

Appendix B

Written Comments

TO: Residents of Hialeah Drive

FROM: Richard S. Ambuhl 18 Hialeah Drive

Subject: Brunswick Meadows Project

Out of the 23 residences on Hialeah Drive, only 3 or 4 residents took the time to attend the Public Hearing concerning this project which was held on Tuesday, May 15 at 6:30 pm at the Brunswick Town Hall. Each of you had the opportunity to express your concerns about any potential negative impacts this project can have on your property or current quality of life on Hialeah Drive.

This has nothing to do with your being in favor of or opposed to this project. Each of you have a responsibility to insure the project is being done in a professional, legal and responsible way and that no misinformation is given to involved regulatory agencies or to officials of the City of Troy and that you are confident someone is looking out for the best interests of you, your family and the residents of Hialeah Drive who are also residents of the City of Troy.

A few areas of concern:

1. Questionable stormwater and drainage management

facilities on project site and runoff coming into Hialeah Drive properties. Proposed retention pond will drain directly to the same area as the runoff currently travels. Will this adversely affect your property by potentially dangerous flooding? Will developers or city be liable for damage to your property? There is and always has been a drainage issue in the rear of #6 Hialeah Drive. Will project development increase this drainage issue, if not properly addressed now, and affect negatively #6 down to perhaps #12 or #14? Currently 85% of stormwater runoff from undeveloped site goes under a 24inch pipe under #18 and under Hialeah Drive to the reservoir. If proper storm management facilities and retention ponds are not adequately built and maintained on project site in accordance with the draft DEIS, this drainage will increase significantly and very likely cause backup and severe flooding issues for # 16, #18, #20, #22 and potentially further down Hialeah Drive.

2. Sewage. All sewage from project will come down Rt 142 to Hialeah Drive where it will enter to an existing 8inch pipe directly under the center of the road on Hialeah Drive and proceed down the length of Hialeah Drive. This pipe was installed in 1968. There has been no testing of this pipe for its vulnerability to aging. Is there the potential for massive sewage back up into every home on Hialeah Drive? Will the developers accept responsibility

for these potential problems or will the city of Troy?

3. It seems as though the City of Troy has signed off on parts of this project based on information furnished by the engineer who owns the project land and is a partner in the project. Does this present a conflict of interest and shouldn't the City of Troy Engineer be involved?

4. Traffic. Each of you are aware of the problems you encounter each morning getting from Hialeah Drive thru the stop light at Rt 142 and Rt 40. What will the impact be with the potential of 200 to 300 more cars you'll compete with each morning?

5. Will the developers be required to set up a reserve fund, post a bond, or take out an insurance policy for the very real potential damage to your property? I do not believe this is covered in any of the documents I reviewed.

6. No officials from the City of Troy were present at the March 15 Public Hearing to look after the interests of the residents of Hialeah Drive.

- A. Mayor's Office - No one
- B. City Engineer's Office - No one
- C. Dept. Of Public Utilities - No one
- D. Water & Sewer Depts. - No one

E. City Council Representative - No one

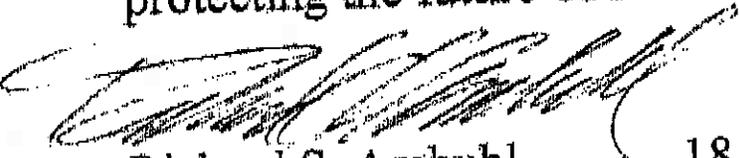
I have been unsuccessful in all my attempts during the past several months to get anyone from the city of Troy from the Mayor, City Engineer, Water Dept. Head or the City Council and others to meet with me and to come to Hialeah Drive to see for themselves why they should be concerned and to visually check out my concerns. I will be quite surprised if any city official will bother to attend the June 14 Public Hearing although all have been made aware of the Hearing. It boggles my mind why the City of Troy and the Town of Brunswick does not seem to be concerned about exposing themselves to millions of dollars in future lawsuits when they can be avoided with a minimum of responsible planning and review.

The above information is passed on to you for your consideration of the importance of getting involved at the beginning of the project rather than in the future when the negative impacts of the project may directly affect your property and your quality of life. You need to do what you can to get the City of Troy to look out for your best interests.

There were a few pages left out of one of the exhibits filed and as a result the Public Hearing was legally required to be put on hold and another date was set for the Public

Hearing to be continued. This date was set for Thursday,
June 14 at 6 p.m. at the Brunswick Town Hall , 336 Town
Office Road, Troy, New York 12180.

Hopefully you will consider attending this Hearing and
protecting the future of Hialeah Drive.



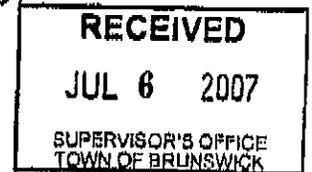
Richard S. Ambuhl
June 11, 2007

18 Hialeah Drive

cc: Mayor, City of Troy - Harry Tutunjian
City Engineer, Troy - Russ Reeves
Water Department, Troy - Neil Bonesteel
President, City Council, Troy - Henry Bauer
Town Supervisor, Brunswick - Philip Herrington
Town Engineer, Brunswick - Mark Kestner

Supervisor Philip Harrington
Town Board Members
Town of Brunswick

July 5, 2007



Gentlemen:

This letter is to express our concern regarding the "Brunswick Meadows" proposed development which directly borders our home and yard.

While we would like to see the whole project just go away, we realize that this is not likely to happen. So we'll focus on our main concern which is the proposed location of Building #1 as detailed in the copy of the attached memo from Mark Danskin, P.L.S. to John Mainello. The proposed location is just 63 feet from our house with a setback from Grange Road of 15 feet. As our house is set back 35 feet from Grange Road, our view will no longer be a rural setting of fields with deer, turkey, etc. but brick walls. Certainly not what we moved to Brunswick for.

If this project must go forward, we are requesting that Building #1 and the other building situated so close to Grange Road be moved back considerably or eliminated altogether.

We thank you for the opportunity to express our concerns and expect our request will be given serious consideration.

Sincerely,

James Gauthier
Dorothy M. Gauthier

Enc.

MARK N. DANSKIN, P.L.S.



DANSKIN LAND SURVEYING, LLC
ENGINEERING • SITE PLANNING
P.O. Box 72, Troy, New York 12181
(518) 279-8002

RE: JOHN MAINELLO

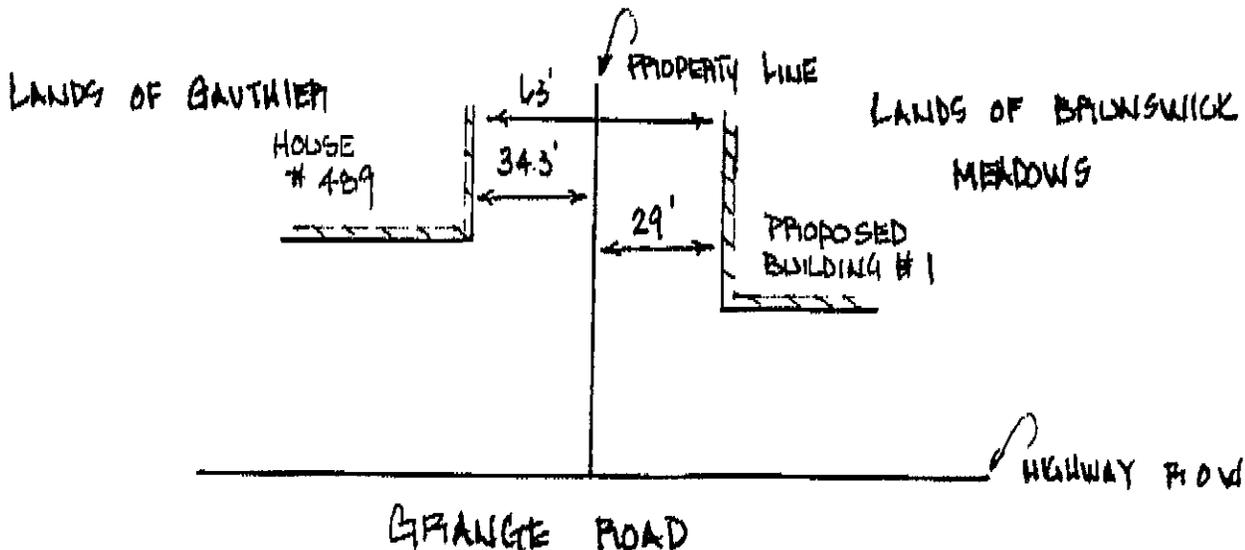
DATE: JUNE 19, 2007

BRUNSWICK MEADOWS CONDOMINIUMS
GAUTHIER DISTANCE

JOHN,

AS REQUESTED WE LOCATED MAP & MMS GAUTHIER'S HOUSE LOCATED AT #489 GRANGE ROAD. THE DISTANCE BETWEEN THE GAUTHIER'S HOME AND PROPOSED CONDOMINIUM BUILDING #1 IS 63 FEET.

SIGNED: Mark N. Danskin
MARK N. DANSKIN P.L.S.



Lemery Greisler LLC

Attorneys at Law

Daniel J. Tyson, Member

dtyson@lemerygreisler.com
(518) 433-8800 ext. 321

June 28, 2007

RECEIVED

JUN 29 2007

**TUCZINSKI, CAVALIER,
BURSTEIN & COLLURA, P.C.**

VIA UPS OVERNIGHT

Brunswick Town Clerk
Town of Brunswick
336 Town Office Road
Troy, New York 12180

Re: Brunswick Meadows Planned Development District
Submissions by Dan Moran and Vikki Moran of 509 Grange Road,
Brunswick, New York

Dear Clerk:

We are the attorneys for Dan and Vikki Moran of 509 Grange Road, Brunswick, New York. We appeared at the public hearing on the Brunswick Meadow PDD application on June 14, 2007. At the June 14, 2007 meeting, Mr. Moran submitted four photographs that were marked as Exhibit 1 through 4. Mr. Moran described the photographs for the record, but in summary, Exhibits 1 through 4 represent the following:

Exhibit 1 - The portion of the Moran house facing Grange Road.

Exhibit 2 - A view of the field immediately adjacent to the Moran residence.

Exhibit 3 - A view from the rear of the Moran residence depicting a swing and a field where approximately 27 buildings with four units each are to be constructed under the proposed Brunswick Meadows PDD.

Exhibit 4 - The barn and garage on the Moran property.

On June 14, 2007 Dan Demers submitted a photograph that was marked Exhibit 5.

On the same date Richard Ambuhl submitted five photographs that were marked Exhibits 6 through 10.

On behalf of Dan and Vikki Moran, we are enclosing photographs taken by Dan Moran that are marked as Exhibits 11 through 16. There are Exhibit

stamps on the rear of the photograph and a statement of what is depicted in each photograph.

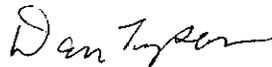
We respectfully request that these photographs, Exhibits 11 through 16 and the notes on the rear of them, be considered to be part of the written record submissions that have to be filed on or before July 6, 2007.

Please time stamp the additional copy of this letter which is enclosed to acknowledge your receipt of the letter and the contents and return the time stamped copy to us in the self addressed, stamped envelope we have enclosed.

Thank you.

Very truly yours,

LEMERY GREISLER LLC



Daniel J. Tyson

DJT/rmc

cc: Andrew Gilchrist, Esq. (w/encls.)
Tuczinski, Cavalier, Gilchrist & Collura, P.C.
54 State Street
Suite 803
Albany, New York 12207

Enclosure

**IN THE MATTER OF THE APPLICATION OF
JPJ PARTNERSHIP OF LATHAM, NEW YORK
TO THE TOWN OF BRUNSWICK SEEKING
APPROVAL OF THE BRUNSWICK MEADOWS
PROPOSED PLANNED DEVELOPMENT DISTRICT
OF 18.3 ACRES+/- ON GRANGE ROAD (ROUTE 142)
FOR 31 RESIDENTIAL BUILDINGS OF 4 UNITS EACH
ON LAND CURRENTLY ZONED R-15 AND A-40**

**MEMORANDUM IN OPPOSITION SUBMITTED BY LEMERY GREISLER LLC
(DANIEL J. TYSON, ESQ.) ATTORNEYS FOR DAN AND VIKKI MORAN, OWNERS
OF 509 GRANGE ROAD, BRUNSWICK, NEW YORK**

LEGISLATIVE DISCRETION

Under the New York Town Law, the approval of a Planned Development District ("PDD"), as a zoning regulation, is a legislative function of the Town Board. Therefore, the Town Board can approve or disapprove the proposed PDD in the exercise of its discretion as a legislative body.

"Nothing in the town or village enabling acts requires the legislative authority to follow the recommendations of the zoning commission in the enactment of zoning regulations."

New York Zoning Law and Practice, Salkin, section, 3:08, page 3-11, 4th Edition (2006).

COMPREHENSIVE PLAN

Town Law §263 requires that a proposed zoning regulation must be made in accordance with the Town's Comprehensive Plan, "to guard against ad hoc zoning legislation affecting the land of a few without proper regard to the needs or design of the community as a whole." *See Matter of Daniels v. Van Voris*, 241 A.D.2d 796, 797 (3d Dept. 1997), citing *Matter of Gernatt Asphalt Prods. v. Town of Sardinia*, 87 N.Y.2d 668, 685. The Town Board must take into consideration the needs of the Town as a whole, rather than the needs of the developer alone.

The Comprehensive Plan, while providing for growth within the Town, also dedicated a specific section to existing uses of land and the rights of landowners, entitled, "Balance Property Rights, Health, Safety and Welfare". *Brunswick Comprehensive Plan*, Page 19. This section requires that, "the Town should consider policies that will preserve the rights of individuals insofar as possible when enacting legislation," and "should consider policies that manifest and foster a respect for the property rights of the residents of the Town." *Id.*

TOWN OF BRUNSWICK ZONING CODE SECTION 10

The *Town of Brunswick Zoning Code*, Section 10, provides that the Town Board must refer an application for establishment of a PDD to the Zoning Board of Appeals (the "ZBA"). Section 10 provides that the ZBA "shall approve, approve with modification, or disapprove such application and shall report its decision to the Town Board." As of the June 14, 2007 Public Hearing on the PDD application, the ZBA has not to our knowledge made a decision or reported its recommendation to the Town Board. It is respectfully submitted that if the ZBA recommends disapproval of the Brunswick Meadows PDD Application, then the *Town of Brunswick Zoning Code*, Section 14 requires a four-fifths vote of the Town Board to approve the PDD, because it would constitute a change in zoning boundaries in the Town. (*New York Zoning Law and Practice*, Salkin, section 704, page 7-10, 4th Edition (2006).

Pursuant to Section 10, the ZBA (and therefore the Town Board as the legislative body potentially amending the zoning boundaries) shall consider the following factors, in addition to others in deciding whether or not to approve or disapprove the Brunswick Meadows PDD application:

1. The need for the proposed use in the proposed location;
2. The existing character of the neighborhood in which the use would be located; *and*
3. The safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property.

1) The PDD Applicant has not sufficiently established the need for the Brunswick Meadows PDD at the Grange Road Site.

Neither the Applicant JPJ Partnership of Latham nor Topatoma LLC (Thomas Mulrey, P.E., managing member) the owner of the land have presented actual data showing that the Town or its residents need 124 residential units at the subject 18.3 acre site to meet housing demands. Nor has actual data been furnished that the Town needs high density units as compared to single family residences. The 18.3 acre site is part of a 97 acre undeveloped former farm acquired by Topatoma LLC (Mulrey) or a related entity. The Applicant in the PDD application has admitted that current zoning (R-15 and A-40) requires minimum lot sizes of 15,000 square feet each for single family residences which at the proposed site would probably accommodate approximately 25 single family homes.

Why build 124 residential units on 18.3 acres when there are another 80 acres of undeveloped land behind the subject site which are owned by the same land owner?

If the Town approves the Brunswick Meadows PDD, will the Applicant, another developer or the Topatoma LLC (Mulrey) be seeking another PDD for all or part of the remainder of the 80 undeveloped acres?

The only "tangible" benefit to the Town that the applicant has offered are hypothetical increased real property taxes for the Town, County, Fire District and the Lansingburgh School District. In the case of the Lansingburgh School District tax benefit analysis, the Applicant interestingly

assumes that there will be no children living in the proposed 124 units. This assumption is apparently based on the "experience" of the developer that "empty nesters" and "young professionals" are the likely buyers of the units. Is the Applicant saying they will not sell units to a buyer with one or more children? Is the applicant saying that "young professionals" who buy a unit cannot have a child or children after they buy the unit? As we all know the cost of educating one student for one year costs several times the amount of school taxes per year for the unit. It is impossible to know how many children will live at the proposed units, but at the very least the PDD Application has submitted an unrealistic benefit to the School District that does not take into account the cost of educating any children that may live in the 124 units.

The Applicant suggested that a fully built project (124 units and 31 buildings) will generate \$40,000 in property taxes per year for the Fire District. Will the Fire District need more training and equipment to deal with a major fire where 31 buildings are built so closely together and **where there is only one road for ingress and egress? Is one closed loop road servicing 124 residential units a benefit to the Town?**

If the Brunswick Meadows PDD is approved by the Town, the developer JPJ Partnership of Latham will receive the financial benefits, i.e., profit from selling 124 residential units instead of profit on 25 single family homes. Although, landowners and developers have the right to develop land and make a reasonable return on their investment, they do not have a right to get a PDD approved where 124 units will occupy space that under the existing zoning would only contain about 25 single family residences. We suggest that the JPJ Partnership is seeking to maximize its profit and is not concerned with benefiting the needs of the Town as a whole.

2) The existing character of the neighborhood where the proposed PDD would be located is owner occupied single family residences and formerly was agricultural with single family homes.

The proposed PDD would change the character of the neighborhood along Grange Road in the vicinity of the proposed site. A review of the Town's Tax Map in the vicinity of the proposed Brunswick Meadows PDD shows very low density use. Most of the nearby single family home parcels south and east of the proposed PDD are 2 or more acres and many are 4 to 8 acres each. The remaining Topatoma LLC parcel of about 80 acres is west of the PDD. The properties north of the proposed PDD are the Hialeah Drive single family residences in the City of Troy. If the Brunswick Meadows PDD is approved it will drastically out of character with the adjacent uses in the Town of Brunswick

Although, the Applicant asserts that the residential units would be owner occupied and sold as condominiums, they will look like multiple dwelling units or apartments with 4 units per each two story building. The density of the proposed PDD with 31 buildings and 4 units per building on 18 acres will be many times the density of existing single family residences. Ironically the PDD will make the area look more like a city or busy suburban town setting rather than a mix of residential and agricultural uses which is common to the Town of Brunswick. Even the adjacent homes on Hialeah Drive which are in the City of Troy are single family residences and not four unit multiple dwellings.

The Applicant has asserted that the entire proposed project will be built at one time, not in phases and that the residential units will be "owner occupied". However, if the Applicant causes the entire project to be built at one time and the units are not sold in a timely manner, we would expect the Applicant would rent the units to tenants until the units could be sold, rather than have empty units for any extended period of time. We understand that the Condominium Offering Plan and Homeowners Association documents may, but are not required to provide that individual owners cannot rent out their units to non-owner tenants. Even if the initial Condominium or Homeowners rules did prohibit unit owners from renting their units to tenants, if the eventual owners of the units want to change the Condominium and Homeowner's Association rules at a later time, they should upon compliance with New York State laws be able to change their rules to let owners rent their units to tenants who do not own the units. In these conceivable circumstances the proposed project would not be owner occupied.

3) The PDD application for Brunswick Meadows provides no substantial safeguards to minimize the obvious detrimental effects of the proposed PDD on the adjacent property owners including Dan and Victoria Moran at 509 Grange Road .

The PDD application as it is currently proposed has four buildings with four residential units each planned for the area immediately in front of the main entrance to the Moran home and in full view of the numerous windows on the front of the Moran residence. The main and only road into and out of the PDD serving 124 residence units will also pass right in front of the Moran residence. No significant buffer has been proposed to protect the Morans and the other adjacent residences on Grange Road from the visual and sound annoyances of hundreds of cars a day passing by the Moran's front lawn. No substantial buffer has been proposed between the Moran residence and the rear of the PDD which is proposed to have 27 buildings with 108 residence units adjacent to the Moran's back yard. No substantial buffers have been proposed between the other adjacent single family homes on Grange Road and the proposed PDD.

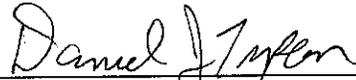
Dan and Vikki Moran purchased 509 Grange Road in 2001 and relied on the fact that the adjacent undeveloped farm land was zoned R-15 and A-40, which was primarily for single family dwellings or agricultural use. The Morans anticipated that someday a developer would build single family residences in compliance with the R-15 and A-40 zones in the Town of Brunswick. If Dan and Vicki Moran ever conceived that 31 buildings with 124 residential units would be allowed to be built on the 18 acres adjacent to their home they would not have purchased the home, spent large sums of money to improve the old farm residence and restored it to its current outstanding condition. If the PDD is approved it will greatly impair the Morans' enjoyment of their property and the value of the property. Who would pay full value for a restored old farm residence that is surrounded on two sides by 31 buildings containing 124 resident units, together with vehicles and traffic generated by the occupants of those residence units?

CONCLUSION

It is respectfully requested on behalf of Dan and Vikki Moran that the Town Board of Brunswick disapprove the Brunswick Meadows PDD application.

June 14, 2007

LEMERY GREISLER LLC

A handwritten signature in cursive script that reads "Daniel J. Tyson". The signature is written in black ink and is positioned above a horizontal line.

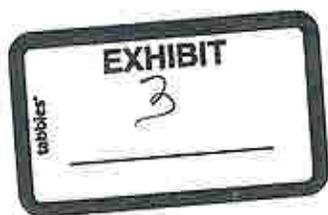
Daniel J. Tyson, Esq.
Attorneys for Dan and Vikki Moran
50 Beaver Street
Albany, New York 12207









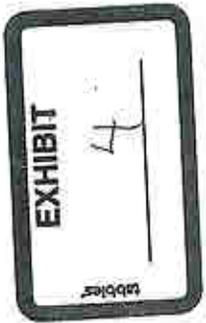


EXHIBIT

3

tabbles







Exh 5



RICHARD AMBUSH 18 HAZLETON
#7
STREAM ACROSS NI MO CORRIDOR

RICHARD AMBUSH 18 HIALEAH DL
#6
STREAM ACROSS NI MO CORRIDOR



RICHARD RAMEVAL 18 HIGHLAND
#9 STREAM ACROSS N1 MO CORRIDOR

RICHARD RAMEVAL 18 HIGHLAND
#8 STREAM ACROSS N1 MO CORRIDOR



RICHARD AMBUSH 18 HIAZEN DR
#11

SAME DESCRIPTION AS # 10

RICHARD AMBUSH 18 HIAZEN DR
#10 STREAM ACROSS N1 MD TO
24" PIPE WHICH BEGINS AT MY
PROPERTY LINE AND GOES UNDER
MY PROPERTY FOR 100.84 FEET THEN
UNDER HIAZEN DRIVE



Exhibit 11

This picture shows the front of the Moran home. The windows of the Moran's living room, dining room and upstairs bedrooms face the area where the Brunswick Meadows PDD proposes four buildings with four residential units in each building and the main and only road from Grange Road into the PDD.





Exhibit 12

This is another picture from the windows on the front of the Moran home. The view is of the area where the Brunswick Meadows PDD proposes four buildings with four residential units in each building and the main and only road from Grange Road into the PDD.



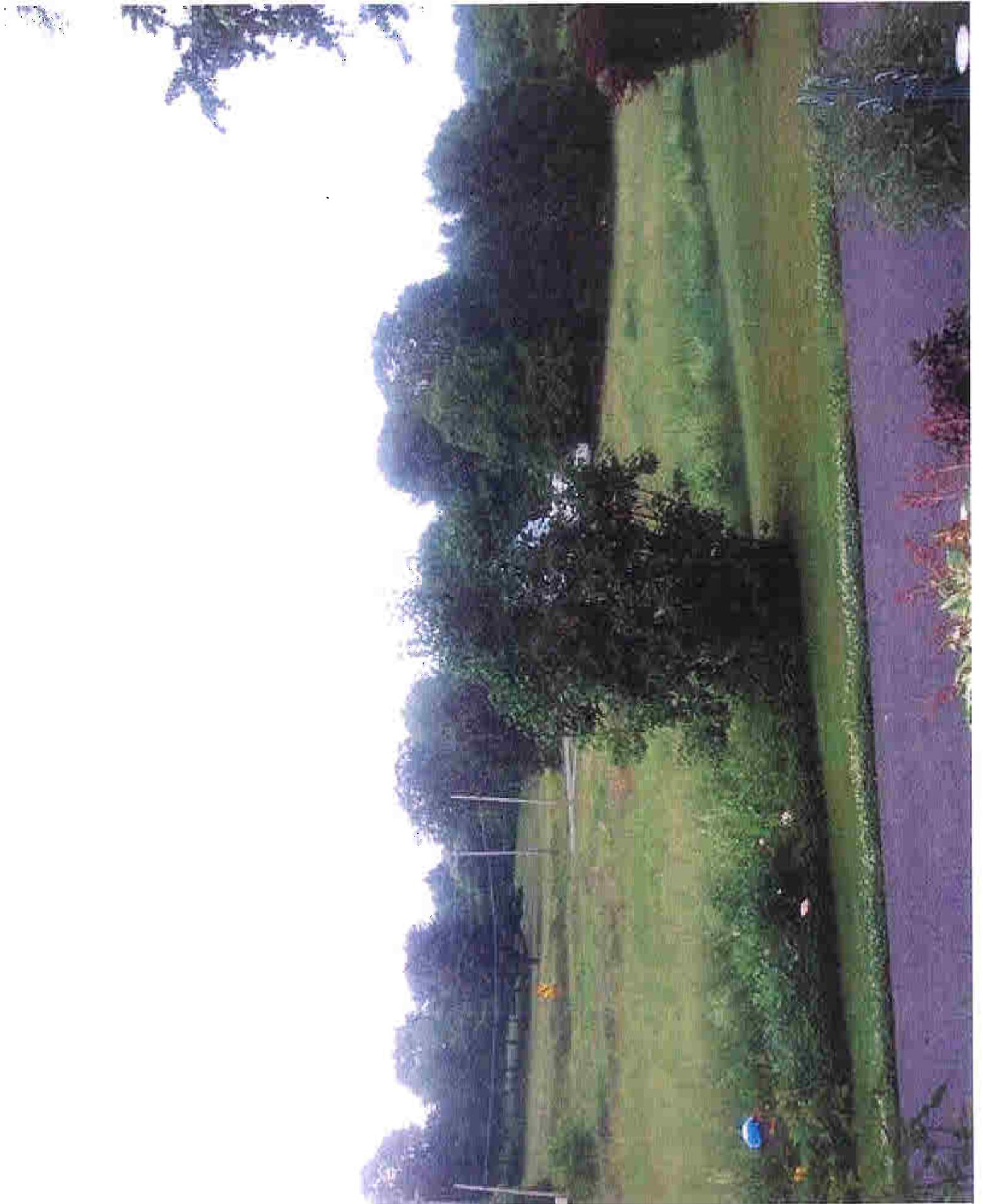


Exhibit 13

This picture is from the windows on the front of the Moran home. The view is of the area where the Brunswick Meadows PDD proposes four buildings with four residential units in each building and the main and only road from Grange Road into the PDD.

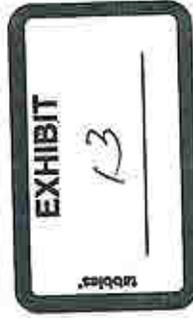




Exhibit 14

This picture is taken from the 8 windows on the front of the Moran home. The view is of the area where the Brunswick Meadows PDD proposes four buildings with four residential units in each building and the main and only road from Grange Road into the PDD. Note the traffic on Grange Road without the PDD.





Exhibit 15

This picture shows the area behind the Moran property and their current view that is proposed to have the remaining 27 buildings containing 108 residential units of the proposed Brunswick Meadows PDD.



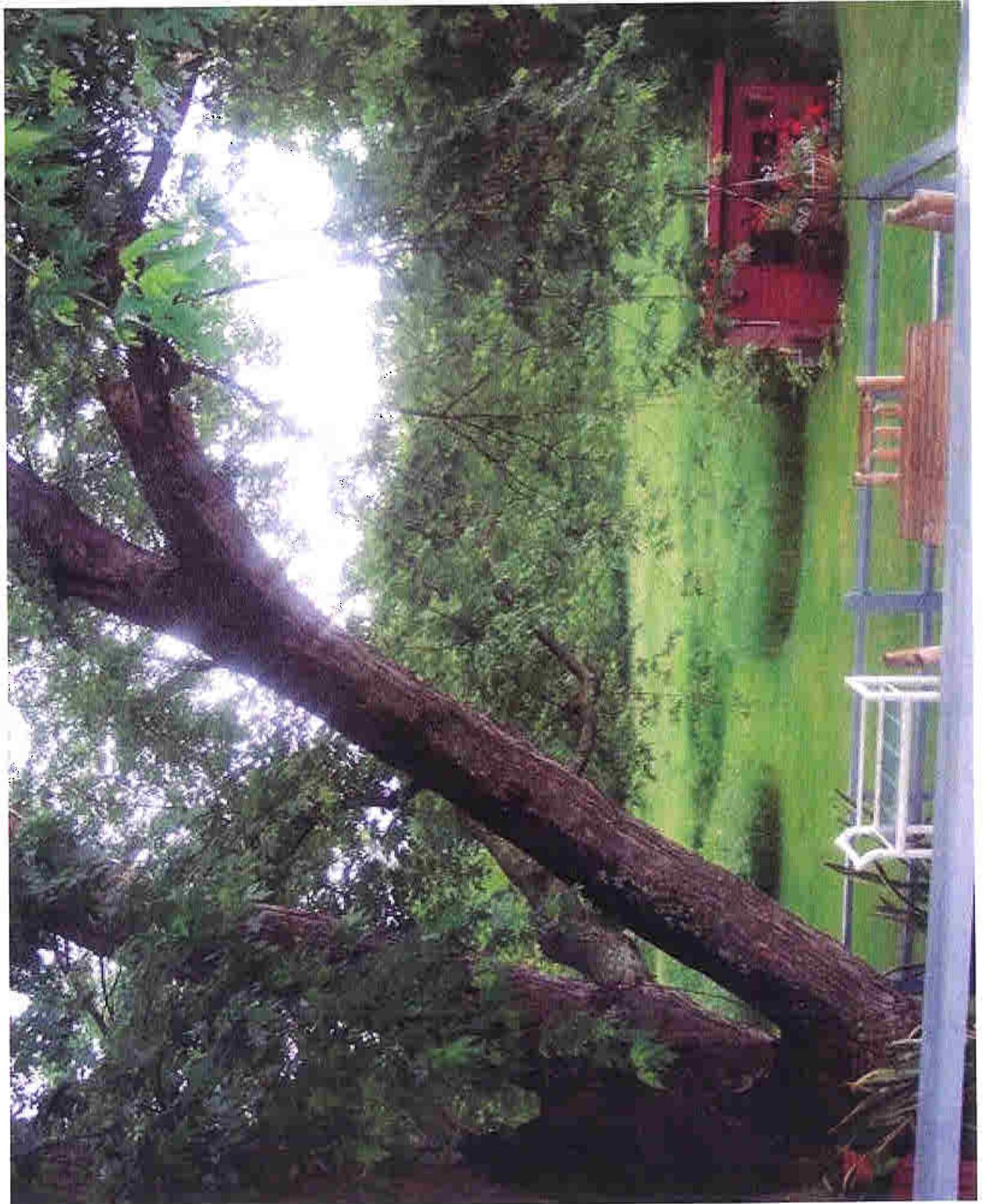


Exhibit 16

This is another picture from the rear deck of the Moran property looking into the area that is proposed to have the remaining 27 buildings containing 108 residential units of the proposed Brunswick Meadows PDD.

