

A regular meeting of the Town of LaGrange Planning Board was held at the LaGrange Town Hall, 120 Stringham Road on Tuesday April 20, 2010. Vice Chairman Robert Straub called the meeting to order at 7:30 p.m. Board members Dennis Rosenfeld, John Gunn, Tony Brenner, and Stacy Olyha were present. Chairman Bell and Joe Zeidan were absent. Also present was Kevin Donohue, alternate board member. Wanda Livigni, Administrator of Public Works, Walter Artus from Stormwater Management Consultants, Greg Bolner from Clark Patterson Lee and Rebecca Valk from VanDeWater & VanDeWater were also present.

Mr. Rosenfeld made a motion to accept the minutes of March 16, 2010, seconded by Mr. Gunn and the motion carried unanimously.

Mr. Straub announced that Kevin Donohue would be a voting member.

PUBLIC HEARING:

KONDAS SUBDIVISION – Proposed 2-lot subdivision located on Freedom Road containing 141 acres (Grid No. 6462-01-191677)

This public hearing was not held because the applicant failed to advertise in the Poughkeepsie Journal. The Planning Board re-scheduled the hearing for May 18, 2010.

REQUEST FOR TIME EXTENSIONS:

IMPROTA SUBDIVISION – Request for 90-day extension of final expired in March, 2010). Applicant needs 90-day extension to be effective March, 2020, due to expire June, 2010)

Mr. Jason Morris of M.A. Day Engineering appeared before the board. Mr. Morris said his client is requesting a 90-day extension from his final approval. He said Mr. Improta had previously owned the town some fees which he believed were paid and they also have to prepare a maintenance agreement for the common drive.

Ms. Valk spoke. She explained the final expired in March and they were doing here something similar with what the board did with Lake Ridge Subdivision. She said it would be effective as of that date but they were paying a small penalty as a slap on the wrist for the letting the approval lapse.

Mr. Rosenfeld made a motion to grant a 90-day extension of final subdivision approval, to be effective March 15, 2010 and due to expire on June 15, 2010. The motion was seconded by Mr. Brenner and carried unanimously. 90-DAY EXTENSION

OTHER BUSINESS:

TACONIC CENTER –Proposed site plan located on Rte. 55 containing 14.58 acres (Grid No. 6460-02-960960; 957922); set public hearing.

The Planning Board set the public hearing for May 18, 2010.

Ms. Kelly Libolt and Ken Casamento of Page Park Associates appeared before the board. Mr. Casamento said at the last meeting the board discussed the slope, whether they can do 3:1 or 2:1 and he said they went back and looked at different options. He said they looked how they could grade the site, across the site to fit the site. He said they have reduced the office building by a couple of hundred sq. ft. He said this particular plan shows 3:1 slopes and retaining walls along a large portion of the western side as well as a portion in the rear on the eastern side. He said they reduced and removed the wall in the area he referred to. Mr. Casamento said because of the movement of the parking the open area they had before identified for stormwater is no longer there. He said they would be looking at different alternatives underground detention for the storm water with some combination of above ground features as well.

Mr. Casamento said they would like to propose this particular plan which is a combination of the 2. He said they were representing still the 3:1 along the property line as the code dictates as a standard. He said it's been the board's practice to have 3:1 through the site, in this particular case they were looking to do 2:1 in an area along where he showed the board. He then showed the board where there were 3:1 slopes and down along the bottom. He said it still allows the same square footage of the buildings but reduces the walls to a small section which is only about 3 feet high and another small section which is 3 ½ to 4 feet high. Mr. Casamento said they pulled away from the wetland for the floodplain and added one of the concerns from the board last time was the proximity of the slope right to the wetland. In this case the closest point would be 25 feet of what is existing land before they hit the wetland for the slope, maintaining 2:1. He said they were essentially building a wall at the bottom of the same slope to protect the 100 year floodplain. He said personally the wall is a little more questionable around that close to the floodplain. He said if they did have any changes in water elevations in that area in the future, it would run along the slope there instead of up against the wall.

Mr. Casamento said they talked about different slope stabilization options and showed the board the one they were proposing. He showed the board an 11 x 17 of this. He said this was an example of a project they did of slopes of 1 ½:1 along a roadway. Basically the product is called eco-blanket, which is basically a compost mulch that is engineered soil that provides a surface blanket so it's 1 to 2 inches thick and it's a little thicker than if you were hydro-seeding. He said it's more of a soil profile and it has a proprietary type tackifier in the compost which provides a stable slope and it's mixed with the seed and showed the board what it would look like in full growth at the end. Along with that along the eastern side of the property, along the Taconic where they are 2:1 slope, they would look to use filter socks along the slope as a slope rake which is a compost filled fabric that is staked in place parallel to the slope to help prevent the rainwater as it goes down the slope from building speed and creating erosion. He said it creates breaks in it and after it is installed they can be seeded and planted and left in place so you wouldn't see them and it would provide a permanent type fixture along that slope.

Mr. Rosenfeld asked the highest the walls would be. Mr. Casamento said if they were doing 3:1 slopes everywhere it still requires a 6 ½ and 7 foot wall along the one side and in the area he referred to, he said they were 3-4 feet, they reduced the wall. He said they removed the 9 foot walls they had. Mr. Donohue asked if that was also true in the area near Rte. 55. Mr. Casamento replied yes, there were no walls on either plan proposed, he showed the small wall on the plan and what they've done is rather than having it right next to the parking where pedestrians may walk, they put it between the drive aisle, there's a guard rail and the way this would work, no one would be walking in this area. He said there would be vehicles on the lower side and on the upper side with a guard rail along. Mr. Straub asked if it would be built in one phase. Mr. Casamento replied no. Phase I would be the healthcare facility in the back. Mr. Casamento said this doesn't represent the exact plan they have now because they have modified it for the slopes. He said they would create the correct phasing plan with parking and drive aisles when they hear some feedback and they submit for the full submission. Phase II would be the other buildings.

Ms. Livigni said Ken is walking us through the different scenarios with the slopes and side. She said he is walking the board through some options. Mr. Donohue said in his opinion they were ready for a public hearing. Mr. Artus suggested the board formally lead the applicant in which direction they want. The plan with the walls and 3:1 slope or the one without the walls and the 2:1 slope. Mr. Brenner asked how high the wall on the east side was. Mr. Casamento replied 5 feet, 6 ½ and 7 ½ feet. Mr. Casamento said there is no wall on the 2:1 slope and they are still providing the 25 feet of buffer to the wetland boundary in that area. On the 3:1 slope plan the walls are on the east side of the property which he showed where it was. Mr. Casamento continue to explain the walls on the 3:1 and said on the 2:1 there would be none, so the only walls that would be on the 2:1 plan would be a small section he showed the board and another small section he referred to on the plan.

Mr. Brenner said that was a major difference on those 2 options and suggested that the board review them before giving the applicant which option. Mr. Donohue asked for the title of the 2 plans. Mr. Casamento replied alternate and CP-1. Mr. Brenner said the 3:1 was the town standard. The board agreed it was not a standard, but a policy.

Kelly Libolt spoke. She said at the last meeting the board asked they go through the process to identify the different alternatives and there was a consultant's meeting and they went through each scenario with the consultants. She said there is a significant amount of engineering that still needs to go in on this site and she was hoping that she could get some feedback, a decision, with respect to the 2 plans. She said the argument is an extensive amount of walls versus not an extensive amount of walls. Ms. Libolt said with the alternative on the 2:1 slopes, if you recall one of the comments that the Town Board initiated when they reviewed the project is they wanted some of the vegetation on the top of the site to remain and when we get to the scenario where we have the creation of the walls, it makes that very difficult for them to do that. Ms. Libolt said they prefer the alternative without the extensive walls and would like to proceed with the public hearing next month and present that plan to the public. Mr. Bolner said from the

standpoint of the 2:1 slope they have addressed the concerns as far as having a low maintenance ground cover that won't need mowing, there's not going to be pedestrian traffic coming from the Taconic towards it, so that's not a concern and the stabilization from an erosion standpoint, what they are presenting here addresses the stabilization concern. He said from his standpoint and from the consultants' meeting, the 2:1 slope is an acceptable alternative based on what has been presented. He said this is a town policy and there is nothing in the code that says it is not allowed specifically.

Mr. Donohue asked Mr. Bolner his recommendation on which plan. Mr. Bolner said he recommended the CP-1 plan. Mr. Casamento said is a blended plan. He said it isn't all 2:1 slopes, there's a large section that would be 3:1 and another section he showed the board as well. He showed the board the sections of the 2:1 slopes. Mr. Donohue wanted clarification on what plan the board wanted to move forward on and asked Mr. Bolner if it was his recommendation to move forward with CP-1. Mr. Bolner replied correct.

Mr. Donohue motioned to accept CP-1 as the plan chosen by the board to move forward with. Ms. Olyha seconded it. The board agreed to CP-1.

DALEY FARM PDD – Proposed Planned Development District located on Titusville Rd/Noxon Rd. (Grid No. 6360-03-081270/229310)

Mr. Dan Leary from Cuddy & Feder appeared before the board. Mr. Leary said they submitted their draft FEIS in January and in February received a memo from the consultants and on March 9th they submitted a revised draft FEIS in response to that and were before the board to further discuss the FEIS toward the goal of acceptance by the board and to also receive comments and questions from the board.

Ms. Valk said Mr. Bell e-mailed a summary of the board's comments and her understanding was that there were some comments that the applicant was confused about particularly about repeated references to consultant comments not being addressed and the applicant is looking for guidance on it. She said she hadn't discussed them with the board, she could not provide any information.

Ms. Livigni stated that Chairman Bell hoped the board could go through this 3-page comment letter and if that person could address briefly what their comment was referring to.

Mr. Straub referred to 3.1.1 – Response does not appear to cover the impacts to property values and quality of life. Stacy Olyha said she didn't bring her books and added she did not know they were doing it this way.

Ms. Olyha said there were a lot of run on sentences and punctuation issues. Mr. Leary asked if the board could tag the issues. Mr. Straub replied it's not the board's role and Mr. Leary said they will take care of it. Mr. Leary commented in terms of the document they are seeking, supplemental Phase I B report, should be part of the FEIS – it is in the appendices and he said they would reference it in the FEIS.

Mr. Straub skipped the next 6 comments and continued with

- I. Introduction, Propose Action, and Alternatives Page 1-3 third paragraph. Discusses “housing options for local and regional residence meeting the objectives of the Town Comprehensive Plan” and “the Dutchess County plan.

Comments from Town of LaGrange staff/consultants are not included in the FEIS with regards to the Town of LaGrange Comprehensive Plan for housing options and the Daley Farm PDD proposal.

Mr. Donohue said he didn't see any comments from staff that addressed our own Comprehensive Plan for the same topic. He said he didn't see anything addressing our own Comp plan for housing needs.

Ms. Livigni said she saw a theme here on this. There have been a multitude of meetings between town hall staff, town consultants, the applicant and the applicant's professionals. She offered to the board, if the staff did not write a comment letter and the applicant is referring to having addressed the issue, then she felt comfortable saying that the staff nor the consultants felt there was a remaining issue.

Ms. Valk said Mr. Blass did issue some comments on the water/sewer section that the board did not have so that would be the only caveat to what Ms. Livigni said. Ms. Livigni responded – again that was done in a working format and there weren't formal comment letters so you are not going to see that added. Ms. Valk added Mr. Blass did a track change and sent it to the applicant and Ms. Livigni said they then had a meeting and it was further discussed. Mr. Livigni repeated her comment above about no comment letter meant the staff and consultants did not have an issue with it. Mr. Straub asked the board if they were comfortable with that. Mr. Donohue said he didn't know that would be addressed that way by a no comment, because at it reads, it says the proposed units will also add to the e housing option for local and regional residents. One of the land use objectives listed in the town Comprehensive Plan is to continue provisions of a range of housing types for a diverse population. He said his comment is, they've accepted that, from the applicant. That is the applicant telling us that his plan is doing that and on our side are we accepting that.

Ms. Livigni said we are talking 2 different things. She said if you are looking for comments that is how they were addressed, and the specific topic is the board's to discuss. Mr. Donohue said when he looks at it as an applicant telling the town they have complied, but he doesn't see where the town and consultants have said, yes we accept your interpretation of what it is.

Ms. Livigni said when the consultants review a document, they comment on things they don't agree with, you don't sit there and say “hey, good job”. Mr. Donohue said so in a sense without objection we accept that they are in compliance with the Comprehensive Plan. Ms. Livigni said but that doesn't mean that the board has to.

Mr. Artus spoke, and added just because the consultants don't have a comment doesn't mean the board cannot have one. Mr. Straub agreed. Mr. Donohue offered to go through his entire list of comments.

Ms. Olyha said she thought what Mr. Donohue is trying to say is that it's stating that we agree with it and that's the big question. This is the FEIS, this is the board's document, and do we agree with it. Mr. Donohue responded that is what's out there, yes.

Ms. Olyha said it's telling them that we do agree and asked if the answer was yes, we did agree. Mr. Donohue said he didn't have the comp plan to go and look at it, to validate the comment that is made in the FEIS.

Mr. Steve Rieger spoke. He said the DEIS also contains in much greater length excerpts from the county's Comprehensive Plan and he believed from the town's as well. He said as far as the consultants, if they had disagreed with something that was said, they would have noted it and so by their not commenting on it, you might conclude that they thought we were correct so if the board wanted more information on it, they could certainly develop it. Mr. Donohue said he certainly wasn't looking for the applicant to give us more information, you have made a statement by your own review. He was looking for the town's side to acknowledge, yes we do agree, that's why we have staff and consultants advising us, they don't actually undertake it themselves. He said they were looking to them to validate the statement that you are in compliance with the Comprehensive Plan and somebody on the board's side saying yes, they are in compliance with the Comprehensive Plan. He said that's the limit of that comment that he made. Mr. Rieger asked if it was appropriate that it be a part of the Findings Statement or FEIS.

Mr. Leary said the thought the original groundwork for the question was laid out in the DEIS and added they have a comprehensive analysis in the DEIS about the comprehensive plan and our consistency with it and the zoning and land use. And the board as lead agency, perhaps Mr. Donohue was not a member of the board at that time, accepted the DEIS and they went forward with the public comment and receiving comments from the involved agencies and consultants and the FEIS is responding to those comments. Mr. Leary told Mr. Donohue he was right, the applicant does believe that what we have in there is a comprehensive discussion of both the master plan and their compliance with zoning and land use. Mr. Leary said these FEIS responses are responses to specific comments they received during that process. The Planning Board as Lead Agency would accept the FEIS, it would be circulated for another comment period and that would become the groundwork for the findings statement. Mr. Donohue said he read the DEIS and was present for the public hearing and he said he didn't question Mr. Leary's work, he just didn't see on our side somebody accepting it for the Planning Board and that is why he raised the question, is somebody on our side accepting the plan in compliance with the Comprehensive Plan which he didn't have access to.

Mr. Rieger said as far as revisions to their FEIS the board is not looking to make a revision at this point and asked if Mr. Donohue's question was more of an internal

question. Mr. Donohue responded he didn't know if a document existed acknowledging compliance on the town's side with the comprehensive plan.

Ms. Livigni said there is no document that says that. Ms. Valk said if it didn't comply with the Comprehensive Plan it definitely wouldn't have gotten this far and secondly if you are looking for the thumbs up from her, she could do that, and added she agreed with the language.

Mr. Donohue continued to repeat his question about an existing document and he pointed out that every single comment he made asked for the town's side. He again asked the same question, if it's not there, is that something the board will consider in accepting the entire document.

Ms. Valk said she could tell the board what she agrees with and does not agree with, but stepping backif we agree with it, we are not the planning board, we tell you what we think so she said she was happy to answer any questions about particular statements and cautioned the board that the document sits with the Planning Board. Ms. Livigni said the town staff has reviewed this document and again stated they do not give out letters that say "Gee thanks for putting in what we talked about". If it wasn't addressed, there would then be a letter stating it was not properly addressed and added that they sort of handle it from a negative perspective as opposed to a positive perspective.

Mr. Straub stated he was satisfied with that and asked the board their opinion. Mr. Donohue stated it was certainly satisfying and the rest of the board had the same opinion.

Page I-6 – Potential Impacts and Mitigation

"LaGrange DPW agreed to some limited traffic calming measures."

Comments from LaGrange DPW are not included in the FEIS addressing the traffic calming measure to be performed, fiscal responsibility and time to be implemented.

Ms. Livigni said again this was conducted in a meeting in which the Highway Superintendent was present, Mr. Artus and herself. Mr. Artus said there was a small loop road that they allowed some deviation from the town highway specifications as a calming effect and also provided less land disturbance. Mr. Artus said there were other issues as well. Mr. Artus said they didn't comment because it was already resolved.

Mr. Donohue told Mr. Artus he missed what the intent was. He said who is paying for it and when is it going to be performed. There is some admittance that we are going to do something on town property. Ms. Livigni replied the developer was paying. Mr. Rieger said they will make the fiscal responsibility and time of implementation clear in the FEIS. He added they might say the time of implementation would be determined during the subdivision review. Mr. Donohue said the intent of the comment was through the process identify who would be responsible for improving town property. Mr. Straub asked Mr. Donohue if he was satisfied with the answer and he replied as long as the Planning Board was. The board agreed.

Page I-12 Option to Utilize Abandoned Town Water Plant for Fire Flow Capabilities “multifamily dwellings require sprinkler systems” and “fire flow capabilities” “This will be investigated in the near future and determination made during the land use approval process.”

Comments from Town of LaGrange staff/consultants are not included in the FEIS addressing the potential need for fire flow capabilities or on site storage.

Mr. Donohue said he didn't know of any multifamilies being proposed on the property. He said he thought they were attached single family dwellings. Mr. Rieger said they are proposing some side by side town homes under the zoning code they may be called one thing and under the building code, something else. He said they are classified he believed under the zoning as attached single families perhaps but under the building code as multi family. Each of the buildings has four side by side town home style. Yesterday he said they met with Ms. Livigni, Mr. Bolner and Mr. Blass and had an extensive conversation about fire flows and sprinklers and as a result of that meeting they are reworking that section so there will be new information or more clarified information for the board's review.

Mr. Donohue said the intent is if that wasn't needed because where the project was heading. He said they could certainly take it off the table during the FEIS about those capabilities if they were sticking with single families. He said that is the reason why he brought it up and added if their meetings with town staff have determined that, then you could include it in there and later on in the process it's never raised again.

Mr. Bolner said that was discussed during the meeting and part of the issue brought up is the fact that subdivision approval tends to be a pre-cursor to building approval so the whole issue of fire flow and whether the building is going to be sprinklered don't get resolved at the same time but because of the issues associated with this and whether or not there is going to need to be town improvements to address fire flow in the absence of sprinklers, it has been discussed they are going to meet with the fire inspector and get this resolved as to what will be resolved what will be required for the building types being proposed so that it can be resolved and put to rest.

Mr. Donohue said you have a water system and a water system supporting fire flow. There is a substantial cost difference between the 2 and we would hate to go through the exercise of requiring fire flow only to determine they didn't need it. Mr. Straub said that affects the applicant. Ms. Valk said she understood the concern about the cost but also the SEQR document looks for the worst case impact so she didn't think it was a harm to have in there to look at the possibilities. What we are really concerned with is in the future is there is an impact that hasn't been addressed in the DEIS or FEIS, then you have to re-open SEQR. She said she didn't see harm in having something on the stringent side, because you are covered.

Mr. Leary said they there were working on revised language with the consultants so that would be forthcoming.

Page 3.6-6 Comment/Response 3.6.10

”to perform a detailed Hydraulic Engineering Center River Analysis System (HEC-RAS) study to determine the base floodplain elevation. As a result of that analysis, the boundary of the 100 year flood plain was established.”

Comments from Town of LaGrange staff/consultants are not included in the FEIS addressing the study for incorporation and permitting.

Mr. Donohue said if the town has accepted the analysis for the 100 year flood boundary, to acknowledge that it was accepted by the Town of LaGrange.

Mr. Rieger said that goes back to the similar conversations on the first item where Mr. Donohue raised this issue. He said after one of the meetings with the consultants and staff, it was determined that they needed to do this floodplain boundary study which they did and was submitted some time ago. Since there was never a comment from the consultants that it was not accepted, they moved on so there’s no document that says it’s acceptable and added he believed it is acceptable.

Mr. Donohue replied thank you.

Page 3:10-2 Comment/Response 3.10.1

Mitigation is proposed to “satisfy the requirements of the Town Highway Superintendent”

Response did not include the Town Highway Superintendent addressing the mitigation to be performed, fiscal responsibility and time to be implemented.

Mr. Donohue said this is the same comment about comments made by the Highway Superintendent and mitigation is proposed to satisfy the requirements of the town highway superintendent and there is no language in there from the town addressing the mitigation to be performed in that discussion. Mr. Rieger said again, they had a meeting and they recorded the resulting agreements from that meeting in the document. Mr. Donohue replied he didn’t think they were, that’s why he brought it up. Mr. Rieger said the mitigation measures spelled out the mitigation measures that were discussed.

Mr. Straub said what he thought the board was hearing was some clarification based on the meetings you have had offline and if they could just update the board to clarify that. Mr. Donohue said a letter from the Highway Superintendent saying he met with them and list the items discussed. Ms. Valk stated she was sure that letter does not exist. Ms. Valk said maybe it’s possible to reference the date and a short summary of what Mike’s concerns were.

Page 3.14-1 Comment/Response 3.14.1

“The Town has not yet determined whether it will accept the pond as a Town facility.”

Comments from the Town of LaGrange staff/consultants and the Town Board are not included in the FEIS with respect to recreational needs and public benefit.

Mr. Donohue said it didn't layout what was going to happen in that area. Mr. Leary said he thought it laid out the possibilities of what could happen with the pond and once the FEIS is accepted the Town Board is an involved agency, they are allowed to comment on it and at the end of the day because they are an involved agency, they would make that ultimate call on whether it would be town owned or not and make their own finding in that regard.

Mr. Donohue said he may have misread that because then the FEIS is forwarded with that comment. Mr. Leary said once the FEIS is accepted it gets circulated to all the involved agencies and the Town Board because they have the approval authority over the PDD itself, are an involved agency so they would see that response and have the opportunity to comment on it.

Ms. Olyha said the word facility was throwing everyone off and suggested using a different word.

Mr. Donohue said that was adequately satisfied.

Mr. Rieger referred to Page 3.10-10 the first sentence and said he could parch the sentence

Page 8-1 and 8-2 Effects of the Use and Conservation of Energy Resources

8.1 Comment/Response “The DEC policy lists 60 measures within the following five categories that can be incorporated to achieve the desired environment effect;” and “there are specific components of the system that would be met as a result of project design and adherence to the standards of the PDD and as identified as potential measures in Table 3”, and;

“The project will comply with all New York State and local building codes and energy codes and any requirement they have for the reduction of energy consumption or for energy savings devices.”

Comments from Town of Lagrange staff/consultants are not included in the FEIS addressing the proposed Daley Farm PDD is in keeping with the Town of LaGrange Comprehensive Plan and Town of LaGrange Code of Ordinances.

Mr. Donohue said when he read through those tables he thought there were a lot of places within there that he didn't think the applicant took a hard look at. He said somebody just put in variable answers about certain green aspects of the construction. He said he looked at the Planning Board and if we accept it, there are a lot of yeses and a lot of comments that say they cannot answer the questions.

Mr. Straub said let me tell you how I see it. This is an evolution they are going through. He said he looked at those charts and there is no way anybody could answer all those things now because this is a very dynamic environment. Mr. Rieger said he spent a lot of time working on those charts but green to some extent is evolving very quickly and most of the homes they are building now are built above current energy requirement. Mr. Donohue said he knows a lot about green but he was not going to interject to this planning board, either they want to get involved in it or don't get involved and as this point he said he saw that the Planning Board just doesn't want to get involved with it.

Mr. Straub said he didn't think they had to get into that detail as a Planning Board. Mr. Donohue said unless there is another person on the board that wants to address it, it was fine.

Mr. Artus said one of his comments is once this gets in front of them one of the things they are going to be looking for is alternative storm water management measures which will provide more of a green environment than your conventional methods. Mr. Donohue said it is either a topic they undertake or don't take. Mr. Artus replied they will be undertaking some of it.

Mr. Rieger said the regulation of storm water between the time they prepare the plan and the time that the project is going to be approved will have changed, they know it is changing. There has been a circulation of proposed new regulations and a lot of it is green related and it's such a moving target, it's very difficult.

Mr. Donohue said he doesn't see the topic ever coming up again so it's a moot point.

Mr. Straub asked for additional comments from the board and there were none.

Mr. Leary concluded by stating he would take the comments and incorporate them.

Ms. Livigni assured the board by saying if there is not a memo, there's not something documented, the staff members and consultants are comfortable with what is written in the document.

CRYSTAL LAKES PDD – Proposed Planned Development District located on Noxon Road (Grid No. 6459-02-580785); update/discussion

Mr. Ernst Martin of Paggi, Martin & DelBene appeared before the board. Ms. Livigni said the Crystal Lakes PDD has gone through some different iterations. She said this has been in front of the Town Board before and back before the Town Board for discussion of PDD. She said back in 2007 this board did circulate for Lead Agency which was a different site plan. Ms. Livigni said this is not a new project and the reason the board was sent the PDF was to give the board a general idea of how the site plan has changed.

Mr. Martin said this project has been before the board on and off for a while. The latest addition they have put together, they have a northwest area that is being developed and a southeast area. The central portion of the site would remain open. Mr. Martin said before there were plans that showed individual lots but this is a PDD, attached housing, 320 units. He said they have talked to the town board and met with the DEC and met with the town to discuss public benefit. He said they have already drilled wells and plan on developing those wells, not only to serve this project, but they could be there to augment the current town water supply in that area. As we go through the SEQR process they may find that there are other things that may develop out of this as well. Mr. Martin said he thought they were at a point where this project needs to be given a positive declaration and have a scoping session and he thought the Lead Agency was determined in the past and he said he wasn't sure why, but they may have to go through that process again.

Ms. Livigni said at the Planning Board prep meeting, they discussed this and what was circulated was a different site plan and they thought it might be relevant to re-circulate and determine Lead Agency and added that was up to the Planning Board's discretion. Mr. Straub asked who would be Lead Agency if it was not the Planning Board. Mr. Artus said there would be a whole list it would go out to and he recommended make a formal submission. Mr. Martin asked Mr. Artus if he was saying they should formally re-submit and Mr. Artus replied yes, if they were going to circulate. Mr. Straub said he agreed.

Ms. Livigni asked Mr. Martin if they submitted to the Town Board and Mr. Martin said they submitted a complete package and Mr. Bell received a copy. Mr. Martin said the planners did an EAF as well. Mr. Martin said he knew they would have to do an EIS on it. Ms. Livigni asked the board if they were in favor of recirculating. Mr. Straub replied yes and the board agreed.

Mr. Donohue asked Ms. Livigni if there was a depth of one way in that they have. Ms. Livigni said that would all be gone through during the process and added she was just showing the board the conceptual plan and said this has a long way to go. Mr. Donohue asked if he would be right in thinking there is something about the depth of that, that there might be an issue rising from the length of the road with one way out. Ms. Livigni said there have been preliminary discussions and it would be fair to say that it has not gone through the complete review yet. Mr. Donohue said he wouldn't want something like that missed, with some other plan starting to be produced. Ms. Livigni said that would be something that got a comment.

Mr. Martin discussed the road. He said it would be a double road in the sense, it would be separated by an island so one section would not be totally cut off and also on one of the areas he thought there was a emergency drive through if you had to. He said he was sure as they went through the environmental process they will have to get into that more.

Mr. Donohue thanked Mr. Martin for pointing that out. Ms. Livigni repeated that this was only preliminarily looked at and it was a conceptual plan and the reviews have not

begun and yes there were consultant meetings that were based on when it came before the Town Board. Ms. Livigni said she believed the applicant was looking to re-establish Lead Agency with the Planning Board for SEQR and to start the SEQR process.

Mr. Martin said from the county standpoint, and preliminary discussions with them they would want the area he referred to on the map to intersect. Ms. Olyha said by looking at the map you don't know that and suggested putting the road symbol in labeled. Mr. Martin said a point well made.

Ms. Olyha made a motion to circulate for Lead Agency, seconded by Mr. Donohue and the motion carried unanimously. CIRCULATE FOR LEAD AGENCY

HARVEST RIDGE SUBDIVISION – Proposed 52-lot subdivision located on Noxon Road containing 110.9 acres (Grid No. 6460-04-803005; 740133); consideration of final subdivision approval.

Mr. Ernst Martin appeared before the board. Ms. Valk said the board has a resolution that she circulated. She added a few things have been tweaked. Ms. Valk went through the document and copy of this resolution is attached.

After Ms. Valk went through the resolution, a motion was made by Mr. Gunn to accept the resolution as discussed. Ms. Olyha seconded it and the motion carried. Mr. Donohue abstained from voting. CONDITONAL FINAL SUBDIVISION APPROVAL.

HARVEST RIDGE SUBDIVISION
RESOLUTION OF CONDITONAL FINAL APPROVAL

WHEREAS, Nesheiwat Estates Inc., as property owner and applicant, has applied for subdivision approval to create a 50 lot subdivision to be known as "Harvest Ridge Subdivision" (hereinafter the "Project"); and

WHEREAS, the Project is proposed on two parcels containing approximately 110 +/- acres total, identified as tax map nos. 133400-6460-04-740133 and 133400-6460-04803005,

and located within the Town's R-40/60/80 zoning district; and

WHEREAS, the Planning Board issued a Negative Declaration of Significance pursuant to SEQRA; and

WHEREAS, the Planning Board adopted a resolution of preliminary subdivision approval on April 21, 2004; and

WHEREAS, the Project was reviewed and approved pursuant to the subdivision and zoning regulations applicable to the R-40 zoning district as Preliminary Subdivision approval was granted prior to the adoption of the Town's new zoning code during September 2006 (see Town Code Section 240-29(H)).

WHEREAS, the applicant was granted three (3) extensions of preliminary subdivision approval, the last extension expiring in early 2006; and

WHEREAS, the Planning Board, in its inherent discretion, adopted resolutions forbearing the institution of proceedings to revoke preliminary approval under New York Town Law Section 276(5)(h) or Town of LaGrange Code Section 203-1 0(B)(5)

WHEREAS, the applicant submitted an application for final subdivision approval during February 20 IO.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board makes the following findings pursuant to Section 277(4) of the Town Law:

Based on the present and anticipated future need for park and recreational Opportunities in the Town of LaGrange, and to which the future population of this subdivision will contribute, recreation or open space lands should be created as a condition of approval of this subdivision.

Whereas, a proposed "Parcel A" has been offered for dedication to the Town to as an open space or recreation parcel. The Planning Board finds that this Parcel A is of adequate size to meet the requirement for recreation or open space generated by the proposed subdivision. The Planning Board cites the following reasons supporting its determination:

1. The proposed Parcel A will be located adjacent to the existing Stringham Park, and either recreation or open space uses, including trails, would be in harmony would the neighboring Stringham Park.
2. Given the topography of the parcel, it will likely be used for passive recreation or open space, which will provide a substantial separation to buffer the existing Stringham Park from the new residential development.
3. The parcel is in compliance with the recreation and open space goals of the Town of LaGrange.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Town of LaGrange Planning Board grants Conditional Final Subdivision Approval of the subdivision as represented on the map set entitled Harvest Ridge Subdivision prepared by Paggi, Martin & Del Bene, LLP of Poughkeepsie, NY dated and authorizes the Chairman of the Board to affix his signature to the final plat, provided that the following conditions shall be met prior to the signature of the final plat by the Chair, unless an earlier deadline is noted below:

I. This resolution of conditional final subdivision approval is expressly conditioned upon the Applicant's performance of the payment obligations provided within the terms and conditions of the water contract between the Applicant and the Town of LaGrange, (hereinafter the "Water Contract").

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2. Submission to the Town of an executed performance bond with supporting financial security in the amount of and 00/1 00 (\$) Dollars, such amount based upon the recommendation of the Town's Planning Board consultant and approved by the Town Board of the Town of LaGrange, as an amount sufficient to cover the cost of installation of the required infrastructure and improvements. The performance bond and supporting financial security shall be approved by the Town Attorney as to form, sufficiency and manner of execution.
3. Creation by the Town Board of a drainage district to serve the Project.
4. Receipt of a Town of LaGrange wetlands permit for project related disturbance to Town wetlands.
5. Legal Documents:
 - (a). A deed transferring title of Parcel "A" to the Town of LaGrange shall be delivered to the Town within 30 days of the adoption of this resolution.
 - (b) In addition, the applicant shall submit to the Town Attorney, in recordable form, the following documents: (i) Irrevocable offer of cession, with proposed deeds and easements attached, in favor of the Town of LaGrange

for the roads and public improvements to be dedicated to the Town within the subdivision; and (ii) covenant and easement for the protection of the semi-permanent watercourse or channel, in accordance with the March 10, 2010 letter, "General Review" Paragraph 6 (page 3) of Stormwater Management Consultants Inc.

(c). All legal documents shall be approved by the Town Attorney as to form, sufficiency and manner of execution.

(d) The applicant shall submit an up-to-date title policy establishing ownership of the subject property and legal right to execute the documents identified in subsection (a), above. The title policy shall also establish that the applicant has clear, unencumbered title to the interests to be conveyed by the documents identified in subsection (a), above.

(e) To assure proper recording in the Dutchess County Clerk's office prior to the filing of the subdivision plat, the applicant shall submit to the Town

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Attorney: (i) all ministerial documents, if any, necessary to record the documents identified in subsection (a), above, with the Dutchess County Clerk's Office; and (ii) a check, made payable to the Dutchess County Clerk's Office, for all fees necessary to record the documents identified in subsection (a), above.

6. Payment of all outstanding consulting fees, per Section 240-88 of the Town Code of the Town of LaGrange.

7. Payment of the Inspection Fee - **Owner/Applicant has already made this payment.**

8. **In** accordance with the Town of LaGrange Fee Schedule for Stormwater, the applicant shall be required to deposit into escrow the amount of Two Thousand and 00/100 (\$2,000.00) Dollars.

9. Monuments shall be provided and illustrated on the plat in accordance with the March 10, 2010 letter, "General Review" Paragraph 8 (page 4) of Stormwater Management Consultants Inc.

10. Continued compliance with all representations of the project sponsor/applicant contained in the project submissions. The Environmental Assessment forms, the notes on the subdivision plat, and the conditions and representations set forth in the Preliminary Subdivision approval remain continuing conditions of this approval, shall be incorporated in the development of the project, and are deemed to constitute consensual conditions established within this resolution.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the following conditions shall be met prior to the issuance of any building permits for any of the lots in the Project:

I. Issuance of a Highway Work Permit by the Dutchess County Department of Public Works.

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2. Issuance of a Driveway Permit from the Town of LaGrange Highway Department.

3. The Owner/Applicant has consented to the following condition, which lays out a restricted schedule for construction to mitigate noise impacts to the surrounding community.

a. Monday through Friday - the operation or permitting the operation of any tool or equipment used in construction, drilling or

demolition work, including excavation and the alteration or repair of any building is permitted between the hours of 7am and 6 pm.

b. Saturday - the operation or permitting the operation of any tool or equipment used in construction and the alteration or repair of any building is generally permitted between the hours of 8am and 5pm **with the exception that no heavy equipment may be operated by any person.**

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the following conditions shall be met prior to the issuance of any Certificates of Occupancy for any of the lots in the Project:

1. Proof of completion of the on-site water distribution system, Dutchess County Department of Health approval of and permission to operate the on-site water distribution system, and connection of the same to the water supply and distribution facilities of the Harvest Ridge Water District.

The foregoing resolution was voted upon with all Board members voting as follows:

YEA NAY

Alan Bell, Chairman	ABSENT
Bob Straub	yea
Stacy Olyha	yea
Dennis Rosenfeld	yea
Joe Zeiden	ABSENT
Anthony Brenner	yea
John Gunn	yea

Kevin Donahue, Alternate *ABSTAINED*

Planning Board Clerk

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Ms. Livigni said she had a discussion with Mr. Martin on limits on hours of construction on the site because there is an existing site that abuts this site. She suggested limiting it from Monday-Friday from 7:00 a.m. to 6:00 p.m. Ms. Livigni said they can limit the weekend work to not include heavy equipment. Ms. Livigni said work on Saturday from 8:00 – 5:00 p.m. with no heavy equipment running. Ms. Livigni said she would appreciate if the board would accept that. Mr. Straub said no Sundays at all. Ms. Valk added it as condition of the resolution. The board voted on the addition/change to the resolution. Mr. Donohue abstained from voting.

WRIGHT FARM SUBDIVISION SPECIAL USE PERMIT – Proposed special use permit located on Old Grange Road containing 234.47 acres (Grid No. 6559-02-760965, 6660-03-025117, 6660-03-058120)

Mr. John Andrews of Rohde, Soyka and Andrews appeared before the board. Also present was John and Tippy Stensrud.

Mr. Andrews said this is a project the board should be familiar with, located on Rte. 82 and Noxon road. He said they were taking approx. 250 +/- acres and dividing it into 8 lots. He said they were before the board for a Special Use Permit, reason being is portions of the property are above the ridgeline overlay zone and would like to argue the case that this proposal was to preserve the integrity of as much of the site as possible for

use as future farm land. He said they show houses and boxes because of the requirement of the town's law as well as the driveways. Mr. Andrews said they show the ridgeline. He said as we sit today other than 2 of the lots, perhaps 1 & 6 and the lot that has the existing farm house on it, there are no development proposals for the site because they don't know what people are going to do with it and who is going to buy a 125 acre lot and what they are going to use it for. Mr. Andrews said from their perspective, applying for a special use permit, even though it is required by the code, may be a bit premature. The intent of the special use permit for development in the overlay zone is to make sure you get the necessary conditions to protect your neighbors from what the house may look like. Mr. Andrews said they don't know what that is going to be and the board doesn't know what it is going to be. It would be their desire to waive the public hearing and waive getting the special permit today and make it a future condition that any development on these lots in the future would have to get a special use permit because at that point in time you would know what the development actually is. You would know if it was a house, a house or a barn or just a barn. Mr. Andrews said he thinks to stay with the integrity of the law, that offers a better opportunity. He said that leaves a lot of openings, there's long driveways, grading and other things. They would be willing to commit that anybody that comes in with a development would have to apply for and get a grading permit for each lot, get the special use permit and give the town the necessary details to justify what it is they are going to build.

Mr. Andrews said if they are going to build a driveway all the way up to the top of the hill, then you need to see a driveway profile all the way up to the top of the hill and if they are only going to put the house down in the flats, you may need lesser. He said this is a rather unique subdivision. Usually you have 200 acres and you are looking for 200 lots and they have over 200 acres and are looking for 8 lots, one of which is over 125 acres. Mr. Andrews said they are trying to cut through the slack and make sure that applying the code later on, you get exactly what you intended to get. Mr. Andrews said they would be happy to go through the process, but they were pleading their case and they think the unique feature of the subdivision, the large lots, the real lack of detail for any future development kind of would dictate that you delay these things until you really know what is going on. Mr. Andrews said there is a catch 22 that they need assistance with. He said they did get a concept approval from the state of New York for their common driveways and they had a very interesting and long term time to get anything from Dutchess County DPW and Ms. Livigni was kind enough to assist us and even after they got something, they got a rather cryptic letter. The first sentence saying you have to take the house off the lot. Well, the house on the lot is a requirement of your code and he said he couldn't take the house off the lot and still get the board's approval.

Mr. Andrews said when they re-did Noxon Road they have the paperwork to show that they were supposed to leave us a driveway entrance with adequate lines of sight, now they claim there is an inadequate line of sight for a residential driveway, however they left them a farm entrance and they say it complies with a farm entrance and Mr. Andrews said that's all they want to use is the farm entrance.

Ms. Livigni responded. She said if there is the possibility that a house would be on that lot, then she thought it would be fair to represent to DPW that there is the potential in the future for that. Mr. Andrews said they showed a house to the DPW, but added he didn't know what was going to happen there. Mr. Andrews asked for the board's assistance and perhaps a letter from Ms. Livigni regarding this driveway access. Mr. Andrews said they got variances for some of the unusually shaped lots and in pursuing the variances, apparently we all kind of missed one. The last lot, # 7, has the adequate frontage on the road, 90 feet back, the setback line has 150 feet but then it goes to a flag and into a full size lot. For whatever reason, a lot of fine minds missed that and your Building Inspector and Zoning Administrator has now said that he believes they now need to get a variance for that. He said his client was weighing that. If they leave it in this configuration they have to get a variance and if they decide to widen it out for 150 feet, the need for a variance goes away.

Mr. Andrews said they are trying to get preliminary and final approval on this subdivision and obviously they would like it tonight which would require the board to waive the requirement for a public hearing, which he didn't know if the board could or not do. It would also require his client to make a final decision on that flag pole down there. Other than that, he said they have generally complied but for some issues with what Mr. Artus has asked. Mr. Andrews concluded and asked for the board's input.

Ms. Olyha asked if there was anyway they could show those particular building squares outside the ridgeline for those specific lots. Mr. Andrews said they could do that. Ms. Olyha said there was a 2nd one. Mr. Andrews replied there's a portion of the square and they could probably slide that down.

Mr. Artus read 240-31 F3A with the exception of a single family home and structure accessory thereto on a lot separately and lawfully existing as of the effective date of the town of LaGrange Local Law # 1 of 1998, any new construction or development within the ridgeline protection overlay zone including to but not limited to projects including subdivision of land for purposes of residential development requires special permit from the Planning Board and such new construction of development shall constitute a Type I Action.....

Ms. Olyha said so even though there is no construction in the ridgeline, they still need a special use permit. Ms. Valk said the section of the law that clause seems specifically to call out that projects involving subdivision for purposes of residential development. Ms. Valk said her read of that would be if you are cutting a lot in 2 and that's all you are doing right now, that still needs the special use permit. Mr. Straub said he would recommend the board do so. Ms. Olyha said Type I means they have to. Mr. Artus said the board already circulated for Lead Agency. Mr. Andrews said the board already gave them a Neg Dec. Mr. Andrews said he understood what Ms. Valk has read. Ms. Olyha said if you move those things then it lessens the impact. Mr. Artus said with the exception of 1 recent application that went in front of Mr. McLaughlin, which was merely a Lot Line Realignment that was in the ridgeline and there absolutely was no proposed development. Mr. McLaughlin made the determination that a special permit

was not required. It has been the history of this board to always interpret this as any development, whether or not there was any construction within that portion of that parcel in the ridgeline protection overlay zone.

Mr. Artus said if the applicant wants relief from the special permit he should get that from the Zoning Administrator and added he didn't know what Ms. Valk's feeling was on that. Mr. Andrews said they are not looking to be exempt from the special permit, he was saying the special permit may be more properly evaluated for compliance with your law when and if you have a real development. Ms. Olyha said it went thorough the entire process with a public hearing already. Mr. Artus said the special use permit was not mentioned in the notice.

Mr. Donohue asked could that be done as a non-reatly subdivision, the 125 acres, or are you looking for a building lot. Mr. Andrews said their whole subdivision is non-reatly, every lot is greater than 5 acres and the smallest lot is 7.4 and the largest being 125. Mr. Donohue asked are you looking for building lots. Mr. Andrews responded we are looking for individual lots. His client is actually purchasing 2 of the lots from himself and the rest will be offered for sale. The intent of the sale was to preserve them as farm lots because they are 17 acres, 19 acres, 15 acres and 11 acres plus the 125 acres plus the 7.4 acres that remains for the existing home.

Mr. Donohue said he raises the question, are we proposing development. Mr. Andrews replied we are not. He said they show it for purposes of complying with the code. Ms. Valk said she didn't think this needs interpretation. It says but not limited to projects involving subdivision of land for purposes of residential development meaning if you are subdividing for that purpose. She said to her, it is pretty straightforward. Ms. Valk said she completely agrees with the argument with what the real purpose is but she was not inclined to make a recommendation of going around that and added if it needs an amendment, it is in the Town Board's capacity. Ms. Valk said that was her opinion.

Mr. Donohue said he didn't hear the applicant say he was doing a residential development. Ms. Valk replied with--- she focused on the word "purpose". Mr. Andrews said they were not trying to be argumentative, he said they would like to compress the process and understand they missed the public hearing. The worst case they would submit to the board to schedule the public hearing for next meeting and we would then ask to be considered for preliminary and final next month. He said he doesn't want to cause Mr. Artus or Ms. Valk any heartburn. He said their goal here was to preserve open space and create big lots, a goal of the town. He said the code as it is currently written makes that hurdle a little difficult and as a consequence this is one of the areas where the ridgeline was put in place so if somebody wants to build a castle on top of one of these units, you are going to want to have some input and comments. By going through the process and getting the special permit today, he wasn't sure what they give away in the future.

Mr. Andrews said if it is going to be a major incident, then they would request the board to schedule the public hearing for next month and also be considered for preliminary and

final at the same time. Ms. Livigni recommended to the planning board that we have decided to lots 1, 7 & 8 a 30-foot vegetative buffer to remain untouched along the perimeter where it abuts existing property owners. The setback requirements is 40 feet anyway, so they are not stopping someone from building there, we just don't want someone to go and clear cut to the property line.

Mr. Stensrud spoke, He said if he has a 20-acre lot and he wants to have some cows and put his fence up to the property line so they can graze, he can't do it, and this would be to help the neighbors who have cleared up to the line already? Ms. Livigni said she understood Mr. Stensrud's point, but was making the recommendation to the Planning Board and they can weigh in on this. Mr. Tippy Stensrud spoke. He said to Ms. Livigni what her discussion was a post construction plan that was in place. Ms. Livigni said she was not bringing that one up. She said she learned something from what's been approved by the board in the past in that someone can go in and clear cut and since we don't know what these people are looking to do with these lots in fairness because that is the argument you are making. She said in respect to the existing property owners who are there and may be impacted by clearing all the way to the line, she would just make the recommendation to the board that they consider this.

Ms. Olyha said usually they only do that with a site plan, not residential lots because now you are limiting the person that is going to be buying that property.

Mr. Andrews suggested rather than a "Thou shalt not clear" can we make it a condition if they decide to clear in that 30-foot area they have to notify the town in advance and give the town a 30-day advanced warning if they are going to clear rather than a permanent "thou shalt not." Mr. Stensrud said he would like to make a recommendation that you put in the zoning that all of the properties in that district be held to the same law.

Ms. Livigni said this board nor she could change the code. Mr. Stensrud said to restrict this doesn't make sense to make it more difficult on them because they have taken a site that was identified in the open space and kept it open space and to be further restricted doesn't seem right. He said if he was living there he wouldn't want to clear up to the property unless he did have livestock that needed that space. Whoever buys these types of properties, if they bought 4 contiguous properties, they are not going to want to clear, but they are also are not going to want to be told that they cannot.

Ms. Livigni said this has not been recommended before because it is something that has come out recently and added she was trying to avoid a repeat of what's gone on. If the Planning Board doesn't want to take any action on her recommendation, that's fine, it's just a recommendation and said it was within the board's purview to discuss it or not.

Mr. Brenner asked about deep tests and perks or any SDS design at all. Mr. Andrews replied yes, 2 lots.....1 & 6. Mr. Brenner asked why only 2. Mr. Andrews said Tippy and John are each buying a lot. Mr. Brenner asked about test wells. Mr. Andrews said they haven't been done yet, he said they are just parcels of land. Mr. Andrews said he's been in front of this board since 2 chairman's ago with this project. Have there been

deeps and perks? The answer is yes. Has this project been proposed for a variety? Yes, he said at one point they had over 100 lots on this site and they've gone from 100 to 49 and they lopped off the piece across the street, which went to the church. Is there land on there to get wells and septic? Mr. Andrews replied yes. Mr. Andrews said the Stensruds came forward and said the land will yield just as much to us subdividing in this manner. It's easier, cleaner, neater. Mr. Andrews said those lots are being sold as is, most of them are over 3 times the size that would be necessary. He said they did deeps and perks for the Stensrud's lots because they want to build houses. He said they have gone through the Dutchess County Dept. of Health and they have approval for those and once this gets filed they could actually get building permits.

Mr. Artus said they are not legal lots yet. Mr. Andrews said the lots don't exist until the board approves this. Mr. Andrews said they understand what Ms. Livigni has said, from their standpoint it seems like another layer that doesn't make a lot of sense when you are looking at farmland. Mr. Andrews said if they did nothing, the man that was farming it up until the Stensruds bought it, about 1 ½ years ago, he could have cleared right up to the property line no matter what and it was used as a farm. He said while he understood where Ms. Livigni is coming from the neighbors bought next to a farm. He said it is a little different situation here in that they are large acre lots and the inclination of somebody who buys some of these lots, there's some beautiful trees there. He said he didn't see anybody clearing a lot of the trees. Mr. Andrews said he thought it was a nice idea, but disagreed about this location for it.

Mr. Straub said this is getting ready to be developed to take a look at it so the board can make their suggestions then. Mr. Andrews said we are looking for final approval. Mr. Straub said when you start to sell them off and develop them. Mr. Andrews said when they are sold, the new owner will have to come back for grading permits. Ms. Livigni said they wouldn't have to come back to the Planning Board. Mr. Artus said at that point in time Ms. Livigni could not ask for something like that. It's really up to the board.

Mr. Straub asked Ms. Valk for her comments. Ms. Valk said how she reads the code, it is pretty straightforward, that's her position and unfortunately it is what it is, but given her job at what she does, it's the Town Board that has the authority to tweak the code.

Mr. Donohue asked if the board needed to schedule a public hearing. Ms. Olyha asked about the flag lot issue. Mr. Andrews said they will make that decision, and what they would like is to schedule the public hearing for the next meeting and they will make that decision with respect to that flag lot, and added they missed the deadline for the May meeting, the earliest they could get before the ZBA for that final variance would be June. He said his client is weighing that decision now. By the time they get to the public hearing, they will have resolved that one way or another.

Ms. Olyha referred to Nejame and said they were able to go back and do what she pointed to on the map and asked why the Stensruds couldn't do that. Mr. Artus said that project pre-dates himself by 10 years and they were before the Zoning Board when Mr. Ansorge was here and added he didn't know the specifics.

Mr. Artus said in this case the applicant did get some variances from the ZBA for minimum lot width. Ms. Olyha said Mr. McLaughlin says you have to carry it all the way through to your lot and asked if that was how the code reads. Mr. Artus said it depends on which part of the code you read, there's 2 parts. Mr. Andrews said the man who makes the final decision is Mr. McLaughlin. Mr. Artus said in this zoning district the minimum lot width is measured at the front setback and then if you go to the schedule it says minimum lot width 150' at any point. Mr. Andrews requested the board to set the public hearing and they will make a decision on the lot one way or the other and if they decide to alter the lot line and not need the variance, they will ask the board for preliminary and final next month as long as there is nothing else outstanding. If not they will close the public hearing and be back after the June meeting for preliminary and final if they go that route.

Ms. Olyha made a motion to set the public hearing for May 19, 2010, seconded by Mr. Gunn and the motion carried unanimously. Ms. Livigni said that public hearing would only be held if they change that lot line. Mr. Stensrud asked if there was a different designation for proposed farm residents rather than residential.....the remaining comment made by Mr. Stensrud was not audible because he was not using a microphone.

Ms. Valk responded to the comment by saying Ken McLaughlin would have to make that decision. Mr. Stensrud said he was just thinking of the Special Use Permit where you are talking about single family residential, and Ms. Valk commented he made a good point, unfortunately once you get into stepping beyond the black and the white, they she has to defer to Ken McLaughlin.

Mr. Stensrud told Ms. Valk she was making her recommendation and he understood where she was coming from. Ms. Valk said she didn't like calling it a recommendation, it's just what it says. Mr. Stensrud asked does the board have the option to waive that at this point. Ms. Valk replied no, the code does not give them that sort of authority.

Mr. Straub advised the board that Zoning wanted that lot changed before setting the public hearing. Ms. Valk said it would be before approval, because the public hearing doesn't affect that portion of the plat because it is limited to the ridgeline.

Mr. Andrews said they will do whatever the board wants. Mr. Straub said the board will go with the special use permit and Mr. Andrews responded they will make a decision on that lot line.

REILLY SUBDIVISION – Proposed subdivision located on Cramer Rd./Old Overlook Road.

Mr. John Andrews of Rohde, Soyka & Andrews appeared before the board. Mr. Andrews said some of the members of the board will remember that they were before them on the Pine Hills Subdivision, a combination subdivision involving a couple of different lots and now they are proposing to take one of those lots, which is the lot that

was isolated by the power lines. Mr. Andrews pointed out Cramer Road and Old Overlook Road and pointed out the power lines. This is a separately described lot, and what they are proposing to do and what was a part of Pine Hills. Is they were going to propose 2 lots here served by individual wells and septic, one lot deriving access from Cramer Road and one lot deriving access from Old Overlook Road. Mr. Andrews said they are not prepared to move ahead with Pine Hill because of the economy. However this is a functionally independent piece and a separate lot and they would like to subdivide it into identical same size lots, 3.99 acres. He said they meet zoning. Mr. Andrews said they would like to move ahead and beforehand, they wanted to come to the board for their comments. He said they did start the SEQR process for Pine Hill and Mr. Andrews said they believed this was a reasonable separation because it is an independent lot and it was functionally independent. He said they weren't going under the power lines and added they have no ability to under them, so it's always been a separate parcel. He said they are looking to take it to the next level and subdivide it.

Mr. Andrews said he believed there was some Ridgeline on the lot, and it was going to be a Type I action. He said they have done perks and looked at some of the available well data and everything works out. Mr. Straub asked if the squares fit and Mr. Andrews replied yes. He said they were reviewed as Pine Hill and they haven't changed, but they have to be reviewed again. He said they haven't made a formal application.

Ms. Olyha asked if both entrances met the frontage. Mr. Andrews said that was a question the board would have to look at. He pointed out the 50 feet they had in the location he referred to and pointed out another 43 feet in the area he showed the board. He said that's all they have so they may have to get variances. Mr. Brenner asked if they could get 7 feet, Mr. Andrews said no, they actually had to purchase the piece and the tax map showed it bigger when they actually did the property survey. Mr. Andrews those are the only 2 issues that they are aware of.

Mr. Andrews said he didn't want to get hung up in a long drawn out SEQR process so he wanted to make sure that Mr. Artus and Mr. Bolner saw this as a viable separation from Pine Hill, they are not using central water and sewer, there was no physical interconnect and it is a separate lot of record separately described. Mr. Andrews said he wanted to make sure the board knew where he was going and added they were prepared to move full speed ahead.

Mr. Donohue asked are we looking for sketch or conceptual approval? Mr. Straub said the board doesn't do that. The board agreed the project sounded good. Mr. Andrews was advised to make a formal submission and \$1,000 escrow.

MOUNTAIN VIEW REALTY – Proposed Special Use Permits (Grading and wetland) located on Maloney Road containing 53.5 acres (Grid No. 6359-01-265780); discussion set public hearing.

Mr. Straub recused himself from this application. Mr. Gunn served as acting Vice-Chairman.

Mr. Eric Schobohm of Insite Engineering, John Astuni applicant and John Watson of Insite Engineering appeared before the board.

Mr. Schobohm gave the board some history. He said it was known as Homestead Farm Which was recently being proposed for a subdivision. He said John Astuni bought the lot in January, currently containing a single family residence as well as several out buildings on the parcel. He said Mr. Astuni is not from the area and not knowing the local land use laws began to remove some of the dilapidated sheds and barns on the property and re-route the drive way away from the existing barn at the road entrance and the neighbor's house. Mr. Schobohm said on March 22nd he was issued an Order to Remedy for the work he started which required a permit for grading and a wetland permit, as he was approaching the buffer of the wetland.

Ms. Livigni said it is her understanding that the property owner was unaware of the requirements that you cannot disturb soil, pretty much the whole site, they haven't confirmed the acreage yet, both in Wappingers and LaGrange was disturbed. Culverts were put in and it did go down to the Wetlands Buffer. Once prior to receiving the Order to Remedy, the property owner had started correcting the issue there. One of the Orders was for them to hire a professional engineer to come in with a plan that showed the erosion sedimentation controls for review and to come in for a Grading Permit because they had exceeded the threshold by code they she could approve. It would require a Planning Board approval for the grading permit. Ms. Livigni said they are showing the board what they have and there is one issue that needed addressing, the need for weekly inspection is contingent on the total land disturbed , not just the Town of Lagrange's so she would need it certified that less than 5 acres was disturbed totally, regardless of town boundary lines.

Mr. Schobohm said the Storm water code has a section that reads the code does not apply to land for agricultural use and portions of the site denoted by the dotted hatch are portions of the area that has been brush hogged for the purpose of cultivating hay that would be harvested every year or couple of years.

Mr. Artus said this parcel is not in an AG district, so that is really irrelevant, it's land disturbance. He said this came about by he had received a call from the Code Enforcement Officer in Wappingers. He was out there doing a footing inspection. Mr. Artus said that he was also a consultant for the Town of Wappingers and he cited there was a fair amount of land disturbance. Mr. Artus said they agreed to meet with the applicant out there on a Monday and as soon as he pulled up, he realized what property it was. Mr. Artus said as he drove through the LaGrange portion there was a fair amount of land disturbed and culverts being put in as well as land being disturbed in Wappinger. Mr. Artus said the Wappinger COE directed the applicant to make corrections relevant to that. He said he didn't believe Wappingers had the type of ordinances LaGrange does relative to having to come before the Planning Board.

Mr. Artus said the concerns for both towns is to get SPEDES permit coverage relative to the storm water regulations and Ms. Livigni wants some sort of certification from the applicant's professionals to what the area land disturbance is. He said it was hard to say, could have to 4, 5, 6 acres. Mr. Artus said if it is over 5 acres, they need authorization from the MS4 not from the DEC. Mr. Artus said then they would be going to the Town of LaGrange, as well as from the Town of Wappingers COE as well.

Mr. Gunn said they started the project and they shouldn't have. Mr. Artus said as Ms Livigni stated, they need a grading permit and wetland permit from the town of LaGrange.

Mr. Gunn said the board would be having a discussion on this, set a public hearing and said they will have to determine what exactly they are going to do with the project, agricultural district aside, it doesn't matter.

Mr. Gunn said we are looking at this as a subdivision. Mr. Artus said this not a subdivision. Ms. Olyha asked about the driveway and asked if they put in both driveways because the one that is existing is the light gray and asked about the 2 dark ones and crossing the wetlands. She asked if that was proposed and if it was disturbed yet. Ms. Livigni said it was disturbed. Ms. Olyha asked.....across the wetland has been disturbed? Ms. Olyha said they didn't cross the wetlands in the front, they went around the wetlands, through the buffer on that end and touched the wetland buffer over on this side. Mr. Artus asked the applicant if they were proposing a drive through the wetland. The answer was yes and Mr. Artus then asked if they would have 2 drives on Maloney Road. The answer was yes. Mr. Artus said likely that will not be allowed the by Highway Superintendent. Ms. Olyha said not unless they are 2 separate drives. Mr. Gunn asked the intention for the whole piece.

Mr. Astuni said they are not looking to do any subdivision right now, they are going to use it as a weekend house. He said his brother and he own it. He said they want to clear the fields and his intention is to use it for recreational and weekends with his brother and the 2 families. Mr. Brenner asked how many houses were on there, the answer was 2 and the other was a barn. Mr. Astuni said the house and 1 barn is in Wappingers and the other barn is in LaGrange. Mr. Brenner asked why would they want to change the whole driveway around. Mr. Astuni said the existing driveway passes literally 20 feet from the house he referred to. He said he has an 87 acre parcel and as he drives in, h e's driving past somebody's living room window so he wanted to curve it over. He said it's also very windy and the grading is terrible on the driveway.

Ms. Olyha asked if that was the driveway that went to that house and the answer was yes. Ms. Olyha asked if the neighbor's house had an easement to use that driveway. Mr. Astuni replied no, he has his own driveway, it's a flag lot. Mr. Gunn asked about any other comments. Mr. Gunn suggested setting the public hearing and Ms. Olyha said no, first they have to come in and tell the board what the disturbance is and they need a grading plan. Ms. Livigni said his professional would have to certify what the acreage of disturbance is. Mr. Schobohm said they have had discussions with Dave Gasser of the

New York State DEC up in Albany and based on their road crop exemption to the permit.....\

Ms. Livigni said you need to certify the land that was disturbed both in Wappingers and LaGrange or you can put your argument in writing and they can respond. Mr. Artus said if DEC comes out and they call us up and he and Ms. Livigni go out there and we can tell them to call up Dave Gasper it's ok? Mr. Watson said we have no problem with that. Mr. Artus said the town is also liable as an MS4 so if the DEC comes out, the town is also liable as well as the applicant. Mr. Watson replied understood. Mr. Watson said he had the conversation with Dave. Mr. Watson said LaGrange might have a different wording in their regulations, but as far as the DEC is concerned, Mr. Gasper told him there were 3 exemptions to the construction activity general permit. One is certain maintenance activities, silver culture and excavation and grading and filling for road crops and he said cultivating hay is a road crop and that you don't need any coverage from the DEC for any disturbance associated with that. Ms. Livigni asked regardless of size? Mr. Watson responded, regardless of size. Mr. Watson said if we have a 90 acre piece of property.....

Mr. Artus said they why don't you have Dave Gasper send a letter to the town citing that and the fact that it does not have to be in an agricultural district to qualify that. Mr. Artus said he certainly understands the silver culture plan, he's been through that issue. Ms. Olyha asked is the disturbance for the fields, is that the stipulation, the exemption has to be the disturbances for the fields. Mr. Artus said the new drive is still going to be over an acre, and will need SPEDES coverage for that. Mr. Watson said there is about 4 ½ acres of disturbance. Mr. Artus said Albany is one thing and Region 3 is another thing. He said he encounters this all the time, and Mr. Watson said so does he.

Mr. Artus said he didn't think he wanted to get in a pissing match between Region 3 and Albany and Mr. Watson said neither did he. Ms. Olyha said Region 3 is the one who comes to see the town. Mr. Watson said Dave Gasper wrote the permit. Mr. Artus said he understood. Mr. Watson said it is a federal exemption, DEC statewide has to abide by this. He said Mr. Gasper said as long as you have under 5 acres of disturbance, that is associated with the house, driveway. He said you still need erosion control coverage. Mr. Artus said they still need their SPDES permit but Mr. Gasper said if the limit of disturbance is u under 5 acres for all of that and then you have additional disturbance, including the in grading, clearing and the end result is going to be for road crops, which they consider hay a road crop, you don't need coverage under their permit for that additional area and Mr. Watson said he asked ...so we don't even consider it on the permit? And Mr. Watson replied Mr. Gasper replied yes. Mr. Watson said he asked Mr. Gasper if they have 4 acres of disturbance for the driveway and they have 50 acres of disturbance for road crops he said Mr. Gasper told him to put 4 acres on the permit. Mr. Artus said he is basically saying the MS4 doesn't need to authorize that, basically. Mr. Watson replied correct. Mr. Artus asked for a letter from Mr. Gasper because he's been into so many cross matches between Region 3 and Albany. Ms. Livigni said that letter should come to her as the Storm water Management Officer and will be a part of the packet that Walter reviews.

Mr. Watson said they cannot submit the NOI for coverage to them until the town signs off on it.

Mr. Artus recommended the board could set the public hearing. Mr. Donohue said that includes a letter and if they have the letter, there's not much of a public hearing.

Mr. Watson said they did submit a grading plan that shows the cuts and fills and drainage improvements and it does have a limit of disturbance for the non-road crop disturbance.

The board set an escrow of \$1,000. Ms. Livigni said now that the escrow was established she would pass it along for review and comment. Mr. Artus said in conjunction with that he would research the permit himself.

The board set the public hearing for May 18, 2010 contingent on receipt of the letter from the DEC.

GAMBINO WETLANDS PERMIT – Proposed wetlands permit located on King Drive containing 5.59 acres (Grid No. 6360-02-831714); set public hearing.

Mr. Gambino said he was asked for a wetlands permit so he could construct a 3-car garage over their existing driveway pavement. He said they won't be disturbing anything that hasn't already been disturbed. The existing wetlands will remain undisturbed. He said he was just looking to go from the asphalt. Ms. Livigni said when they came in for a building permit to do the addition, the zoning department discovered there never was a wetland permit applied for this property. Their house was constructed within the wetlands buffer. Ms. Livigni said their addition is going over where their current driveway is so they are not increasing the disturbance in the wetlands buffer. He said part of this is a matter of cleaning up what was done before.

Mr. Gambino said the total parcel is 5.59 acres, and the total area of the house and driveway is tiny. The Planning Board set the public hearing for May 19, 2010. The board set a \$200 escrow.

PARAVATI SPECIAL USE PERMIT – Proposed Special Use Permit for an accessory apartment located on Strawberry Lane containing 1.89 acres (Grid No. 6359-02-574861);

Mr. Paravati spoke. He said at the last meeting there were some issues with Ken McLaughlin which have been worked out so everything is in order now. Mr. Paravati said the issue was the bathroom and square footage and he said he worked it all out. Mr. Straub said the bathroom was a contention. Mr. Paravati said the square footage on the office downstairs was a part of the apartment which he said he eliminated by relocating the stairs so you cannot access the downstairs through the apartment and Ken was ok with that. He said he wrote a letter to the board stating he was on board with it.

Ms. Livigni reminded the board of the memo in their packet from the Building Inspector that addresses it. Ms. Olyha acknowledged the letter from Mr. McLaughlin.

Ms. Olyha made a motion to grant a Special Use Permit, seconded by Mr. Gunn and the motion carried unanimously. SPECIAL USE PERMIT

Mr. Gunn made a motion to adjourn the meeting at 9:35 p.m., seconded by Mr. Brenner and the motion carried unanimously. MEETING ADJOURNED.

Respectfully Submitted,

Eileen Mang
Planning Board Secretary