going to fill it, you are going to do whatever you do to me that is something that at least triggers an Army Corp. review. I did have a discussion with DEC yesterday with Doug Gogler who signed off on it, his comment to me was it may be connected to Bog Brook but he is leaving it in our lap. I know you have a sign off from DEC I have seen the letter but I will tell you from the get go that I have been to this site on three or four different occasions specifically with the Deerwood which is now Wyndham Homes project, I went with the DEC wetlands person several years ago, Lance Koltz. That is definitely connected to Bog Brook State a regulated wetland.

Mr. Tarchine stated what I am trying to ascertain is what do you want us to do. Do you want us to study it further, we flagged it, we have shown you where the driveway is going.

Chairman Schech stated I think he is trying to tell you to stay out of it.

Ted Kozlowski stated Ralph, what I am telling you is that our wetlands and watercourse Code 154-14 requires you to do exactly that. It requires you to give an evaluation of the impacts of the wetland and to the stream and to provide documentation of what is going to happen there. Your wetlands permit does not address that.

Mr. Tarchine asked okay so you want a further study on the impact of that area.

Board Member Rogan stated yes.

Rich Williams stated if I can jump in here and maybe provide some clarification and this goes to the stream crossing also when the Board is looking at an application they have to make an evaluation about what you are proposing to do whether there is any reasonable alternatives and then it becomes a balancing act as to whether it is appropriate and whether the proposed method is the least intrusive that is reasonable based on whatever information you give them. What I did in my memo I specifically didn't layout a alternative type of stream crossing I kind of threw that back to see what you came back with to see if there is anything that you had considered that would be less impactive and why. Certainly there are alternatives including box culverts,

Mr. Tarchine stated that is what we are trying to get what do you want.

Rich Williams replied like I said I left it up to you to see if you would evaluate any alternatives rather than try to pin you down. I can certainly give you two right off the top of my head you have got box culverts that you can look at which are probably less intrusive but certainly going to be more costly and what you did to evaluate them and also there is short bridges that you can use to span the area.

Mr. Tarchine stated okay well that is an alternative to the entrance.

Ted Kozlowski stated that is an alternative to cross the wetland.

Mr. Tarchine asked pardon.

Ted Kozlowski stated that is also an alternative to cross a wetland.

Mr. Tarchine stated only the section at the beginning.

Ted Kozlowski stated you need to have your consultant give you some scenarios and some advice on how best to cross that wetland.

Mr. Tarchine stated we did. We have discussed it already and box culvert was certainly a suggestion but you know when I see this alternate methods we will do what you want if you tell us.

Ted Kozlowski stated Ralph, I spoke with your consultant today and he has not been consulted according to him.

Mr. Tarchine stated we are talking with our engineer you are talking with our wetlands people.

Ted Kozlowski stated that is exactly who you need to talk to Sir.

Mr. Tarchine stated we will go with a box culvert again we don't have a problem with that but you have to let us know what we are looking at and what you want us to do.

Ted Kozlowski stated it is all spelled out in the wetlands Code that you filled out so you need to go back to that and address it.

Mr. Tarchine stated I think when the Board gets out there and looks at this that it is already an established road and was a road it will shed some light on it. We will certainly study it, we will look at this and if you let us know when the field meeting is we will have our engineer and wetlands people.

Rich Williams stated I just want to be clear here I am not telling you to put a box culvert in as opposed to the piping just to evaluate it and give us some sort of an evaluation on it.

Mr. Tarchine stated we will have our engineer do it.

Board Member Rogan asked where is the well located for this residence because I didn't see one on the plan. I assumed that you were not on community supply.

Mr. Tarchine stated the well would be at least a hundred feet off, Board Member Rogan asked you haven't located it yet is what you are saying. Mr. Tarchine stated we will put a proposed location on there.

Board Member Pierro stated it is also going to be well outside of the wetlands boundaries and wetlands buffer.

Board Member Rogan stated that is the reason I am asking I wanted to know whether it was going to be located inside the buffer or not of the stream.

Mr. Tarchine stated we will take a look at it.

Mr. Tarchine and Mr. Metzger thanked the Board.

3) PADDOCK VIEW ESTATES

Mr. Dan Donahue, Engineer and Mr. Porcelli, Applicant was present.

Board Member Rogan asked on Lot #4 I noticed there is a frame shed from one of the neighboring properties that is on this property I am wondering what we should do about that whether or not we should have, Rich should we have Paul go take a look at this. It looks like it is a shed off of one of these properties.

Mr. Donahue stated right it is an intrusion.

Board Member Rogan stated it is an intrusion that we should either have them move the shed or possibily approach the subdivision about buying that small piece of property maybe adjusting a lot line.

Rich Williams stated we need to start with how old is the shed.

Mr. Porcelli stated there were several people that had encroached. One here and one here and both were supposed to have been moved. There was also a fence on one of these that they had taken down. One of them I am not sure which person had asked us if we would be willing to sell a piece to them but I wasn't sure at the time what our lot size would be and I didn't know what we could afford to give up. As long as I have the square footage I have no problem giving ten, fifteen feet whatever they need. I think one of them was removed though. I am not sure which one.

Board Member Rogan stated well Rich our options on those sheds are either (a) move them, (b) they work out an arrangement to change property over. You can't do an easement for something like that I would imagine that would be a little bit too.

Rich Williams stated you could do an easement but that would not work for our zoning.

Board Member Rogan stated so either they move them or work out an arrangement with the owners. I would like to incorporate that into this so if we are going to move a lot line we do it clean.

Mr. Porcelli asked what is the setback.

Rich Williams stated it is an R-1 I think it is twenty-five feet.

The Secretary asked do you want me to go look.

The Secretary asked the side yard or rear yard.

Rich Williams replied rear yard.

The Secretary stated rear yard is twenty-five feet.

Board Member Rogan stated the position of the house on Lot #9 if we could just in my opinion the way it is set on Lot #9 the front of the house faces the side of Lot #10 if we could turn that a little more to the cul-de-sac so it is facing the cul-de-sac if that does not hurt you in any way I think just turning that about thirty degrees it would probably clean up the way that house sits. I hate the idea of a house looking right at the side of another house like that. Overall I like the layout.

Board Member Pierro stated my concern was the close proximity of the pond on Lot #1 to the road. I was wondering if you could look into relocating the roadbed a little further to the east.

Mr. Donahue stated there is a berm around the top of the pond and the road is about fifteen feet but there is room in there for us to be able to put some plantings in there.

Chairman Schech stated we are still trying to get the pond away from the house.

Board Member Pierro stated that is our major concern and at risk of losing Lot #2 that seems to be a large stumbling block for this Board that the pond is so close to the house.

Chairman Schech stated I think the road can be relocated without losing Lot #2 and then relocate the pond a little further east. I realize there is a large hill with a lot of rock.

Mr. Donahue stated there is a large hill and we would probably increase the amount of grading that we would have to do.

Board Member Pierro stated but it is not that large though.

Chairman Schech stated they come in now a day and blast the rock and use it.

Board Member Pierro stated but I am not convinced that the rock is that far out where it would inhibit you moving that road over to the east. I am sure there is a large bit of stone there but until we get out there and put a shovel in the ground.

Mr. Donahue stated maybe if you give me this is a fairly big undertaking to move these things around so if you give me some kind of idea as to how far I know as far as possible is always best but.

Board Member Pierro stated again shifting that road over to the east thirty to forty feet maybe fifty feet.

Mr. Donahue stated that is going to put us it is a fairly substantial rock right through there.

Board Member Pierro stated I recall walking that I mean I am not talking about up near the driveway entrance to Lot #2 that is where it will pivot if you were to curve that road out to the east a little bit more you would give us,

Board Member Rogan stated in other words he is saying if you come off the driveway from Lot #2 where that intersects the main road and just went, Board Member Pierro stated and shifted that road down to the east.

Mr. Donahue stated right here move it down over here and try to get it down fifty feet.

Chairman Schech stated forty, fifty feet and then you can move the pond also to get it away from the other house.

Board Member Rogan stated split the difference is what you are saying.

Chairman Schech stated yes.

Board Member Pierro stated this way the pond is not on top of either the road or the driveway to the existing Lot #1.

Board Member Rogan stated Dan, I hear what you have been saying with this pond there is not much else place to put it but the Board when we were out on the site walk was pretty concerned about the proximity I think more so to the residence than to the road. I think they were more concerned with that residence having a pond right on top of them.

Mr. Porcelli stated this is a pretty clear shot to the intersection is there any distance from a stop light in other words would that interfere with our site distance.

Mr. Donahue stated since we have a light here on the corner.

Board Member Rogan stated it seems like a straight run.

Chairman Schech stated I don't think that is going to interfere at all.

Board Member Pierro asked our other question is what is going to be the intended use for the two story barn structure that is in the rear.

Mr. Porcelli replied it is an existing, it is an old barn. There is a two bay garage, upstairs there was two apartments in it, three we dismantled them. It was just a mess. We left the two there existing that were in real good shape and we are just renting them out as we go through this process. If the Town wants us to remove

Chairman Schech stated I believe the apartments are illegal though.

Mr. Porcelli stated as of right now they say you can have one accessory apartment.

Rich Williams stated no.

Board Member Pierro stated no you have to have five acres or more.

Rich Williams stated with a Special Use Permit.

Mr. Porcelli stated I am saying they were existing I didn't say legally. I did not put them in. They have been there a long time probably twenty years.

Rich Williams stated you should stop talking at any point (joking).

Mr. Porcelli stated I am just being honest with you whatever you want me to do remove them we will remove.

Board Member Pierro stated I am talking about at the completion of this subdivision. At the time we approve this subdivision anything illegal has got to disappear.

Board Member Rogan asked Rich, the situation is you have a single family residence that will be on Lot #1 that is allowed to have an accessory structure but the size of that structure is limited by the Town Code and this structure seems to be a bit larger than.

Rich Williams stated some structures are limited others are not. I don't think we placed a limitation on a barn we did on a garage but in this instance the structure itself is pre-existing, non-conforming structure. The use is another story.

Board Member Rogan stated so whatever to meet the Code that is what is going to have to happen with that lot be it a single family residence with a big old barn out back.

Mr. Donahue stated I have a couple questions I would like to ask; with respect to the geometry of the road one of them was the fact that the cul-de-sac has a radius of sixty feet.

Gene Richards stated right I spoke to John Kaylin in our office who spoke to Charlie Williams he wants the standard cul-de-sac that is paved no center island and for that the radius of pavement would be forty feet the right of way will be fifty feet so it will tighten that up actually.

Gene Richards stated I think Dan what would be best if you could give me a call at some point so we can setup a meeting and we can sit down and go over the issues.

Mr. Donahue stated one of the I guess catch 22 is involved in the stormwater and because we have to get an approval from DEP and from DEP what I have been told by them is that they will not initiate a review of any stormwater project until they know they have a real project. In essence what that is until the Town has undertaken a step in the SEQRA review so my submitting documents down there to them they will sit there until they get some movement from the Town on SEQRA. Is there anyway we can get any type of SEQRA movement at least maybe Lead Agency Determination from the Board at this particular time. Some type of movement I think would help me to show them that we have a real project before the Board.

Board Member Rogan asked there is no harm in doing Lead Agency at this point right.

Board Member Rogan made a motion in the matter of Paddock View Estates that the Planning Board declares their intent to be 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 DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 5 to 0.

Rich Williams stated Dan, what you are going to need to do is submit to me copies of the application, the Environmental Assessment Form and the preliminary plan submission number of copies to cover the circulation list plus three.

Mr. Donahue asked will you give me the circulation list as to how many people.

Rich Williams replied give me a call I will tell you how many.

Mr. Donahue thanked the Board and Rich.

4) NEW ENGLAND EQUINE PRACTICE SITE PLAN

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

Mr. Buschynski stated we resubmitted in response to previous comments and the Town Engineer's office has some remaining issues.

Chairman Schech stated also we were discussing the fill material that is in the front.

Board Member Pierro stated the existing fill material that is in the pond area.

Mr. Buschynski stated our proposal is to from a limit line approximately here pull back the existing fill material to the level of the previous topsoil layer up to where our activities take place which would consist of our swale and berm for the pond.

Chairman Schech stated because wherever you are putting the berm we are concerned that there is bad stuff underneath the berm and it is not going to hold up.

Mr. Buschynski stated the berm foundation would have to go to berm (unable to hear the rest of his statement).

Gene Richards stated well Joe I guess that was the question the material that is in place today remains for the berm construction or is that also coming out and then you will be constructing the berm from virgin ground.

Mr. Buschynski stated I don't see any difficulty in having that removed or at least excavated to determine whether it is suitable. We would like a compacted berm.

Chairman Schech stated that is your best bet because we know it was just filled in extra material was just pushed off.

Mr. Buschynski stated the berm in this area is very low it is a bump in the ground here it will be maybe four feet so this could easily be taken out and reconstructed.

Board Member Pierro stated as long as it is suitable fill material.

Mr. Buschynski stated again we want to compact it to a certain degree so as low as it is it is a very minor quantity of material. We will deal with it.

Board Member Rogan asked Rich, didn't we get notice from the DEP that they denied the concept at least of the stormwater basin in the buffer.

Rich Williams replied they didn't deny it they questioned it under SEQRA and whether it could be adequately mitigated. We talked further with the head of their SEQRA division at this point. There was some confusion about the existing condition on the site like any other aspect of the project in the Board's review and certainly as Lead Agent which everybody has granted we are going to take a careful look at how the stormwater pond is going to be put in, how it is going to affect the wetland and buffer and make sure that any impacts are adequately mitigated.

Board Member Rogan stated from what I remember when we were out there the majority of the buffer that they are looking to use was mowed grass or at least grass type area. It had already been disturbed and maybe that is going to be a factor. I think it is just a shame that we don't have a little bit more area to work with out here. This is a great use for a marginal site. That is just the way I feel but this site has a lot of limits and we are looking at a rather large use. I am going to be interested to see how we mitigate some of this intrusion into the buffer.

Mr. Buschynski stated our emphasis has always been that we are using the buffer that has been used. It is clearly not wooded or shrub vegetation that typically associates with buffer and certainly when we are done with the facility like stormwater wetland and with the re-vegetation and a buffer that certainly resembles a natural buffer more than the lawn area that is there now.

Board Member Pierro stated and if they stay out of it it will eventually improve over time.

Mr. Buschynski stated the vegetation and the wetland condition it is an ideal location to create wetland because of the bottom level of the pond relative to the adjoining wetland. We know based on testing since we have a problem with our condition it will support wetland vegetation.

Rich Williams stated this is an issue that the Board you know has been facing for some time and it is becoming more acute and it is somewhat of a quandary because hydrologically the lowest point of most properties where the drainage isn't going to go is also where your stream, your wetland, your buffer they are all going to exist so inevitably just from a design point you end up pushing your stormwater practices there but then we end up essentially eliminating buffer area and replacing it with stormwater practices that mimic in some fashion wetlands or the buffer area but they don't actually re-create a good healthy buffer.

Board Member Pierro stated it certainly has to be better than what is there now.

Rich Williams stated it is but I am sure Ted and I are going to take a look at this and maybe make some recommendations about how we can improve and what additional mitigation might be required.

Ted Kozlowski stated I don't know if the Board is aware that I met with Joe and Dr. Bridges out there and just to the east of that detention area where Joe has written on the plans mitigation, is that mitigation.

Mr. Buschynski stated wetland restoration.

Ted Kozlowski stated that is an area of buffer that was severely impacted by construction activities dumped asphalt, all sorts of stuff, the kitchen sink everything is in there so part of the mitigation for the intrusion into the buffer is going to be a restoration of that previously disturbed buffer which is far more disturbed than where they are putting the detention and Joe what I need you to do you and I and Dr. Bridges were out there and we came to a conclusion but you need to put that in writing just so it is on the plans what you are going to do exactly out there which is basically what I just said just remove everything let the natural vegetation re-established.

Mr. Buschynski stated that is defined on the plans in addition to the plan view we refer to a section.

Ted Kozlowski stated you are going to have to revise the wetlands permit though to include all that just so we have it on paper in case the Applicant changes engineers or whatever. Then you can also make a statement that you are not going to go in there and that is it. That is an area that you are staying out of. Then I think that you were also going to calculate how much of the buffer you are restoring because we do want to see the mitigation and the exchange. You are going to disturb a buffer even though you are saying you are improving it we still want to see something back and that is that mitigation area that seems to not affect the project and it looks like a really good thing to do.

Mr. Buschynski asked can we move ahead with another procedural step with respect to SEQRA.

Chairman Schech asked did we do SEQRA.

Rich Williams replied as Lead Agency.

Chairman Schech stated let's clear that up first and then next time we will take care of it.

5) D'OTTAVIO SITE PLANS

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

(Unable to hear Mr. Clarke).

Mr. Clarke stated another major issue was to relocate the primary pond and save the tree. We now received the Town Engineer's comments. There is a significant amount of work still to do but we wanted to make

sure that the layout and everything is acceptable. That is where we stand at the moment.

Chairman Schech stated I was asked to remind you I think we have three more meetings to take care of this.

Gene Richards stated I think from my perspective the major topic at this point is stormwater management so if you can address that that would be a big part of it.

Mr. Clarke stated right we just wanted to make sure again the layout was acceptable we would hate to go through all of that to find out that the ponds were too close to the building or whatever but there is no other place to put them.

Board Member Rogan asked we finally got all the easement work on the septic systems on the shared.

Mr. Clarke replied they are plotted here they will have to be calculated by Terry Bergendorf Collins.

Chairman Schech asked did the Attorney look at all the easements.

Mr. Molé replied yes.

Chairman Schech stated this will give you two more meetings.

6) MAGUIRE LOT LINE ADJUSTMENT

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

Ms. Ryan stated the Applicant, Raymond Maguire has an existing lot with an existing two story dwelling on Bridle Ridge Road and it consists of 5.32 acres and all he is proposing to do is have a lot line adjustment between the adjoiner, Dillman consisting of a half acre which would go in favor of Maguire. That would give him 5.82 acres and that would reduce Dillman to 10.34 acres so they are both in excess of the four acres that are requires in an R-40 Zoning District.

Board Member Rogan stated it is the back end of the lot so it does not have any impact on the existing residence.

Board Member Montesano asked the proposed breeze way that is listed on there is that something that he is going to do or is that something that is existing.

Ms. Ryan replied a proposed breeze way and proposed garage.

Rich Williams stated Mike, I think that is still up in the air the final plans haven't been drawn. He is not sure which way he is going.

Board Member Montesano stated he was here then I saw he walked out.

Board Member Rogan made a motion in the matter of the Maguire Lot Line Adjustment that the Planning Board grants a negative determination of significance of SEQRA and grants the lot line adjustment as per the plans from Insite Engineering dated 7/27/04. Board Member Montesano seconded the motion.

Rich Williams stated Shawn, I did do a reso.

Board Member Rogan stated I move to introduce the resolution granting the Maguire Lot Line Adjustment dated September 2, 2004 with the six general and one special condition contained therein. 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 DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 5 to 0.

7) THOMAS SUBDIVISION

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

Ms. Ryan stated I received Gene's review memo and actually I met with Gene this week to go over the details, the technical issues we have no problem with any of his comments and we can take care of all those. We also received comments from New York City DEP and the Health Department and we will be turning that around. There are some minor comments with those two. The Applicant is also trying to work our the Conservation Easement between the Applicant, the Attorneys and Rich and hopefully we will get that worked out before the next meeting. We would like the Board to look at the bond. The Applicant has no problem with the bond amount so the Board can make a referral to the Town Board on that.

Board Member Pierro made a motion in the matter of the Thomas Subdivision that the Planning Board recommends to the Town Board approving the performance bond amount of $122,000.00 and the inspection fees of $6,100.00. 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 DiSalvo	-	aye
Chairman Schech	-	aye

Motion carried by a vote of 5 to 0.

8) T & T ASSOCIATES SITE PLAN

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

Chairman Schech asked are we going to take a look at this site or were we just going to,

Board Member Pierro stated we were going to allow them to clean it up and take care of some trucks, mow the law, canoes.

Ms. Ryan stated I don't think they are planning on doing anything until they get their site plan approval.

Chairman Schech stated the last time I was there everything was still there. The boats were still there in the parking lot and the truck actually moved from the front up to the boats.

Board Member Pierro stated we are going to need those boats moved anyway because that is going to be part of the parking.

Ms. Ryan stated we have to have this outside storage area approved because that is where those boats will go so we have to find out where the Board wants us to put that outside storage. We are showing it located up here by the parking and that is where the boats are being relocated to but we need an approval from the Board.

Ms. Ryan stated right now they are near this turn around here.

Gene Richards asked Theresa where that outdoor storage is proposed is that within that easement to the parcel to the north does that present any problems.

Board Member Pierro stated I don't think so Gene.

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

Chairman Schech stated as long as the storage area is outside that easement area from next door, is it.

Ms. Ryan stated one corner is in it. I don't know that it is going to impact anything because the easement was intended to give access to the adjoiner in the future to gain access to their property and we provided access in this area here which isn't going to affect the outside storage however from what I understand the adjoiner has a valid D.O.T. Permit for their own access directly off of 22 so if they ever do that we would probably pursue eliminating the easement.

Board Member Pierro stated Rich, it seems to me that the easement where it is located on the map might be a little arbitrary. It makes a sharp right hand turn and goes,

Rich Williams stated we were just talking about that I want to pull the original plan and see how it lays out.

Board Member Pierro stated but to that regard in order to get this moved on I have no problem approving that location for outside storage.

Rich Williams stated let me take a look at it. It may be that they extended the easement that far up for grading. I don't know if Gene has.

Gene Richards stated I have not.

Rich Williams stated we have to take a look at it and see why.

Board Member Rogan stated and the plan doesn't say what is to be stored out there at this point I mean I am assuming it is boat storage but we would want to at least know what the plan was.

Ms. Ryan replied sure that is what the plan is just to relocate the canoes.

Board Member Rogan asked are they going to lay them on the ground or are they going to build a rack system something to organize them.

Ms. Ryan stated they have some kind of rack now.

Board Member Rogan stated because twenty by thirty isn't a very large area when you start stacking boats in there.

Ms. Ryan stated it actually it is not big right now. It is a little bit less than that now.

Gene Richards asked Theresa, will there be fencing around that.

Ms. Ryan replied it is not proposed.

Gene Richards asked so it is just on grade, no gravel surface.

Ms. Ryan replied right just the way it is now.

Chairman Schech stated okay so we will get back to you.

Ms. Ryan asked Gene also mentioned in his memorandum that we only have one ten by twenty space up by the building adjacent to the proposed handicapped spot the rest of them we are proposing as nine by eighteen just to conserve space and not to have so much disturbance we would need a waiver from the Board on that.

Board Member Rogan stated I am going to tell you I am not going to support that. Our cars are getting so much bigger that I have noticed that spots are getting smaller and smaller and the widths are just the rest of the Board may but I am not going to.

Chairman Schech stated if they have room just put in the regular size. There should be enough room.

Board Member Pierro stated I think there would be on the right there. (TAPE ENDED).

Ms. Ryan stated we also show five future spaces and we are not proposing to put those in now. We would also need a waiver from the Board on that we could maybe put a note on the plan as Gene suggested that if they decided they are over parked there and they are not parking in the spaces that we would put those in in the future.

Board Member Rogan stated you mean these five additional spots.

Chairman Schech stated I think we could do that I have never seen it overburden with parking.

Board Member Rogan stated well what you have though is parking to consider for the residence that is there.

Rich Williams stated I would show them as future parking spaces with a note on the plat that says if it is shown that they are needed they have to be constructed.

Board Member Rogan stated that is fine.

Ms. Ryan stated what we are proposing here are more spaces than they have now.

Board Member Rogan stated and there is not enough spaces there now.

Ms. Ryan stated we are adding some.

Board Member Pierro asked and we lost an apartment correct.

Ms. Ryan replied right that is part of the site plan approval.

Chairman Schech stated all right just put future parking.

Ms. Ryan asked Gene also mentioned something about lighting. There is no lighting there now I don't know if the Board wanted us to propose lighting.

Gene Richards stated that is really up to the Applicant but if they wanted to do something with lighting then it should be shown on the plan.

Ms. Ryan stated okay I don't think they propose to do anything.

Chairman Schech stated we are not requiring it.

Ms. Ryan asked and I think we had a note on here maybe not maybe it was in our last letter to the Board they are not proposing to do anything with the sign. They are going to leave that to the tenants.

Chairman Schech stated I haven't seen a sign.

Rich Williams stated there is a sign up.

Board Member Pierro asked is it a currently permitted sign.

Rich Williams stated no they should take it down or show it on the plans.

Ms. Ryan asked if we show it on the plans you want.

Board Member Pierro stated we want a sign application.

Rich Williams replied no by showing it on the plans that is good.

Chairman Schech stated and make sure it conforms.

Gene Richards stated Theresa you need to show a detail of the sign as well as the location of it.

Ms. Ryan stated we will take a picture.

Board Member Montesano stated if it is going to be lighted what kind of lighting.

Ms. Ryan stated and we will deal with stormwater management. We will discuss that with Gene and or Rich. There was also a notation about outside agencies I would like to know what outside agencies you want approvals from.

Board Member Rogan asked what outside agencies are there involved in this.

Gene Richards stated Putnam County Planning.

Rich Williams stated yes County Planning for sure but we probably want something from Mike Buzinsky. I don't know if he wants to grant an approval on this but at least acknowledging what the use is and the that the septic is adequate.

Chairman Schech asked is the one we are removing a septic.

Board Member Rogan replied no.

Chairman Schech asked the septic was on the other parcel wasn't it.

Rich Williams replied no.

Ms. Ryan replied well there is that was being used by the apartment that is being eliminated.

Chairman Schech asked that pre-existing septic is okay.

Ms. Ryan replied yes.

Chairman Schech stated then Health Department doesn't have anything to do with it.

Board Member Rogan stated I agree with Rich I would get a letter.

Rich Williams stated because the septic was installed for a single-family residence the use of the site has been converted I don't know that there has been any review on it by the Health Department as far as the change in use to the septic.

Board Member Rogan stated not if Theresa hasn't sent anything.

Gene Richards stated Theresa one thing to consider is you are moving your parking further away from the building and once it gets dark there is probably not a lot of light shed on it. I am not saying you need to have it like an airport but you may want some.

Board Member Pierro stated and they may want to do that before they put the storage area in because it looks like the wire would come right from the corner of that building under the storage area to the parking area.

Board Member Rogan stated they are not proposing to do anything in the storage area gravel or anything.

Gene Richards stated one thing that you don't want to see there is a flood light on the building that shines out towards the parking a hundred feet away.

Board Member Pierro stated right I would rather have a single pole with a down light out near the parking area.

Ms. Ryan stated I will talk to the Applicant.

Board Member Rogan stated the time of year that they get their business it is dark at 5:00.

Ms. Ryan thanked the Board.

9) FRANTEL SITE PLAN

Mr. Gary Tretsch, Putnam Engineering and Mr. Louie Pescatore, Applicant were present.

Ted Kozlowski stated I think you will see a changed man. I am predicting.

Chairman Schech stated we pulled the minutes from the last meeting we suggested that you shrink the building apparently it didn't shrink.

Mr. Tretsch stated I thought the guidance was just to get everything, define the wetlands boundary, have Ted agree with it and move everything out of that which we did. I saw Rich's memo which I understand that it wants any part of the building and any parking areas removed from not only the wetland but we have a slight encroachment here but out of the buffer as well possibly some of the stormwater could be in the buffer area. The new wetlands boundary which is shown here with the triangles and this is the hundred foot buffer and as I understand it you are looking to get all of this parking removed from the buffer and a small portion of the building so whatever parking I am going to be able to salvage from this area will dictate the size of the building that we will be able to put on the site.

Chairman Schech stated it sounds good to me.

Board Member Pierro asked weren't we also concerned with the driveway entrance area.

Mr. Tretsch stated well we had always wanted to keep that there because it was approved by D.O.T. We will do what we have to do.

Board Member Pierro asked how much are you talking about shortening that up a little.

Chairman Schech stated it depends on how much parking.

Mr. Pescatore stated I would like to really finalize it and I see what we have got to do.

Board Member Pierro stated Louie, you have got to make the building smaller and you are out of here you make the building smaller we are out of the wetlands buffer it is a done deal I promise you but you can't be di----- around. You have been di----- around with this for two years.

Mr. Pescatore stated I want to come to the Board and you say this is it.
(unable to hear too many speaking and laughing)

Board Member Rogan stated Gary, it appears that there is at least fifty spaces in the area. Louie, we just established a starting point. The starting point is move everything out of the wetlands buffer and we have a starting point for a reasonable project that we can review that is not going to be as significant impact to this wetland. I think you have been given clear direction. We have a very valid starting point pull everything out of the wetland buffer and we have a reasonable place to start and I think that your engineer now has something to work with.

Mr. Pescatore asked but gentlemen what about the entrance.

Chairman Schech stated that has to do with the entrance also.

Mr. Tretsch stated it does not make sense to leave it where it is Louie.

Board Member Pierro stated if you make the building a little bit smaller you can pull that entrance the twenty feet, thirty feet needed to get out of the wetlands buffer. I am sure your engineer can come up with a viable alternative.

Ted Kozlowski stated Louie I have been ECI since 1991 and this has been on the Board since 1991 I am going to retire in five years and I don't want to see it on the Board so let's get it done.

Chairman Schech stated it is in your hands Louie not ours yours.

Mr. Pescatore stated I want to do it that we come in last time one more time and that is it.

Chairman Schech stated it don't work that way if everything is okay maybe. It does not work that way.

Mr. Tretsch stated we understand what the Board is looking for.

Board Member Rogan asked Gary, when you determine the septic area for a commercial building like this is it just based on square footage of the building or the proposed use.

Mr. Tretsch replied either or. If we can identify the use it would be by the use in this case it is by the square footage.

Board Member Rogan stated the reason I am asking is if this retail building was proposed where there were going to be for the sake of argument there were going to be one bathroom per facility and that was all the water usage your septic area may be smaller and therefore the parking.

Mr. Tretsch stated the building will get smaller the septic will get smaller also.

Board Member Rogan stated unless of course you are proposing a restaurant in there in which case.

Mr. Tretsch stated there were no restaurants proposed.

10) EASTERN JUNGLE GYM SITE PLAN

Mr. Gary Tretsch, Putnam Engineering and the Applicants were present.

Chairman Schech stated I thought I saw a resolution.

Board Member Pierro stated before we get to the resolution.

Board Member Rogan stated we have been out to this site twice well the second time we went out it seemed like we wanted to take another look at it and I guess we caught it on a bad day because it was trashed. I know the Applicant had said to Rich that they were, we have pictures also by the way we had just looked at them it looks a lot better in the pictures then when we were there. I went back after speaking with Rich because they said look they cleaned up the site they were re-doing internal storage it was a mess and I will admit when I went back it was just this past week the site was significantly different from when we were there. There were still I counted five cars parked right along the edge of the stream where there was a container so I think parking was still a significant issue out there or lack of because when I was there there were no available spots at all and most of the parking is tied up in storage of lumber and just based on the type of business that you are doing which I think is a wonderful I mean I think you take this kind of business it belongs on Commerce Drive. That is the whole idea of the park I think. It is also visible from Fair Street so it is great people drive by they see the sign they know it is there but boy I think this Board really believes that the site just can't handle the good business that you are doing and I am happy for you that it has grown to that because I think this is the kind of thing we need.

Mr. Tretsch stated when you guys went out there you caught it at they had emptied the inside their entire storage because they purchased shelves like you see at Dill's to store the lumber and to put the shelves in they had to take all the storage from inside and put it outside.

The Applicant stated you picked the worse possible time.

Board Member Pierro stated and we appreciate that but I have been there a couple of times in the last few weeks and as a Board Member you are on a hair line edge to getting this approved. You need another building and you need it quickly.

The Applicant asked can I add one thing too.

The Board replied sure.

The Applicant stated our business has grown.

Board Member Pierro stated we understand that.

The Applicant stated not significantly not relative to what you are seeing. What has been taking place is we have gotten more credit lines with the bank and if you have seen the construction boom I have been buying that much more material to get my costs down lower. I don't necessarily have to buy the way we have been purchasing but that is also what you are seeing as well. Where we use to get a truck load with two or three units of each product the purchasing power that we have now we have been getting a truck load of each individual piece so we have grown but not that much it is really the buying.

Board Member Rogan stated so you are saying the stock has grown.

The Applicant stated our stock has grown tremendously and that is what really got us to get the shelving.

Board Member Rogan stated we noticed that Northeast Mesa when we did their approval they had a huge off site storage up Commerce Drive is it possible to look at an off site.

The Applicant stated that may be a possibility.

Board Member Rogan stated that would free up a lot of room if that is what you are saying.

The Applicant stated I was kind of hoping based on the storage that we proposed on the site plan if that was approved we won't exceed those storage limitations. We won't be coming back saying we need more space if we have grown beyond that storage that we need then I would say absolutely then it would be a definite we would get more off site space and store it there but I think with this approval we can definitely keep it contained as far as storage goes.

Mr. Tretsch stated the lumber that use to be stored inside is on the floor I don't know if you guys have pictures on the inside but I was there today.

The Applicant stated we spent about eight to ten thousand dollars on shelving that we never had.

Mr. Tretsch stated which doubles and triples what you can put inside.

Board Member Pierro stated one of the other things that I noticed when I was there today I don't know if you have a use for them but there is like probably forty tires, truck tires, vehicle tires stacked all over your site.

The Applicant replied we do.

Board Member Pierro asked what is the use.

The Applicant replied well we use the tires, we go to the local tire shops and we take tires and we clean them up and they are our tire swings. That is all they are used for and they could be contained better. You have seen them spread out all over the place that won't happen as well. We have grown with this company. We worked out of shed so we have learned a lot with the years gone by too.

Board Member Pierro stated also the rear corner of the building you have a small loading dock area there is a thousand gallon oil tank that is within forty feet of the buffer of the stream.

The Applicant stated I am sorry because that is a diesel.

Board Member Pierro stated yes diesel pollutes streams. You get one of your backhoes that has a bad day and he backs into that tank we have a major environmental nightmare.

The Applicant stated I am sorry I thought that was within the limitations.

Board Member Pierro stated yes but it needs some bollards it needs some protection so they don't back a truck into it.

Rich Williams stated Dave if I could jump in here what they are proposing is to surround that with a hundred and ten percent capacity of storage so that should anything happen to the tank it should rupture, leak or whatever it will be in a contained area.

Board Member Pierro stated I don't know if there is room for that.

Mr. Tretsch stated yes you build it right around I don't know if that tank some tanks come with, The Applicant stated it is actually a double wall tank. (Too many talking at the same time unable to hear).

Mr. Tretsch stated we believe with what is done inside with the shelving and with the proposed storage area

that it will free up the back so that the parking can be accommodated on site as stated on the plan. We had designated this side of the building as well as part of the back but not in the parking areas or in the loading bays where it currently is. I had advised them not to do any of these things while we are going through this process and that is why some of that material is still out in the parking lot.

Chairman Schech stated display area.

Mr. Tretsch stated the display area is in the front.

Chairman Schech stated on the septic.

Mr. Tretsch stated what is on the septic are the little gym sets.

Board Member Rogan asked they move those by hand.

Mr. Tretsch stated they are not put there with vehicles.

The Applicant stated we put them on customer septic systems all the time. We don't drive trucks they are by hand. There is never any trucks driven on the front property at that location never because the septic is there.

The Applicant stated there is actually no penetration of the sod it is all free-standing no anchors or concrete footings or anything of that nature.

Board Member Pierro asked isn't there a culvert that has to have some work done on in the area between the building and where the play systems are located now.

Board Member Rogan asked you mean as per the proposed plan yes I think we saw.

Rich Williams stated there is a swale.

Mr. Tretsch stated this came out today when we were walking around the site what we would like to do we designated in the front here for the gym sets and as you know the sheds are along the front currently we would like to put them in front of the building. One of the revisions we had on the plans we pulled them away from the building that is not working out well. What we would like to do is flop it and put the sheds not where they are setback to whatever the setback that we would have to comply with and put the gym sets on the inside. The fact that we have to pull the display area the sheds away from the building.

Chairman Schech asked in other words you want to put the gyms between the sheds and the building.

Mr. Tretsch replied correct that is not reflected on the plan that came out at the site today.

Board Member Pierro stated for purely aesthetic reasons across the street from this site you have the two trailers parked on the grass there one is in front of your building and one is across the driveway.

The Applicant asked you are talking about the shed trailer.

Board Member Pierro stated yes can't you swap those trailers for sheds or swing sets as a display area if you can get permission from that property owner or that land owner and then put those trailers in the back somewhere.

The Applicant stated well if we get the storage area approved where right now it is completely empty we don't have to keep those trailers across the street.

Board Member Pierro stated because it does not send a good message. I would rather see you very good looking product out in the front then a metal trailer.

Mr. Tretsch handed the Board some pictures. (Too many talking at the same time unable to transcribe).

Chairman Schech stated we will take another look at it. I was looking forward to denying this. This is the first time I ever denied anybody.

Rich Williams asked Gary, if I could just jump in here and ask one question you said you were going to flip the sheds for the swing sets that would put the heavier sheds out in the septic area and you are not moving those by hand.

Mr. Tretsch replied that is correct what we would do, this is the general area that was defined on the prior site plan, we would get the as-built and really nail down the location of that septic system if we had to jump over it we will not put a shed on top of the septic system.

Board Member Rogan stated you may need to have a little I hate fences but if you are going to delineate the septic area and then allow truck traffic ten feet away from that septic area.

The Applicant stated but there is no traffic what happens is we put those shed displays out there in the front, Board Member Rogan stated you mean once they are set they don't go anywhere. The Applicant stated once they are set we rotate them out once a year. They are displays only. There is no traffic even now with any products that are out there it just stays the way it is.

Board Member Rogan stated because we have always said in the past especially with commercial projects that the way you use your area above your septic system if you screw it up you are screwing yourself. It is

not like a residential situation you are only going to hurt yourself and I would just hate to see in an area that is not clearly delineated.

Mr. Tretsch stated we will come back with some delineation so that it would preclude any type of encroachment on the septic.

Chairman Schech stated all right before the next time we will take another look.

Rich Williams stated one issue raises another now they are talking about changing them in and out without driving over the septic area how are they going to get in to change them in and out.

Mr. Tretsch stated what we have talked about Rich is we could put a little gravel area to sit them on here if we put that gravel area right out, Rich Williams asked right on the front on the road. Mr. Tretsch replied not on the road setback some dimension across the front, Rich Williams asked so that you are not driving in off of Commerce Drive over the curbing.

Mr. Tretsch replied correct it will be set in once a year they get put there and then they get taken out.

Board Member Pierro asked haven't we discussed a barrier or a wooden not fencing but a,

Rich Williams stated they show a wooden fence in a portion of the buffer to delineate what would be used for storage and what will be remaining as buffer.

Board Member Rogan stated I will say that I have no problem working on a plan towards an approval and the Applicants are here knowing that if a plan gets approved that if the use goes over the approved use you have to obviously look for another site that is not our doing that would be your doing and that seems reasonable. What I would be curious I know when we were on the back side where the streams go through and the Beavers have done a heck of a job on that water when I was there I noticed at least two sets of waterfalls looking up into the swamp the water has really undermined some of your pavement areas and I don't even know if we have addressed yet mitigation for that.

Mr. Tretsch stated this plan proposes to take out some of the existing blacktop and then install a fence along a determined setback so that there would be no encroachments beyond that.

Ted Kozlowski asked Gary what are you going to do because that was my question that stream makes a hard right turn when it hits your parking lot and that does overflow in big storms how are you when you take that parking lot,

Mr. Tretsch asked which part.

Ted Kozlowski stated the stream hits it head on.

Mr. Tretsch stated we are going to saw cut out.

Ted Kozlowski stated right what are you going to stabilize it with rock.

Mr. Tretsch stated we will riprap it.

Mr. Tretsch stated I think we proposed seed.

Ted Kozlowski stated you are going to need to put something there other than seed. I really don't want to see a pressure treated wall.

Mr. Tretsch stated and we are placing a fence in front of that so that there will be no.

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

The Applicant stated back here I have never seen the water go as high as that blacktop back here is that where you are talking about.

Ted Kozlowski stated I have seen high water marks but that is not the issue. The issue is that the stream is doing an un-natural thing. It is hitting hit head on and then making it a right hand turn and it is always going to want to go into your parking lot so without doing major surgery in the stream you are going to need to do something to buffer that impact of the stream especially in high water times. If we get another storm like Floyd or something like that you have to be prepared from a business standpoint it is going to eat away at your parking lot even if you give and I am glad you are taking some of it away but even if you do that it is still going to want to go straight. Streams don't naturally make a right hand turn and that was from somebody else's mucking around in there years ago.

Mr. Tretsch stated actually the original site plan proposed and it was approved to relocate part of that stream years ago.

Ted Kozlowkski stated when you could do it right.

Mr. Tretsch stated so we will pull it back, we will stabilize it.

Ted Kozlowski stated riprap not pebbles and you know your neighbors next door did a great job in the mitigation process so you might want to talk to them.

The Applicant stated they put some kind of small wall back along that side over there.

Ted Kozlowski stated yes.

Mr. Tretsch thanked the Board.

The Applicants thanked the Board.

11) TRIPLE J SUBDIVISION WETLANDS WATER COURSE PERMIT

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

Chairman Schech asked you guys came up with a magical solution last week right.

Board Member Montesano asked John are you going to drink a lot of bottle water.

Mr. Petrillo asked why.

Board Member Montesano stated it is your drawing. There is something that I haven't seen so I am trying to figure out where you hid it.

Board Member Pierro stated the well.

Mr. Petrillo stated we changed the house plan first of all totally. I will let Paul explain it all but we did based on some of the suggestions Rich had mentioned at one time, why can't we turn the house well we couldn't with that house but I have revised the type of house plan we will build. We now have a backyard of about a hundred twenty-five feet by a hundred and eighty feet which is a substantial yard now. I will let Paul explain.

Mr. Lynch stated the original plans we had the detention basins located right down against the wetland line and obviously we worked to try and mitigate that and get away from that delineated line and what we have used is the existing travel way that is located on the back of the property which is colored in the brown area and in addition to the travel way you will noticed there is a dotted section along the northern edge which has a whole lot of stumps and trees, rock, the back section in this turn around area is filled up with brick and concrete, debris and there is other construction debris that has been left there over the course of years and there is still two tanks that need to be removed from the project which are located over here. I tried to follow that line as being my don't go beyond this and relocated our ponds and that is what this sketch takes advantage of. It more or less holds that line that we have out there the physical constraints and keeps our ponds located to the south side of what has already been disturbed so it gives more ability to restore and establish more wetland mitigation.

Mr. Petrillo stated we also moved the travel access that you suggested on the backside of the pond.

Board Member Pierro asked Ted what do you think.

Ted Kozlowski stated well on Monday Richie and I met with Paul and Beth Evans Associates at the site as you know this site has been disturbed by a previous owner. There was all sorts of stuff and looking at it and staying out of the natural buffer area is important and it looks like he is trying to do that here. I personally and I said this at the meeting and I really don't have a problem with the detention basins being in those disturbed areas it is not really a very functional buffer zone that we are used to with a more native or more natural or an undisturbed site so that is really something that I don't have a major problem with. I would like to see more mitigation which is what they are working to and if some of that mitigation takes place in Southeast so be it. It is all part of the same wetland. The wetland crosses both town lines. We have to remember though that this is a wetlands application and we did at this meeting ask Beth Evans Associates to evaluate this and amend that permit to show the mitigation and to discuss what the impacts are. Rich do you want to chime in go right ahead.

Rich Williams stated I think everybody knows my opinion at this point.

Chairman Schech asked the maintenance access is the dotted lines.

Mr. Lynch replied yes.

Chairman Schech asked it is not the brown one.

Mr. Lynch replied no the brown is the existing travel way.

Board Member Rogan stated when we were on the site and I happen to agree with Rich a little bit more on this that a lot of this area that as the water hits the sheet flow action back into this, having this area cleared for the basins allowing the sunlight into that wetland I think is going to do some harm over the years. I think the problem that I am having tonight this seems to be the issue going on tonight seems to be wetland buffers. We had it John I saw you nod your head with New England Equine because you were making your mark there that we were acknowledging putting basins in the buffer. I think we need to look at our buffers because maybe the thing to do is say that we don't allow anything in the buffer whether it be basins or not because I am not sure that I agree with anything tonight in terms of encroachment into the buffer. The theme tonight seems to be that if it is disturbed and in worse shape now and you are going to improve it we are doing a good thing and I will agree with that to a certain extent but I would also agree that if you want to build on a lot you improve what has been hurt on the buffer to some natural state and leave it alone to protect that wetland so I am not making a determination one way or the other in favor of this I am just saying that the theme tonight seems to be wetland buffers and I would hate to see the fact that people think

well heck I have a project coming up in ten years and I want to put some basins in the buffer let's go dump a bunch of crap there now and make it look as bad as possible so that when they go out they say hey they are going to clean up the buffer because obviously this site is disturbed not that the property owners that own it now did that and certainly it is the merits of the projects. John you have been nothing but a gentleman any time I have dealt with you but this encroachment into this buffer and I will say it for the Equine Center I am not sure that I would agree with it.

Mr. Hogan stated Shawn you indicated at one of the meetings that we had here that if you went and looked through the minutes and saw that we had any kind of notice that the Town was going to start moving toward not permitting basins in the buffer that would really convince you that that was the way you would have to go with this.

Board Member Rogan stated correct and I did go back and read through the minutes carefully and it wasn't specifically stated although, again I think there is a theme going on tonight that I am starting to be a little bit uncomfortable with so it may not come to fall on this project but I think I am going to talk with Ted and Rich and really look at the way we are looking at our buffers because I am not sure that I am happy with or that I agree with it the use at all. In a perfect world I mean obviously this is not a perfect site but we don't build on perfect sites anymore there are none left. In a perfect world I would say restore the buffer, clean it up, allow nature to take over just let whatever is going to grow, grow and then we would be protecting that wetland much better than these basins. I am afraid that the water that comes out of these basins, these stormwater ponds are now going to be directing that water flow into narrow, channelized areas of the wetland as opposed to the sheet flow the natural percolation of water through the forest or through even this wetland buffer so I have concerns about this and I am hoping that you are going to convince me over the next couple of meetings with your mitigation. Ted certainly weighs in heavily on this because I do trust Ted as well.

Ted Kozlowski state Shawn if I may chime in Rich and I did discuss after this meeting that we feel and I think you agree Rich the Board is going to have to come to a decision at some point what the policy is on buffers and the Code is clear the buffers are just as important as the wetlands. Is this the site to make the stand on I am not convinced of that. Is the Equine Center no I am not convinced of that but it is going to have to come and it is going to have to come sooner than later because that is what we are down to gentlemen is this kind of activity. Getting back to you Shawn and your observations there is a narrow strip of buffer that is left that is undisturbed and I agree that should remain and I have said that out in field. The problem that I have with the area that has been previously disturbed the evasive vines are established, there is a lot of junk dumped there, the vegetation that is establishing some of it is non-native material. I am not so sure if letting nature take its course is the right direction here. If the Board wants to see a native buffer re-established fine so be it. If they want the detention basins to be there fine so be it either one my feeling is that it is better than what is there now. I would not say that if it was undisturbed. That is my feeling on it and Rich and I have gone back and forth on it, we have discussed it and it is out there for you now.

Board Member DiSalvo stated I kind of agree with Ted I had a little problem really visualizing this whole project and I was with them on Monday also and I got a better feel for it, pulling those ponds out more I didn't want them where you originally had them designed either. I didn't really realize until I really walked in. He is talking about all the debris that was there I know because I inherited a junk yard too at my property and that stuff has to come out regardless but as far as like you said natural vegetation let nature take its place. I don't think it is going to happen there with what is there now and there is a lot of stuff there. A lot of stuff that does not belong there.

Board Member Pierro asked so at this juncture we need to see a more formalized mitigation plan.

Mr. Lynch replied yes Beth Evans Associates is working on it they just couldn't turn anything around that quick.

Board Member Montesano stated you didn't answer my question though, I want to know where the water is coming from.

Board Member Rogan stated he didn't see the well.

Mr. Petrillo replied deep in the ground.

Board Member Rogan stated any idea he is just asking where the well is.

(Unable to hear too many talking at the same time).

Chairman Schech stated put it all together in a package.

Ted Kozlowski asked did Alan I believe from Beth Evans is he putting something together.

Mr. Lynch replied they started to put everything together. I finished my sketches today so they have not gotten this. They will have it tomorrow morning.

Ted Kozlowski stated Alan needs to address what we just all talked about and I said that on Monday, Rich reiterated it so he needs to address it. How he addresses that I think that is what is going to be a determining factor for this Board.

Board Member Rogan stated I may have missed it before and I apologize if I did but the maintenance access.

Mr. Lynch replied it was originally on the back side.

Board Member Rogan asked the new one shown will that be just a traveled way over the grass.

Mr. Petrillo stated a travel way over the grass.

Board Member Rogan stated in other words so it is something that obviously that you can't throw a shed in the middle of it.

Rich Williams stated it has to be more than just a travel way over the grass it has to be permanently improved access way that will support (unable to hear too many talking at the same time).

Mr. Lynch stated typically they are gravel.

Mr. Petrillo stated Item-4.

Board Member Rogan stated Item 4 is going to look like hell going along side that house John.

Mr. Petrillo stated over in I know it is in another Town but what they did do is they covered the last two or three inches on top they did that for Solomon's Daily Brook so that a fire truck could go down the side and never sink but of course it is grass there is two inches.

Board Member Rogan asked is the idea that these two basins would be under the ownership and maintenance of that property owner.

Mr. Hogan stated they actually would be under the ownership and maintenance of the seven owners in total not ownership but by drainage maintenance and easement agreement.

Board Member Rogan stated so that means that the owner of that house five years from now does not have any ability to do anything to those basins to further improve them. They think that hey, maybe a fountain would look great out there they don't have any right to do that.

Mr. Hogan replied no. That is something that would be contained in any documents with a restricted covenant that is something the Town Attorney would, if you guys don't want it it is not going to happen.

Board Member Rogan stated my other question would be that I noticed in a lot of these communities, a lot of subdivisions the basins they are treated like a natural pond in that they don't require fencing in many subdivision and John you showed us pictures where it was an attractive feature let's say I noticed there was one subdivision I think it was Hill and Dale Road that the final did show fencing to be put up for safety because the children were going along the edges and it was quite deep and quite steep on the sides. I am not saying that I want fencing, I am not a fan of fencing I am really not but I am curious about how these ponds being so close to this house how they are going to be incorporated into again, you showed us pictures

how they are incorporated into the landscape. I am afraid to incorporate them too much into the landscape sometimes it gives that person the idea of ownership and that this is part of their backyard and I am just concerned.

Mr. Petrillo replied the only thing that I can tell you is that in any case where they have in those pictures that I brought up those people have enhanced it they take it as a personal thing. That pond yes even though it is by easement they in their mind believe it is theirs because the location enhances their property so they put the fish, they put the extra flowers whatever it takes to identify it to make it look beautiful.

Chairman Schech stated these ponds are not wet ponds though they are going to dry up.

Mr. Lynch stated they are wet ponds.

Board Member Rogan asked so they will maintain a minimum level given proper rainfall and then storm events will have the extra surge capacity for detention. It seems like after West Nile Virus hit we were looking at more of these ponds on a daily basis, I was going out and looking at these ponds. I will say that normally they are not significant mosquito producers because of the natural habitat. You are not talking about a manmade container that frogs can't get into that natural predation can't get into. I am less concerned about West Nile and mosquito activity in these then I was three years ago when I first got on the Board after checking hundreds of them and not finding them to be that significant but again, I am still not a crazy fan of all these basins I know we have to do something with our stormwater I sound like a broken record saying that.

Mr. Lynch stated write to the New York City DEP. I think I told you probably in the first meeting that we came in the DEP reviews things and there are two different methodologies where you get your table of values if were allowed to use one methodology we don't even need two ponds.

Board Member Rogan asked you mean for the whole subdivision.

Mr. Lynch replied for the six lots. They changed that probably two thirds pf the way.

Mr. Hogan stated they lost the plans.

Mr. Lynch stated they changed reviewers and then they changed the methodology by which they wanted us to do the report and by changing it now we needed four ponds to accommodate the pollutant removals so it really comes down to who you have as a reviewer. They have no policy that is written in stone do it this way and only this way.

Board Member Rogan asked really who is the reviewer for the DEP for this.

Mr. Lynch replied this one is John Drake.

Board Member Rogan stated so you are saying that depending on the reviewer they make look at the co-efficients differently and the size of these ponds it would go without saying that if the ponds that were located in Brewster and I don't care where they are located but what I mean is that they are outside the wetland buffer if they can be enlarged so that these could be reduced that would be something.

Mr. Lynch stated no it is not a question of enlarging them it is a question of being able to hold the water for twenty-four hours in this pond to give you sixty percent removal, hold it for another twenty-four hours in the next pond for sixty percent removal and go down to Pond #3 and #4.

Board Member Rogan asked so these are ponds in series is what you are saying.

Mr. Lynch replied yes.

Board Member Pierro stated thank you very much.

Board Member Rogan stated I am sorry for beating the issues but I really don't care much for this one.

12) TELECOM SITE PLAN

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

Ms. Ryan stated I don't know if all of you are familiar with this site but it is a 1.3 acre parcel in the C-1 Zone on 22. It has an existing two story building that contains 2,700 square feet of office and what they are proposing to do is put in a warehouse incidental to the office use. The business that they have requires equipment that they would like to be able to store on site in the warehouse. We are proposing a gravel drive to access on the other side of the wetland to get to that. The warehouse is 4,000 square feet. The wetland is right in here it is cutoff with the pavement on the north and on the south it appears that the wetland just stops here and then continues again further south. We had our Wetland Consultant come in and take a look at this site, flag the wetlands and do a functional analysis which I will share with Ted and everybody. Basically, this area of the site contains phragmites and what the Wetland Consultant is saying was because this is so isolated it really doesn't have a benefit. It is not a beneficial wetland. He will come up with a mitigation plan to manage this better, put different species in, try to maintain it so that there is no phragmites and better wetland vegetation in an area that is proposed to be not disturbed and the stormwater basin will be planted in the buffer area with plantings that will benefit the wetland as well.

Chairman Schech stated okay Theresa we will take a look at it site walk it. We don't need any flags on this do we. The wetlands are flagged.

Board Member Montesano stated we want to know where the building is.

Chairman Schech stated give us the four corners of the building.

(TAPE ENDED)

Board Member Rogan stated Flood was the site that had the old saw mill at one time we were standing on it looking down into that rather wetland and we said nobody can ever build down there and this is the site. I really don't remember I just remember seeing like you said the phragmites.

Ted Kozlowski stated Theresa for your benefit I met with the Applicant last winter and looked at this site with him and at that time I informed him and I am going to inform the Board again, I never ever agree with putting a road through a wetland so I categorically will say now before anything else that I oppose any roads through a wetland. That is for Burdick Farm and that is for this place and anywhere. It is not appropriate, it is not the right thing to do. I said that to the Applicant back then in the winter time and I advised him that if he wanted to cross that wetland a bridge was the only way that I would consider giving my approval to but obviously that is not the way he is going on this. Understand that okay.

Ms. Ryan stated I think he misunderstood because he said that when he discussed it with you that you mentioned culvert because he said he did not know what a culvert was and he looked it up because of something that he mentioned.

Ted Kozlowski stated no I was talking about piers sunk in and crossing over that wetland. I will be happy to look at the Consultant's report. When I was out there in the winter I thought that I saw wetland going undisturbed all the way down south now I could be wrong. It was winter time there was patches of snow but I would never agree to a road going through a wetland. I am on the record all the time for that.

Ms. Ryan thanked the Board.

13) PORTO SITE PLAN

Mr. Gary Tretsch, Putnam Engineering was present representing the Applicant.

Board Member Rogan stated we have our representation here tonight, legal representation and can we I am so confused on this site at this point in terms of we have got a 280a recommendation going on under one property owner and on the same property a proposed application can they do that as contract vendee how does this all work. We are being told off the record that the Budakowski's don't even own the property anymore so can they do the 280a or does it need to be done under the new owner's name.

Mr. Molé asked have the Budakowski's actually sold the property or are they in contract to sell the property.

Board Member Pierro stated I believe there is a contract. There was a sale of the main dwelling that they own there and then if they get a 280a then they will,

Mr. Molé stated okay so a contract with a contingency probably. If there is a contract with a contingency then Porto can apply as contract vendee but Budakowski should also be part of the application as the owner if the contract had actually went through and the sale took place then Budakowski has no more interest in the property then Porto would be the sole applicant.

Rich Williams stated I think that the sale has gone through.

Mr. Molé stated I think first and foremost we need to find that out before we.

Mr. Tretsch stated as I understand it Porto's purchased the entire parcel and there was a clause as I understand it as I am told they bought the entire parcel and Budakowski or whoever they put a clause in there that he had x amount of time to execute a subdivision and if he got it done successfully in that period of time they would give the keys back for a dollar or whatever. If that time exceeded it and I don't know what the time period is I think it is two years then case closed.

Board Member Rogan asked so then the question becomes can even though there is a contingency through the contract of sale can the Budakowski's continue with a subdivision approval not being the owner.

Mr. Molé replied I am not sure, Gary explain it to me again, is there a contract of sale with a contingency or did they sell it.

Mr. Tretsch replied no the Porto's closed on the property. They own it.

Mr. Molé asked so there is no contract the closing actually took place.

Mr. Tretsch replied correct.

Mr. Tretsch stated there is an agreement within that structure that Budakowski has two years to complete a subdivision if he could.

Board Member Rogan asked wouldn't the lawyers that drew up that contract say hey wait a minute this can't be met because they don't have the ability to act for this property since they are not the owners. It seems like an un-real contingency.

Mr. Molé stated it is kind of a hybrid of a contract vendee situation. Is there a copy of that attached to the application.

Rich Williams replied no the original application was made by the Budakowski's as owners this all transpired after the fact. I have not pursued getting the actual agreement in here so we knew who had what legal standing and pending the application until we got the 280a because they can go forward with the 280a no harm no foul.

Mr. Molé stated I would like to look into it further since it is a unique situation but my initial reaction is if there is some sort of an agreement between the two parties and as long as the current owner Porto approves of Budakowski taking the head of the application process then Budakowski would but you need it on the application somewhere their approval. It could be as much as an affidavit a letter from Porto.

The Secretary stated the Budakowski application was from what Rich two or three years ago.

Rich Williams stated right we are going to need an amended application.

The Secretary stated I know when I looked on Image Mate the sale of the date and that our records show Porto as being the owner of this parcel the sale date is on there so that means the Deed came through.

Mrs. O'Hara stated the agreement is attached to their Deed. I have read it.

Mr. Molé stated so it is recorded.

Mrs. O'Hara stated it is recorded I read it.

Chairman Schech stated get us a copy of the agreement.

Mr. Tretsch stated what the Porto's propose is a kennel type operation to treat sick dogs with therapy.(unable to hear too many plans being shuffled and people talking). They are putting couches in the kennels almost like a spa for dogs and cats. That is what they want to construct on the property. When they first talked to me I went out and looked at it and I suggested that they went and saw Ted because this is all wetlands. This was a paddock at one time and that is about the only spot on the site that could possibly work. I think Ted spoke with them.

Ted Kozlowski asked is the wetlands on there because there was another Engineer that I did verify them. The wetlands as I recall this is the house you are going to have to show that they had a Consultant flag the wetlands and I verified them and spoke with Jack Karrell. It was Jack Karrell for Budakowski.

Mr. Tretsch asked do you know who Jack used.

Ted Kozlowski replied no it was not for this particular site but it was for the Budakowski crossing and remember when Jack came in and showed a partial wetland and I told him no you have to show the whole wetlands.

Board Member Pierro asked the wetland surrounds the back of the house correct.

Ted Kozlowski stated yes and for this particular project I think you are going to be at least within a hundred feet of that wetlands. You are going to be in the buffer again.

Board Member Rogan stated it seemed when we walked up in that paddock like it was much further away from that. I mean we walked up hill.

Board Member Pierro stated that is because of the topography.

Ted Kozlowski stated we walked up this way and the paddock was pretty much out of it I didn't think so but when I started poking around in the soils they were pretty good but once you get outside of that paddock and that is probably how they defined the paddock. They didn't want the animals in the wetland so they built a paddock so I think as I recall where that paddock ends is where the wetlands begin and I think that is within a hundred feet of this proposal.

Mr. Tretsch stated when they came to me and they proposed this and I went out and looked at it that is what I said that is about the only place they could possibly do anything and I suggested they speak to you.

Chairman Schech stated I believe we have to send you to ZBA also right.

Rich Williams stated at some point they are going to have to go to the ZBA for the Special Use Permit. I did identify a number of issues with regards to variances some of them are related to the pending subdivision. If the subdivision goes through they need more variances.

Board Member Rogan asked because of the lot lines.

Rich Williams replied setbacks. I don't know if the Board wants to take a site walk out there and get some sort of concept.

Chairman Schech stated we might as well go before the snow flies.

Rich Williams stated before they go to the ZBA.

Board Member Rogan stated just give us the location of that building.

Mr. Tretsch stated the paddock is there.

Board Member Pierro asked can we get an idea of how large the building is going to be compared to the paddock though. Can you stake that.

Board Member Rogan stated the four corners of the building.

Mr. Tretsch replied sure but it is going right in the paddock area. We will flag it though.

Board Member Rogan stated Anthony, just so you know we had done a recommendation for the Budakowski for the 280a but we failed to vote on it and so we had taken an action we just did not complete that action just so you are aware of that. Now, with this looking at whether or not they are actually the owner or not and all that it is brand new just since last meeting at least as far as I am concerned. I didn't know or I would have questioned it at the last meeting. We did a motion we didn't do a vote.

Board Member Rogan stated but as far as the record indicates we had the intent of doing the action that is what I am trying to clarify.

Chairman Schech asked should we do the action or just forget it.

Mr. Molé asked the clarification as far as who is on the application (unable to hear no microphone)

Board Member Rogan stated I just didn't want the record to point one way and then it seems like we were stalling. We are not stalling it is just that information has come forward since then that I think we need to look at. I don't want somebody to say hey, now we are going to sue you and not that they could.

Rich Williams stated so I get yelled at. I had assumed and everybody else did that a vote had been taken and so I had followed the direction of the Board and actually released a memo saying here is the recommendation so what I am going to have to do now is release another memo saying that in fact the recommendation was not made and there is now an issue about who actually owns the property and we need the application amended before the 280a recommendation can be made.

Board Member Rogan asked just curiosity can we do I don't want to set us up here but can we do a recommendation contingent upon his findings on the ownership because that could happen he might do something with that in three days time I don't want to put you on the spot but instead of waiting a whole month.

Board Member Pierro stated I think it complicates it.

Board Member Rogan stated I mean our intent for the subdivision has not changed. We clearly set out what we wanted as contingencies for that subdivision. That is not going to change regardless of the ownership situation but I didn't want to act inappropriately and recommend something for someone who does not have the right to ask for it.

Mr. Molé stated that is solely up to the Board. The Board can make the recommendation contingent upon proof that the current Applicant has been approved by the current owner.

Board Member Rogan stated I have no problem doing that. I don't want to make more work for you but I don't want to create a situation that you then have to defend why we did an action when we weren't at liberty to do so. I don't know what does the rest of the Board feel about this.

Board Member Montesano stated I have got another point to bring up. What I am looking at right now for the confusion if the Budakowski's problem (a) we wanted a twenty-five foot right of way and certain work done.

Board Member Pierro stated I think that is clearly spelled out in Rich's memo.

Board Member Montesano stated but now what I am looking at is if this deal does not go through and then they are no longer involved in it do we adhere to that road with this project.

Rich Williams stated I think the issue with the dog kennel and the use is a commercial use of the driveway access going in. That is really a separate issue that you have to evaluate and perhaps evaluate it in the context of a pending subdivision whether that subdivision is going to go through and it makes it certainly a much more challenging and difficult task because you are never sure that it is all going to happen until the very end. You could say the commercial kennel has to do x number of improvements to the road to supplement the subdivision improvements and then if the subdivision does not go through what do you do. We are just going to have to take it one step at a time. There is another issue here in that does the Budakowski's have the right to actually do the improvements that everybody has talked about and agreed on.

Board Member Montesano stated they don't own the land.

Rich Williams stated can they give that twenty-five foot right of way from the center.

Chairman Schech stated I would like to see the agreement myself before.

Board Member Pierro stated I don't need to see the agreement I need to hear from our Counsel on whether

or not there is an agreement in place.

Rich Williams stated but again that agreement could simply be limiting the Budakowski's to a separate parcel without allowing them to do any road improvements.

Board Member Rogan asked how do these things get so convoluted.

Rich Williams asked so where do we stand with doing the 280a.

Board Member Rogan stated I can understand the Board wanting to wait for clarification but I am comfortable with the fact that we have already set the guidelines the guidelines are not going to change and I am willing to do it contingent upon our Attorney's approval. The approval will either be they can proceed because they have provided legal documentation or they can't proceed because they have not provided it. That isn't going to change our decision I don't think.

Board Member Pierro stated I think we ought to vote on the 280a.

Rich Williams stated let me interject this you want the Attorney to verify that they can proceed based on the contract including being able to meet the conditions.

Board Member Rogan replied no because the conditions we could approve to recommend to the Town Board that we want it based on these conditions being met that is fine whether or not they have the ability to follow through that and whether the subdivision ever goes through I don't think that we have the control of that. They get our 280a, go to the Town Board, get the approval for the 280a and then the property reverts over to the Porto who never decides to do any of those things, they leave it as one lot. It does not have an bearing, I am little confused and maybe that is where the issue is with this but this proposal does not show two lots, the Porto proposal shows one lot. It is obvious from this proposal that the subdivision isn't as necessarily important to the Porto's as it is to the Budakowski's. It was a contingency of sale that was part of their deal. I don't know whether the Porto's don't care whether she gets the approval or not, Mrs. Budakowski but we are only making a recommendation to the Town Board that if they want to do a subdivision these are the conditions that they have to do in order to do it whether or not she can meet those conditions.

Rich Williams asked you don't care.

Board Member Rogan replied I personally don't. If they don't meet the conditions they don't, Rich Williams stated you care but you don't care if the legal agreement.

Board Member Pierro stated the Porto's could wind up buying this lot from Budakowski anyway even if she does get the 280a.

Rich Williams stated I understand the thing that Mike brought up if I understood what he was bringing up is that he is concerned what happens with if we are making this 280a recommendation and it goes to the Town Board but she cannot meet the conditions that the Planning Board is imposing then why are you making the 280a in the first place.

Board Member Pierro stated that is not up to us to decide whether she can meet the conditions. We are giving her the 280a based on conditions. If she can't meet those conditions we tried.

Chairman Schech stated she stated that already that she can't meet the conditions.

Rich Williams stated she has not done it here on the record.

Board Member Rogan stated at the heart in this you are saying are we wise in creating a set of contingencies that we have information that can't be met. Is that it. Well the point would be why would we want these conditions met prior to the approval of the subdivision. In other words why would we want all of these conditions to be up front. Is it because we are afraid that we are going to get, Chairman Schech interjected hosed.

Board Member Montesano stated if she gets her 280a she still has to come back here and we can then put those same conditions in at any time.

Board Member Rogan stated I have good faith even though it has not been done all the time in the past I have good faith in putting a set of conditions on plans and saying that the final approval does not happen until those conditions have been met so I am not as caught up in worrying about her doing them in order to get her approval. I mean it is like saying I am going to build a house but I have to build the house before I get the permit. I mean that is really in essence what you are saying with this.

Board Member Montesano stated we have various projects that had conditions on them and fortunately we still have sufficient money held in escrow but it has been three, four, five, ten years, twenty years these people don't care.

Rich Williams stated I think we are talking about two different things here now. We are talking about actually constructing the improvements and traditionally the Board in the past when we get into situations like this she has a year with a conditional approval to actually construct the improvements and typically the Board has said we want the improvements constructed before we sign the plat but that was not what I was referring to. I was referring to just the 280a recommendation why even make it if she can't meet the condition in the first place.

Board Member Rogan stated here is the other thing you set some conditions to get the approval to proceed

with the 280a Open Development Subdivision then in order to do anything with that newly created project before any action can be taken whether it is a kennel or an individual house they have to meet those conditions first before a building permit would be issued correct.

Rich Williams replied right.

Board Member Rogan stated so that in essence would be your control anyway. You can't do anything with the property other than the fact of dividing it and selling it without meeting the conditions contained in the subdivision approval.

Board Member Montesano stated but then you let the thing out of your hands and give it to another department. Now, if something is out of our hands and given to another department who approves it.

Board Member Rogan stated I understand.

Board Member Montesano stated not going through the procedures that we are going through.

Board Member Rogan stated issuing a permit without making someone follow through. I don't know.

Rich Williams stated in this particular situation again, we are going two different roads but in this particular situation you make the individual do the improvements before they sign off on the plat just so that we don't get into a situation where (a) they bonded it and pull a building permit and the building permit gets issues and then all of a sudden we are in a position where the improvements still are not done. They are ready for a C.O. the Building Code says they have met all the conditions of the building and they have to get a C.O. and the improvements still aren't done so rather than even get down that road generally what we have done in the past is put the improvements in and then they are done and then we sign the plat and they file it and they do what they want.

Board Member Rogan stated but the whole point of contention here is that in this case the Applicant has no ability to do those improvements. Can the Porto's take ownership let's just say for the sake of argument,

Board Member Pierro stated it is not their application though.

Rich Williams stated we don't know what the legal agreement says.

Board Member Pierro stated Porto may have to start from scratch even if we do grant the 280a.

Board Member Rogan stated but if someone buys the subdivision that has an approval they don't have to go back through the subdivision process they are buying an approved project so in this case if she went to the Town Board and they said okay you have got your 280a with this conditional approval and it changes

over completely and they are done the Porto's say we have a 280a we know what we need to do in order to get the final approval would that follow.

Mr. Molé stated the approval is for the land not for the owner.

Board Member Pierro asked even though there is a different use.

Board Member Rogan stated so then I don't see any problem. She can't necessarily meet the approval but the Porto's can maybe that is the whole idea.

Board Member Pierro stated the use is changing for the Porto's if they were to come in.

Board Member Rogan stated the use is not part of the application.

The Secretary stated the 280a is for a subdivision not a site plan.

Board Member Rogan stated I don't have a problem making a recommendation to the Town Board. How does the rest of the Board feel.

Board Member Pierro stated let's get it done.

Board Member Montesano stated I would rather hold off until we can get what we can do.

Chairman Schech stated I would hold off.

Board Member DiSalvo asked how long would it take.

Board Member Pierro stated I think we ought to take an action.

Board Member Rogan stated well we took an action last month that is why I say. It was not vocalizing our motion that got us to where we are now.

Board Member Montesano stated now we have a different set of circumstances here. We are getting bombarded with legal issues that we are unfamiliar with . What is going on. You are sitting here on a see-saw and now suddenly it is not balanced anymore. It is falling over so why are we ready to jump in and get ourselves covered up.

Board Member Pierro stated I think it would be prudent for us to believe that Mrs. Budakowski has a right to apply for this 280a.

Board Member Montesano stated my opinion is that at the present time I don't know if she has that right. I want to see what this agreement says and then proceed from there.

Board Member Rogan stated well you are not going to see what the agreement says you are going to get a recommendation back, Board Member Montesano stated then that is fine but the object is this this is not the first day that it was done why the heck was it not included when the woman came in to begin with.

Board Member Pierro stated because it was not brought up as an issue.

The Secretary stated because she sold the property through it. You didn't know that until,

Board Member Pierro stated no we knew.

Board Member Montesano stated excuse me we didn't know did she know somebody had to give her a pen to sign that agreement all she had to do was come in and mention it that by the way I just sold the property we are going to go into closing.

The Secretary stated I think it was brought up if you look in the minutes.

Board Member Pierro stated it was brought up.

Board Member Montesano asked that it was sold and closed.

Board Member Pierro stated yes and that she had this agreement on the other lot.

Board Member Montesano asked and it was closed.

Board Member Pierro replied right it was brought up many times.

Board Member Montesano stated I don't recall that.

Board Member Rogan asked Maria what is your feeling on this. I would like to hear from you at least.

Chairman Schech stated I would rather wait.

Board Member DiSalvo replied I don't know. I would really like to hear from the Lawyer on this contract. I know I have bought property, sold property I mean you don't do anything without a Lawyer anymore. If it is valid or not. I am sure it is.

Board Member Pierro stated we need a motion to make the motion I think we ought to vote on this.

Rich Williams stated the other issue just to complicate things I did do a memo based on the assumption that the Board had made a recommendation I put all the conditions in understand that all the conditions actually ultimately are imposed by the Planning Board but it has always been a good idea and policy that the Planning Board forwards the conditions on to the Town Board so that they have all the information they could possibly have to evaluate it.

Board Member DiSalvo asked have they been advised the Town Board on this whole situation.

Rich Williams replied not really.

Board Member DiSalvo asked say we vote on this 280a and it goes to the Town Board and they approve it and then we find out from him, (Mr. Molé) that it wasn't legal.

Board Member Rogan stated no, the idea was to make a motion to approve the recommendation contingent upon this man if he say they have the right to act on this.

Mr. Molé stated the Town Board could not approve it until they prove that they have the right to proceed.

Board Member DiSalvo stated okay then I agree with you Shawn.

Board Member Rogan stated just before we do anything here I am trying to think in terms of answers from our Attorney and I don't see how the answer the answer is either going to say they don't have the right and therefore the motion that we made does not count. Board Member Pierro stated it is mute. Board Member Rogan stated it is a mute point or they do have the right and in which case we were already willing and ready to act a month ago in which case I think we are putting ourselves in a weird predicament. We do things with contingencies all the time with less relying on people, I don't want to say less dependable but in this case we have someone that is our Attorney who ultimately it is going to come up to his decision. I am pretty comfortable with that considering the fact that we have a set of criteria that needs to be done prior to the final plat and I am comfortable with that.

Board Member Pierro stated a difficult number of criteria too.

Rich Williams asked and this memo is okay.

Board Member Rogan and Board Member Pierro replied yes.

Board Member DiSalvo asked now take the worse case scenario say the Town Board denies the 280a and Budakowski fades into the sunset and whatever and Porto owns the whole property what contingency are they going to have for that road now with the commercial entity.

Board Member Rogan stated now you are looking at designing for a commercial use. First of all are they going to do a subdivision to create that commercial use or are they going to do it as part of the individual lot. It is a site plan approval so we can impose any requirements on that roadway and on that site that meet the need of the site.

Board Member DiSalvo stated I am sure there is going to be more traffic with this going on then a house.

Board Member Pierro made a motion in the matter of Budakowski Subdivision that the Planning Board recommends to the Town Board granting an Open Development Area pursuant to Town Law Section 280a with the conditions one through six stated in the August 11, 2004 memo from Rich Williams to the Planning Board and contingent upon the Budakowski's showing that they have absolutely the right,

Rich Williams stated conditioned by the Attorney that they have the legal right to proceed with the 280a application.

Board Member Pierro stated thank you Rich.

Board Member Rogan seconded the motion.

Chairman Schech asked all in favor:

Board Member Montesano	-	no
Board Member Pierro	-	aye
Board Member Rogan	-	aye
Board Member DiSalvo	-	aye
Chairman Schech	-	no

Motion carried by a vote of 3 to 2 vote.

14) EUROSTYLE MARBLE & TILE SITE PLAN

Mr. Gary Tretsch, Putnam Engineering was present representing the Applicant.

Chairman Schech asked are we all flagged out there Gary.

Mr. Tretsch replied no. This is Patterson Interstate Business Park this is the last lot on the left going in. I got Rich's memo today we will get it flagged so you can go take a look at it.

Board Member Pierro asked Rich, the last lot on the left was this where the landscaper was.

Chairman Schech stated the last lot on the left is right next to the landfill.

Rich Williams replied the Avitech Building that we have always had the problems with and Vic Liotta where they are storing the masonry products is.

Board Member Pierro asked Liotta is across the street.

Rich Williams stated next to this.

Board Member Pierro stated fifteen thousand square feet not too terribly big.

15) OTHER BUSINESS

a. Kessman Subdivision Site Walk Comments

Ms. Theresa Ryan was present representing the Applicant.

Chairman Schech stated we don't have to do anything with Kessman right now right.

Board Member Rogan stated I would like to know how we are going to resolve the letter that we got.

Chairman Schech stated we don't have to resolve it. It is not our job.

Board Member Rogan replied no what I mean does it stop the application.

Chairman Schech replied no but they are holding back on it I believe.

Rich Williams stated I think it pretty well stops the application until they resolve ownership issues and everybody is party to the application. Why they are on is because we did do a site walk out there and you have the comments.

Board Member Rogan stated I read them but you know what we didn't do on the site walk was take a look or talk at least about the road frontage for the Lyndell Home and that funny shape that we had. I got thinking about that a lot because I know we have the area to do it to create the frontage in one contiguous parcel but it does create a silly lot line because then they are just going to jog back on an angle. I am wondering how we are going to resolve that.

Rich Williams stated I don't think there is anything you can do about the split. You are always going to have that it is a question whether Theresa is going to show sufficient frontage or if she is going to proceed with a variance.

Board Member Rogan asked what is the requirement for the frontage a hundred or a hundred and fifty.

Rich Williams replied 225.

Board Member Rogan stated and they will have it ultimately between the two parcels right now meaning between the split.

Rich Williams stated it has got to be contiguous.

Board Member Rogan stated I realize that I am saying what they are showing is 225 if you added the sum of those two.

Ms. Ryan replied right.

Board Member Rogan stated that is one of those funny things because if you provide 225 on the one side it is just a funny lot line. We are not the ones who give the waiver on that or we are.

Rich Williams replied no the ZBA.

Board Member Pierro asked Rich as far as the site walk goes what about the additional tractor trailers that were stored out in the back they were moved from the front from the farming sort of site and now they are taken back into the rear area. I am afraid that we are just creating another storage facility.

Rich Williams asked so you want me to amend the memo to identify the tractor trailers that were being stored out back.

Board Member Pierro replied right. There were a couple of locations that fill was spread about.

Board Member DiSalvo asked was it fill or just demolition from when they knocked those buildings down.

Board Member Pierro replied I thought it was fill.

Chairman Schech stated it was from when they tore down whatever it was.

Rich Williams stated okay whether it was fill or C & D or what what is the issue.

Board Member Pierro stated I would just like to communicate to them that we have fill requirements and permits are needed for that.

Rich Williams stated the fill requirements within the Town apply to bringing fill on to the site.

Board Member Pierro stated right.

Rich Williams stated I will put in a note that we have got a fill permit that any fill brought on.

Board Member Pierro stated right.

Board Member Rogan stated Herb had just suggested when we were talking about the frontage if you take the north western corner of the proposed Lot 1 and just straighten it out to the road and create your 225 it cleans those lot lines up. It gives Lot 1 a little acreage instead of four and a quarter maybe it is five acres but it cleans up the lot lines on that maybe that is something that you can take a look at with them and see if they would be willing to give Lot 1 a little bit more property.

Board Member Pierro stated if they come forward with this application.

Board Member Rogan stated I figured I would say it now rather than when you come back in.

Ms. Ryan stated I think they were going to the ZBA instead of wrapping it around that lot like you said. It makes sense to keep the frontage where they have it. (unable to hear the rest of her statement).

b. Tanzi Site Plan Site Walk Comments

Mr. Gary Tretsch, Putnam Engineering was present representing the Applicant.

Chairman Schech asked you have the site walk comments Gary.

Mr. Tretsch replied yes.

Chairman Schech stated we have to do something with the auto body operation too don't we.

Mr. Tretsch stated I notice the sign.

Board Member Rogan stated it looks like a brand new sign they put it up for us.

Board Member Pierro stated obviously it has got to go.

Chairman Schech stated they have had free reign for a number of years it is about time.

Mr. Tretsch stated the sign just appeared a couple of days ago.

Rich Williams stated it was there on the site walk.

Board Member Pierro stated New York State requires that they post a sign to be a licensed body shop it is just that they forgot about the zoning issue.

Mr. Tretsch stated as an auto retail dealer.

Board Member Rogan stated and inspection, certified motor vehicle inspection services it gave a state certified number.

Rich Williams stated it had a state certified number I don't think it had the inspection.

Board Member Rogan stated really I thought it said for inspections.

Board Member Rogan stated when we were on site I mean it looked like the area that is already disturbed and if we are not going outside that it looked like it laid in fairly nicely.

Mr. Tretsch stated it is actually a pretty nice piece of property and when you cut that back there and screen it you won't even know it is back there really.

Board Member Rogan stated you are not going to see that at all from Fair Street.

Board Member Pierro stated we did not walk the areas that the septic field is.

Mr. Tretsch stated they are having a central system down through here we have done some preliminary tests in there and the soils are good.

(TAPE ENDED)

Board Member Pierro stated they can have the barn correct. The barn is not illegal it is the use.

Mr. Tretsch replied right. We are going to leave the barn with the four acre property. It was horse property I don't know if they have horses today they have had horses there most of the time.

Board Member Pierro stated you can communicate to them that the use has got to go.

Board Member Rogan stated although having said that you won't see it from Fair Street is a nice thing you don't see Field & Forest from Foggintown Road and that thing is a nightmare so, Farm to Market sorry and we don't want that to turn into one of those apartments but I thought it looked like it fit the site fairly well. Ted was concerned about the White Pines along where the entrance road is proposed once it makes the dog leg from Fair Street. I was less concerned but I think we need them survey located so we can take a better look at them.

Ted Kozlowski stated my point was you need I think you would need some sort of visual buffer.

Board Member Rogan stated I thought it was more for the root system holding the soil.

Ted Kozlowski stated to maintain the trees. That is why I wanted to save them. That is why I suggested that because you have got that one property owner with the house and old barn and stuff once those trees go there is going to be a clear especially in the winter time a clear view between the two it is going to be a rather dramatic change.

Mr. Tretsch stated we would like to save them we will get them located and see if we can get that road through (unable to hear the rest of his statement).

Board Member Rogan stated but we are not going outside those walls other than septic system.

Mr. Tretsch stated no actually the walls is in the buffer so we are not touching it.

c. **Moriarty Site Walk Comments**
Chairman Schech stated it is just the comments right.

16) Minutes

Board Member Rogan made a motion to approve the July 1, 2004, July 29, 2004 and August 5, 2004 minutes. Board Member Pierro seconded the motion. All in favor and minutes were approved.

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