

**PLANNING
BOARD
MINUTES**

2009

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD January 15, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER, KEVIN MAINELLO, DAVID TARBOX and JOSEPH WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

Chairman Oster noted that the Gallivan site plan matter, listed on the agenda for the January 15 meeting, has been adjourned without date, pending further research regarding zoning compliance matters.

The draft minutes of the December 18, 2008 meeting were reviewed. Upon motion of Member Wetmiller, seconded by Member Czornyj, the minutes were unanimously approved as drafted.

The first item of business on the agenda was the Brooks Heritage, LLC major subdivision application for property located off Dusenberry Lane and Bald Mountain Road. Chairman Oster noted that the public hearing on this application had been closed at the December 18, 2008 meeting. Further, Chairman Oster noted that the applicant had responded to comments received on the preliminary plat and supporting application materials, including response to written comments of Brennstuhl (Brennstuhl letter dated 12/3/08); response to comment letter of Kestner Engineering (Kestner review memo dated 12/11/08); and response to comments from Center Brunswick Fire Department concerning water distribution system and fire flow. These

written responses have been provided to Planning Board members and Kestner Engineering for review. Attorney William Doyle appeared on behalf of the applicant. Attorney Doyle provided a further response letter from the applicant's engineers, addressing the additional Brenenstuhl comment letter of 12/17/08, which Mr. Brenenstuhl had provided to the Planning Board at its December 18 meeting. Attorney Doyle also noted that with the submission of these responses to comments, referral of the application should now be made to the Rensselaer County Department of Economic Development and Planning for recommendation pursuant to General Municipal Law Section 239-m. Attorney Doyle also noted that the final subdivision plat and engineering plans would be corrected to note that the stormwater management facilities throughout the project site would not be owned and maintained by the Town, but rather would be owned and maintained by a homeowners association to be created in connection with this subdivision. Finally, Attorney Doyle noted that the applicant still needed to pursue creation of a water district in connection with the extension of public water to the project. Geoffrey Brooks presented a video presentation to the Planning Board members concerning his development company and prior projects, and also the qualifications of Lansing Engineering as well as other clients and projects on which Lansing Engineering had provided professional services. Upon completion of the presentation, Chairman Oster inquired whether any Planning Board members had questions. Member Esser noted that in the presentation, Mr. Brooks had described sump pumps and generators provided to houses in areas where there were elevated water conditions, either wetlands or groundwater. Mr. Brooks stated that such conditions needed to be further addressed during construction on a lot-by-lot basis, and if elevated groundwater conditions were encountered, his development company will provide a sump pump and standby generator as it has done on other projects. Member Czornyj raised the issue of minimum lot width, and that

certain lots on the subdivision plat raised compliance issues with the minimum lot width requirements under the Code. Mr. Brooks stated that his engineers had reviewed the plat and had addressed minimum lot width on all lots except for proposed Lot 23, which is the lot accessing directly off Bald Mountain Road. With regard to proposed Lot 23, lot width to the rear of the parcel exceeds 180 feet width, but encounters wetland conditions in the rear of the lot. Brooks proposes to construct the home closer to the front portion of the lot toward Bald Mountain Road, in an area where the width does not exceed 180 feet. Attorney Gilchrist will coordinate with Attorney Doyle to further research the minimum lot width issue, and whether a variance or waiver from subdivision design standards would be required. Member Czornyj also raised the issue of the proposed well location on Lot 23, since that lot would not be connected to the public water supply, and particularly the issue of separation from adjoining land owner septic systems. Attorney Doyle stated that this issue would be addressed through further submission to the Planning Board. Mr. Kestner reviewed the applicant's responses to all outstanding comments, and while there are a few cleanup issues, the current drawings are satisfactory. Member Esser raised a question concerning the stormwater detention basins, and that it would appear a lot of water would be onsite directed into the detention basins. Member Esser questioned what would happen if the basins did not have adequate capacity for a particular storm. Mr. Kestner stated that the Stormwater Plan had been designed to handle a 100 year storm, but if there was overflow, the plan should be modified so that overflow was directed into wetlands and not onto Dusenberry Lane. Further, Mr. Kestner stated that New York State Regulations require the design of a wet basin, and that the applicant's ability to modify this design is limited as New York State Regulations are quite detailed. The Planning Board generally discussed whether the detention basins should be fenced, and confirmed that the Town would neither own nor operate

the stormwater detention basins and would have no responsibility for those basins. The stormwater detention basins would remain in private ownership through the homeowners association, and any responsibility or liability for those basins would rest with the homeowners association. Mr. Brooks stated that the maximum depth for the basin design is approximately 5.5 to 6 feet, with a bench-design to address safety issues. Member Wetmiller inquired how much water will remain in the basins when there was no storm event. Mr. Brooks stated that the detention design allowed for approximately 2-3 feet to remain in the basins, rising to 5± feet only during a storm event. Member Mainello inquired concerning slope on proposed Lot 22, as well as back pitch for all of the driveways leading on to Dusenberry Lane. These issues will be addressed by the applicant. Attorney Gilchrist stated that the application materials should be forwarded to the Rensselaer County Department of Economic Development and Planning for recommendation; and that the issue of minimum lot width would be further researched. Member Mainello raised the issue of inspections during construction of the subdivision. Mr. Kestner stated that with regard to all project construction, the various Town departments will perform construction oversight, including road construction, water line construction, and building construction. Further, a construction inspection escrow is generally established, and Kestner Engineering will be onsite during buildout for purposes of construction oversight. This matter has been placed on the February 5 agenda for further discussion concerning the minimum lot width issue.

The next item of business on the agenda was the site plan application by Park East Ventures for a proposed office park located on NYS Route 7. Jay Ryan of Park East Ventures appeared on the application. Attorney Gilchrist provided the Planning Board Members, Mr. Kestner, and Mr. Ryan a copy of a letter from NYS DEC Region 4 concerning the construction

exemption from New York State Mining Regulations for the material extraction proposed for this project. The NYS DEC Region 4 letter is dated January 14, 2009, and provided that as long as the material removed is required to complete a construction project approved by a municipality, then the threshold for a NYS DEC Mining Permit does not apply, and the project would be considered under a construction exemption. NYS DEC Region 4 did state, however, that they would like to review the information concerning the material extraction prior to the owner undertaking any construction activities. NYS DEC Region 4 reiterated that it did not object to the Planning Board designating itself as SEQRA Lead Agency on this application. The Planning Board generally reviewed the procedural status on this application, including the holding of the public hearing, review of a detailed plan for material extraction in connection with preparing the site for construction, consideration of both stormwater and wastewater plans, and review of site plan materials for the proposed office park. Mr. Kestner stated that he had reviewed the application materials, particularly the proposed grading plan, and deemed them to be adequate for this application. Chairman Oster reviewed that there are three proposed phases to this project, including two phases of material extraction, as well as the third phase of building the proposed office park. Chairman Oster stated that given the length of time it may take to remove the material to get to construction grade, the Planning Board should investigate the condition that the applicant would come back to the Planning Board to update the site plan after either the completion of the second phase of grading or within a certain period of time following action on the site plan, whichever occurs first. This would allow the Planning Board to update the site plan for purposes of updated regulatory requirements prior to actual construction of the office park. Mr. Ryan stated that he had no issue with that approach, and would agree to it. Attorney Gilchrist will further investigate that issue. The Planning Board formally made a

motion to designate itself as SEQRA Lead Agency. The motion was made by Member Czornyj, seconded by Member Tarbox, and unanimously approved. The Planning Board generally discussed information which had already been submitted on the application, including detailed material extraction plan, stormwater plan, wastewater plan, site plan in terms of proposed office park, visual presentation of type of building to be created in office park, coordination with NYS DOT on traffic issues, as well as the review of an updated SEQRA Environmental Assessment form. Further, the Planning Board confirmed that the applicant agreed to hours of operation for the material extraction to include 7:00 a.m. to 6:00 p.m. Monday – Friday, 7:00 a.m. to 1:00 p.m. on Saturday, with no construction activities on Sunday or holidays. Further, the Planning Board reiterated that there would be no blasting associated with material removal, and that all material would be removed by mechanical means. The Planning Board determined that the record was complete in terms of making a SEQRA determination. Whereupon, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Christian. The motion was approved 7/0, and a negative SEQRA declaration adopted. Attorney Gilchrist then suggested that given the application includes both material removal as well as site plan construction, the Planning Board should give consideration to appropriate conditions to attach to any action on the site plan application, inclusive of both material extraction as well as office park construction. Attorney Gilchrist suggested that a set of draft conditions be prepared for review by Mr. Kestner and the Planning Board members prior to any action on the site plan. It was determined that the Planning Board would review a series of draft conditions prior to the February 5 Planning Board meeting for consideration in connection with any action on the site plan. This matter has been placed on the February 5 agenda for further consideration.

The next item of business on the agenda was an informal presentation by Attorney William Doyle concerning a proposed Planned Development District for property owned by Berkshire Properties, LLC located on NYS Route 7 and Betts Road. Attorney Doyle stated that Berkshire Properties, LLC had filed a Planned Development District application with the Town Board, and even though a formal referral by the Town Board to the Planning Board had not yet occurred, he would like to informally present the concept site plan for initial consideration by the Planning Board. Attorney Doyle reviewed the concept site plan, which includes proposed commercial use toward the front of their property located adjacent to NYS Route 7 and Betts Road, as well as a residential portion to the project toward the rear of the property along Betts Road, which includes proposed seven residential lots on a cul-de-sac road with private septic and well. Attorney Doyle also reviewed a proposed transfer of property to the Town located toward the center of the property, adjacent to the Brunswick Little League Field. The Planning Board will consider the informal presentation materials, and provide feed back to the applicant.

Mr. Kreiger advised the Planning Board members that a zoning compliance determination had been made and issued concerning the Leathem site plan application. The Building Department has determined that the use of the private driveway connecting to Sycaway Avenue for access to commercial operations is not in compliance with the Brunswick Zoning Ordinance.

The **index** for the January 15, 2009 meeting is as follows:

1. Brooks Heritage, LLC – major subdivision – 2/5/09;
2. Park East Ventures – site plan – 2/5/09;
3. Berkshire Properties, LLC – Planned Development District – adjourned without date.

The proposed agenda for the February 5, 2009 meeting currently is as follows:

1. Brooks Heritage, LLC – major subdivision;
2. Park East Ventures – site plan.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD February 5, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER and DAVID TARBOX.

ABSENT were KEVIN MAINELLO and JOSEPH WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

The draft minutes of the January 15, 2009 Planning Board meeting were reviewed. Upon motion of Member Christian, seconded by Member Czornyj, the minutes were unanimously approved as drafted.

The first item of business on the agenda was the major subdivision application by Brooks Heritage, LLC for property located off Dusenberry Lane and Bald Mountain Road. William Doyle, Esq. appeared for the applicant. Attorney Doyle reviewed that any required General Municipal Law 239-m review with the County had been completed, and that all necessary public hearings on the project had likewise been completed. Mr. Doyle confirmed the receipt of written comments from Kestner Engineering dated January 28, 2009, and that the applicant was updating its subdivision plat to address all comments. It is the intent of the applicant to distribute updated plats to all the Planning Board members by the middle part of the week of February 9, and requested that this matter be placed on the February 19 agenda for further consideration. It was confirmed that the applicant would be providing half sized plans to each of the Planning Board members, and that the Planning Board members would have the ability to scale distances on the

half sized plans. Mr. Doyle confirmed that the applicant is continuing to coordinate with NYSDOT on stormwater management issues and work to cut back the bank near the intersection of Dusenberry Lane and NYS Route 142. Mr. Doyle also confirmed that a petition to create a Water District for this project is being prepared. Chairman Oster reviewed two issues with the applicant. First, Chairman Oster noted that the Planning Board had discussed installation of fencing around the project detention basins, but that was an issue for the homeowners association since all stormwater detention basins would be owned and maintained by the homeowners association for this project. Chairman Oster wanted it noted on the record that the homeowners association may want to consider fencing, but that the Town had no liability associated with the detention basins since they would remain in the ownership of the homeowners association. Mr. Doyle stated that the applicant was reviewing options concerning the detention basins. Second, Chairman Oster discussed the minimum lot width issue associated with proposed Lot 23, and that it was his understanding the applicant was working with the proposed house placement on that lot so as to avoid lot width issues. Mr. Doyle confirmed that the project engineers were working on that lot, and this would be reflected on the updated plats to be filed with the Town. It was confirmed that the applicant would be providing each member of the Planning Board with half sized sets of the full package of the subdivision plat submittal. This matter is placed on the February 19 agenda for further discussion.

The next item of business on the agenda was the site plan application by Park East Ventures for construction of an office park on NYS Route 7. The project also includes a grading plan to remove material from the site to bring the site down to construction grade elevation. SEQRA has been completed on this application, and a negative declaration adopted. The Planning Board members reviewed proposed conditions on the site plan. Following deliberation,

Member Tarbox made a motion to approve the site plan, including the grading plan to bring the site down to construction grade elevation, subject to the following conditions:

1. Compliance with NYSDOT curbcut/highway entrance permit requirements.
2. Compliance with NYSDEC stormwater and SPDES/wastewater permit requirements.
3. Compliance with Rensselaer County Health Department wastewater disposal requirements.
4. Compliance with requirements of Rensselaer County Health Department and NYSDEC for public water supply.
5. Project owner must connect public water to the two (2) residential parcels located immediately to the west of the project site, currently owned by Bauer; and to the Mobil Station operated by James Spiak located to the east of the project site, if requested by Mr. Spiak.
6. Payment of all application fees.
7. Payment of all application review fees.
8. Project owner must appear before Brunswick Planning Board to reexamine the site plan after completion of the second phase of material extraction or the expiration of 5 years after site plan approval, whichever ever occurs first. The purpose of reexamination of the site plan is to determine compliance with new or modified regulatory requirements, if any, and to determine whether changed circumstances warrant imposition of additional conditions to site plan approval.
9. Compliance with Town of Brunswick stormwater regulatory requirements.
10. The following conditions are applicable to the grading plan:
 - (a) Compliance with Park East Ventures Office Park Grading Plan, dated November 14, 2008, and plans entitled Park East Ventures, dated August 18, 2008.
 - (b) Project owner must supply an annual compliance report to Town of Brunswick regarding compliance with the grading plan, particularly with respect to depth of excavation and status of grading activities.
 - (c) Compliance with all truck routing and signage requirements of NYSDOT.

- (d) Coordination with NYSDEC prior to material extraction activities, with notice to the Town of Brunswick Building Department.
- (e) Project owner must post a reclamation bond with the Town of Brunswick in an amount to be determined by Town consulting engineer and Building Department; said reclamation bond shall be approved as to form by Planning Board Attorney and Town Attorney; said reclamation bond must be posted by the project owner with the Town of Brunswick prior to commencement of project site grading.
- (f) The project owner shall fund at the Town of Brunswick an engineering review escrow account in the amount of \$4,000. The Planning Board consulting engineer shall provide engineering review and oversight on all grading activities at the project site. All fees for engineering review and oversight shall be the responsibility of the project owner, and shall be paid by the Town out of the escrow account established pursuant to this paragraph. The amount of such escrow account shall be subject to review during grading of the project site, and the project owner may be required to supplement the escrow account during such time.

The motion was seconded by Member Esser. The motion was unanimously approved, and site plan approval granted subject to the stated conditions.

One item of new business was discussed.

An application for waiver of subdivision has been submitted by Capital District Properties, LLC for property located on 44 Betts Road, Tax Map Parcel No.: 91-2-25.22. The applicant seeks to subdivide a house from the balance of the parcel, for purposes of offering the house for sale while retaining the balance of the parcel which is required for road widening purposes associated with the Hudson Hills Apartments PDD Project. Upon review, the Planning Board members had a number of questions concerning the application, including zoning compliance in terms of lot size in the applicable zoning district, driveway location for the house parcel, as well as a note for ingress/egress easement on the plan. The Planning Board has directed Mr. Kreiger to investigate these preliminary issues. The matter has been tentatively

placed on the agenda for the February 19 meeting, subject to resolution of these preliminary issues by Mr. Kreiger.

The **index** for the February 5, 2009 meeting is as follows:

1. Brooks Heritage, LLC – major subdivision – 2/19/09;
2. Park East Ventures – site plan – approved subject to conditions;
3. Capital District Properties, LLC – waiver of subdivision – 2/19/09.

The proposed agenda for the February 19, 2009 meeting currently is as follows:

1. Brooks Heritage, LLC – major subdivision;
2. Capital District Properties, LLC – waiver of subdivision (tentative).

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
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MINUTES OF THE PLANNING BOARD MEETING HELD February 19, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, DAVID TARBOX and JOSEPH WETMILLER.

ABSENT were KEVIN MAINELLO and FRANK ESSER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

The draft minutes of the February 5, 2009 Planning Board meeting were reviewed. Upon motion of Member Czornyj, seconded by Member Tarbox, the minutes were unanimously approved as drafted.

Chairman Oster noted that Capital District Properties, LLC's waiver of subdivision application was off the agenda due to zoning compliance issues.

The first item of business on the agenda was the major subdivision application by Brooks Heritage, LLC for property located off Dusenberry Lane and Bald Mountain Road. William Doyle, Esq. and Geoffrey Brooks appeared on the application. Mr. Doyle advised the Planning Board that the applicant has combined former Lot 23 with Lot 14. In response to a question from Member Czornyj, Mr. Doyle stated that this single lot will be accessed from the cul-de-sac. Mr. Doyle further stated that the applicant may ultimately explore three options: 1) consider selling a part of the former Lot 23 to adjoining neighbors; 2) pursuing a variance for the setback line for the original Lot 23; and/or 3) move the boundary line into Lot 14.

Mr. Kestner stated that he had sent a review letter to the applicant dated January 28, 2009. Mr. Doyle confirmed that the applicant had received the review letter, had made the requested changes and sent a response to Mr. Kestner dated February 11, 2009.

Member Tarbox noted that map page LG 1 does not identify Bartel's lot, though the house and well are depicted. Mr. Doyle confirmed that Bartel's lot will be identified on that page, as well as on the survey map.

Chairman Oster inquired about whether the issue of potential stormwater runoff onto resident's driveway from Dusenberry Lane had been addressed. Mr. Doyle stated that additional studies were performed, and it was determined that catch basins will be installed.

Upon further discussion, it was determined that the application was ready for action and Chairman Oster noted he would entertain a motion for a negative declaration. Mr. Kestner noted that the applicant had submitted a full Environmental Assessment Form dated November 19, 2008. Attorney Coan noted that the record before the Board supported a negative declaration for the following reasons. Specifically, Attorney Coan noted that the applicant had prepared and submitted to the Planning Board a full traffic study, and a wetland analysis had been performed. She further noted that the applicant's stormwater and drainage plans had been reviewed and commented upon by the Town Engineer. Attorney Coan noted that the issue of density had been examined, and that the proposed project proposes fewer residential units than are permitted under zoning regulations. With respect to the project's septic plans, the applicant will coordinate with the Rensselaer County Health Department. Attorney Coan noted that since the project will have public water, there are no impacts on groundwater resources. She further noted that the proposed project is a residential subdivision and, therefore, there will be no noise impacts or impacts on air quality. Attorney Coan further indicated that the record shows no impact on plants or animals, nor are there any historic or archeological resources on the site. There will be no impact on open space as the project is less

dense that what the zoning allows, nor will there be any significant impact on growth. Attorney Coan noted that the applicant is required to pay park and recreation fees of \$500 per lot. Finally, the proposed project is consistent with zoning, the Town of Brunswick's Comprehensive Plan and community character.

Member Czornyj then made a motion to adopt a Negative Declaration under SEQRA, which was seconded by Member Christian. The motion was unanimously approved 5/0, and a Negative Declaration adopted.

Chairman Oster then advised that the Board should consider granting preliminary subdivision plat approval. He did note that under the Subdivision Regulations, the applicant has six (6) months from the date of preliminary subdivision plat approval in which to obtain final subdivision plat approval. Attorney Coan noted that strict adherence to that six (6) month time frame was at the discretion of the Planning Board.

Attorney Coan then reviewed the following conditions to attach to preliminary subdivision plat approval:

1. Applicant must obtain Rensselaer County Health Department approval for all residential lots.
2. Applicant must petition for the creation of a water district. In addition, applicant must obtain approval from the Rensselaer County Health Department and Department of Environmental Conservation for the extension of the public water supply.
3. Applicant must obtain approval of the New York State Department of Transportation for the stormwater connection.
4. Preliminary Plat approval is subject to all final engineering comments from the Town Engineer, and the plat shall identify the persons who own existing properties on Dusenberry Lane.
5. No through-road shall be constructed from Bald Mountain Road to the subdivision's cul-du-sac over combined Lots 14 and 23.
6. There shall be no further subdivision of any other lots.

Member Czornyj made a motion to grant preliminary subdivision plat approval subject to the foregoing conditions. Member Wetmiller seconded the motion subject to the stated conditions. The motion was unanimously approved 5/0, and the subdivision application granted preliminary subdivision plat approval subject to the stated conditions.

Consideration of potential conditions to final plat approval were also reviewed with the applicant. Specifically:

1. Completion of all required infrastructure prior to final plat stamp and signature, or in the alternative filing of a performance bond for all infrastructure improvements in an amount to be determined by the Town Engineer and Town Highway Department, which performance bond shall be reviewed as to form by the Planning Board Attorney prior to acceptance by the Town.
2. Until the roadways within the subdivision are completed, offered for dedication and accepted by the Town Board, Brooks Heritage, LLC shall be responsible for all subdivision roadway maintenance, including paving, repairing, and snowplowing, to ensure that all roadways are open, passable and accessible to and by emergency vehicles.
3. If the roadways within the subdivision are dedicated prior to topcoat, applicant shall escrow an amount for the topcoat as well as repair and maintenance bond for the binder course, to be reviewed every year as to amount. Brooks Heritage must complete roadways upon completion of 75% build-out of the subdivision.
4. A Homeowners Association must be created for the ownership and maintenance of all stormwater detention facilities within the subdivision. The Homeowner Association documents, including Covenants, Restrictions and By-Law, are subject to review by the Town Board, Town Attorney, Town of Brunswick Planning Board, and the Town of Brunswick Planning Board Attorney, prior to filing with the Office of the New York State Attorney General. All stormwater management facilities shall be constructed in compliance with the approved Stormwater Pollution Prevention Plan.
5. The entrance to old Dusenberry Law shall be re-graded to 10% and shall be improved with base coat before proceeding with construction of the subdivision. Applicant shall escrow an amount for the topcoat, to be reviewed every year as to amount.

Four items of new business were then discussed.

The first item of new business was Johnston Associates' application for site plan approval. Paul Engster appeared on the application to discuss the proposed project. Chairman Oster asked if the application fee had been paid, to which Mr. Engster responded yes. Chairman Oster read a statement concerning the applicant's responsibility to pay the fees and expenses associated with the Town's professional consultants in connection with review and consideration of the application. Mr. Engster understood.

Mr. Engster told the Board he was proposing to lease 2500 square feet of the former Hollywood space (total 5500 sq. feet) to a local bank. The revised site plan shows a proposed two lane drive up/ATM with a canopy for the bank (similar to SEFCU), a reconfiguration of the parking area to accommodate the drive up facility, and a larger pedestrian walk area with plantings and green space in front of the existing shops.

Mr. Engster reviewed the history of approvals previously granted in connection with this site plan. He stated that the original site plan for the Walmart development was approved in 1995, and on or about May 7, 1998, approval for the current site plan was granted. Mr. Engster further stated that Percy Cotton, PE had done the engineering for the original Walmart development, and that he had done the engineering design for this application.

Mr. Engster stated that he does not have a written lease with the proposed bank yet, as the lease is contingent upon obtaining site plan approval.

Mr. Engster indicated that the reconfigured parking lot would result in the loss of three (3) parking spaces. Accordingly, he intends to put additional parking in front of the expanded sidewalk. He also proposes to extend the sidewalk in front of the restaurant to allow for an exterior eating area during summer months, if permitted by the Town. The sidewalk and curb at the UPS store will remain as is per the tenant's request.

Mr. Engster indicated that the designated truck route by the former Hollywood space must be reconfigured to accommodate the drive up/ATM, but yet allow tractor trailers to drive around the rear of the development. He noted that the marked truck route as it currently exists is a condition of earlier site plan approvals, though he has observed tractor trailers cutting through the main parking lot. Mr. Engster further stated that the existing islands will have to be pushed back to accommodate the widened sidewalks, and that a fire hydrant and light pole will have to be relocated. Mr. Engster advised that there is a cross-easement agreement with Walmart to allow customers of each shopping center to utilize the other's parking spaces. This application for site plan approval and/or the proposed Walmart expansion may require that the cross-easement be modified.

Chairman Oster inquired as to whether Mr. Engster had plans for a farmer's market on this site, as Chairman Oster is concerned about putting a farmer's market in an area of a truck route. Mr. Engster stated he had no such plans at this juncture.

Mr. Engster confirmed that there will be approximately 3000 sq. feet of space available for rent between the proposed bank and Family Foot Wear, though the demising wall is not shown on the plans.

Mr. Engster explained that cars in line for the drive up will have space to pull out of line to the right, in a bailout lane. The Board expressed some concern that tractor trailers would attempt to utilize this bailout lane, but Mr. Engster stated the width of the lane will not permit a tractor trailer. Once through the drive up, cars will have the choice of exiting left behind the development, or right and back through the parking lot closest to Hoosick Street. Signage will be posted with such directions.

Chairman Oster would like to make a site visit, so that the Board can see where the new truck route is proposed, as well as where the peninsula for the purpose of the drive up will be located.

Member Christian noted that there is an existing traffic problem at SEFCU on Friday afternoons. He wanted to know if Mr. Engster anticipates similar problems at the new bank. Mr. Engster stated the Bank representatives assure him there will be no such traffic problems.

Chairman Oster indicated this site plan will require a public hearing.

The Board raised the outstanding issue of the grease trap that was to have been installed at the restaurant. Mr. Engster stated he was having difficulty finding someone to do the work, but will agree to make the installation of the grease trap a condition of site plan approval. Mr. Kestner noted that the Town Board raised the issue of the grease trap at its last meeting. He suggested that the applicant meet with him on this issue before returning to the Planning Board agenda.

Member Czornyj questioned whether a tractor trailer can make the turn where depicted in green on the site plan. Mr. Engster stated that traffic will have to wait for a truck in the middle of the entrance to go into the parking area, or if the truck is exiting the parking area to go around the rear of the development. Chairman Oster asked how many tractor trailers come through per day. Mr. Engster estimated 1 or 2 per day, though there are more frequent smaller delivery trucks. In addition, a CDTA bus goes through the plaza. Mr. Engster has not looked at whether this project will affect the bus route. Member Czornyj questioned whether Walmart as part of its expansion will make its tractor trailers follow the already designated truck route. Chairman Oster indicated that everyone will have to be in agreement as to a revised truck route.

Mr. Engster stated he will ask Mr. Cotton whether some of the curbing and proposed sidewalk can be eliminated so as to increase the turning radius for the tractor trailers. He will also look at the number of parking spaces he is required to have and see if extra spaces can be eliminated in order to open the entrance for the tractor trailers.

Member Wetmiller asked if Mr. Engster was also asking the Planning Board to approve outdoor seating for the restaurant. He also asked if required parking for the restaurant will be affected

by the addition of outdoor seating, since restaurant parking is based upon square footage. Mr. Engster will speak to the tenant to see if tenant wants outdoor seating and, if so, will come to the Planning Board with a single application.

Member Czornyj is concerned about the safety of the outdoor seating, specifically with respect to vehicle traffic. He would like to see guardrails around the outdoor seating area. Member Wetmiller asked about the required lighting for the drive up/ATM and questioned whether it would impact the neighboring houses.

Mr. Engster stated that he will have his engineer mark the pavement so the Board can see during its site visit where the entrance for the truck route and peninsula for the drive up/ATM are proposed.

The matter was placed on the March 19th agenda for full review of the site plan. Mr. Engster will have revisions made to the site plan based on the Board's comments thus far and will resubmit the site plan to the Board prior to the Planning Board's March 5th meeting.

The second item of new business was the Lance Turner waiver of subdivision application. Mark Danskin appeared for the applicant. The applicant wants to divide off 1.25 acres from 3.75 acres to convey to his son for the construction of a single family residence. The property is located on Route 7 next to the Botanic Barn.

Member Czornyj asked what grade is proposed for the new driveway. He indicated that with the existing driveway, the owners are sometimes forced to park at the bottom during the winter. The Board is going to require a driveway profile because the proposed driveway will be in excess of 150 feet. Mr. Danskin will advise the applicant that a road profile is required.

It was noted that the applicant had not yet paid the necessary application fees. Chairman Oster advised Mr. Danskin on behalf of the applicant of the applicant's responsibility for the

payment for fees and expenses that may be incurred by the Planning Board in review and consideration of this application.

The Planning Board will make a site visit and has placed the matter on the March 5th agenda. Mr. Danskin intends to submit the driveway profile one week in advance of the March 5th meeting.

The third item of new business was Oakwood Cemetery waiver of subdivision application. The applicant wants to subdivide 3.69 acres from 68 acres. The property spans both sides of Oakwood Avenue.

Chairman Oster inquired whether the applicant could properly apply for a waiver of subdivision. Attorney Coan advised the Planning Board that the Code does not restrict waiver applications to applications for the construction of single-family residences. However, Section 135-4 of the Brunswick Town Code requires the unanimous approval of the membership of the Planning Board present and constituting a quorum if the request for waiver of a subdivision is for the purpose of constructing other than one single-family dwelling.

The matter was placed on the March 5th agenda for further discussion.

The fourth item of new business was the Reiser Brothers, Inc. major subdivision application for a commercial development along Route 2. The property is commercially zoned. The Board noted that there were wetlands along the proposed development in the area of Langmore Lane.

Member Tarbox questioned whether it was proper for the proposed development to exit onto a Town Road. According to Mr. Krieger, it was permissible so long as it was not the primary entrance and exit. Mr. Krieger then pointed out that the applicant was proposing to subdivide the property for financing purposes. Chairman Oster suggested that the project should be phased as opposed to subdivided.

The applicant advised Mr. Krieger that there were no contracts on the project yet.

The matter was placed on the March 5th agenda for further discussion.

One item of old business was discussed. Chairman Oster again noted that Capital District Properties, LLC's waiver of subdivision application was off the agenda due to zoning compliance issues.

The **index** for the February 19, 2009 meeting is as follows:

1. Brooks Heritage, LLC – major subdivision – preliminary approval subject to conditions;
2. Johnston Associates – site plan application – 3/19/09;
3. Lance Turner – waiver of subdivision application – 3/5/09;
4. Oakwood Cemetery – waiver of subdivision application – 3/5/09;
5. Reiser Brothers, Inc. – commercial subdivision – 3/5/09.

The **proposed agenda** for the March 5, 2009 meeting currently is as follows:

1. Lance Turner – waiver of subdivision;
2. Oakwood Cemetery – waiver of subdivision;
3. Reiser Brothers, Inc. – site plan and commercial subdivision.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD March 5, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER, KEVIN MAINELLO, DAVID TARBOX and JOSEPH WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board reviewed the draft minutes of the February 19, 2009 meeting. Upon motion of Member Czornyj, seconded by Member Wetmiller, the minutes were unanimously approved as drafted.

The first item of business on the agenda was the waiver of subdivision application by Lance Turner for property located on Route 7 next to Botanic Barn. The applicant seeks to divide off 1.25 acres from a 3.75 acre parcel to convey the lot to his son for the construction of single family residence. Both Mr. Turner and his son appeared at the meeting. Chairman Oster reviewed the application and escrow fee requirements in connection with the application, which was understood by the applicant. Chairman Oster reviewed the main concern which the Planning Board had concerning this application, which was the topography of the proposed driveway given its length in excess of 150 feet. Due to its length, the driveway must meet a 12% grade maximum. In order to review this, the Planning Board was requiring that a driveway profile with topography be prepared. Mr. Turner indicated that his surveyor was still in the process of completing the topography and driveway profile work, and that both he and his

surveyor were looking at various options concerning driveway location. The Planning Board directed that Mr. Turner's surveyor work directly with Mark Kestner to address the driveway profile and location issues. Member Czornyj commented that the proposed house, well, and septic location for this lot should be identified, with particular attention to keeping the septic 200 feet away from the existing well on the existing Turner parcel, as well as 200 feet from the well located at the IKON facility. This matter has been placed on the March 19 agenda for further review.

The next item of business on the agenda was the waiver of subdivision application by Oakwood Cemetery for property located on Oakwood Avenue. Tim Casey appeared, acting for the cemetery Board of Trustees. Chairman Oster reviewed the application and review fee requirements, which was understood by Mr. Casey. First, it was noted that the agenda for the meeting had listed this application as seeking approval for construction of a single family residence. Mr. Casey corrected that, in that the application does not seek approval for a single family home. Rather, Mr. Casey explained that there is an adjacent 50 ± acre parcel located in the City of Troy, which is being proposed for a condominium/townhouse project which is currently being planned and will be submitted to the City of Troy. Mr. Casey explained that this proposed 3.69 acre parcel will be transferred to the proposed developer, and become part of the project site for the condominium/townhouse project. The Planning Board inquired as to the current zoning status for the property. Mr. Kreiger confirmed that the parcel is situated in the "schools and cemetery" zoning district. The Planning Board inquired whether this application should be reviewed for purposes of creating a legal building lot. Attorney Gilchrist stated that the subdivision should be reviewed such that the resulting subdivided lot is a legal lot in the Town of Brunswick, irrespective of a proposed project located in the City of Troy. Mr. Kestner

stated that the Planning Board should be cognizant of the possibility that this 3.69 acre parcel could be transferred to the developer for purposes of required greenspace in connection with the townhouse/condominium project proposed in the City of Troy. Attorney Gilchrist stated that given the proximity of these properties to the municipal boundary between Brunswick and Troy, the Troy Planning Board will be required to forward any application for the condominium/townhouse project to the Brunswick Planning Board for review and recommendation, and the issue of greenspace location should be considered at that time. Having determined that the 3.69 acre parcel will result in a legal lot created in the Town of Brunswick, Member Czornyj made a motion to adopt a negative declaration for this action under SEQRA, which motion was seconded by Member Tarbox. This motion was approved 7/0, and a negative declaration adopted. Thereupon, Member Mainello made a motion to approve the waiver of subdivision application, which motion was seconded by Member Czornyj. The motion was approved 7/0, and the waiver application approved.

The third item of business on the agenda was the site plan and commercial subdivision application by Reiser Brothers, Inc. for property located along NYS Route 2 at its intersection with NYS Route 278. Henry Reiser and John Reiser of Reiser Brothers, Inc., as well as Harold Berger, P.E. and Scott Reese, landscape architect, appeared on the application. Chairman Oster reviewed the application and fee structure, which was understood by the applicant. Harold Berger generally reviewed the application as a commercial subdivision of 11 acres of property located on NYS Route 2 and NYS Route 278, seeking approval of five (5) commercial lots, and presented a concept site plan showing a series of commercial retail buildings with associated parking. Mr. Berger indicated that there are no tenants signed up for this project at present. Mr. Berger indicated that the property is zoned for commercial purposes. Henry Reiser presented the

concept plan, including the proposed commercial subdivision/phasing approach, indicating that this was a concept plan only and that this had not yet been marketed to particular tenants, and further generally reviewed the proposed architecture of the buildings which is proposed to be more residential/farmhouse look to fit in with the general character of the area as well as the residential areas to the rear of commercial project site. Chairman Oster noted that there would need to be a lot of excavation to prepare the site for construction. Given the proposed commercial subdivision and phasing plan, under which Mr. Reiser proposes to building out the retail site at different times; Chairman Oster inquired whether the excavation should be done all at once to prepare the entire site, even though particular commercial buildings would be built out at different times. Mr. Reese reviewed the proposed concept grading plan, stating that each lot is proposed to be a separate grading plan such that the grading of the site is also proposed to occur in separate phases. Mr. Kestner stated that if that was the approach, each individual phase must work both on its own and as part of the overall project site development for purposes of grading, stormwater compliance, access, septic, as well as building location. Member Czornyj had several questions concerning the commercial subdivision aspect of the application, including whether each individual proposed commercial lot needed to have a separate access. Mr. Reiser stated that 4 of the proposed commercial lots would have individual access, and that there would be cross easements between the lots for purposes of access and parking. Member Czornyj inquired whether there was any other existing commercial space where there was a shared access elsewhere in the Town. The Board generally identified the Walmart Plaza as having a shared access for all commercial tenants despite the site being split into separate ownership. The Planning Board spent considerable time reviewing the concept of commercial subdivision and phasing of this project. Member Tarbox inquired as to the total amount of yardage which would

need to be removed from the site to prepare for construction. Mr. Reese stated that this had not yet been calculated, but that some material would need to be removed whereas the balance of the material would be used on site. The Planning Board inquired as to the proposed slope to the rear of this property. Mr. Reese stated that the proposed slope was 2 on 1. Mr. Reese also stated that test holes had already been dug throughout the project site to obtain soils information. Chairman Oster inquired as to the proposed exit onto Langmore Lane. Mr. Reiser stated that he had already been in communication with some of the residents in the Langmore Lane area, and all seemed to be in favor of the project. Further, upon inquiry by Chairman Oster, Mr. Reiser stated that this proposed commercial project has been disclosed to all customers within Mr. Reiser's subdivision currently being built out to the rear of this site. Mr. Reiser also stated that his project team had met with NYSDOT to discuss location of curbcuts, and that the project had been designed around those curbcut locations preferred by DOT. Chairman Oster inquired whether the curbcut on NYS Route 278 lines up with the Stewarts' entrance. Mr. Reiser stated that a direct line up with the Stewarts' access on NYS Route 278 was preferred by DOT, but not necessary. Chairman Oster inquired whether DOT was looking to do any intersection re-design at NYS Route 2 and NYS Route 278. Mr. Reiser stated that DOT did not indicate any intent to do work on that intersection. The Planning Board then generally discussed the traffic flow at the Route 2/Route 278 intersection, and that there is congestion in the morning associated with traffic going to Tamarac School. The Planning Board also generally discussed procedural issues, in terms of review of the application as a site plan or commercial subdivision. The need for a commercial subdivision was discussed. Mr. Reiser stated that the commercial subdivision is primarily for financing issues, and that prospective tenants may be building out certain structures and obtaining separate financing, and a commercial subdivision was preferred by lenders. A

discussion of procedural issues focused on the need to review this matter as an overall commercial site plan, with an attendant commercial subdivision request, but that the overall commercial plaza plan needed to be reviewed in its entirety to ensure complete SEQRA review, total buildout issues, traffic issues, access issues, and the like. In connection with the commercial site plan, the proposed phasing plan for construction needed to be considered in whole, to ensure that individual lot worked on its own as well as fitting in with the overall site grading and commercial buildout. Total number of parking spaces for the plan was generally discussed, with Mr. Reese indicating that total number of parking spaces had been calculated in terms of square footage of buildings. There was also discussion concerning individual septic systems on each proposed subdivided lot, so that each lot was able to work independently. Mr. Berger agreed, and indicated that he would need to set up a meeting with the Rensselaer County Health Department. There is additional site plan and application materials which needs to be prepared by the applicant, and this matter has been adjourned without date pending submission of additional information by the applicant.

The next item of business on the agenda was the site plan application by Johnston Associates for amendment to the site plan at the Walmart Plaza. Percy Cotton, P.E. appeared on behalf of the applicant. Chairman Oster noted that the proposed changes to the curb locations had been painted on the pavement at the plaza for Planning Board members to review. Mr. Cotton reviewed the amended site plan, focusing on the turning radius for the revised truck route. Mr. Cotton indicated that the site plan and turning radius calculations had been based on a 40 foot front axle to rear axle truck, without consideration of a 70 foot Walmart truck possibly using that revised truck route as well. Member Christian raised concerns regarding safety of a left hand turn after the proposed drive-up teller window. The Planning Board generally discussed

turning radius in that location for purposes of safety. Member Wetmiller noted that the turning radius in that location was tight, but that the revised truck route likewise seemed to be very tight even for a 40 foot trailer. Member Wetmiller stated that even if Walmart was not generally using that truck route, it should be designed to accommodate a Walmart trailer. Also, Member Czornyj raised the issue of safety in terms of the proposed outdoor seating at the Mexican restaurant, and having the traffic lanes in that general area. Mr. Cotton indicated that the proposal would include ballards similar to those used at the Stuyvesant Plaza, and indicated that he would supply photographs of ballards used in conjunction with outdoor seating at Stuyvesant Plaza for the Planning Board's review. Chairman Oster noted that given the revised truck route and calculation of only a 40 foot trailer, Mr. Cotton and the owner should coordinate with Walmart to discuss the revised truck routes for this location. This matter has been placed on the March 19 agenda for further discussion.

One item of old business was discussed.

An application has been made by United Group to further extend the deadline for continuing work on the access road off Pinewoods Avenue to the Carriage Hill Estates PDD project. The Planning Board generally discussed the timeline on this matter, including when the original work was started, and the length of time during which the condition of completion of the work has been extended. This matter has been placed on the March 19 agenda for further discussion.

The **index** for the March 5, 2009 meeting is as follows:

1. Turner – waiver of subdivision – 3/19/09;
2. Oakwood Cemetery – waiver of subdivision – approved;

3. Reiser Brothers, Inc. – site plan and commercial subdivision – adjourned without date;
4. Johnston Associates – commercial site plan – 3/19/09;
5. United Group – Carriage Hill Estates PDD – 3/19/09.

The proposed agenda for the March 19, 2009 meeting currently is as follows:

1. Turner – waiver of subdivision;
2. Johnston Associates – commercial site plan;
3. United Group – Carriage Hill Estates PDD – extension of time to complete work on Pinewoods Avenue entrance road.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD March 19, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER, KEVIN MAINELLO, DAVID TARBOX and JOSEPH WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board members reviewed the draft minutes of the March 5, 2009 meeting. Upon motion of Member Christian, seconded by Member Czornyj, the minutes were unanimously approved as drafted.

The first item of business on the agenda was the waiver of subdivision application by Lance Turner for property located on Route 7 next to Botanic Barn. The applicant was seeking to divide off 1.25 acres from an existing 3.75 acre parcel to convey the lot to his son for the construction of a single-family residence. At the March 5 meeting, the Planning Board required the applicant to prepare a driveway profile given the proposed length of the driveway and its required grade. After investigating the issue, Mr. Turner indicated that the cost of constructing a driveway became prohibitive given the amount of work which needed to be done to come into compliance with grade requirements, including the amount of fill and overall construction costs. Mr. Turner stated that the only way that he could proceed with the proposed lot was through a shared driveway on his existing parcel. The Planning Board indicated that the resulting residential lot needed to be buildable, including an approvable driveway to service the lot. After

considering the amount of fill that would be required to construct an approvable driveway, Mr. Turner indicated that he elected to withdraw the application at this time.

The next item of business on the agenda was the site plan application by Johnston Associates for an amendment to the site plan at the Walmart Plaza. Johnston Associates seeks to renovate the retail space formerly occupied by Hollywood Video for a bank, including a drive-up teller window; reconfiguration of the truck delivery route through the parking lot area; and add outdoor seating in front of the existing Mexican restaurant and other improvements in the sidewalk areas in front of the retail locations. Paul Engster, Esq. appeared on the application. Mr. Engster provided to the Planning Board revised site plans that addressed the delivery truck route on the site. At the March 5 meeting, Percy Cotton, P.E. presented a site plan with an internal truck route which utilized the front parking area adjacent to Route 7, and the truck route had been designed to accommodate a 40 foot trailer. The Planning Board had requested the applicant to consider a longer tractor trailer which could be utilized for deliveries, and which Walmart used for their standard deliveries. Mr. Engster presented the revised site plan which continued to isolate the front parking lot area adjacent to Route 7 and not include that area for the truck delivery route, but rather continued to use the straight drive from the center plaza access way directly to the retail space now being proposed for bank use, but include a way to isolate the truck route from the area of the proposed drive-up teller windows. The Planning Board members generally discussed the updated delivery truck route within the site, and found it preferable to the truck route proposed at the March 5 meeting. Members Czornyj and Christian reviewed the safety issue associated with cars leaving the drive-up teller window and seeking to make a left hand turn behind the building, with potential truck traffic causing a safety issue. The Planning Board felt that a right hand turn only leaving the drive-up teller area was preferable, and that

appropriate signage and curbing should be investigated. Member Czornyj also reviewed the proposed eating area in front of the Mexican restaurant, and stated that safety issues must be considered in terms of truck and vehicle use in the area where people would be eating outdoors. Mr. Engster stated that two bollards had been placed on the site plan in the area of the proposed outdoor seating, similar to those used at Stuyvesant Plaza. Mr. Cotton had previously provided pictures to the Planning Board members regarding bollards used in a similar outdoor eating area at Stuyvesant Plaza. The Planning Board members generally concurred that the revised site plan had addressed issues previously raised on the application, that the overall number of parking spaces was not being reduced, and that safety issues were addressed through curbing/signage at the area of the drive-up teller and with the use of bollards in the area of the proposed outdoor seating at the Mexican restaurant. One issue was raised concerning pedestrian access from the front isolated parking area along Route 7 to the retail space given the proposed improvements to the sidewalk area in front of the retail spaces. Mr. Engster also informed the Planning Board members that he had spoken with attorneys for Walmart in terms of coordination on truck routes, since the cross easements that are in place between Johnston Associates and Walmart require cooperation regarding ingress/egress and truck route issues. Those discussions will be ongoing. Member Czornyj requested that Johnston Associates paint the perimeter of the proposed outdoor seating area in front of the Mexican restaurant onto the existing pavement so that the Planning Board members could see that. Mr. Engster stated that this would be done. Mr. Engster also said he is continuing to coordinate with CDTA on the bus route through the plaza, including the possibility of adding a bus shelter. Member Esser noted that the truck route issue would be eliminated if trucks accessed to this plaza through the entrance way on McChesney Avenue. However, approvals for this project prohibited trucks accessing this site on McChesney Avenue.

Mr. Engster also updated the Planning Board that work on installing a grease trap had commenced at the plaza. The Planning Board generally determined that the site plan application was complete for purposes of moving the application forward to public hearing, and forwarding to the Rensselaer County Department of Economic Development and Planning for review. The Planning Board scheduled a public hearing on this application for its April 2 meeting, commencing at 7:00 p.m.

The next item of business on the agenda was an application by United Group for a further extension on the timeframe in which United Group must restore the work performed on the proposed access road to the Carriage Hill Estates Planned Development project off Pinewoods Avenue. Terri Herubin of United Group appeared on the application. Ms. Herubin reviewed the prior approval by the Town to allow limited construction work in the area of the access road off Pinewoods Avenue for purposes of compliance with a U.S. Army Corps of Engineers Nationwide Permit program. In connection with that work approval, the Town required the posting of a bond for purposes of restoring the property in the event the project did not move forward, and also placed a timeframe by which the land would need to be restored in the event the project did not move forward. Ms. Herubin explained that United Group was working diligently to address build-out issues, most particularly stormwater compliance issues with NYSDEC in terms of site grading and construction. Ms. Herubin indicated that United Group was still working with NYSDEC on stormwater and grading compliance issues, and that such work may necessitate amendments to the project to further reduce impacts. Ms. Herubin stated that United Group anticipated construction to start on the project by 2010, if not sooner. Ms. Herubin also reviewed recent correspondence from the U.S. Army Corps of Engineers which extended the Nationwide Permit coverage for wetlands on this project through October 22, 2010.

Ms. Herubin stated that the United Group was seeking a further extension on the timeframe by which restoration work on the access road needed to be completed, and was seeking that extension to coincide with the U.S. Army Corps of Engineers timeframe of October 22, 2010. Further, United Group was seeking to eliminate the need to keep the performance bond posted with the Town for restoration work. On this issue, Ms. Herubin stated that the liability and responsibility for restoration work always remains with United Group, and never rests with the Town. Therefore, Ms. Herubin stated that there was no need to have the performance bond to remain in place since United Group was always legally responsible for site restoration in the event the project did not move forward. The Planning Board requested Attorney Gilchrist to provide a status on the project. Attorney Gilchrist stated that there were several conditions attached to the PDD approvals, the majority of which have already been satisfied by the Applicant. Certain conditions do remain outstanding, including final calculation and posting of overall construction performance bonds, engineering escrow, as well as final review of the Homeowner Association Declaration, By-laws, Covenants and Restrictions. Further, Attorney Gilchrist did indicate that United Group had coordinated previously with the Town in terms of stormwater compliance issues with NYSDEC, and the Town representatives had attended the meeting at NYSDEC on that issue in February of 2008. While the Town understands that United Group is continuing to work with NYSDEC on stormwater issues, it has not been provided with any revised plans to date, and if there are any modifications to the approved site plan or subdivision layout, United Group would need to return to the Planning Board for further review and approval. Chairman Oster stated that he did not have any opposition to extending the condition timeframe to coincide with the U.S. Army Corps of Engineers Nationwide Permit program, but did want to maintain the requirement that the performance bond remain with the

Town for purposes of restoring the land if the project did not move forward. All of the remaining Planning Board members generally concurred with this approach. Ms. Herubin then indicated that when construction did move forward, United Group would be posting full performance bonds for the actual road construction work with the Town. After further discussion, the Planning Board determined that in the event performance bonds were posted for actual road construction completion, then the need to have a performance bond for land restoration would be obviated. Therefore, the Planning Board determined that the current performance bond should stay in place for land restoration through October 2010 unless performance bonds were posted with the Town for actual road construction work. Thereupon, Member Czornyj made a motion to extend the timeframe on the condition for land restoration in the area of the access road off Pinewoods Avenue through October 22, 2010, including the requirement that a performance bond be maintained by United Group with the Town for land restoration in the event the project did not move forward, with the current performance bond remaining in place through October 22, 2010 unless performance bonds are posted by United Group with the Town for full road construction in the event the project build-out did commence. Member Wetmiller seconded the motion subject to the stated conditions. The motion was approved 7/0.

The **index** for the March 19, 2009 meeting is as follows:

1. Turner – waiver of subdivision – application withdrawn;
2. Johnston Associates – site plan – 4/2/09, public hearing commencing at 7:00 p.m.;
3. United Group – Carriage Hill Estates PDD – extension on timeframe for land restoration granted.

The agenda for the April 2, 2009 meeting currently is as follows:

1. Johnston Associates – site plan – public hearing commencing at 7:00 p.m.

AFFIDAVIT OF PUBLICATION

STATE OF NEW YORK,

Rensselaer County,

City of Troy.

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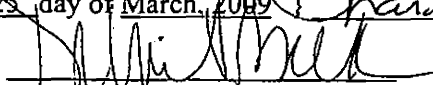
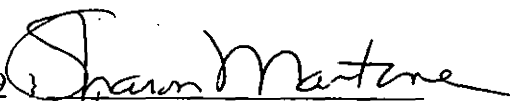
Sharon Martone of the City of Troy, in the county of Rensselaer and State of New York, being duly sworn, deposes and says that she is the Principal Clerk of the **Journal Register East, Inc.**, a Corporation duly organized under the laws of the State of New York; that said Corporation is the publisher of **The RECORD**, a daily newspaper printed and published in the City of Troy and County of Rensselaer, and that the notice of which the annexed is a printed copy, has been regularly published in **The RECORD**.

ONCE DAILY for ONE DAY

to wit: on the 25th day of March, 2009

Sworn before me, this

25th day of March, 2009



Notary Public BECK

Notary Public, State of New York

01BE607222

Qualified in Rensselaer County

Commission Expires April 01, 2010

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180
NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY GIVEN that a public hearing will be held by the Planning Board of the Town of Brunswick at 7:00 p.m. on Thursday, April 2, 2009, at the Brunswick Town Hall, 336 Town Office Road, Brunswick, New York, to review the site plan application submitted by Johnston Associates, LLC for amendment to the site plan at the Walmart Plaza located on Route 7. Copies of the site plan application are available at the Brunswick Town Hall, and are available for public inspection during regular business hours. All interested persons will be heard at the public hearing.
DATED: March 24, 2009
Brunswick, New York
THE PLANNING BOARD OF THE TOWN OF BRUNSWICK
By: Russell Oster, Chairman
856663 3/25

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD April 2, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER, KEVIN MAINELLO, DAVID TARBOX and JOSEPH WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board opened a public hearing concerning the site plan application by Johnston Associates, LLC for amendments to the site plan at the Walmart Plaza located on Route 7. The Notice of Public Hearing was read into the record, and it was stated that the public hearing notice had been posted on the Town sign board and website, published in The Record newspaper, and mailed to all owners of adjacent property. Chairman Oster reviewed the general rules for receipt of public comment. Chairman Oster then requested the applicant's representative, Paul Engster, Esq., to describe the project. Attorney Engster reviewed the project history, indicating that there had been a number of site plan amendments between the initial approval to date for purposes of several tenant changes. Attorney Engster described the current application as seeking approval for amendments to the end space of the plaza adjacent to Route 7 and formerly housing Hollywood Video for proposes of reconfiguration for Trustco Bank, which seeks to utilize 2,500 square feet of the total 5,500 square feet retail space of the former Hollywood Video unit, and also the installation of an ATM/drive-up window. Attorney Engster reviewed the site plan for this proposal, generally describing two lanes for purposes of the

ATM/drive-up window, and also a third lane for exclusive use as the truck delivery route. Attorney Engster explained that the truck delivery route has been segregated via a barrier, and that the current truck route for the site will remain essentially unchanged. Attorney Engster noted that certain parking spots had been relocated, but that the same total number of parking spots will continue, as well as the same overall greenspace provisions. Attorney Engster also reviewed other proposed improvements on the amended site plan, including alteration of the existing sidewalk in front of all tenant spaces which will extend into the parking lot area, provide for parking spaces now facing the sidewalk to further distance pedestrians on the sidewalk from the internal car circulation on the site, addition of an outdoor seating area in front of the Mexican restaurant, plus the addition of planters to add vegetation to the site. Attorney Engster also reviewed the installation of a CDTA bus shelter in the area of the outer parking lot adjacent to Route 7, in a location in which already serves as an identified bus stop. It was noted at this point by Attorney Engster that the addition of the bus shelter would actually eliminate two parking spaces. Attorney Engster stated that the plan now provides overall better flow for pedestrians, and also provides for safer handicapped parking as it will be located directly in front of the sidewalk area. Chairman Oster then opened the floor for receipt of public comment. No member of the public wished to speak. After providing adequate time for receipt of public comment in the event anyone wished to speak, Chairman Oster then closed the public hearing.

The Planning Board then opened its regular business meeting.

The Planning Board members reviewed the draft minutes of the March 19, 2009 meeting. Upon motion of Member Czornyj, seconded by Member Tarbox, the minutes of the March 19 meeting were unanimously approved as drafted.

The first item of business on the agenda was the application by Johnston Associates to amend the existing site plan at the Walmart Plaza located on Route 7. Chairman Oster noted that referral of the site plan application to the Rensselaer County Department of Economic Development & Planning pursuant to General Municipal Law §239-m had been completed, that a response had been received indicating that the application did not impact County plans and that local considerations shall prevail. Chairman Oster then inquired of Attorney Engster whether the CDTA bus shelter was being proposed at any point in time for a "park and ride" location. Attorney Engster stated that there were no plans by CDTA for a "park and ride" location; that in his discussions with CDTA, there was a layover time at the Walmart Plaza of approximately 10 minutes maximum, and that on occasion a CDTA bus would stop in the area of the proposed shelter location but that it was not a "park and ride" location; Attorney Engster stated that CDTA was never strong on having a "park and ride" location at the Walmart Plaza. Chairman Oster stated that a "park and ride" location would potentially impact the number of available spaces for patrons to the plaza, and he would prefer a bus stop only. Member Esser opined that the location for the proposed bus shelter was isolated. Attorney Engster responded that the CDTA bus does stop at the proposed location already as it is an identified bus stop, and that the proposed bus shelter would help in terms of providing shelter to those people already waiting for the bus in that location. Member Esser also inquired into the location of a crosswalk for pedestrians from the isolated parking lot adjacent to Route 7 to the location of the proposed bank, particularly in light of the drive-up ATM/teller window. Attorney Engster responded that the pedestrian walkway would be properly marked, but that he would work with the Planning Board in terms of locating the pedestrian walkway. There was discussion regarding the appropriate location for the pedestrian walkway in terms of the proposed sidewalk improvements and barrier for the truck

delivery route. Member Esser also raised the need for appropriate curbing, striping and signage in the exit area from the ATM/drive-up window, so that exiting cars would be able to do a right turn only. Attorney Engster reviewed the proposed curbing, striping and signage in that location. Chairman Oster wanted to insure that there was no additional sidewalk product display areas being proposed, given that the sidewalk area was being enlarged. Attorney Engster stated that no additional sidewalk merchandise display is being proposed, that it was agreed that product display could in no way effect pedestrian use of the sidewalk area, and that Attorney Engster had provisions in his commercial leases regarding limitation of product display on sidewalks. Member Czornyj raised the issue of the relocation of a stop sign near the intersection of the center roadway and the proposed outdoor eating area at the Mexican restaurant. There was discussion concerning the appropriate area to relocate that stop sign, but it was determined that a stop sign was necessary in that general location. The project engineer, Percy Cotton, stated that he would work on that issue in coordination with the Town. Mr. Kestner also raised an issue regarding the second island near the retail area along the center travelway, and specifically the potential for cars to be backing out of parking spaces there into the travelway. Again, Mr. Cotton stated that he will reconfigure that area to address this concern. Chairman Oster reviewed environmental impact issues, noting that in his opinion there were no additional traffic issues, that the number of parking places remained adequate for this location, and that he did not see any potential significant environmental impacts from the site plan amendment. Mr. Kestner did raise the issue of required lighting at the ATM/drive-up window, which is required under banking regulations. Attorney Engster stated that he proposed to use the same system in use at the SEFCU drive-thru at the other end of the retail plaza, which is to have a pole mounted light shining in the direction of the bank so that there is no offsite light spillage. Member Mainello

raised issues concerning stormwater management on this site. Mr. Kestner stated that he would look into that issue. Chairman Oster reviewed outstanding issues which need to be addressed on the final amended plat, including location of the pedestrian crosswalk from the isolated parking area along Route 7 to the retail area; relocation of the stop sign from the center travel lane in the area of the outdoor seating at the Mexican restaurant; final curbing, striping and signage concerning right turn only exiting the ATM/drive-up window; specifications for the lighting in the area of the ATM/drive-up window; stormwater management/drainage; and the reconfigured island in the second location from the retail area along the center travelway. Attorney Engster concluded by stating that the grease trap installation had been completed from the restaurant, and the back parking lot would be repaved once the hot asphalt plants were open. This matter is placed on the April 16, 2009 agenda for further action.

There was one item of new business discussed. A site plan application has been submitted by CK Properties for the installation of a 12' x 16' building at the Agway Store on Route 7 to sell ice cream. The Planning Board had several questions, including whether the building would be permanent, parking, traffic flow, impact to truck deliveries at the Agway, outdoor seating, and bathroom facilities. The Planning Board is requiring additional information on this application, through the provision of a project narrative. This matter is placed on the April 16 agenda for discussion.

Chairman Oster recognized that there were several residents of the Langmore Lane area in attendance, and stated that the commercial site plan application by Reiser Bros. Inc. was not on the April 2 Planning Board agenda. However, Chairman Oster did state that if the residents wanted to make general comments, as in the nature of sending a letter into the Town, the Planning Board members would listen to these comments but not have any discussion regarding

the application in that the applicant was not present and the matter was not on the agenda. These residents indicated that their primary reason for attending were questions regarding the buildout of the residential subdivision which is already approved. Hearing this, Chairman Oster again stated that the Planning Board would entertain receiving comments, but that there would be no discussion as this matter is properly now under the jurisdiction of the Building Department. Paul Barringer, 4 Long Hill Road, raised concerns about impact of the project buildout on the existing roads in the Langmore Lane neighborhood, why homes were being constructed in the second phase of the subdivision when all of the lots have not been completed in the first phase, that the subdivision roads are currently being maintained by Reiser Bros. but that excessive runoff is occurring onto the existing roads in the Langmore Lane neighborhood, and generally commented that he questions whether additional commercial space is needed in this section of the Route 2 corridor. Kathy Murray, 69 North Langmore Lane, also commented that residential construction in Phase 2 of the subdivision should not have started before Phase 1 was completed, that a stop sign at the bottom of the new Phase 1 residential street should be installed because cars are not stopping before proceeding onto North Langmore Lane, raised concerns regarding drainage and siltation coming off of the Phase 1 residential road and impacting North Langmore Lane and her property in particular, and also offered comments on the proposed commercial space stating that it is very close to residential areas and that any review by the Planning Board should require uses that would complement a residential area and that the Board should not allow access to the commercial area off Langmore Lane. Maureen Cox, 2 Long Hill Road, questioned the timeframe until the roads in the Reiser Subdivision would be dedicated as public roads, because she is concerned that the Town will not fix the public streets in the Langmore Lane neighborhood until these additional subdivision roads become public roads, and further that she

did not feel the Town should wait to fix the existing Langmore Lane neighborhood roads until the Reiser roads were dedicated as public roads, and also questioned why construction was occurring in Phase 2 of the subdivision before all the lots were finished in Phase 1, and likewise commented that commercial traffic should not be allowed to enter this proposed plaza through Langmore Lane, stating that the Route 7 corridor was the commercial corridor for the Town and that Route 2 should remain scenic, which is why she purchased her home in the Langmore Lane neighborhood. Chairman Oster thanked people for receipt of comment, and stated that residents are always welcome to submit written comments both to the Planning Board and the Building Department.

The **index** for the April 2, 2009 meeting is as follows:

1. Johnston Associates, LLC – site plan – 4/16/09;
2. CK Properties – site plan – 4/16/09.

The proposed agenda for the April 16, 2009 meeting currently is as follows:

1. Johnston Associates, LLC – site plan.
2. CK Properties – site plan.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD April 16, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER and DAVID TARBOX.

ABSENT were KEVIN MAINELLO and JOSEPH WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board members reviewed the draft minutes of the April 2, 2009 meeting. Upon motion of Member Czornyj, seconded by Member Esser, the minutes of the April 2nd meeting were unanimously approved as drafted.

The first item of business on the agenda was the site plan application by Johnston Associates, LLC to amend the existing site plan at the Walmart Plaza located on Route 7. The applicant's representative, Attorney Paul Engster was present. Chairman Oster noted that he had received the applicant's April 9, 2009 letter and had provided copies each Board member. While Chairman Oster believed that letter addresses the Board's outstanding concerns, Chairman Oster requested that Attorney Engster review the letter with the Board. Attorney Engster summarized the letter and noted that the single parking space at the second island near the retail area along the central travelway was being eliminated so that cars did not back out into the travelway. He indicated that the striping and signage where traffic exits the drive-up/ATM will direct all traffic to the right. He further indicated that he is going to request authorization from Trustco so that the signage within the ATM/drive-up traffic area will also direct all traffic to exit to the right.

Attorney Engster noted that stop signs will be placed in and about the parking lot area so that all traffic stops and that he will relocate the island immediately in front of the restaurant. In addition, all traffic at the end of that street is going to be directed to turn right. Attorney Engster confirmed that there will be no Park-N-Ride at the CDTA bus stop, nor will the stores in the plaza be authorized to increase their use of the sidewalk area for additional sidewalk product display. He further advised that he has provided Mr. Kestner with the lighting specifications from the NYS Banking Department. He stated that Trustco does not want lighting on the berm pointing at the ATM/drive-up; rather, lighting will be in the canopy and directed down.

Mr. Kestner noted that he has reviewed the plans for the stormwater collection system and indicated that stormwater will not be allowed to collect in the outer aisles. In addition, there will be two catch basins constructed out near Route 7, and that the parking lot will slope in the direction of those basins. There will also be a pedestrian walkway out to Route 7. Mr. Kestner further advised that he discussed with Percy Cotton, the project engineer, potential problems with the proposed 2' wide island separating the ATM/drive-up from the truck route. Attorney Engster indicated that they were going to eliminate the island and instead use printed and color signage to designate the ATM/drive-up from the truck route. This will allow the area to be plowed as one open space and eliminate any potential driving hazards. Chairman Oster indicated the elimination of such island would be beneficial from fire and EMS perspectives.

Attorney Engster stated he had contacted Walmart's attorneys and it was agreed that both parties could work out in the future any concerns there may be concerning truck traffic depending on how Walmart ultimately presents its project to the Planning Board.

John Kreiger stated he had spoken with Gus Scifo, Jr., Assistant Chief of Brunswick No. 1 Fire Department, and sent the site plan to the Fire District prior to the meeting. Mr. Kestner

further indicated that he had emailed Assistant Chief Scifo, notifying the Fire District that the Johnston Association's site plan application would be discussed at the meeting, but had not heard back from him. Chairman Oster noted that the site plan application did not propose to change any roadway radiuses and, therefore, it was unlikely that the Fire Department would have any comments on the application. Chairman Oster then asked if everyone was satisfied with the notification to the Fire District, or if members of the Board had any other issues that still needed to be addressed by the applicant. Hearing no further discussion, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Tarbox. The motion was approved 5/0, and a negative declaration adopted. Chairman Oster further noted that SEQRA had been fully satisfied under the original site plan application and that this application presented no significant changes to that originally approved site plan. Thereupon, Member Czornyj made a motion to approve the site plan application subject to the following conditions:

1. Full compliance with site plan approval;
2. Payment of all application and review fees (if any); and
3. The 3,000 square feet of unoccupied retail space that results from this application shall be subject to tenant approval by the Planning Board.

Member Esser seconded the motion subject to the stated conditions. The motion was approved 5/0, and the site plan application approved subject to the stated conditions.

For the record, Mary Beth Slevin was present on behalf of Walmart. She confirmed that she had been in communication with Attorney Engster. Walmart will coordinate with Attorney Engster on the issues of truck traffic at such time as Walmart presents its application to the

Planning Board. Attorney Slevin indicated that she was available for questions from the Planning Board, but there were none.

The second item on the agenda was the site plan application by CK Properties for the installation of a 12' x 16' building at the Agway Store on Route 7 from which to sell soft serve ice cream. Mark Cipperly and Cindy Konieczny were present on behalf of the applicant. Chairman Oster inquired whether the application fees had been paid, and John Kreiger indicated they had. Chairman Oster advised Mark Cipperly that the applicant is responsible for reimbursing the Town for all reasonable and necessary fees and expenses, if any, for consultants incurred in connection with the review and consideration of the subject application. Chairman Oster further explained what those fees might entail and how they may be incurred. Mr. Cipperly indicated that he understood the applicant's responsibility for those fees.

Members of the Planning Board had received a copy of the January 7, 1999 site plan from the applicant. The applicant had indicated on that site plan where he desired to place a small building from which to sell soft serve ice cream on a walk-up basis. Mr. Cipperly indicated that the sale of ice cream would be on a seasonal basis and that this first season would be an experiment. Mr. Cipperly told the Planning Board that he intended to place the concession stand so that it was away from existing Agway activities and proposed to operate the concession from approximately 2:00 or 3:00 in the afternoon until 9:00 p.m. at night. He indicated that he would be able to schedule truck deliveries to the Agway around those hours. Mr. Cipperly further proposed to have a sit-down area in what is marked as a display area on the site plan map, and he would extend the split rail fence to section off an area for picnic tables. He indicated he would eliminate a few parking spaces in order to allow for the picnic tables.

Mr. Cipperly indicated that there was an existing light pole with down lighting and that the only additional lighting that he envisioned was limited lighting on the concession stand to illuminate the menu. He stated that he already had power and water to the corner of the pole barn, and depending on the type of equipment he purchased, he may be able to use the existing service. He indicated that the lift station for gray-water from the Agway is located at the corner of the pole barn, but in terms of waste generated by the concession stand, all he needs is a wash sink for hands.

Member Esser noted he would like to see something more substantial than a split rail fence in front of the concession stand in order to protect customers; in particular he would like to see something to stop cars such as railroad ties and/or curbing.

Chairman Oster noted that Mr. Cipperly had commented that he may be looking at either a shed or something like a trailer on wheels from which to serve the ice cream. Chairman Oster noted that if it was a trailer or had wheels, the applicant would require a vendor's permit, not Planning Board approval. According to Mr. Cipperly, the building is going to be approximately 12' x 16' and no patrons would be allowed inside. There will be a canopy on the concession stand. It would be his intention to move the concession stand around to the back of the property during the off-season in order to plow the whole area.

Chairman Oster inquired whether the Health Department had any comments or requirements for such a soft ice cream concession stand. Mr. Cipperly indicated that because he would only be selling soft serve ice cream, he only needed a sink for employees to wash their hands. Because it was a walk-up concession, he was not required to have bathrooms. If the concession were to change and sell hard ice cream, he would have to install a quarter inch waterline because there would need to be a bowl in which to put a dipper.

Mr. Cipperly confirmed that the Agway leach field is located in the upper left hand corner of the site plan. John Kreiger was not aware of any conditions that the building had to be placed in a specific distance from the existing lift station.

Member Czornyj questioned whether or not the light near the end of the pole barn was accurately depicted on the site plan. It was his understanding that given where the light pole was actually constructed, the concession stand as shown on the site plan would end up behind the light. Member Czornyj stated that the concession stand and existing pole lighting must be located precisely on the map. Chairman Oster further recommended that such changes be made to the site plan.

Hearing no further discussion, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which was seconded by Member Tarbox. The motion was approved 5/0, and a negative declaration was approved. Thereupon, Member Czornyj made a motion to approve the site plan application subject to the following conditions:

1. That the applicant file a site plan with the proper location of the proposed building and existing lighting accurately shown thereon;
2. That timber curbing be placed in front of the concession stand;
3. That the split rail fence be extended to the front of the concession stand and that a walkway be established; and
4. That the picnic tables be depicted on the site plan.

Member Christian seconded the motion subject to the stated conditions. The motion was approved 5/0, and the site plan application approved subject to the stated conditions. It was further noted that the applicant had paid all necessary fees.

There was one item of new business discussed. A site plan application has been submitted by Barry Thompson for the operation of a mulch and garden supply business at 4

Oneida Avenue. The property is owned by Cortland Oneida, LLC (John Mainello) and is to be leased to Barry Thompson. According to John Krieger, the applicant intends to sell mulch and other garden supplies such as gazebos and pavers. The applicant proposes to use the left side of the lot for display and the right side for storage. Member Czornyj questioned whether the lot was large enough to support the proposed activities. The lot is commercially zoned and is approximately 8,100 square feet. Mr. Kestner wants to see the topography of the site, which Member Esser agreed was necessary. Member Esser further noted that the area where parking is shown on the proposed site plan is very steep and that parking would take up approximately 1/3 of the lot in order to ensure that a customer does not have to back out onto the street.

The matter was placed on the agenda for the next Planning Board meeting. Chairman Oster encouraged Board members to visit the site before the next meeting.

There was one item of old business discussed. Mr. Kestner advised the Board that he and John Kreiger went out to the Reiser Subdivision in light of comments made by residents of the Langmore Lane area at the meeting on April 2, 2009. Mr. Kestner noted that there was a backhoe on site, and the inlet and catch basin across the street was being cleaned out. John Kreiger said he had gone back that Friday night in the rain and observed that there was flooding at the end of Kathy McMurray's driveway, but that the flooding appeared to be a result of runoff from the existing roadway, not the Reiser Subdivision. Mr. Kestner prepared a memo and provided copies to each Planning Board member.

John Kreiger noted that Henry Reiser had ordered the stop sign. Member Esser then asked about the phasing requirements, if any, that had been imposed as a condition of subdivision approval. Mr. Kreiger then read the conditions of the approval as set forth in the March 1, 2007 Planning Board Minutes. Those conditions are as follows:

1. Filing of necessary financial undertaking for infrastructure completion for Phase I of construction;
2. The waterline loop and connection to the waterline on Route 278 must be completed prior to the issuance of any Certificate of Occupancy for any homes constructed within Phase I;
3. No building permits issued for Phase II until all necessary financial undertaking for infrastructure is filed for Phase II;
4. Payment of the park and recreation fee in full (14 lots) prior to stamp and signature of the subdivision plat;
5. Payment of any engineering review fees (if any); and
6. Correction of the phasing plan map to eliminate a construction phasing line extending to Route 2.

Mr. Kreiger confirmed that the undertaking for Phase I of construction had been posted, and that the financial undertaking for the infrastructure for Phase II had been sent to the Town.

Mr. Kreiger also confirmed that Henry Reiser had paid the required fees.

The **index** for the April 16, 2009 meeting is as follows:

1. Johnston Associates, LLC – site plan – approved subject to conditions;
2. CK Properties – site plan – approved subject to conditions;
3. Barry Thompson – application for site plan approval – 5/7/09.

The proposed agenda for the May 7, 2009 meeting currently is as follows:

1. Barry Thompson – site plan.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD May 7, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER, KEVIN MAINELLO, DAVID TARBOX and JOSEPH WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

The draft minutes of the April 16, 2009 meeting were reviewed. Upon motion of Member Czornyj, seconded by Member Christian, the minutes were unanimously approved without amendment.

The first item of business on the agenda was the site plan application by Barry Thompson, who seeks to operate a landscape supply business at 4 Oneida Avenue. The applicant, Barry Thompson, appeared on the application. Chairman Oster reviewed with the applicant the requirement for reimbursement of consultant fees and expenses on the application. Mr. Thompson generally explained his proposal, which seeks approval to operate a hardscape/landscape supply store, with a display area for lawn ornaments, topsoil, mulch, stone, and a gazebo. Mr. Thompson stated that there would be no large bulk storage of these materials, and there will be an identified area for limited storage of the topsoil, mulch, and stone product. Chairman Oster noted that he had visited the site, and the current topography would require grading before the site could be utilized for the proposed operation. The Planning Board is requiring that additional topographic information be supplied, both as to current topography and

proposed grading plan and final topography. Also, Chairman Oster noted that additional information on the site plan would need to be submitted, which identified the location of the proposed operations on the site, and also show a parking plan. Member Czornyj reiterated that a full site plan is required so that the Planning Board can see where the components of the business are proposed. As to the concept plan already submitted, Chairman Oster noted that parking areas that would require cars to back up directly onto Oneida Avenue would not be allowed, and that a separately marked parking area would be required for completely off-street parking. Chairman Oster then asked about the size of trucks to deliver material to the site. Mr. Thompson stated that a one ton dump truck would be used, and nothing larger. Chairman Oster asked if there would be any employees on the site. Mr. Thompson said that there would be one employee that would be onsite during business hours, but that there would be no permanent building on the site, only a temporary shed-type building. Chairman Oster also noted that proposed hours of operation for retail sales should be supplied to the Planning Board. Chairman Oster also inquired about utilities, including any electrical hookup or water/sewer/bathroom facilities. Mr. Thompson stated that he did not intend on having a bathroom at this site. Member Wetmiller wanted to confirm that this retail location was for display items only, and that there would be no stock stored onsite. Mr. Thompson stated that he planned a display location only, and that the items would need to be ordered and shipped. Member Tarbox then inquired regarding the mulch and stone products, and whether these would be stored on site. Mr. Thompson stated that those items would be stored in bins toward the rear of the site, but that significant bulk storage is not planned. Member Tarbox inquired as to how the stone and mulch would be transported to and from the site, most particularly the size of trucks making deliveries. Mr. Thompson stated that only small dump truck would be used. Member Czornyj stated that all of this information needed

to be put on the site plan, including locations of the particular display and material storage location, and also all truck access and turnaround areas. Chairman Oster noted that there was a power pole with a guy wire on the site. Mr. Thompson stated that a power pole is located right along the property line, and that the only issue would be coordinating with National Grid to relocate the guy wire. The Planning Board concurred that the site did need extensive grading, and inquired of the applicant as to any impact on neighbors to the rear of the site. Mr. Thompson stated that he intended on installing a fence along the rear of the site and planting a vegetative screen for both a visual and noise barrier, and that he had already reviewed this approach with the neighboring property owner. There was extensive discussion concerning the entrance to the site, and what width of access driveway would be required. John Mainello, the owner of the site, also appeared and gave some background concerning this particular parcel. Mr. Mainello stated that Mr. Thompson is looking to lease the property with an option to purchase. Mr. Mainello stated that he had walked the parcel during that afternoon, and had actually met Mr. Kestner at the site. Mr. Kestner confirmed the site visit with Mr. Mainello. Mr. Kestner stated that the Planning Board does need to see topographic information for the lot, a proposed grading plan, and that parking, vehicle access, and stormwater management are key issues for this location. Options concerning driveway width, one way vehicular movement, angle parking spaces, and handicapped accessibility were discussed. The total number of required parking spaces for this land use were also discussed. After reviewing the parking requirements with Mr. Kreiger, the Planning Board determined that a total of 5 parking spaces would be required for this site plan, including one handicapped parking space and 4 other parking spaces. The Planning Board also stated that the site plan must show the location and size of the proposed sales office/shed. The issue regarding the need to have bathroom facilities on the site was discussed, and the Planning

Board directed Mr. Kreiger and Attorney Gilchrist to look into that issue. The Planning Board addressed security issues with Mr. Thompson including fencing and lighting. Member Tarbox asked how the stone and mulch would be loaded. Mr. Thompson anticipates having a small skid steer onsite. Following further general discussion, the Planning Board directed the applicant to supply the additional topographic information and complete site plan detail for further discussion and review. This matter has been placed on the June 4 agenda.

One item of old business was discussed. Jane Burhans, Deepkill Road, had previously obtained an approval for waiver of subdivision for property located on Deepkill Road in 2003. However, Ms. Burhans never filed the approved subdivision map at the Rensselaer County Clerk's Office. As the time limits for filing the approved map have expired, the Planning Board will require Ms. Burhans to file a new waiver application. This matter will be reviewed at the May 21 meeting.

The Planning Board generally discussed the status of the Irish Development, LLC/Uccellini lot located on Langmore Lane with Mr. Kreiger, and particularly recent site grading work which had occurred. This matter will be further reviewed by the Building Department, to address compliance with conditions attached to the final subdivision approval.

The **index** for the May 7, 2009 meeting is as follows:

1. Thompson – site plan – 6/4/09;
2. Burhans – waiver of subdivision – 5/21/09.

The proposed agenda for the May 21, 2009 meeting currently is as follows:

1. Burhans – waiver of subdivision.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD May 21, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER, DAVID TARBOX and JOSEPH WETMILLER.

ABSENT was KEVIN MAINELLO.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

The Board reviewed the draft minutes of the May 7, 2009 Planning Board meeting. Upon motion of Member Czornyj, seconded by Member Esser, the minutes were unanimously approved without amendment.

The first item of business on the agenda was the waiver of subdivision application by Jane Burhans. Ms. Burhans was present on the application. Chairman Oster reviewed the history of this application, noting that the waiver of subdivision had been approved in 2003, but because the approval was not timely filed with the County Clerk's Office, it expired. Chairman Oster asked Ms. Burhans if there were any differences between the 2003 waiver of subdivision approval and the current application for waiver of subdivision before the Board. Ms. Burhans replied that no changes were made to the waiver of subdivision proposal. Chairman Oster reviewed with the applicant the requirement for reimbursement of consulting fees and expenses on the application. Chairman Oster then reviewed the minutes of the Planning Board meeting from June 19, 2003, at which the waiver of subdivision was initially approved. Chairman Oster

pointed out that the boundaries of one of the proposed lots traverses an existing lot line such that a small portion of one of the proposed lots needs to be divided off the adjoining property, but cannot be allowed as a separate lot on its own because of its small size. Therefore, any motion to approve the application must be conditioned on this small portion being legally merged with the remaining property comprising one of the subdivided lots. After discussion, Member Tarbox made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Czornyj. The motion carried 5/0 (Member Wetmiller abstaining), and a negative declaration adopted. Chairman Oster raised the issue of whether the waiver of subdivision would require Rensselaer County Health Department approval. The applicant indicated that the Rensselaer County Health Department had already granted the necessary approval. Thereupon, Member Czornyj made a motion to approve the waiver of subdivision subject to the following conditions: (1) the portion of one of the proposed lots divided from adjoining tract be legally merged with the remaining property of the proposed lot, such that a substandard building lot is not created, and (2) if necessary, receipt of approval from the Rensselaer County Health Department. The motion for conditional approval was seconded by Member Christian, and the motion was approved 5/0 (Member Wetmiller abstaining), and the application approved.

The next item of business on the agenda was the site plan application by Barry Thompson, who seeks to operate a landscape supply business at 4 Oneida Avenue. Mr. Kreiger distributed updated maps for the Thompson project, which has been placed on the agenda for the next meeting (June 4, 2009). The Planning Board members generally discussed the updated map, which shows existing and some proposed topography. Mr. Kestner noted that the elevation at the base of the proposed concrete wall is 208 feet, whereas the elevation at the ground above the wall is shown as 217 feet. Mr. Kestner inquired as to the height of the proposed wall and

how grading will be done. Mr. Kestner noted that the updated map shows 2x2x4 concrete blocks, but it is unclear what the wall's elevation will be. Mr. Kestner also indicated that the updated map does not show sufficient details concerning drainage off the site. Member Czornyj indicated that the updated maps included no stamp and no license of the surveyor. Mr. Kestner and Chairman Oster noted that the updated map is still in the "concept" stage, and the Planning Board expects to provide comments on the updated map to Mr. Thompson to incorporate further details in an updated map. Mr. Kestner indicated that he will send a letter to Mr. Thompson asking him to update the map to show the location of the safety fence, the height of the proposed retaining wall, stormwater management and catch basins, perimeter fencing, and lighting. Mr. Kestner will also include in the letter an indication that Mr. Thompson must prepare an Erosion and Sediment Control Plan. Member Czornyj asked whether the boulders shown on the updated map were part of the property or were on an adjoining property. Mr. Kestner indicated that it was his understanding that the boulders were located along the property line. This application has been placed on the agenda for the June 4, 2009 Planning Board meeting, and will be discussed at that time.

The final item on the agenda was a reminder by Chairman Oster that Rensselaer County will be holding local government planning and zoning workshops. The workshops are scheduled for June 4, 2009, the same day as the regularly scheduled Planning Board meeting. Chairman Oster indicated that Andrew Gilchrist had offered to provide blocks of instruction to satisfy the continuing education requirements for the Planning Board members. Chairman Oster indicated that if any of the Planning Board members wished to attend the Rensselaer County planning and zoning workshops, the deadline for registration was May 27, 2009, and they could contact John Kreiger to register.

Chairman Oster indicated that he will not be in attendance at the June 4, 2009 Planning Board meeting, and that Member Czornyj will be Acting Chair in his place.

Member Esser raised the issue of pallets of material potentially being stored in a fire lane at the Price Chopper. Mr. Kreiger agreed to follow up on the issue.

Member Czornyj made a motion to adjourn, seconded by Member Christian, and the motion carried 6/0.

The **index** for the May 21, 2009 meeting is as follows:

1. Burhans – waiver of subdivision – approved subject to stated conditions;
2. Thompson – site plan – 6/4/09.

The proposed agenda for the June 4, 2009 meeting currently is as follows:

1. Thompson – site plan.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD June 4, 2009

PRESENT were MICHAEL CZORNYJ (ACTING CHAIRMAN), GORDON CHRISTIAN, FRANK ESSER, KEVIN MAINELLO and JOSEPH WETMILLER.

ABSENT were RUSSELL OSTER and DAVID TARBOX.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

The Board deferred review of the minutes of the May 21, 2009 Planning Board meeting until the June 18, 2009 meeting.

The first item of business on the agenda was the site plan application of Barry Thompson, who seeks to operate a landscape supply business at 4 Oneida Avenue. Mr. Thompson and Scott Danskin were present for the applicant. It is noted that Mr. Kestner had sent an engineering review letter to the applicant. As follow-up to that review letter, the Planning Board received an updated map on June 4, 2009 from the applicant. The Planning Board asked Mr. Thompson discuss the changes that had been made to the map. The applicant noted that the proposed wall will be at approximately 8' high and the same elevation as the rear property line. The applicant proposes to erect chain-link fencing around the perimeter of the property, with the exception of vinyl fencing to be used at rear of property for the benefit of adjacent residence.

Member Czornyj advised that he had made a site visit on June 4, 2009 and spoke with the neighbor to the rear of the property. It was noted that the neighbor was incorrectly identified on

the applicant's map. The owner's correct name is Louise Trottier, and the map is to be amended accordingly. Ms. Trottier indicated to Member Czornyj that she was concerned about erosion and any changes to the existing grade in light of the fact that the bank on the southwest corner of property had already been cut back. She intends to raise this concern at the public hearing. Member Czornyj indicated that the applicant's property had been staked as requested by the Planning Board.

It was then noted that the correct name of the entity owning the property is the Cortland Oneida, LLC.

The applicant was asked whether there would be outside lighting. Mr. Thompson said there would be no exterior lighting, except on a temporary, seasonal basis when he sold Christmas trees. He advised that he has spoken to his neighbors, including Duncan's, who have indicated that they will allow Mr. Thompson to run power from their properties for seasonal sales.

The applicant proposes to erect a 12' x 24' framed shed in which to display his brochures and printed materials. He is considering whether he will use a small bobcat on the property, which would be stored outside. He may also place a gazebo on site, but much of his product will be on consignment.

The Town has located the water and sewer lines from the old building on the site.

Member Czornyj asked what the applicant intended to do about stormwater control as there is concern about water running off the property and onto Oneida Avenue. Mr. Thompson stated that he did not believe runoff from the site is currently a problem. However, he intends to use crusher run on the driveway. He will not pave the driveway. The applicant said he may want to further grade the property, but Member Czornyj expressed concern that everything will be

pitched toward the driveway. After further discussion, Mr. Thompson agreed to install a drywall across the base of the driveway to hold the runoff in the event of significant rain events.

Member Czornyj questioned the applicant as to whether he has calculated the percentage of greenspace. Mr. Thompson stated he had not calculated the percentage, but after discussion it was decided that if the applicant grasses the area he intends to use for seasonal sales, that plus the 7' buffer, will likely be close to 35%. Member Czornyj asked whether the Planning Board could approve a site plan showing less than 35% greenspace. Attorney Coan advised that the Planning Board has the discretion to approve projects with less landscaped area.

A public hearing on the application was then scheduled for June 18 at 7:00 p.m. The application has been placed on the agenda for the June 18, 2009 Planning Board meeting for further discussion following the public hearing.

There was no old or new business discussed.

Member Esser made a motion to adjourn the meeting, seconded by Member Wetmiller, and the motion carried 5/0.

The **index** for the June 4, 2009 meeting is as follows:

1. Thompson – site plan – 6/18/09, public hearing commencing at 7:00 p.m.

The **proposed agenda** for the June 18, 2009 meeting currently is as follows:

1. Thompson – site plan – public hearing commencing at 7:00 p.m.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD June 18, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER, KEVIN MAINELLO, DAVID TARBOX and JOSEPH WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board opened a public hearing concerning the site plan application of Barry Thompson relative to property located at 4 Oneida Avenue. The notice of public hearing was read into the record. The notice of public hearing was published in The Troy Record, placed on the Town sign board, placed on the Town website, and mailed to all property owners adjacent to the project site. Chairman Oster directed that the applicant present an overview of the site plan, after which Chairman Oster stated that the Planning Board would entertain comments from interested members of the public. Barry Thompson presented an overview of his proposal to operate a landscape supply business at 4 Oneida Avenue, and generally reviewed the types of product and display locations on the project site. Chairman Oster then opened the meeting for receipt of public comment. Louise Trottier, 12 Cortland Street, stated that she lived adjacent to the project site, and was concerned regarding erosion potential following the planned excavation on the project site; that she was concerned regarding the impact of this business on the value of her home; and that her property must be protected. Mr. Thompson stated that he did plan on

excavating a portion of the site adjacent to Ms. Trottier's property, but will be installing a concrete retaining wall composed of 2' x 2' x 4' concrete barriers. Mr. Thompson stated that the excavation will leave a minimum of 7' of existing topography to the Trottier property line, and that Mr. Thompson would install a fence and vegetative screen between the landscape operation and Ms. Trottier's property. Mr. Thompson stated that these improvements will address concerns regarding drainage and erosion, and also concerning screening between the commercial and residential properties. Mr. Kestner confirmed that the current property level must be maintained a minimum of 7' from the Trottier property line, and that a fence and vegetative screen will be installed. Further, Mr. Kestner stated that the use of the retaining wall will address concerns regarding erosion from the excavation. Further, Mr. Kestner stated that the Planning Board should require an as-built drawing following installation of the retaining wall. Ms. Trottier then stated that when she purchased her property, there wasn't all of the commercial uses around her, and that she questions who is looking out for her best interest. Chairman Oster stated that the Town is working with Mr. Thompson to establish an appropriate fence and vegetative screen to provide an adequate visual and noise buffer between the project site, which is zoned for commercial use, and her residential property. Ms. Trottier stated that she wanted to make sure that the commitments made by the applicant were followed through during construction and operation of the site. Member Czornyj stated that the Planning Board will require an as-built drawing, which will show that the project plans have been followed during site construction. Phyllis McLaughlin, owner of 2 Cortland Street, inquired whether an environmental impact statement will be required. Chairman Oster stated that a determination under the State Environmental Quality Review Act had not yet been made, but that an environmental impact statement is required only when the lead agency determines that there is a significant adverse

environmental impact from the proposed project. Vic Shahinian, owner of the property directly north of the project site, stated that he saw a survey spike installed by Mr. Thompson's surveyor which is located 6 feet onto his property, and that he is concerned that the proposed excavation will be right near his garage and will impact his garage as a result. Member Czornyj asked whether this was the survey spike located toward the front of the project site near the telephone poll. Mr. Shahinian stated that the survey spike was near the back left corner of his garage, and he was concerned regarding the impact of this project on his garage and property. Member Czornyj stated that there would be no excavation within 7' of the property line of the project site. Mr. Shahinian stated that he thinks the survey stake was put into the wrong location, and that he should have his own surveyor check it. The Planning Board members generally reviewed the site plan, which did not show any infringement on adjoining properties and did maintain setbacks from the property lines in terms of site excavation. Mr. Kestner stated that what Mr. Shahinian is raising is a property line dispute, and that Mr. Thompson and Mr. Shahinian should resolve the issue. Member Tarbox stated that the property line issue should be clarified before the Planning Board acts on the application. It was determined that Mr. Thompson and Mr. Shahinian would meet at the site to review the survey information. Member Esser noted that the site plan should show the type of vegetative screening proposed, as well as location of all plantings. Hearing no further comments, Chairman Oster closed the public hearing on the Thompson site plan.

The Planning Board then opened its regular business meeting.

The minutes of the June 4, 2009 meeting were reviewed. Upon motion of Member Czornyj, seconded by Member Christian, the minutes of the June 4, 2009 meeting were unanimously approved. The Planning Board further reviewed the minutes of the May 21, 2009

meeting. Upon motion of Member Mainello, seconded by Member Tarbox, the minutes of the May 21, 2009 meeting were unanimously approved.

The first item of business on the agenda was the site plan application by Barry Thompson for a proposed landscape business located at 4 Oneida Avenue. Chairman Oster stated that the site plan will need to be amended to show both the type and number of trees being proposed to create the vegetative screen between the project site and adjoining residential properties. Chairman Oster also stated that Mr. Thompson needed to resolve the property line issue with Mr. Shahinian. Mr. Thompson stated that with respect to the trees, he proposed to install arbor vitae, 4' on center. Further, Mr. Thompson will install a fence along the Trottier property line, and plant the trees for the vegetative screen in front of the fence, which will leave the view of the fence visible from the Trottier property. Ms. Trottier was happy with the fence on her side, and stated that planting the trees on the Thompson side of the fence will help hold the soil in place. Member Wetmiller noted that the concrete blocks establishing a retaining wall could be removed from the site in the event the landscape supply business no longer continues to operate, and that the Planning Board should insure that the site would remain stabilized. In this regard, the Planning Board determined that a condition to the project will require that in the event the concrete block retaining wall is removed, that the owner of the property must establish an appropriate slope in order to stabilize the area. Ms. Trottier became very concerned regarding the removal of the concrete block retaining wall. The Planning Board stated that it was trying to address this issue by requiring the property owner to maintain an appropriate slope to stabilize the site in the event the concrete block retaining wall was removed. The Planning Board then discussed the required setback from the front, side, and rear property lines for the shed structure proposed for the site. Mr. Kreiger confirmed that a 30' setback from the rear and front lines, and

a 10' setback from the sidelines, was required for the shed structure. The applicant and the Planning Board reviewed the site plan to look at options on locating the shed structure to comply with the setbacks. Mr. Kestner then reviewed the proposed stormwater features for the site, concluding that the stormwater features to be installed are satisfactory for the project site. The Planning Board noted that the referral of the site plan application to the Rensselaer County Department of Economic Development and Planning had been made, and that the Town was still awaiting response from the County Planning office. Chairman Oster reviewed the discussion, and directed that the applicant must amend the site plan to show the type and location of all plantings for the vegetative screen, and show a new location for the shed structure to comply with all setback requirements. Chairman Oster also stated that the survey line issue must be resolved between Mr. Thompson and Mr. Shahinian. This matter has been placed on the July 2 agenda for further discussion.

One item of new business was discussed.

An application for waiver of subdivision approval has been submitted by John May for property located on Cooksboro Road. Mr. May seeks to divide 3± acres from an existing 19.41 acre lot, for sale for residential purposes. The Planning Board noted that this applicant and property had been the subject of a prior waiver application in 2005, which resulted in the division of the property and sale of property to the Kingdom of Jehovahs Witnesses for the construction of their worship center. Upon further discussion, the Planning Board determined that since this property had been the subject of a waiver application within the last 7 years, and that the prior waiver application had resulted in the commercial sale of property, and that the current proposed waiver was likewise for sale of property, the Planning Board would require that this application be submitted as a minor subdivision application. Mr. Kreiger was directed to

inform the applicant that a minor subdivision application is required for this project. This matter has been tentatively placed on the July 2 agenda for further discussion.

The **index** for the June 18, 2009 meeting is as follows:

1. Thompson – site plan – 7/2/09;
2. May – minor subdivision application – 7/2/09.

The **proposed agenda** for the July 2, 2009 meeting currently is as follows:

1. Thompson – site plan;
2. May – minor subdivision.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD July 2, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER, KEVIN MAINELLO, DAVID TARBOX and JOSEPH WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

The draft minutes of the June 18, 2009 meeting were reviewed. Upon motion of Member Christian, seconded by Member Wetmiller, the minutes were unanimously approved without amendment.

The first item of business on the agenda was the site plan application by Barry Thompson for property located at 4 Oneida Avenue. Chairman Oster reviewed the status of the application. First, Chairman Oster noted that there was a property line/survey issue that had been raised at the public hearing by Vic Shahinian. Mr. Thompson stated that he had met with Mr. Shahinian on the site on June 19, and identified with Mr. Shahinian that the stake or flag which Mr. Shahinian thought was a property boundary marker was not a boundary pin, and that he identified the surveyed property pins with Mr. Shahinian and that the issue was resolved. Chairman Oster then raised the issues of the type and number of trees to be planted toward the rear of the site to provide a vegetative buffer between this commercial site and adjacent residential properties, and also the issue of setbacks for the shed structure proposed for the site. Mr. Thompson stated that as to the type and number of trees, he intended to plant arbor vitae, 4' on center. As to the setbacks for the shed structure, Mr. Thompson stated that he took a further look at the site and potential locations for the shed, and has

initially determined that the site will not work for his purposes unless the shed can be placed toward the rear of the property within the 30' setback area. Mr. Thompson stated that he was willing to reduce the size of the shed if that met with the Planning Board's approval. Chairman Oster stated that the size of the shed structure was not the issue, but rather the 30' setback from the rear property line as required under the Town's Zoning Code. Chairman Oster stated that if the shed structure, regardless of size, is proposed anywhere within the 30' setback of the rear property line, then an area variance will be required from the Zoning Board of Appeals. Mr. Thompson understood this, and stated that he would like to pursue an area variance for this site for the location of the shed structure. The Planning Board determined that it would hold the site plan application in abeyance pending action by the Zoning Board of Appeals on Mr. Thompson's area variance application. Mr. Thompson asked whether there were any other issues on the site plan other than the setback issue. Chairman Oster reviewed the site plan, and the Planning Board generally determined that the stormwater plan was adequate for the site; that the general layout on the site plan was adequate; that a condition to any action on the site plan would include the requirement that if the block retaining wall is removed then the owner must restore an adequate slope to prevent erosion and that the slope must be properly seeded and stabilized; that the survey line issue had been resolved with Mr. Shahinian; that the adjoining residential neighbor (Trottier) had her concerns regarding a vegetative screen, retaining wall, and drainage concerns addressed; and that the only issue remaining outstanding on the site plan was the setback requirement for the shed structure. The Planning Board noted that the Rensselaer County Planning Department had responded to the GML Section 239-m referral, and that the application did not conflict with any County plans and that local consideration shall prevail. The County Planning Department did note that if portajohns were anticipated at the site, they should be properly screened. Mr. Thompson stated that there were no bathroom facilities proposed for this location, including no portajohns on the site. The Planning Board determined that this application

will be held in abeyance until Zoning Board of Appeals action on the area variance issue, and that no SEQRA determination will be made until such time as the Zoning Board of Appeals matter is completed. Member Tarbox wanted to confirm the types of products that Mr. Thompson displayed for sale. Mr. Thompson stated that it was basically a display of his work, including mulch and block as part of his landscape business. Mr. Thompson did indicate that in the off season he anticipated selling Christmas trees at the site. Member Wetmiller questioned the grading near the area of an adjacent off-site garage, but Mr. Thompson indicated that the owner of the garage did not want any grading near the garage and wanted it left in its current condition. Mr. Thompson had designed the site plan grading to accommodate the off-site owner's request. This matter has been tentatively placed on the August 6 agenda for update concerning the Zoning Board of Appeals variance application.

The next item of business on the agenda was the minor subdivision application by John May for property located on Cooksboro Road. John May and his daughter were in attendance. Chairman Oster explained that the application needed to be submitted as a minor subdivision application, since there was a previous waiver of subdivision granted for this property within the past seven years for commercial purposes, specifically the transfer of property by Mr. May for the construction of the Jehovah's Witnesses worship center. Mr. May questioned the need for submitting the application as a minor subdivision, and questioned the requirements for a minor subdivision application. Mr. May was given a copy of the minor subdivision application requirements by Mr. Kreiger. Chairman Oster then reviewed the consultant fee escrow requirements for minor subdivision applications. Mr. May strongly questioned the need for any independent engineering review on the application, since the party he seeks to sell this additional building lot to has no immediate plans to construct a home. There ensued considerable discussion and questioning by Mr. May and his daughter as to Town requirements on the application. After vigorously objecting to these application fees and

requirements, Mr. May was directed to Mr. Kreiger for all minor subdivision application requirements. This matter has been adjourned without date pending the submission of a complete minor subdivision application, including required fees.

One item of new business was discussed.

A minor subdivision application has been submitted by ADD Leasing Corp. for 801/805 Hoosick Road, seeking the subdivision of the parcel on which Advantage Subaru and Chrysler Jeep car dealerships currently exist. Ray Darling, P.E. of Erdman Anthony appeared on the application. Mr. Darling explained that the owner is seeking to divide off the eastern – most dealership, Chrysler Jeep, from the Advantage Subaru dealership, with the intent of selling the resulting parcel which had been the Chrysler Jeep dealership. The resulting parcels would be approximately 2 acres and 2.7 acres in size. The Planning Board generally entertained concept review with Mr. Darling on the application. Several issues were discussed, primarily dealing with the existing shared entrance and shared utilities for these two commercial buildings. Currently, these two commercial buildings are situated on one parcel, with a shared common driveway and possibly shared utilities, although the issue of utilities is still under investigation. The applicant was initially proposing to include the existing shared driveway entirely in the lot for the former Chrysler Jeep dealership, and provide an easement over that driveway to the Subaru dealership lot. Chairman Oster stated that the Planning Board will require a separate entrance for each commercial lot. Options on relocating the proposed boundary line to accommodate a separate entrance for each resulting commercial lot was discussed. Issues concerning location of proposed lot lines and compliance with setback requirements for existing structures will be investigated. The Planning Board continued to analyze the current status of the property, and that a number of features were shared on the one lot, including drainage, lighting, parking, and greenspace, as well as access. The Planning Board determined that it should review a site plan for each resulting lot, since each commercial parcel will need to function

independently. It was determined that the Subaru dealership will need to have a site plan reviewed immediately, whereas the Chrysler Jeep lot will need to undergo site plan review once a new use is proposed, as the Chrysler Jeep lot is currently vacant. Mr. Kreiger obtained a copy of the current site plan for the lot, and the Board generally discussed water and sewer connections as depicted on the current site plan for the property. Mr. Darling indicated that he would relay the discussion on the concept plan with the owner, and the need to file an additional site plan for the current Subaru lot, and also provide additional information concerning utilities, drainage, parking, lighting, and other requirements so that each resulting commercial lot meets Town Code requirements and functions independently. This matter has been placed on the July 16 agenda for further discussion.

The **index** for the July 2, 2009 meeting is as follows:

1. Thompson – site plan – adjourned to 8/6/09 (tentative);
2. May – minor subdivision – adjourned without date;
3. ADD Leasing Corp. – minor subdivision and site plan – 7/16/09.

The **proposed agenda** for the July 16, 2009 meeting currently is as follows:

1. ADD Leasing Corp. – minor subdivision and site plan.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD July 16, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER, KEVIN MAINELLO, DAVID TARBOX and JOSEPH WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

The draft minutes of the July 2, 2009 meeting were reviewed. Upon motion of Member Wetmiller, seconded by Member Christian, the minutes were approved by a vote of 6/0, with Member Czornyj not participating.

The first item of business on the agenda was the minor subdivision and site plan application by ADD Leasing Corp. for property located at 801/805 Hoosick Road. Chairman Oster reviewed the status of the application. Ray Darling, P.E. of Erdman Anthony appeared on the application, and presented a revised site plan to the Board. Mr. Darling indicated that the revised site plan included existing parking spaces on the site, existing water and sewer infrastructure, and also some proposed additional spaces. Mr. Darling pointed out that the water main access and stormwater facilities were located on proposed Lot 2 (the former Chrysler Jeep dealership), and therefore the applicant would be reserving a utility easement in order to ensure water service to and stormwater drainage from proposed Lot 1 (the Advantage Subaru dealership). Mr. Darling also indicated that the proposed drainage easement also would include a maintenance agreement between the Applicant and the buyer of proposed Lot 2.

Mr. Darling explained that the proposed buyer of Lot 2 is currently Rensselaer Honda, and that it is his understanding that they expect to use proposed Lot 2 as an alternative site for cleaning and maintaining vehicles, selling used cars, and, perhaps in the future, as a new dealer franchise. Mr. Darling presented to the Planning Board a letter submitted by Rensselaer Honda concerning the application.

Mr. Darling indicated that the revised site plan also includes an indication of the setbacks on each of the proposed lots. Mr. Darling acknowledged that the landscaping on the site covers less than 35% of the site area, but additional green space could be added by eliminating some parking spaces in the rear of the site if the Planning Board preferred. Member Mainello commented that the parking area shown on the revised site plan appeared to be tight, and Mr. Darling responded that the parking spaces as shown on the revised site plan are as they currently exist and that the parking area is mostly used for display of vehicles. Member Esser also commented that the parking area seemed tight. In response, Mr. Darling submitted a copy of an aerial photograph of the site showing existing parking areas.

Chairman Oster reminded the Planning Board that at the previous meeting, the issue of each proposed lot's access to Route 7 was discussed, and that there was a suggestion made at the previous meeting that the shared main entrance to both proposed lots be a part of proposed Lot 1, rather than proposed Lot 2, since proposed Lot 2 would have an additional access point to the east of the site. Mr. Darling indicated that the revised site plan did not incorporate that suggestion because the terms of the sale of proposed Lot 2 currently require that the underlying fee ownership of the access driveway be included in proposed Lot 2. Member Czornyj again suggested that the applicant re-consider and revise the proposed subdivision line such that the access driveway is included in proposed Lot 1, with an easement granted to Lot 2 so that each lot

has independent access to Route 7. Member Czornyj indicated that it was his understanding based on the previous meeting that each lot must have its own independent access to Route 7. Mr. Tingley responded that, aside from the legal issue of whether a lot could be created where the lot does not itself have access to an adjoining road, the practical issue that the Planning Board should consider is that there exists the potential that the new or a future owner of proposed Lot 2 may erect a barrier preventing proposed Lot 1 from using the proposed easement. Under that situation, Lot 1 may be prevented from having access onto Route 7, even if only temporarily while such a dispute is resolved. Mr. Tingley further indicated that it was not necessarily an uncommon occurrence for a property owner to attempt to prevent an adjoining owner from using an easement, whether legally justified in doing so or not. Mr. Darling responded that the applicant also owns the Action Chevrolet dealership located to the west, and in the event such a dispute arose, Lot 1 would have access to Route 7 through the Action Chevrolet dealership. Mr. Kestner inquired whether people would be able to enter any one of the three proposed parcels (the Action Chevrolet dealership, the Advantage Subaru, and the former Chrysler Jeep dealership) from the other two parcels. It was noted that customers have travelled freely among all three dealerships in the past. Mr. Kestner discussed with the Planning Board the potential of an easement across all three lots to allow access to any of the three parcels from any of the available Route 7 access points. Member Wetmiller commented that if the parcel is subdivided as proposed, there is little that would prevent the owner of proposed Lot 2 from erecting a barrier and preventing access to Route 7 from Lot 1. Member Czornyj indicated that the current access proposal might be less of an issue if the New York State Department of Transportation (DOT) would issue a curb-cut permit, even if Lot 1 never actually needed to use it because of the easement over the Lot 2 driveway. Chairman Oster asked whether the applicant had contacted

DOT to find out whether they would issue a curb-cut permit, and Mr. Darling responded that he had not contacted DOT, and that DOT probably would not make a commitment in writing in any event. James Conroy, the applicant's real estate agent, also appeared on behalf of the applicant and explained generally the terms of the proposed sale. Member Esser suggested that the applicant consider seeking DOT approval to widen the existing driveway so that half of the proposed shared driveway could be included with Lot 1, and the other half included with Lot 2. After continued discussion concerning the access issue, Chairman Oster summarized the outstanding questions as follows:

1. Is it legally permissible for the Planning Board to approve a subdivision where one of the commercial lots created has direct access to the adjoining road only by easement over an adjacent lot? Mr. Tingley responded that he would discuss this issue further with Mr. Gilchrist.
2. Would DOT issue a curb-cut permit for Lot 1 so that if the proposed easement across Lot 2 is obstructed, the owner of Lot 1 could create an independent point of access to Route 7? Mr. Darling responded that he would contact DOT.
3. Are the applicant and the proposed buyer of Lot 2 willing to reconsider the proposed subdivision line so that the shared driveway is owned by the owner of Lot 1, with an easement to the owner of Lot 2? Mr. Darling responded that he would discuss this option with the applicant.

The Planning Board then discussed other issues associated with the application. Chairman Oster noted that under the current proposal, there would be no pavement setback between the proposed lots. Mr. Kreiger indicated that the Planning Board may have the authority to waive that particular requirement and that he would look into that issue.

Mr. Kestner indicated that he did not necessarily see any technical problems with the proposed utilities easements, but that with respect to the proposed water easement, he advised the Board that the applicant should make clear who (the owner of proposed Lot 1 or the owner of proposed Lot 2) would be responsible for maintenance. Mr. Kestner also noted that the proposed

stormwater easement should extend all the way to the property line. Mr. Kestner also pointed out that, with respect to the Route 7 access issue, the applicant might consider seeking DOT approval to relocate one of the two access points to the Action Chevrolet lot (located to the west of proposed Lot 1) to the proposed Lot 1.

Mr. Kreiger commented that proposed Lot 1 would require 54 parking spaces plus one parking space for each two employees. He also confirmed that the Planning Board was authorized to waive the pavement setback between the two proposed lots.

The Planning Board also discussed potentially including as a condition of approval a prohibition of parking cars on green space identified on the site plan.

Mr. Kestner requested that the applicant provide copies of the forms of the proposed easements for Mr. Kestner's and Mr. Gilchrist's review.

Mr. Darling requested that, given the pending sale of Lot 2, the Planning Board schedule a public hearing on the application for the next regular Planning Board meeting. Mr. Darling was advised that any further revisions to the proposal and any additional information must be received by the Planning Board sufficiently in advance of the public hearing to allow the Planning Board to properly notice the public hearing and to allow the public access to a complete application. Mr. Darling indicated that the applicant would likely have all materials submitted to the Planning Board by Friday, July 24, 2009. The Planning Board scheduled a public hearing for August 6, 2009, at 7:00 p.m., but advised Mr. Darling that the public hearing could only be held if the applicant submits any revisions and additional information sufficiently in advance to allow the Planning Board to properly notice the public hearing.

The next item discussed was a Planned Development District application submitted to the Town Board and the Zoning Board of Appeals by Berkshire Properties, LLC. William Doyle,

Esq. appeared on behalf of the applicant. Mr. Doyle explained that the applicant was before the Planning Board because the Zoning Ordinance requires the Planning Board to make recommendations to the Town Board on PDD applications. Mr. Doyle then explained the PDD proposal. The parcel involved is the same parcel that was previously proposed to be developed in connection with the Wal-Mart proposal. Along Route 7, the parcel is located between Feathers Furniture and the BMW dealership with Route 7 frontage. The proposal includes (1) a commercial building of approximately 6,000 square feet on approximately 1 acre located along Route 7, (2) a larger commercial building of approximately 30,000 square feet proposed to be located behind the 6,000 commercial space, (3) 5.28 acres to be donated to the Town of Brunswick, and (4) 7 residential lots, of varying sizes, along a cul-de-sac with access to Betts Road.

Mr. Doyle explained that the 6,000 square foot commercial building would have access to Route 7, and the 30,000 square foot building would have access from Route 7 and Betts Road. Mr. Doyle indicated that public water and sewer may be available to the 7 residential lots as a result of development of another nearby PDD, but that the current proposal presumes that the 7 residential lots will be serviced by private septic and well water. Mr. Doyle also explained that the proposed layout and the location of the buildings in the PDD may change depending on the location of wetlands.

Chairman Oster explained to Mr. Doyle that the Planning Board may incur consulting fees in connection with the Planning Board's review of and recommendation on the PDD, and that those fees would be chargeable to the applicant.

Chairman Oster asked whether the parcel to be donated to the Town would be in lieu of a park and recreation fee, and Mr. Doyle responded that he was not certain and would have to

discuss that issue further with his client. Chairman Oster also pointed out that it appears based on the conceptual plan that additional curb cuts may be necessary.

Member Mainello asked whether the width of Betts Road was an issue, since the width of Betts Road was an issue on the prior proposal. The Planning Board discussed Betts Road's status as a highway by use, and that the issue of the width of Betts Road on the prior proposal was that sewer and other utility lines could not be constructed along Betts Road.

Member Wetmiller asked whether public sewer and water would be available for the residential lots, and Mr. Doyle responded that a nearby PDD was proposing to construct public sewer and water infrastructure that may be available to the 7 residential lots in the future, but that the current proposal for the 7 residential lots was for private septic and well water.

Member Tarbox asked whether the commercial buildings would be sold or leased, and Mr. Doyle indicated that the applicant is open to either selling or leasing the buildings, depending on negotiations with potential end users. Chairman Oster asked whether the PDD was proposed to be developed in phases, and Mr. Doyle responded that it might be developed in phases, depending on feedback that the applicant receives from the New York State Department of Environmental Conservation. Mr. Doyle requested that the PDD application be placed on the August 6 agenda.

The next item discussed was the Brooks Subdivision. William Doyle, Esq. appeared on behalf of the applicant. Mr. Doyle explained that the 6-month time period for final subdivision approval would be expiring in August, and the applicant was therefore seeking an extension of time. He explained that the applicant is currently conferring with the Department of Health, setting up a water district, and consulting with the Attorney General concerning open space. Mr. Doyle requested that the Brooks Subdivision matter be placed on the August 6 agenda.

The next item discussed was a lot line adjustment application received from Joseph and Kathleen Magno. The parcel, located at 3899 NY Route 2, is the farm located behind Sticks Restaurant. Mr. Kreiger explained that the restaurant has been apparently using a piece of land owned by the Magnos, and the lot line adjustment is sought so that the ownership of that piece of land can be properly transferred to the restaurant.

The next item discussed was the May Subdivision. Mr. Kreiger explained that Mr. May had paid the subdivision application fee, that Mr. Kreiger had discussed with Mr. May the options available to him, and that Mr. May indicated that he was going to speak with the buyers. Mr. Kreiger has not yet heard back from Mr. May.

The next item discussed was a letter received by Mr. Kreiger from the City of Troy seeking lead agency on Fishcone, LLC's proposed subdivision on Euclid Avenue. The letter has been referred to Mr. Gilchrist for his review.

The next item discussed was the Thompson site plan application. Mr. Kreiger noted that Thompson application has tentatively been placed on the August 6 agenda, but whether the matter will be ready for further discussion at that time is in question.

Chairman Oster indicated that he will be absent from the August 6 meeting, and that Member Czornyj will be Acting Chairman in his place.

Member Czornyj made a motion to adjourn the meeting, seconded by Member Tarbox, and the motion was unanimously approved.

The **index** for the July 16, 2009 meeting is as follows:

1. ADD Leasing Corp. – minor subdivision and site plan;
2. Berkshire Properties, LLC – planned development district;
3. Brooks – subdivision;

4. Magno – lot line adjustment;
5. May – subdivision;
6. Fishcone, LLC – City of Troy subdivision lead agency request; and
7. Thompson – site plan.

The **proposed agenda** for the August 6, 2009 meeting currently is as follows:

1. ADD Leasing Corp. – minor subdivision and site plan (with public hearing tentatively scheduled for 7:00 p.m.);
2. Thompson – site plan;
3. Berkshire Properties, LLC – Planned Development District Application;
4. Brooks Subdivision – extension of time request; and
5. Magno – lot line adjustment.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD August 6, 2009

PRESENT were MICHAEL CZORNYJ, FRANK ESSER, KEVIN MAINELLO, DAVID TARBOX and JOSEPH WETMILLER.

ABSENT were CHAIRMAN OSTER and GORDON CHRISTIAN.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board opened a public hearing concerning the minor subdivision and site plan application submitted by ADD Leasing Corp. for property located at 801/805 Hoosick Road. The notice of public hearing was read into the record, and the notice had been published in the Troy Record, posted on the Town sign board and Town website, and mailed to all adjacent property owners. Member Czornyj requested the applicant to make a presentation of the application. Ray Darling, P.E., of Erdman Anthony presented the application on behalf of ADD Leasing Corp. Mr. Darling generally reviewed the proposed division of one parcel into two lots, proposed Lot 1 housing the existing Subaru dealership, and proposed Lot 2 housing the former Chrysler Jeep dealership. One primary driveway off Route 7 currently provides access to both dealerships, and the current proposal by the applicant is to have the entire driveway included in proposed Lot 2, and grant an easement over the driveway in favor of Lot 1. Mr. Darling stated that he had contacted the NYSDOT Permit Engineering Office, which informally told him that DOT prefers the use of an existing shared driveway versus a new curbcut on the state highway, but that before DOT would render a final position a full application for an additional curbcut

would need to be filed with DOT. Member Czornyj then opened the floor for receipt of public comment. Andy James of Rensselaer Honda spoke, and it was noted the Rensselaer Honda is the prospective purchaser of proposed Lot 2. Mr. James questioned why a separate driveway is required for proposed Lot 1. Mr. James stated that the history of these dealerships on Route 7 is that the Chevy dealership was built first, and it had two access driveways; then the Chrysler Jeep building was built, and it has a separate driveway; and then the Subaru dealership was built between the two existing Chevy and Chrysler Jeep buildings, and it uses the existing access points on Route 7. Mr. James did note that a fourth driveway does exist on the eastern most part of proposed Lot 2, which does provide access to Lot 2 but is primarily used by Verizon for access to its facility behind the Chrysler Jeep dealership. Mr. James commented that since the driveway was initially built for the Chrysler Jeep dealership, it should be retained within proposed Lot 2. Member Czornyj raised the issue of each parcel having the ability to have its own separate driveway or access way, and asked Mr. James why title ownership of the driveway needed to be included in proposed Lot 2. Mr. James commented that it would be his concern that if these parcels went into separate ownership in the future, he would not want to have to rely on an easement for access but would rather have title ownership, stating that his real concern was not present but potential future uses on each of these parcels. Member Czornyj stated that this issue was the very reason why the Planning Board was concerned regarding access for each lot, since the same concern could be raised for a future owner of proposed Lot 1 in terms of reliance only on an easement for access. Member Czornyj then asked for an additional public comment. Hearing none, the Planning Board closed the public hearing on the subdivision and site plan application by ADD Leasing Corp.

Thereupon, the Planning Board opened its regular business meeting.

The Planning Board reviewed the draft minutes of the July 16, 2009 Planning Board meeting. Upon motion of Member Mainello, seconded by Member Esser, the minutes of the July 16, 2009 meeting were unanimously approved without amendment.

The first item of business on the agenda was the minor subdivision and site plan application by ADD Leasing Corp. for property located at 801/805 Hoosick Road. The applicant and Planning Board members requested the Planning Board Attorney to review legal requirements associated with the driveway issue for each of the proposed lots. Attorney Gilchrist reviewed New York Town Law requirements for fee title ownership of frontage on a public highway for purposes of access for each building lot, which is also consistent with Town of Brunswick requirements. Upon further discussion, the Planning Board and Attorney Gilchrist suggested that dividing the existing main access to proposed Lots 1 and 2 off Route 7 such that fee title ownership of at least 15 feet of width of the existing driveway was included in each proposed lot would satisfy New York Town Law requirements, and that cross easements could then be provided to each of the lots for the remaining width of the existing driveway. Mr. Darling confirmed that the existing driveway is a little over 30 feet in width of pavement. The Planning Board then generally discussed that if 15 feet of width of the driveway went in fee title ownership with each of the proposed lots, then in the event there were any dispute between the owners of these lots in the future, each lot would have title ownership to at least 15 feet of driveway to Route 7 to allow for safe ingress and egress, particularly for emergency vehicles. The Planning Board noted that there was precedent for this approach in the Town, identifying the existing access driveway for the Burger King and Dunkin Donuts stores on Route 7. Mr. Kestner also raised review issues, including the existing public water supply to the two existing buildings which are now proposed to be in two separate building lots; that stormwater drainage facilities

are on Lot 2, but that part of proposed Lot 1 also drains onto Lot 2 and that an easement and maintenance agreement for drainage would be required; and questioned which of the buildings controlled the parking lot lights existing between the Subaru and Chrysler Jeep dealerships. The applicant stated that the parking lot lights existing between these two buildings will be physically located on proposed Lot 2, and are controlled from the building located on proposed Lot 2, and that the existing parking lot lights in the front and to the west side of the building on proposed Lot 1 are controlled within the building on Lot 1. Member Czornyj wanted to confirm that there were adequate parking spaces for each of these proposed lots per Town Regulations. It was determined that a total of 62 spaces were required, and that a total of 69 parking spaces are being provided, distributed between the two lots to be in compliance with Town Code Requirements. Mr. Darling stated that with respect to the driveway issue, the applicant had considered the option of including the entire driveway with proposed Lot 1, but agrees that the option of splitting the driveway with 15 feet of paved access to each proposed lot is preferable. Member Tarbox stated that the total greenspace for proposed Lot 1 is below Town standard, and provides for 24% greenspace; however, Member Tarbox thought that this provision should be modified and that given that this is an existing building, a determination that 24% greenspace on the site is adequate. Member Esser stated that with respect to the site plan for proposed Lot 1 (existing Subaru dealership), the Planning Board should require the condition that no vehicles be parked on the front grass, and that a map note be added to that effect to the site plan. The Planning Board members and Mr. Kestner further discussed the drainage patterns on these two lots, including the need for a drainage easement in favor of Lot 1 to drain stormwater onto existing facilities on Lot 2, as well as appropriate connection to the state drainage system along Route 7. It was noted that the site plan had been referred to the Rensselaer County Department of

Economic Development and Planning, which provided a response that local consideration shall prevail. Upon further discussion, the Planning Board determined to act upon the application subject to conditions as discussed during the meeting. Thereupon, Member Tarbox made a motion to adopt a negative declaration under SEQRA with respect to both the subdivision and site plan applications, which motion was seconded by Member Wetmiller. The motion was approved 5/0, and a negative declaration was adopted. Member Tarbox then made a motion to approve the minor subdivision application subject to the following conditions:

1. Filing the water and stormwater easements between Lots 1 and 2 with the Town of Brunswick for review by the Planning Board, Planning Board consulting engineer, and Planning Board Attorney;
2. Submission of a revised subdivision plat showing the property line between Lots 1 and 2 bisecting the existing driveway off Route 7 (situated on the eastern part of Lot 1 and western part of Lot 2), such that fee title ownership of at least 15 feet width of paved access is provided to each Lot 1 and Lot 2;
3. Submission of cross easements between Lots 1 and 2 for use of such driveway, such that each resulting lot owns 15 feet of paved access way and the right to utilize the remaining 15 feet of said driveway by way of easement;
4. Modification of the greenspace requirement for Lot 1 to provide that 24% greenspace is deemed adequate;
5. Payment of all application and consultant review fees.

Member Wetmiller seconded the motion subject to the stated conditions. The motion was approved 5/0, and the minor subdivision application granted final approval subject to the stated conditions. Thereupon, Member Mainello made a motion to approve the site plan for Lot 1 (existing Subaru dealership), subject to the following conditions:

1. Filing the water and stormwater easements between Lots 1 and 2 with the Town of Brunswick for review by the Planning Board, Planning Board consulting engineer, and Planning Board Attorney;

2. Submission of a revised subdivision plat showing the property line between Lots 1 and 2 bisecting the existing driveway off Route 7 (situated on the eastern part of Lot 1 and western part of Lot 2), such that fee title ownership of at least 15 feet width of paved access is provided to each Lot 1 and Lot 2;
3. Submission of cross easements between Lots 1 and 2 for use of such driveway, such that each resulting lot owns 15 feet of paved access way and the right to utilize the remaining 15 feet of said driveway by way of easement;
4. Modification of the greenspace requirement for Lot 1 to provide that 24% greenspace is deemed adequate;
5. No parking of vehicles is allowed on the front grass/lawn area, and such prohibition must be listed as a map note on the site plan for Lot 1;
6. Payment of all application and consultant review fees.

Member Esser seconded the motion subject to the stated conditions. The motion was approved 5/0, and the site plan for Lot 1 was approved subject to the stated conditions. It is stated in the record that any future use of Lot 2 will be subject to separate site plan review by the Planning Board.

The next item of business on the agenda was the referral of the Berkshire Properties PDD application by the Town Board to the Planning Board for review and recommendation. Attorney William Doyle appeared on behalf of the applicant. Attorney Doyle reviewed the procedural status of the application, and generally reviewed the overall concept of the PDD project. This application includes proposed commercial use of property adjacent to Route 7 and Betts Road, with proposed access both off Route 7 and Betts Road for commercial purposes; proposed seven lot residential subdivision to the rear of the project site at the end of Betts Road; and transfer of property in the central location of the project site from the applicant to the Town of Brunswick for public purposes. Attorney Doyle updated the Planning Board that the applicant was continuing to work with NYSDEC on wetlands issues associated with the commercial section of

the project, and that the applicant was continuing to work with the Rensselaer County Department of Health on septic issues on the residential portion of the project, and that the applicant was continuing to work on issues associated with the proposed subdivision road off Betts Road in terms of title issues. The Planning Board had questions regarding future hookup to public water and public sewer. Attorney Doyle stated that while public water and public sewer were being proposed to extend the length of Betts Road in connection with the Hudson Hills PDD project, that project has not moved forward to construction, and that currently the Berkshire Properties PDD is proposing private well and private septic for the seven residential lots at the end of Betts Road. Attorney Doyle did state he was trying to contact representatives of Hudson Hills so that the two projects could be coordinated in the event Hudson Hills was moving forward with construction, including installation of public water and public sewer facilities. Member Czornyj inquired whether dry lines should be installed for future hookups in the event Hudson Hills constructs the public lines in the future. Attorney Doyle stated that the issue of cost was a factor, as the cost of installing dry lines may be prohibitive given that there are only seven residential lots being proposed. The Planning Board inquired as to the proposed width of the right-of-way for the residential road, noting that their current map indicated only a 50 foot wide right-of-way. Attorney Doyle stated that a 60 foot right-of-way for the residential street would be provided. The Planning Board members and Mr. Kestner generally discussed sewer issues, road width issues, as well as specifications for the proposed cul-de-sac at the end of the subdivision street. Upon further discussion, the Planning Board was comfortable with preparing a recommendation on the general concept and project layout, but wanted to reserve the right to provide further review and recommendation once more detailed plans are developed and the SEQRA record on the project is developed. Member Wetmiller raised an issue regarding

additional traffic generated from both the seven residential lots and the commercial portion of the project utilizing Betts Road, and the potential for stacking on Betts Road given existing traffic patterns on Route 7. Member Mainello inquired as to the proximity of proposed apartment buildings in the Hudson Hills project to the proposed residential lots on the Berkshire Properties PDD. The Board generally discussed this issue, and Attorney Doyle stated that the applicant would prepare an overlay identifying the relative location of these proposed buildings. Member Czornyj raised the issue of parking at the existing BMW dealership, and suggested that the applicant should address the potential for additional parking for the BMW dealership prior to finalizing any lot lines or project layout on the current PDD application. Attorney Doyle agreed that the applicant should look at this issue at this time, and have the ability to address that issue since all properties are within single ownership. Member Mainello inquired about grading in the area of the road for the residential portion of the project, and Attorney Doyle stated that the applicant was trying to stay with nature topography and have little grading as possible. The Planning Board directed Attorney Gilchrist to draft a recommendation as to the concept and general plan layout, which the Planning Board will review at the August 20 meeting.

The next item of business on the agenda was the major subdivision application by Brooks Heritage, LLC for property located on Dusenberry Lane. Attorney William Doyle appeared on behalf of the applicant. Attorney Doyle reviewed the procedural status of this project, which has received preliminary subdivision approval from the Planning Board. Attorney Doyle stated that the applicant was continuing to work on final engineering plans, coordination with NYSDOT on work at the Dusenberry Lane/Route 142 intersection, petition and request for creation of a water district since public water would be supplied to this project, and preparing homeowner association documents for the ownership, maintenance, and operation of the stormwater

management facilities. Attorney Doyle stated that while the applicant was working diligently on these issues, he is not yet ready to submit the final plat, and that the applicant was requesting an additional 6 months in which to submit the final plat. Attorney Doyle did state that the applicant would be agreeable to be placed on an agenda for periodic updates, as soon as 30 days from the current meeting, to provide the Planning Board with updates on the completion of these outstanding items. Attorney Doyle stated that the applicant would also continue to work directly with Mr. Kestner on engineering issues and Attorney Gilchrist on review of legal documents. The Planning Board reviewed the conditions attached to the preliminary subdivision approval. Upon further discussion, the Planning Board determined that given the extensive discussion and deliberation which has already occurred on this project, including several design modifications, and the efforts being undertaken by the applicant to address final plat submission, that an extension of 6 months for the submission of the final plat was reasonable. Member Wetmiller made a motion to establish an additional 6 month period for the applicant to file its final plat application materials, with periodic update from the applicant during this period as to the status of final plat preparation. Such motion was seconded by Member Tarbox. The motion was approved 5/0. This matter has been placed on the agenda for the second meeting in September for a status update.

The next item of business on the agenda was the waiver of subdivision application by Joseph Magno for property located on Route 2 and Route 351. The applicant seeks to divide an existing 38± parcel with a home and barn into two 19± acre parcels. Specifically, the applicant is seeking to sell this property, with its primary residential access off Route 2 via a stone bridge over the creek. The applicant is seeking to create a 19± acre lot with a house and barn buildings to have access via the stone bridge off Route 2. The remaining 19± acre vacant parcel, which

will have no existing structures on it, does have access and direct frontage on Route 351. Mr. Kestner reviewed the Route 351 frontage for this lot, and determined that the frontage is approximately 62 feet wide. Mr. Kreiger noted that the applicant owns additional property directly adjacent to the proposed lot with the Route 351 frontage, and that such adjacent parcel itself has direct access onto White Church Lane. Thus, the Planning Board determined that the 19± acre vacant parcel is buildable and that it has adequate frontage on Route 351, and is adjacent to additional property owned by the applicant which itself has frontage on White Church Lane. After discussion, the Planning Board saw no issues associated with the application. Member Mainello made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Tarbox. The motion was approved 5/0, and a negative declaration adopted. Thereupon, Member Mainello made a motion to approve the waiver of subdivision application, subject to payment of all application and consultant review fees. Member Wetmiller seconded the motion subject to the stated conditions. The motion was approved 5/0, and the waiver of subdivision application approved.

Three items of new business were discussed.

The first item of new business discussed was a waiver of subdivision application submitted by Anita McCabe for property located at 304 North Lake Avenue. This applicant owns two adjacent parcels, one of which has a house on it, and the second of which is vacant. The applicant seeks to divide 0.13± acres from the vacant lot to add to the yard area of the lot on which the house sits, and then put the resulting vacant lot on the market for sale. This matter will be placed on the August 20 agenda.

The second item of new business discussed was a waiver of subdivision application by Dzembo for property located on the northeast side of Dater Hill Road. This applicant currently

owns 42± acres, and seeks to divide off 1.5± acres for transfer to their daughter for the construction of a home. The Planning Board did note that this applicant had previously divided off a portion of this lot through a waiver of subdivision in 2004, but that was also for the construction of a home for their child. The Planning Board determined that this application was appropriate for consideration as a waiver of subdivision application. This matter is placed on the August 20 agenda.

The third item of new business discussed was a waiver of subdivision application submitted by Kenneth Jansen for property located at 8 Winfield Lane. The applicant owns a 5.05± acre lot within the Winfield Estates project. The applicant seeks to divide 1.75± acres from his existing lot, which would have frontage directly on Bulson Road. The Planning Board, Mr. Kestner, and Mr. Kreiger questioned whether there were any deed restrictions or subdivision restrictions on resubdivision of the lots within the Winfield Estates project. Additionally, the Planning Board was concerned regarding the location of private septic and private wells, both existing and proposed, on the Jansen lot as well as all surrounding residential lots. Mr. Kreiger will relay these issues to the applicant to address. This matter is placed on the August 20 agenda.

The **index** for the August 6, 2009 meeting is as follows:

1. ADD Leasing Corp. – minor subdivision and site plan – approved with conditions;
2. Berkshire Properties, LLC – Planned Development District application – 8/20/09;
3. Brooks Heritage, LLC – major subdivision – 9/17/09;
4. Magno – waiver of subdivision - approved;
5. McCabe – waiver of subdivision – 8/20/09;
6. Dzembo – waiver of subdivision – 8/20/09;

7. Jansen – waiver of subdivision – 8/20/09.

The **proposed agenda** for the August 20, 2009 meeting currently is as follows:

1. Berkshire Properties, LLC – Planned Development District – review and recommendation;
2. McCabe – waiver of subdivision;
3. Dzembo – waiver of subdivision;
4. Jansen – waiver of subdivision.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD August 20, 2009

PRESENT were CHAIRMAN OSTER, FRANK ESSER, GORDON CHRISTIAN, KEVIN MAINELLO, DAVID TARBOX and JOSEPH WETMILLER.

ABSENT was MICHAEL CZORNYJ.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board reviewed the draft minutes of the August 6, 2009 Planning Board meeting. Chairman Oster requested that another item, the Mainello waiver of subdivision application, be added to the agenda for the August 20, 2009 meeting, as reflected on page 12 of the August 6, 2009 minutes. Upon motion of Member Tarbox, seconded by Member Christian, the minutes of the August 6, 2009 meeting, as so amended, were unanimously approved.

The first item of business on the agenda was the Town Board's referral of the PDD application of Berkshire Properties, LLC for property located along Route 7, between Feather's Furniture and the BMW dealership. Attorney William Doyle appeared on behalf of the applicant. Chairman Oster reviewed the application, as well as a proposed resolution making a recommendation to the Town Board. Chairman Oster noted that, although Member Czornyj was not present, it was Chairman Oster's understanding that Member Czornyj wanted to put in the record that he had read the draft resolution, and that he was concerned with whether or not the applicant intended to install dry lines for hookup to potential public water and sewer to be constructed in connection with the Hudson Hills PDD. Attorney Doyle stated that the applicant

did have concerns with paragraph 2(a) of the draft resolution, which requests that the Town Board address the coordination with the owners of the Hudson Hills PDD concerning the construction of public water and public sewer infrastructure for connection to the residential portion of the Berkshire Properties PPD proposal. Attorney Doyle stated that the lots were designed to all be 1 acre or larger for the very purpose of allowing for private well and septic in the event that the Hudson Hills project and its water and sewer infrastructure had not yet been constructed by the time the Berkshire Properties PPD residential lots are ready for construction. Attorney Doyle further commented that if hookup to public water and sewer were required, the applicant likely would seek approval for a more dense residential subdivision.

Chairman Oster clarified that at this point in the process, the Planning Board resolution is simply a recommendation to the Town Board concerning the conceptual plan, and that paragraph 2(a) is just a request from the Planning Board that the Town Board address that particular issue. Member Wetmiller asked whether space could be allocated for future construction of sewer and water lines, even if dry water and sewer lines are not installed during the initial construction process. Mr. Kestner responded that the regulations concerning the width of town roads were intended to accommodate for just such a scenario, and that therefore space could be allocated for future installation, assuming sufficient town road width.

The Planning Board asked Attorney Doyle whether he could give an estimate as to when the application would likely be before the Town Board. Attorney Doyle responded that the application is also currently before the Zoning Board, and the Zoning Board will be looking to receive a copy of the Planning Board's resolution before it acts. Thereafter, Attorney Doyle expects the application to be before the Town Board.

Members Esser and Mainello had questions concerning the PDD application's parking lot and the existing gas main in the residential area, and the Planning Board generally discussed that such particulars would be addressed later in the process.

With respect to the water and sewer issue, Attorney Doyle noted that the Planning Board draft recommendation did include a paragraph concerning the seven single family residential lots and that the conceptual plan was for such lots to be serviced by private water and private septic, with the potential for future hookup to public water and public sewer if the public utilities were constructed in connection with the Hudson Hills PDD.

After discussion, a motion was made by Member Wetmiller to adopt the proposed resolution making a favorable recommendation, without amendment. Such motion was seconded by Member Mainello, and after a roll call vote, was adopted 6/0, with Member Czornyj absent.

The next item of business on the agenda was the waiver of subdivision application submitted by Anita McCabe. The subject property is located at 304 North Lake Avenue. Ms. McCabe appeared on the application. Ms. McCabe explained that she was seeking a lot line adjustment to add approximately 0.13± acres from a vacant lot she owns next to her home to the yard area of the lot on which her home sits. Ms. McCabe confirmed that her home is serviced by public water and sewer. The Planning Board generally discussed that the 0.13± acres divided from the vacant lot must be legally merged to the applicant's home lot. After discussion, Member Tarbox made a motion to adopt a negative declaration under SEQRA. The motion was seconded by Member Wetmiller, and the motion was approved 6/0. Member Esser then made a motion to approve the waiver of subdivision application subject to the condition that the 0.13± acres divided from the vacant lot be legally merged into the yard area of the adjacent lot on

which the applicant's home sits. Member Christian seconded the motion, and the motion was approved 6/0, with Member Czornyj absent.

The next item of business on the agenda was the waiver of subdivision application filed by the Dzembo family, seeking to divide off a 1.5± acre parcel from an existing 42± acre parcel for the construction of a home. The subject property is located on the northeast side of Dater Hill Road. John Darling appeared on behalf of the Dzembo family. Chairman Oster reviewed with Mr. Darling the requirement that any review and consulting fees incurred by the Planning Board in connection with the applicant would be chargeable to the applicant. Mr. Darling explained that the 1.5± acre portion to be divided from the existing parcel was intended to be transferred to Michele Dzembo, the applicant's daughter, to build her home thereon. Mr. Darling explained that there had been a previous waiver of subdivision application granted for similar purpose for another Dzembo daughter. Mr. Darling pointed out that the portion to be divided would have 60 feet of frontage on Dater Hill Road.

Chairman Oster explained that the practice of the Planning Board was not to allow another waiver of subdivision for the same parcel that was subdivided pursuant to waiver of subdivision just a few years prior. Chairman Oster noted, however, that because the first waiver of subdivision application was for the purpose of transferring property to a family member to build a house, as was the instant application, the Planning Board generally discussed and agreed that they would allow this application to proceed as a waiver of subdivision. Chairman Oster asked whether there would be any sight distance problems, and Mr. Kreiger explained that there would not be. Chairman Oster asked whether the property would be serviced by private septic and water, and Mr. Darling explained that it would be.

After further discussion, Member Wetmiller made a motion to adopt a negative declaration under SEQRA for the application, seconded by Member Mainello, and the motion was approved 6/0, with Member Czornyj absent. Member Christian then made a motion to approve the waiver of subdivision subject to the following conditions:

1. That the applicant obtain any necessary approvals from the County Health Department; and
2. That the applicant pay any fees and expenses associated with the Planning Board's review of the application.

Member Tarbox seconded the motion, and the motion was approved 6/0, with Member Czornyj absent.

The next item of business on the agenda was a waiver of subdivision application filed by Kenneth Jansen, seeking to divide 1.75± acres from an existing 5.05± acre lot in the Winfield Estates subdivision. The subject property is located at 8 Winfield Lane. Kenneth Jansen appeared on the application. Chairman Oster asked whether the potential restrictions on further subdividing the property had been resolved, and Mr. Jansen explained that it was his understanding that any restrictions imposed on the lots were no longer in effect given the dissolution of the Homeowner's Association. Attorney Tingley explained that, separate from Homeowner's Association rules, there may be restrictions filed in the County Clerk's Office or the restrictions may have been imposed as a condition of the initial subdivision approval. Mr. Jansen provided a copy of the deed to the property indicating that he did not find therein any restrictions on further subdivision. Attorney Tingley reiterated that the restriction on further subdivision may be in another document in the County Clerk's Office, including as a note on the subdivision map itself, or the restriction, if any, might have been imposed as a condition of approval of the initial subdivision. The Planning Board asked Mr. Jansen to provide further

information on whether this particular lot is subject to restrictions on further subdivision. Mr. Kreiger indicated that he would review the Planning Board records for the Winfield subdivision to see if there was such a condition on further subdivision imposed in connection with the approval.

Mr. Kestner also explained that the applicant should be prepared to identify the private well and septic systems on adjacent properties because the distances between such systems in relation to the proposed new lot must be considered. Chairman Oster asked Mr. Kestner if an escrow account should be established for engineer consulting fees, and Mr. Kestner replied that he would request that \$300 be placed into escrow. Mr. Kestner will send a follow-up letter to the applicant concerning the escrow account. Mr. Jansen requested that the Planning Board include his application on the agenda for the September 3, 2009 Planning Board.

At this point, Member Mainello excused himself from the Board.

The next item on the agenda was the waiver of subdivision application was for Kevin Mainello's property located at 15 Heather Ridge Road. Mr. Mainello appeared on the application, explaining that he was seeking to construct a pole barn in his backyard, but needed additional land to comply with the Town's land use regulations. The waiver of subdivision application seeks to adjust the lot line between Mr. Mainello's property and his father's adjacent property such that 0.51 acres from his father's parcel would be added to Mr. Mainello's parcel. Member Tarbox asked whether these lots were part of the Heather Ridge subdivision, and if so whether there were previous potential restrictions on further subdivision. Mr. Mainello explained that the properties involved were not part of the Heather Ridge subdivision. Member Tarbox asked whether there would be any problems with water or septic, and Mr. Mainello responded that the purpose of adjusting the lot line was to allow sufficient room to build a pole

barn, and the lot from which the additional property would be added was vacant agricultural land. After discussion, a motion was made by Member Tarbox to adopt a negative declaration under SEQRA, seconded by Member Esser, and the motion was approved 5/0, with Member Czornyj absent and Member Mainello not participating. Member Tarbox then made a motion to approve the waiver of subdivision to allow the lot line adjustment as proposed, seconded by Member Esser, and the motion was approved 5/0 with Member Czornyj absent and Member Mainello not participating.

At this point, Member Mainello rejoined the Planning Board.

The Planning Board discussed the Brooks application, and determined that the application was on the tentative agenda for September 17, 2009. The Planning Board generally discussed that Brooks had been given a six-month extension for filing its final subdivision plat and that Attorney William Doyle, on behalf of Brooks, agreed to appear on a periodic basis to provide updates.

Thereafter, a motion was made by Member Wetmiller to adjourn the meeting, seconded by Member Esser. The motion was approved 6/0, with Member Czornyj absent.

The **index** for the August 20, 2009 meeting is as follows:

1. Berkshire Properties, LLC – Planned Development District application – resolution adopting a recommendation approved;
2. McCabe – waiver of subdivision – approved subject to conditions;
3. Dzembo – waiver of subdivision – approved subject to conditions;
4. Jansen – waiver of subdivision – 9/3/09;
5. Mainello – waiver of subdivision – approved;
6. Brooks Heritage, LLC – major subdivision – 9/17/09 (tentative).

The **proposed agenda** for the September 3, 2009 meeting currently is as follows:

1. Jansen – waiver of subdivision;
2. Barry Thompson – site plan.

**TOWN OF BRUNSWICK PLANNING BOARD
REGULAR MEETING**

August 20, 2009

**RESOLUTION ADOPTING A RECOMMENDATION
ON THE BERKSHIRE PROPERTIES, LLC
PLANNED DEVELOPMENT DISTRICT APPLICATION**

WHEREAS, the Town Board of the Town of Brunswick ("Town Board") has received an application from Berkshire Properties, LLC for a Planned Development District ("PDD") for property located on NYS Route 7 and Betts Road, Rensselaer County Tax Map Nos. 91.00-2-15 and 91.00-2-26.1; and

WHEREAS, the Berkshire Properties PDD application is a proposal which includes commercial retail, single family residential, and transfer of property to the Town of Brunswick for municipal purposes; and

WHEREAS, the commercial retail section of the proposed Berkshire Properties PDD is located on NYS Route 7 and Betts Road, and proposes two commercial buildings for retail and/or restaurant use, with one proposed building being approximately 6,000 square feet and a second proposed building being approximately 30,000 square feet, with access points on NYS Route 7 and Betts Road with associated onsite parking; and

WHEREAS, the applicant informs the Planning Board that it is continuing to review the proposed layout and design of the commercial retail section of the Berkshire Properties PDD with the New York State Department of Environmental Conservation and United States Army Corps of Engineers on the issue of wetlands; and

WHEREAS, the single family residential section of the proposed Berkshire Properties PDD is located at the northern end of Betts Road and proposes seven single family residential lots with private water and private septic, plus a new subdivision road with a cul-de-sac, with lots ranging in size from approximately 1 acre to approximately 3.5 acres, and that public water and public sewer may be available in the future for connection to the proposed residential lots if such public utilities are constructed on Betts Road in connection with the Hudson Hills Planned Development District; and

WHEREAS, the central portion of the project site, approximately 5 acres, adjacent to property owned by the Brunswick Little League (Rensselaer County Tax Map No.

091.00-2-23), is proposed to be conveyed by the applicant to the Town of Brunswick for municipal purposes, which may include recreation and/or open space uses; and

WHEREAS, the Town Board has not yet made a determination of significance under the State Environmental Quality Review Act ("SEQRA") on this action; and

WHEREAS, the Town Board has referred the Berkshire Properties PDD application to the Planning Board for initial review and recommendation; and

WHEREAS, the applicant has presented the concept plan and general layout for the proposed Berkshire Properties PDD to the Planning Board, and the Planning Board has discussed the concept plan at meetings held July 16, 2009 and August 6, 2009;

NOW, THEREFORE, be it resolved by the Planning Board of the Town of Brunswick as follows:

1. The Town of Brunswick Planning Board finds that the general concept plan and general layout of uses for the proposed Berkshire Properties PDD is favorable and an appropriate use of the property, particularly the use of the Route 7 frontage for commercial use and the rear of the project site at the northern end of Betts Road for residential use. Also, the proposed transfer of approximately 5 acres of property by the applicant to the Town of Brunswick may provide additional open space and/or recreational areas for the Town.

2. The Planning Board makes this favorable recommendation on the Berkshire Properties PDD application on the general concept plan and general layout only, and requests that the Town Board allow the Planning Board to further review and make additional recommendations on the application at the point when greater detail is provided on the application, and the SEQRA record is generated to provide additional information on the application. In that regard, the Planning Board request that the Town Board address, at a minimum, the following issues:

- A. Coordination with the owners of Hudson Hills Planned Development District concerning the construction of public water and public sewer infrastructure on Betts Road for connection to the residential section of the Berkshire Properties PDD proposal;
- B. Residential subdivision road specifications for this PDD application, including right of way width, road width, cul-de-sac dimensions, and the number of lots using Betts Road for access to Route 7, including the Hudson Hills Planned Development District and existing homes on Wilrose Lane and Betts Road;
- C. The residential subdivision cul-de-sac road connection to Betts Road;

- D. The proximity of the proposed residential lots of the Berkshire Properties PDD to the location of apartment buildings and site uses in the Hudson Hills Planned Development District; and
- E. Parking, ingress/egress, and building location(s) for the commercial section of the Berkshire Properties PDD application, particularly in relation to the existing BMW dealership located at the corner of NYS Route 7 and Betts Road.

3. The Planning Board notes that the items contained in paragraph 2 above have arisen based solely on the review of the general concept plan and general design, and that additional issues may arise when greater detail is provided on this action, as well as development of the SEQRA record.

The foregoing Resolution, offered by Member Wetmiller and seconded by Member Mainello, was duly put to a roll call vote as follows:

CHAIRMAN OSTER	VOTING <u>Aye</u>
MEMBER CZORNYJ	VOTING <u>Absent</u>
MEMBER ESSER	VOTING <u>Aye</u>
MEMBER CHRISTIAN	VOTING <u>Aye</u>
MEMBER MAINELLO	VOTING <u>Aye</u>
MEMBER TARBOX	VOTING <u>Aye</u>
MEMBER WETMILLER	VOTING <u>Aye</u>

The foregoing Resolution was thereupon declared duly adopted.

August 20, 2009

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD September 3, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, DAVID TARBOX and JOSEPH WETMILLER.

ABSENT were FRANK ESSER and KEVIN MAINELLO.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

Chairman Oster reviewed the agenda for the meeting, which includes the waiver of subdivision application submitted by Jansen, and the site plan application submitted by Thompson.

The Planning Board then reviewed the draft minutes of the August 20, 2009 meeting. Upon motion of Member Christian, seconded by Member Tarbox, the minutes were unanimously approved as drafted.

The first item of business on the agenda was the waiver of subdivision application by Jansen for property located at 8 Winfield Lane. Kenneth Jansen appeared on the application. The issue of whether this lot owned by Jansen, part of the original Winfield Estates project, had any restrictions on re-subdivision was discussed. Attorney Gilchrist reviewed research on this issue. Mr. Jansen had submitted his deed, which does not include any specific prohibition on re-subdivision of the lot, but does include the general language that the lot is subject to all restrictions and conditions of record. The original Winfield Estates project review included discussion of the creation of a Homeowners' Association. A copy of the original Homeowners'

Association documents were obtained by the Planning Board, and upon review, there is an express prohibition on re-subdivision of any of the lots within the Winfield Estates project. However, there is no indication that the Homeowners' Association Declaration was ever recorded in the Rensselaer County Clerk's Office, nor is there any information on record that the Homeowners' Association was fully organized and/or continued. Also, the Planning Board researched the minutes of the meetings during which the Winfield Estates project was reviewed. At a meeting held October 16, 1986, the Planning Board did discuss restricting any further subdivision of the property or lots within the Winfield Estates project, but the Planning Board determined that the best way to handle that issue was to require restrictive covenants in deeds and the Homeowners' Association documents. The Jansen deed does not continue any express prohibition on re-subdivision of the lot, and it remains unclear on the record whether the Homeowners' Association Declaration was ever recorded in the Clerk's Office or that the Homeowners' Association was fully organized and/or continued. Attorney Gilchrist inquired of Jansen as to whether he obtained title insurance or had any title search performed when he obtained title to the lot in 2004. Mr. Jansen stated that he did have title work done at the time of purchase, and that he would research that issue and provide whatever title insurance and/or title work that was done in 2004 when he purchased the lot. If there were any restrictions of record, the title work would disclose that. Attorney Gilchrist then reviewed the basis for review of waiver applications by the Planning Board as opposed to requiring a full minor subdivision application. In this case, Jansen seeks to divide off a 1.75± acre lot from the existing 5.05± acre lot, retain the new 1.75± acre lot, and then place his current home and the remainder of the lot on the market for sale. Upon discussion, the Planning Board determined that maintaining the application as a waiver of subdivision was proper, but that the Planning Board would require a

public hearing on the application. Chairman Oster noted on the record that the applicant was seeking to create an additional building lot outside the Winfield Estates project, and not with access off Winfield Lane, but with direct frontage on Bulson Road. Chairman Oster thought that the application would be viewed differently by the Planning Board if the proposed new lot had access directly off Winfield Lane and added an additional lot within the Winfield Estates project. Chairman Oster then inquired whether Jansen had obtained any additional information on location of both existing and proposed wells and septic, both on the Jansen property as well as adjoining properties. Jansen provided the Planning Board with additional information on well locations and lot size. Mr. Jansen noted that his lot was one of the largest lots in the Winfield Estates project, and that if the Planning Board approved the re-subdivision of the lot, his current house with the remaining lot size would remain one of the largest lots within the Winfield Estates project. Mr. Jansen also stated that the property immediately adjacent to the proposed new building lot is a National Grid right-of-way. Jansen stated that he is proposing the new building lot with 185 feet of frontage on Bulson Road, and that the National Grid right-of-way is an additional 80 feet of frontage on Bulson Road. Jansen also stated that the area of the proposed new building lot is the highest point in elevation on the property, and therefore his proposed well will be at a higher elevation than the surrounding wells. Jansen generally reviewed the information on both existing and proposed well locations for the Planning Board. Member Czornyj inquired whether the proposed leachfield on the proposed new building lot would impact the existing well on the Jansen lot. Jansen stated that there was adequate separation distance and difference in topography, and concluded that there would be no impact. Mr. Kestner stated that the only issue that he sees is that the leachfields constructed in the Winfield Estates project were full fill systems, and it was unclear in the information submitted whether the

full size of the leachfields had been provided, and whether the proposed leachfield on the new proposed building lot would be a fill system as well. Ultimately, Jansen will be required to get Rensselaer County Health Department approval for both the water and septic for the new building lot. The issue of sight distance for the proposed driveway location was also discussed. Jansen handed up photographs in both directions on Bulson Road from the point of the proposed driveway. Jansen inquired why sight distance was an issue on the application. The Planning Board members generally reviewed the requirements for sight distances for proposed driveways, particularly when adjoining property owners have raised questions with Planning Board members as to driveway location and adequate sight distance for safety purposes. The Planning Board generally discussed holding a public hearing on the application, and determined that there was adequate information at this point in time to open the public hearing on the application, and that any final determination on the application or closing of the public hearing would not be made until such time as the title work showing any restrictions of record on re-subdivision of a lot was made available to the Planning Board. The Planning Board has scheduled a public hearing on this application for the September 17 meeting at 7:00 p.m. Chairman Oster noted that the Planning Board had recently reviewed a proposed subdivision by Kronau on lands off Bulson Road and Tamble Lane and that a number of the adjacent property owners raised concerns regarding groundwater, septic, as well as wetlands impacts. Therefore, Chairman Oster stated that the Planning Board would look at these issues very carefully with respect to the current Jansen waiver application. Jansen agreed to stake the corners of the proposed lot and the location of the proposed driveway for Planning Board members to review. This matter has been placed on the September 17 agenda for opening of a public hearing at 7:00 p.m.

The second item of business on the agenda was the site plan application by Barry Thompson for property located at 4 Oneida Avenue. Mr. Kreiger confirmed that Thompson had received an area variance from the Brunswick Zoning Board of Appeals concerning the setback distances for the shed structure proposed for the site. The Planning Board generally reviewed the application, and reiterated that it had held a public hearing on the site plan application, and received the referral and recommendation from the Rensselaer County Planning Department, and that all issues had been addressed by the Planning Board in terms of site plan review, and that the Planning Board had been holding the action on the site plan in abeyance until such time that the Zoning Board of Appeals had acted on the variance application. The Zoning Board of Appeals having granted the variance, the Planning Board was in a position to act on the site plan. Member Czornyj reiterated that if the concrete barriers that were proposed to be installed in connection with site grading were removed, then both the tenant and the owner needed to regrade the site to an acceptable slope so that there was not a drop off and that drainage issues would be addressed. Thompson noted that he had obtained a letter from the owner of the property stating that he agreed to this condition, and that Thompson agreed to this condition, and that the letter from the owner has been filed with the Building Department. Thereupon, the Planning Board discussed conditions to be attached to any action on the site plan. These included:

1. Prior to the removal of any concrete or other barrier installed in connection with original site grading, the property owner and tenant must provide notice to the Brunswick Building Department, and submit a plan for regrading the site for review and approval by the Building Department, and that such regrading plan must include an acceptable slope as well as revegetation, and that the regrading and revegetation of all slopes must be completed concurrently as concrete or other barriers are being removed; and
2. An as-built drawing must be submitted to the Building Department upon completion of site grading and structure installation, to confirm compliance with the site plan and grading plan.

It was noted that all required escrows for review fees had been made. Thereupon, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Tarbox. The motion was approved 5/0, and a negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the site plan subject to the above referenced conditions, which motion was seconded by Member Wetmiller. The motion was approved 5/0, and the site plan application approved subject to the stated conditions.

The **index** for the September 3, 2009 meeting is as follows:

1. Jansen – waiver of subdivision – 9/17/09, public hearing at 7:00 p.m.;
2. Thompson – site plan – approved subject to conditions.

The **proposed agenda** for the September 17, 2009 meeting currently is as follows:

1. Jansen – waiver of subdivision – public hearing at 7:00 p.m.;
2. Brooks Heritage, LLC – major subdivision.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD September 17, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER, KEVIN MAINELLO and DAVID TARBOX.

ABSENT was JOSEPH WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board opened a public hearing with respect to the waiver of subdivision application submitted by Kenneth Jansen for property located at 8 Windfield Lane. The notice of public hearing was read into the record, with such notice having been published in the Troy Record, placed on the Town sign board, placed on the Town website, and mailed directly to adjacent and nearby property owners. Kenneth Jansen presented an overview of the proposal. Mr. Jansen stated that he was looking to partition off a 1.75± acre lot from his existing 5.05± parcel located at 8 Windfield Lane. Mr. Jansen's plan is to sell his current house and the resulting 3.3± acre lot, and retain ownership of the 1.75± acre lot for future home construction. The proposed new building lot will have access directly onto Bulson Road, not off Windfield Lane. Mr. Jansen stated that the proposed new building lot is the highest point in terms of topography on his parcel, and stated that there would be no issue concerning well and septic location as there is adequate area for a new well and septic on the new building lot without any impact to surrounding properties. Mr. Jansen stated that he had spoken with Tack, the adjacent property owner at 6 Windfield Lane, who understands the application and does not oppose it.

Chairman Oster also noted for the record that the issue of any restrictions on the resubdivision of the lot had been researched. Mr. Jansen stated that upon receipt of his title report he obtained when he purchased the property as well as research at the Rensselaer County Clerk's Office, the record shows that a Homeowner's Association Declaration had been recorded in the Clerk's Office which did contain a prohibition on resubdivision of any of the lots in the Windfield Estates project, but that subsequently the record discloses that a further agreement was entered into between the owners of all of the Windfield Estates lot, including a lender which had taken title to all but three of the lots after the Windfield Estates project encountered financial difficulties, and that such subsequent agreement rescinded the Homeowner's Association Declaration and imposed only one restriction on the lots in the Windfield Estates project, which only restricts the minimum square footage requirement for homes to be built on any of the lots. Accordingly, there is no restriction of record that prohibits the resubdivision of any of the lots in the Windfield Estates project. The agreement rescinding the Homeowner's Association Declaration and imposing the single restriction on minimum square footage for homes per lot was submitted by Mr. Jansen, and is on file at the Town Building Department. Chairman Oster then opened the hearing for receipt of comments. Janet LeBeau, 4 Windfield Lane, questioned whether this new building lot could be a means of future access to the remaining land in the original Windfield Estates project, and could this new lot be used for a new access road. Mr. Jansen stated that the proposed new lot is situated between Bulson Road and three separate properties, one of which is a utility corridor owned by National Grid and the other two are privately owned. Accordingly, this lot would not be used as an access to the remaining lands in the Windfield Estates project as there are three separate properties in third party ownership which exist between the new building lot and the remaining Windfield Estates project land. Ms.

LeBeau asked if there were going to be any changes to the cul-de-sac at the end of Windfield Lane. The Board indicated that there was no change to the cul-de-sac at the end of Windfield Lane as a result of this project. Ms. LeBeau stated that since there were no restriction on resubdivision of lots within the original Windfield Estates project, others could also seek to further subdivide their lots. The Planning Board members and Mr. Kreiger stated that if a lot met all other Town requirements and Health Department requirements, an application for resubdivision of a lot could be submitted since there was no restriction of record prohibiting that use and there was no prohibition in the Town Code. Ms. LeBeau asked whether the proposed septic system on the new building lot would be a fill system. The Planning Board stated that test pits would need to be dug in conjunction with application for Rensselaer County Health Department approval, and the type of septic system would be subject to Health Department review and approval. Ms. LeBeau asked whether there would be any impact on the aquifer in this area. The Planning Board stated that there had been a number of groundwater pump tests performed in conjunction with the Cobblestone Estates project, which had previously been reviewed by the Planning Board on a portion of the former Windfield Estates project area, and that the data obtained during multiple pump tests showed no impact on groundwater resources used for potable purposes. Ms. LeBeau stated she had no objection to this application, and felt that two lots in the size of 3.3± acres and 1.75± acres were large enough. Anthony Parella, 41 Tambul Lane, asked about the minimum square footage requirement for residential lots in this location. Mr. Kreiger stated that the minimum square footage per lot is 40,000 square feet. Mr. Parella stated that he had a concern that a project which was originally envisioned as a large lot subdivision could now be subdivided to result in a number of 40,000 square foot lots. Mr. Parella asked if this could be done in other locations in the Town. The Planning Board and Mr.

Kreiger stated that as long as a resulting lot met all Town requirements and Health Department requirements, the underlying zoning for the area would control lot size and ability to resubdivide large lots. Hearing no further comments, Chairman Oster then closed the public hearing.

The Planning Board then opened the regular business portion of the meeting.

Chairman Oster noted that the Brooks Heritage, LLC major subdivision application, which had been on the agenda for the September 17 meeting, is adjourned until the October 1 meeting. Also, an update on the Berkshire Properties PDD application will also be on the October 1 agenda.

The first item of business on the agenda was the waiver of subdivision application by Kenneth Jansen. The Planning Board noted that Mr. Jansen had not yet placed stakes in the corners of the proposed building lot, nor in the location of the proposed driveway. Mr. Jansen stated that he had not yet completed that task, but would get that done before Planning Board review. This matter is placed on the October 1 agenda for further discussion.

One item of old business was discussed. With respect to the site plan approval granted by the Planning Board for the Thompson site plan at 4 Oneida Avenue, Mr. Thompson had stated at the September 3 meeting that he would abide by the hours of operation provided in the narrative filed in connection with the site plan application. However, the project narrative did not identify specific hours of operation. Therefore, after discussion concerning general business hours, the Planning Board determined that this matter will be placed on the October 1 agenda, and a request made to Mr. Thompson to either appear at the October 1 meeting for discussion, or submit a letter outlining the business hours of operation for review by the Planning Board. This matter is therefore placed on the October 1 agenda for clarification of the site plan approval.

The draft minutes of the September 3 meeting will be held in abeyance, subject to discussion and imposition of hours of operation to clarify the site plan approval on the Thompson matter.

The **index** for the September 17, 2009 meeting is as follows:

1. Jansen – waiver of subdivision – 10/1/09;
2. Brooks Heritage, LLC – major subdivision – adjourned to 10/1/09.

The **proposed agenda** for the October 1, 2009 meeting currently is as follows:

1. Jansen – waiver of subdivision;
2. Brooks Heritage, LLC – major subdivision;
3. Berkshire Properties, LLC PDD application;
4. Thompson – site plan.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD October 1, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, FRANK ESSER, KEVIN MAINELLO, DAVID TARBOX and VINCE WETMILLER.

ABSENT was GORDON CHRISTIAN.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

Chairman Oster reviewed the agenda for the October 1 meeting.

The Planning Board reviewed the draft minutes of the September 17 meeting. Upon motion of Member Czornyj, seconded by Member Wetmiller, the minutes were unanimously approved as drafted.

Chairman Oster noted that the draft minutes of the September 3 meeting will be further discussed in connection with the Thompson site plan approval.

The first item of business on the agenda was the waiver of subdivision application by Kenneth Jansen for property located on Bulson Road. Mr. Jansen seeks to divide 1.75± acres from his existing 5.05± acre lot located at 8 Windfield Lane. The proposed new building lot has frontage on Bulson Road. Chairman Oster noted that this application has been reviewed by the Planning Board, and that a public hearing had been held on the application. At the end of the September 17 meeting, the Planning Board had requested Mr. Jansen to place stakes on the property locating the proposed lot corners and proposed driveway location. Chairman Oster noted that the stakes had been placed in the field, and that the Planning Board members had

adequate opportunity to review the field conditions. Member Czornyj stated that he had continued concerns regarding the proposed leachfield for the new building lot, particularly with respect to septic/well separation distances. It was noted that jurisdiction on well and septic approval is with the Rensselaer County Health Department, and any action on the waiver application would be subject to the approval of the Rensselaer County Health Department for water and septic. Member Czornyj also noted that he felt the sight distances were adequate for the proposed driveway location as staked in the field. Chairman Oster confirmed that all application fees had been paid, and that an appropriate escrow had been established by the applicant for engineering review. Chairman Oster inquired whether any of the Planning Board members had any further questions regarding the application. Hearing none, Member Czornyj made a motion to adopt a negative declaration under SEQRA, which motion was seconded by Member Mainello. The motion was approved 6/0, and a SEQRA negative declaration adopted. Thereupon, Member Czornyj made a motion to approve the waiver application subject to the following two conditions:

1. Rensselaer County Health Department approval for water and septic; and
2. A driveway permit must be obtained from the town prior to constructing the driveway onto Bulson Road.

Member Wetmiller seconded the motion. The motion was approved 6/0, and a waiver application approved subject to the stated conditions.

The second item of business on the agenda was an update on the Brooks Heritage, LLC major subdivision for property located on Dusenberry Lane and Bald Mountain Road. Attorney William Doyle appeared on behalf of the applicant. Mr. Doyle reviewed four status items on the application.

First, Attorney Doyle updated the Planning Board on Rensselaer County Health Department review for the proposed septic systems for this project, as well as the existing three lot subdivision of Brooks Heritage, LLC located directly on NYS Route 142. Attorney Doyle explained that the applicant and engineering consultant are scheduled to meet with the Health Department on October 6 for further review of the proposed septic plan.

Second, Attorney Doyle stated that the petition for creation of a water district to supply public water to the project continues, and that he must coordinate with the town on the appropriate procedure for that petition in light of the town's recent local law consolidating water districts within the town.

Third, Attorney Doyle stated that it appears all issues concerning Dusenberry Lane/NYS Route 142 work has been approved by the New York State Department of Transportation, and a confirmatory letter from NYSDOT should be forthcoming.

Fourth, Attorney Doyle stated that separate counsel had been retained by the applicant for preparation of the Homeowner Association documents concerning ownership and maintenance of the stormwater management facilities for the project. Attorney Doyle stated that the applicant's counsel had advised the applicant that the New York State Attorney General's Office will not begin the review of the Homeowner Association documents until final subdivision approval has been granted, and that an option for the Planning Board should be action on the final plat with the condition that no building permits should be issued until the Attorney General accepts the Homeowner Association documents. Attorney Doyle stated that he is working with the separate counsel on the Homeowner Association documents, and that he will submit those documents in draft to the Planning Board counsel prior to submittal to the Attorney General's Office. Member Czornyj asked whether perc tests had been conducted in conjunction with the

septic plans submitted to the Health Department. Attorney Doyle stated that perc tests had been conducted, and engineering design for each lot's septic system had been completed and will be discussed with the Health Department at the October 6 meeting. Attorney Doyle requested that this matter be placed on the October 15 agenda for further update.

The next item of business on the agenda was the Berkshire Properties, LLC Planned Development District. Attorney William Doyle appeared on behalf of the applicant to provide the Planning Board with a status update. Attorney Doyle confirmed that the review and recommendation by the Planning Board and the Brunswick Zoning Board of Appeals on the concept plan for the Planned Development District had been completed and sent to the Town Board. Attorney Doyle discussed the field meeting which the applicant had with the New York State Department of Environmental Conservation concerning state jurisdictional wetlands on the project site. Attorney Doyle stated that the U.S. Army Corps of Engineers had also reviewed wetland information for the project site. Attorney Doyle stated that with respect to the residential portion of the project at the end of Betts Road, there were no state jurisdictional wetlands, but there appears to be federal jurisdictional wetlands which will be addressed in the design of the residential portion of the project. With respect to the central portion of the project site which will remain open and transferred to the town, Attorney Doyle stated that there were no state or federal jurisdictional wetlands on this portion of the project, but that there could be state jurisdictional wetland buffer areas which would need to be accounted for. With respect to the commercial portion of this project, the proposed commercial building directly adjacent to Route 7 had no state or federal jurisdictional issues. With respect to the commercial building proposed which would have access off Route 7 as well as Betts Road, there were state jurisdictional wetlands which need to be addressed, and which will require a modification to the site plan in

terms of building size and location. Attorney Doyle stated that the concept of the overall PDD project will remain the same, but there may be modifications due to these wetland issues. Attorney Doyle stated that it was the applicant's intent to move the project review forward at the Town Board, including SEQRA review and public hearings. Attorney Doyle stated that it was understood that once the project had additional detail and the SEQRA record was expanded, the applicant would present the detailed plan to the Planning Board for additional review and recommendation to the Town Board on the PDD review. Attorney Doyle also stated that he had obtained additional plans and information on the Hudson Hills PDD project, particularly in terms of viewshed and separation distance between the residential portion of the Berkshire PDD and the apartments on the Hudson Hills PDD, and that this information was being prepared and would be submitted to the Town. Attorney Doyle reiterated that on the residential portion of the Berkshire PDD, road layout location as well as test pits for septic field location are being worked on presently. Attorney Doyle requested that this matter be placed on the October 15 agenda for update. Member Czornyj stated that the applicant should continue to look at parking in the area of the rear of the existing Max BMW motorcycle facility and the commercial area adjacent to Betts Road on the Berkshire PDD, particularly since that area is subject to redesign in light of state jurisdictional wetlands. Attorney Doyle stated that this matter is being addressed.

The next item of business on the agenda was the Thompson site plan approval, for the purpose of finalizing the hours of operation for this business under the site plan. It appears that Mr. Thompson was not notified of the meeting, and this matter has been placed on the October 15 agenda, and Mr. Kreiger was requested to contact Mr. Thompson concerning the October 15 meeting.

There was no new business, nor new applications to discuss.

The **index** for the October 1, 2009 meeting is as follows:

1. Jansen – waiver of subdivision – approved with conditions;
2. Brooks Heritage, LLC – major subdivision – 10/15/09;
3. Berkshire Properties, LLC Planned Development District – 10/15/09;
4. Thompson – site plan – 10/15/09.

The **proposed agenda** for the October 15, 2009 meeting currently is as follows:

1. Brooks Heritage, LLC – major subdivision;
2. Berkshire Properties, LLC Planned Development District;
3. Thompson – site plan.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD October 15, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER, KEVIN MAINELLO, DAVID TARBOX and VINCE WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

Chairman Oster reviewed the agenda for the October 15 meeting.

The Planning Board reviewed the draft minutes of the October 1st meeting. Upon motion of Member Czornyj, seconded by Member Wetmiller, the minutes were unanimously approved as drafted.

Chairman Oster noted that the draft minutes of the September 3 meeting will be further discussed in connection with the Thompson site plan approval.

The first item of business on the agenda was an update on the Brooks Heritage, LLC major subdivision for property located on Dusenberry Lane and Bald Mountain Road. No one was present on behalf of the applicant. The Board will wait to hear from the applicant before putting this application on a future agenda.

The next item of business on the agenda was the Berkshire Properties, LLC, Planned Development District. No one was present on behalf of the applicant. Mr. Kreiger confirmed that the matter was currently before the Town Board. He also advised that he had received an updated map, and that Attorney Doyle was to have dropped off copies for each Board Member.

Mr. Kreiger further stated that based upon the wetland delineation that had been performed, the commercial building proposed which would have access off Route 7 as well as Betts Road had been modified in terms of size and location. The Board will wait to hear from the applicant before putting this application on a future agenda.

The next item of business on the agenda was the Thompson site plan approval for the purpose of finalizing the hours of operation for this business under the site plan. Mr. Thompson was notified of the meeting and opted to provide a letter to the Board rather than appearing. Chairman Oster reviewed the letter with the Board. The applicant proposed that the hours of operation would be 8:00 a.m. to 4:00 p.m., Mondays through Fridays, and 8:00 a.m. to 2:00 p.m. on Saturdays and Sundays. The applicant further stated that he intended to operate primarily during the spring and summer months. Chairman Oster stated that he was comfortable with the hours proposed by the applicant, but thought the hours could be extended since the applicant had previously indicated that he would like to sell Christmas trees. Mr. Kestner reviewed the hours of operations that had been applied to other businesses in Town. Member Wetmiller stated he wanted to see some restrictions on deliveries on Sundays. After further discussion, it was proposed that the hours of operations on Mondays through Fridays would be between the hours of 8:00 a.m. and 6:00 p.m., and on Saturdays and Sundays between the hours of 8:00 a.m. and 2:00 p.m. Member Czornyj further proposed that there be no incoming deliveries made or received on Sundays, and that no equipment to be used in connection with business operations be started or used before 10:00 a.m. on Sundays.

Member Czornyj then moved to include the hours and conditions of operation as stated herein in the final site plan approval, which motion was seconded by Member Christian. The motion was unanimously approved. Thereupon, Member Czornyj moved to adopt the minutes of

the September 3, 2009 meeting as amended to state the hours and conditions of operation as set forth herein, which motion was seconded by Member Christian. The motion was unanimously approved.

There was one item of old business discussed.

The one item of old business discussed was an update on the commercial subdivision and site plan application by Reiser Bros. Inc. Harold Berger, project engineer, appeared for the applicant. Mr. Berger advised that the applicant has reduced the number of proposed lots from 5 lots to 4 lots due to issues concerning access. He indicated that he had spoken with NYSDOT which has expressed its approval of the proposed ingress and egress to each lot, though said approval has not been received in writing. Mr. Berger then proposed that this application be treated like a subdivision application, with each lot having its own site plan. He further stated that the exact purpose and/or use of each lot is still unknown.

Mr. Berger acknowledged that the issues which must be addressed in connection with the application include: stormwater management, parking, traffic ingress and egress, sewage collection and disposal and sewage treatment.

Mr. Berger then reviewed the proposed subdivision map for the Board. According to Mr. Berger, the map depicts a maximum building size and maximum number of parking spaces for each lot. The corner lot is intended for a gas station and convenience store. The middle lot is intended as professional office space, lot 3 possibly a bank, and the end lot may be a drugstore. Mr. Berger is encouraging the applicant to seek "low water usage" tenants.

Further, according to Mr. Berger, some traffic work has been done and that DOT's last survey reflects a traffic count by the proposed site of 5,590 cars; around the school, the traffic

count is twice as high; and down Route 2 near the Stewart's on Pawling Avenue, the count is 3 times that.

Mr. Berger advised that he is in contact with NYSDEC and Rensselaer County Department of Health regarding sewage treatment and disposal. The applicant intends to discharge to surface water.

Member Czornyj asked if the applicant had contacted the Army Corps of Engineers. Mr. Berger stated that a wetland delineation had been done, and the wetlands have been identified on the map. He further stated the Army Corps is not concerned about sewage discharges, and that there are no NYSDEC wetlands on site.

Mr. Berger, in response to a question from Member Czornyj, identified the retaining walls to be constructed on site. Page 4/6 of the subdivision plat calls out those retaining walls.

Discussion was had on how to treat this application. Chairman Oster stated that he believed there was sufficient information showing how everything fits on the lots to treat this as a preliminary site plan. Member Czornyj commented that it was his understanding from the Planning Board attorney that the whole site had to be graded and therefore, an overall grading plan is required. The issue of how specifically to treat this application is to be clarified with Attorney Gilchrist.

Mr. Berger stated that the construction sequence is uncertain, but that the project would be phased, with the corner lot developed first. Mr. Berger then questioned whether removal of any material from the proposed subdivision for deposit onto the Brook Hill Subdivision would constitute "removal" from the site. Attorney Coan indicated that it would be considered removal since Brook Hill is a separately approved project.

Mr. Kreiger then noted that DEC will not permit more than 5 acres being opened at any one time.

Mr. Berger will discuss the development of an overall grading plan with his clients.

Chairman Oster advised Mr. Berger that the Board will review the revised maps and suggested that the Board Members make a site visit. The application was put on the agenda for the November 5, 2009 meeting.

There was one item of new business. Rensselaer Honda has filed an application for site plan review. Rensselaer Honda intends to redevelop the former Chrysler dealership at 805 Hoosick Road as a new site at which to sell preowned cars, rehab used cars and detail new cars. Mr. Kreiger briefly reviewed the map, which identifies drainage easements, parking and that entire building will be fenced. Mr. Kreiger further advised that the applicant wants to display a car on a stand in the grass.

Member Czornyj expressed concern over the parking in the front of building and believes it should be diagonal parking. Mr. Kreiger will find out from applicant if front parking area is to be used for display only, and whether applicant will consent to diagonal parking. There will also be a free-standing sign. Mr. Kreiger will also ask applicant to show all utilities, i.e.: water and sewer to building on the map.

Member Wetmiller questioned whether the display area fell under the pervue of the Town Board concerning signage. Mr. Kreiger said no because the car is a product. Member Wetmiller and Member Czornyj are okay with displaying one car as proposed on the lawn, but wants to avoid any abuse with cars all over the lawn. Chairman Oster asked whether applicant was permitted, according to its existing site plan approval, to be so close to the front of its existing lot. Mr. Kreiger believes they are so approved.

Mr. Kreiger will give site plan in connection with this application to Fire Department for review and comment. This matter has been placed on the agenda for the November 5 meeting.

Member Czornyj made a motion to adjourn the meeting, seconded by Member Tarbox, and the motion carried 7/0.

The **index** for the October 15, 2009 meeting is as follows:

1. Brooks Heritage, LLC – major subdivision;
2. Berkshire Properties, LLC Planned Development District;
3. Thompson – site plan;
4. Reiser Bros. Inc. – commercial subdivision and site plan – 11/5/09;
5. Rensselaer Honda – site plan – 11/5/09.

The **proposed agenda** for the November 5, 2009 meeting currently is as follows:

1. Reiser Bros., Inc. – commercial subdivision and site plan;
2. Rensselaer Honda – site plan.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD November 5, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, FRANK ESSER, KEVIN MAINELLO, DAVID TARBOX and VINCE WETMILLER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

Chairman Oster reviewed the agenda for the November 5 meeting.

The Planning Board reviewed the draft minutes of the October 15th meeting. Upon motion of Member Czornyj, seconded by Member Wetmiller, the minutes were unanimously approved as drafted.

The first item of business on the agenda was an update on the commercial subdivision and site plan application by Reiser Bros. Inc. Henry Reiser was present for the applicant, as was Harold Berger and Scott Reese, project engineers. Mr. Berger reviewed that the applicant has reduced the number of proposed lots from 5 lots to 4 lots to ensure access for each individual lot. He indicated that he has spoken with NYSDOT, which has expressed its approval of the proposed ingress and egress to each lot, though said approval has not been received in writing. He then confirmed that the Reiser Brothers have an entity which is very interested in the corner lot as a gas station and convenience store. It would be his preference to prepare individual site plans for each of the lots once decisions are made as to what will be on each lot.

Mr. Berger confirmed the applicant was in discussion with DEC Region 4 and Rensselaer County Department of Health concerning issues involving sewage disposal. He also stated that he thought that the proposed stormwater management plan will work for the site as currently conceptualized. The project will be hooked up to the public water supply.

Mr. Berger then stated he anticipated approximately 100,000 cubic yards of material will have to be removed from the site and intends to utilize a construction exemption. He believes the material can be removed in 1 year or any shorter timeframe as may be required by DEC. It is the Reisers' intention to give the material away as it has limited value as fill material. The Reisers intend to give it to farmers in Grafton and others within Brunswick. Chairman Oster asked if the applicant intends to place any fill near Langmore Lane. Mr. Berger said no fill would be placed near Langmore Lane.

Henry Reiser then explained that it was his intention, upon project approval, to start at the corner lot where the waterline is and grade each lot to its finished grade as they go. The applicant intends to grade the site to within 1 or 2 feet of the proposed first floor elevations.

Mr. Kestner advised the applicant that stormwater control is necessary across the entire site and suggested that the applicant prepare similar to a mining plan. Mr. Kestner then asked in what sequence did the applicant intend to do the work. Mr. Henry Reiser stated that he intended to work from the corner across the site, with no more than 5 acres open at a time.

Chairman Oster asked if the applicant would consider a phasing plan similar to one developed for the Riffenberg project. Mr. Reiser thought that would be acceptable and indicated that he would like to develop the project one half at a time.

Scott Reese then described the intended phasing, with the gas station lot being graded and stabilized first and then move to the next lot, again; with no more than 5 acres open at one time.

Mr. Kestner advised that the DEC gives discretion to the Towns to set the limit as to how much area can be open at any given time. Mr. Reese advised he has prepared a SWIPP, with monthly inspections to be done, for the site.

Mr. Berger then stated that the first phase would be to rough grade the entire site.

Chairman Oster inquired if the applicant was going to construct a turn-key building on the corner lot. Mr. Reiser said yes, it would be turn-key.

Member Wetmiller questioned whether the issuance of a certificate of occupancy to the corner lot if it were developed first could be tied to the completion of the rough grading across the entire site. Mr. Reiser then proposed to rough grade half the site and leave the remaining half vegetated.

Mr. Berger inquired as to how many truck trips the applicant would be limited to as that would dictate how quickly the applicant could accomplish the grading work. He then estimated that if the grading were to be accomplished in 200 days, there will be approximately 6000 truckloads out of the site, which amounts to 3.75 truck trips an hour.

Mr. Berger then asked how quickly they can start the grading work. It is his intention to seek a grading permit from Mr. Kreiger once a grading plan has been prepared. Mr. Berger also requested a review letter from Mr. Kestner. Mr. Kestner agreed and reminded Mr. Berger that something like a gravel extraction plan will have to be developed for the first phase of the project.

Mr. Kestner further pointed out that it appears from the plans that one of the proposed lots will be discharging stormwater onto or through the lot intended for the development of a restaurant. Consequently, each lot will not have its own independent stormwater management plan.

Member Esser had concern over the proposed 7 foot retaining wall near the gas canopy and suggested that it be increased in height to prevent cars from going over the wall. He also asked how the slope will be stabilized. Mr. Reiser indicated that topsoil will be added to the hill and perennials ultimately planted.

Mr. Berger requested to be tentatively placed on the agenda for the November 19 meeting.

The second item of business on the agenda was an update on the Rensselaer Honda application for site plan review. Dan Cleary with Bohler Engineering was present for the applicant and reviewed the status of the site plan application. Mr. Cleary indicated that it was Rensselaer Honda's intent to first use the site for car repairs and maintenance, detailing and storage and, second, for the purpose of selling used cars. Mr. Cleary advised that the changes being made by Rensselaer Honda to the site plan were the addition of a security fence around much of the property and a free-standing sign.

Mr. Cleary further indicated there are approximately 88 parking spaces shown on the plan, which is in excess of the required 72 spaces. He further advised that all greenspace requirements have been met.

Chairman Oster pointed out that the parking in the front of the building is shown straight on. Mr. Cleary confirmed that was the applicant's intention, and that there was a 2 foot bumper overhang onto the grassy area.

Mr. Kestner stated there appeared to be a 12 foot travel lane between the building and the grassy area and, therefore, insufficient room for two-way traffic. Member Esser was concerned about people entering the site from the west driveway and that there was not enough room for two-way traffic the way the front parking area is currently stripped.

Discussion was had concerning the number of customer parking spaces required for car dealerships. The plan currently shows approximately 20 customer parking spaces and 4 handicapped spaces. Mr. Kreiger indicated that the code did not have a specific parking requirement as it pertains to car dealerships. Mr. Kreiger advised that he had sent a copy of the site plan that showed the security fence to the Fire Department, though he had not received any comments back yet. He will contact the Fire Department again.

Chairman Oster stated that he would like the parking spots in the front limited to, and marked as, display only, with a couple of spots left for customer parking and so designated. Members of the Planning Board are concerned about the fencing and want a comment letter from the Fire Department approving its location. Mr. Cleary commented that the applicant will be flexible in its placement.

Member Esser wants the garage doors and doors to the showroom for customers shown on the plans.

Mr. Kreiger referred the application to the County, but has not heard back yet.

Mr. Kestner asked where the floor drains go. Mr. Cleary was unsure and stated that the utilities were not plotted on the plans because it is an existing site. Mr. Kestner stated he wants to see the utilities on the site plan. Mr. Cleary will confirm that there will not be a body shop on site. Member Mainello asked Mr. Cleary to confirm the applicant's intention with regard to its use of the site.

Mr. Kestner also noted that the site plan shows a 10 foot side setback which is currently paved. Member Czornyj asked if that setback would be green, or if the Board could waive the side yard requirement that it not be paved. Attorney Coan stated that the Board has the discretion

to waive or modify the requirement where such requirement restricts the effective development of the site, pursuant to the Town's Site Plan Review Act Section 3(c)(17).

Finally, Mr. Kestner wants a copy of stormwater management easement with adjacent lot, and Mr. Cleary will verify that the site controls the lighting.

The matter has been placed on the agenda for the November 19 meeting.

There was one item of new business. John Ashcroft has submitted an application for a lot line adjustment. The applicant proposes to convey approximately 2 acres to the adjoining lot owner, Larry Vartigan. The property is located at 415 Plank Road. General discussion was had concerning the piece to be conveyed to Vartigan. Mr. Kreiger clarified that the dashed line on survey is not a property line, but likely an old survey line. Mr. Kreiger advised that the applicant will be obtaining a new survey.

The matter will be placed on the agenda for the December 3 meeting.

There was one item of old business. Chairman Oster noted that Attorney William Doyle was to have appeared at the October 15th meeting to review the status of the Berkshire Properties, LLC Planned Development District and Brooks Heritage, LLC major subdivision applications. Mr. Doyle apologized profusely to the Board and requested to be on the agenda for the November 19th meeting to review the Brooks Heritage major subdivision application. That matter has been placed on the agenda for the November 19 meeting.

Member Czornyj made a motion to adjourn the meeting, seconded by Member Tarbox, and the motion carried 7/0.

The **index** for the November 5, 2009 meeting is as follows:

1. Reiser Bros. Inc. – commercial subdivision and site plan;
2. Rensselaer Honda – site plan – 11/19/09;

3. Ashcroft – lot line adjustment – 12/3/09.

The **proposed agenda** for the November 19, 2009 meeting currently is as follows:

1. Rensselaer Honda – site plan;
2. Brooks Heritage, LLC – major subdivision.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD November 19, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, FRANK ESSER, KEVIN MAINELLO, DAVID TARBOX and VINCE WETMILLER.

ABSENT was MEMBER CHRISTIAN.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

The Planning Board reviewed the draft minutes of the November 5, 2009 meeting. Upon motion of Member Czornyj, seconded by Member Tarbox, the minutes of the November 5, 2009 meeting were unanimously approved as drafted.

The first item of business on the agenda was the site plan application by Rensselaer Honda for property located at 805 Hoosick Road. Dan Cleary of Bohler Engineering appeared on behalf of the applicant. Mr. Cleary reviewed the changes that have been made to the site plan, including restoration of a 20 foot wide fire lane in front of the building, and limiting the area adjacent to the fire lane to display purposes only and not for parking spots; utility layout was added to the plan, including water, sewer, and stormwater drainage; relocation of a fence proposed for the site; and showing all locations of doors to the building. Also, the applicant has provided a copy of cross-easements between the site plan parcel and the adjacent parcel to the west, addressing access and utilities. Member Czornyj inquired about display of cars near the area of the west side light poles. Mr. Cleary stated that Rensselaer Honda will comply with the parking and display areas as shown on the current site plan, regardless of what has been done at

the site in the past or what is striped on the pavement at the present time at the site. Chairman Oster inquired whether Mr. Kreiger had heard from the Fire Department regarding the site plan. Mr. Kreiger reported that he had attempted to contact the Fire Department several times, but had not heard any response. Further, Mr. Kreiger stated that with the addition of the 20 foot fire lane around the building, the site plan appeared adequate in terms of fire equipment access. Mr. Kestner inquired how the cars would be positioned in the front display area marked on the site plan. Mr. Cleary stated that the extent of the car display area and the required fire lane would be striped on the pavement, and that any display cars would need to be limited just to the display area and not extend into the fire lane area. Member Czornyj stated that the display area did not show any specific striping on the site plan. Mr. Cleary stated that the applicant would need to comply with the limits of this display area, and that the applicant may angle cars in the display location. Mr. Cleary confirmed that the width of the car display area in the front of the site is 15 feet, including a 2 foot overhang onto the grass. Member Czornyj stated that the car display area would be limited so that there were no tires of any vehicles onto the grass in front of the car display area, that the cars in the display area did not extend back into the fire lane, and that the fire lane/display area limits needed to be striped on the pavement. Chairman Oster stated that there was one existing pad for car display in the front grass area, and that this one display area could be continued to be used, but there should not be any further cars displayed on this site in the front grass area. Mr. Cleary stated that Rensselaer Honda understood this, and was agreeable to this condition. Mr. Kestner stated that the cross-easement did address the repair and maintenance responsibility for the waterline to the site plan parcel as well as the adjacent parcel to the west, but did not specifically address when repairs needed to be performed if there was any leak in the waterline prior to being metered at the building. Attorney Gilchrist concurred, stating

that the cross-easement document did place the responsibility for repair and maintenance on these private property owners, but was not explicit as to when repairs needed to be performed and whether the Town would be notified. This issue arises because the water supply is not metered at these properties until the waterline reaches the building, and if there is a leak in the waterline between Route 7 and the buildings, the private property owners are not metered for that water and do not pay for it. Attorney Gilchrist suggested that an expressed condition be placed on this site plan action, as well as an expressed map note be placed on the site plan, addressing the repair responsibility, and that all repairs must be made in a timely fashion on notice to the Town. Mr. Cleary understood the issue, and suggested that Mr. Kestner and Mr. Gilchrist prepare proposed language which he would review for addition to the site plan map. Chairman Oster stated that a public hearing would be held on this site plan application. The Board determined that the public hearing would be held at its December 3rd meeting, with the public hearing to commence at 7:00 p.m.

The next item of business on the agenda was the Brooks Heritage, LLC major subdivision application. Attorney Gilchrist reported that he had been contacted by Attorney William Doyle prior to the meeting, that the applicant was still in the process of preparing its final subdivision plat after having been in consultation with the Rensselaer County Health Department concerning septic design, and that the applicant requested this matter be placed on the December 3 agenda. Chairman Oster stated that this matter will be adjourned until the December 3 meeting.

Chairman Oster reported that the Reiser Bros. commercial site plan application for property located along Route 278 and Route 2 will be placed on the December 3 agenda, and

reported that the applicant is working on additional information for the application including grading and drainage plans.

Chairman Oster confirmed that the Ashcroft waiver/lot line adjustment application will be on the December 3rd agenda.

One item of new business was discussed.

Gaston Robert has filed a site plan application for the Shed Man/self storage units facility located on Route 2. The applicant previously received approval to construct two self storage unit buildings on the site. The applicant now seeks to add two additional self storage unit buildings on the site. Upon initial review and discussion, the Planning Board raised issues regarding any continuing shed display, additional berming/screening if the site is to be used only for self storage units, and security fencing. This matter is placed on the December 3 agenda for discussion.

Dominic Maselli was in attendance, and inquired of the Planning Board as to the future use of the garage located next to his commercial site on Route 7 which he had previously been leasing to Rensselaer Honda. Mr. Maselli stated that Rensselaer Honda will be discontinuing the use of his garage as it is relocating those services at 805 Hoosick Road, and that Mr. Maselli had a new tenant seeking to continue the same car detailing use in the garage. The Planning Board stated that as long as the new tenant continues to comply with the approved site plan for this location, including limits on parking cars, washing cars only inside the building, and no retail sales of cars at this location, then an amendment to the approved site plan was not necessary. Mr. Maselli and the proposed tenant stated that the same uses would continue on the site, and that there would be compliance with the conditions of the approved site plan. The Planning Board

directed Mr. Maselli to meet with Mr. Kreiger to get a copy of the approved site plan and conditions to the use of the property.

The **index** for the November 19, 2009 meeting is as follows:

1. Rensselaer Honda – site plan – 12/3/09 - public hearing to commence at 7:00 p.m.;
2. Brooks Heritage, LLC – major subdivision – adjourned to 12/3/09.

The **proposed agenda** for the December 3, 2009 meeting currently is as follows:

1. Rensselaer Honda – site plan – public hearing to commence at 7:00 p.m.;
2. Brooks Heritage, LLC – major subdivision;
3. Reiser Bros. – commercial subdivision/site plan;
4. Ashcroft – waiver of subdivision/lot line adjustment;
5. Gaston Robert – site plan.

Planning Board
TOWN OF BRUNSWICK
336 Town Office Road
Troy, New York 12180

MINUTES OF THE PLANNING BOARD MEETING HELD December 3, 2009

PRESENT were CHAIRMAN OSTER, MICHAEL CZORNYJ, GORDON CHRISTIAN, KEVIN MAINELLO, DAVID TARBOX and VINCE WETMILLER.

ABSENT was FRANK ESSER.

ALSO PRESENT were JOHN KREIGER, Code Enforcement Officer and MARK KESTNER, Consulting Engineer to the Planning Board.

A public hearing was held on the Rensselaer Honda site plan application, concerning property located at 805 Hoosick Road. The notice of public hearing was read, also indicating that the notice had been published in The Troy Record, placed on the sign board at Town Hall, placed on the Town website, and mailed to all adjacent property owners. Dan Clarey of Bohler Engineering, representing Rensselaer Honda, presented the proposed site plan. Mr. Clarey noted that two additional map notes had been added at the request of the Planning Board, requiring the property owner and/or operator to notify the Town of Brunswick within two hours of detection of any unmetered discharge of water on the site from the waterline as depicted on the site plan, and that the property owner and/or operator must repair any unmetered discharge of water on the site within 48 hours of discovery, with notice to the Town as to when all such repair work will occur.

Chairman Oster opened the public hearing for the receipt of public comment. No one offered any comment, and no public comments were received by the Planning Board. After

adequate opportunity for public comment, Chairman Oster closed the public hearing on the Rensselaer Honda site plan application.

Chairman Oster then opened the regular business meeting for the Planning Board.

The draft minutes of the November 19, 2009 meeting were reviewed. Upon motion of Member Czornyj, seconded by Member Wetmiller, the minutes were unanimously approved without amendment.

The first item of business on the agenda was the Rensselaer Honda site plan application. Dan Clarey of Bohler Engineering appeared for the applicant. Chairman Oster noted that comments had been received from the Brunswick No. 1 Fire Department concerning the fire suppression system at the building on the site. Mr. Clarey stated that Rensselaer Honda had a fire inspection undertaken at the time of property acquisition, and submitted an inspection report prepared by Albany Fire Protection, Inc. dated September 10, 2009, which indicated that the fire suppression system at this location was compliant. Chairman Oster noted that a condition to any approval on the site plan would be the installation of a knox box for rapid entry. Mr. Clarey stated that this condition was acceptable, and that a knox box would be installed. Mr. Kestner confirmed that the requested map notes concerning notification to the Town of any leaks from the water main servicing 805 and 803 Hoosick Road, as well as repair of any leaks, were added to the site plan would be enforceable conditions. Mr. Kestner also stated that the cross easements for access and infrastructure had been submitted and reviewed, and were acceptable. Member Czornyj inquired regarding landscaping in the front of the building, and that the applicant had indicated it would retain the landscaping in the front of the building, but that Member Czornyj noted that landscaping had already been removed. Mr. Clarey indicated that landscaping had been removed because the applicant was working on curbing in the front of the building, but that

landscaping would be replaced and the front area would remain green. Member Czornyj noted that it appeared cars were being angled in the front display area as described in the application, and that it appeared that the display area would work in terms of maintaining the front greenspace as well as adequate fire lane. Member Czornyj inquired about the Planning Board jurisdiction to waive a greenspace requirement on the west side of the building due to existing conditions. Attorney Gilchrist stated that the Planning Board did have jurisdiction under its site plan review regulations to waive this requirement on a case by case basis. Chairman Oster inquired whether there were any additional questions or comments on the application. Hearing none, Member Czornyj made a motion to adopt a Negative Declaration under SEQRA, which motion was seconded by Member Tarbox. The motion was unanimously approved, and a Negative Declaration under SEQRA adopted. Member Czornyj then made a motion to approve the site plan subject to the following conditions:

1. Waiver of the greenspace requirement on the west side of the facility between 805 and 803 Hoosick Road, but compliance with all other greenspace requirements as noted on the site plan;
2. Knox box must be installed at 805 Hoosick Road, to be coordinated with the Brunswick No. 1 Fire Department.

Member Wetmiller seconded the motion subject to the stated conditions. The motion was unanimously approved, and the Rensselaer Honda site plan application approved subject to the stated conditions.

The second item of business on the agenda was the major subdivision application by Brooks Heritage, LLC for property located on Dusenberry Lane. William Doyle, Esq. appeared for the applicant. Mr. Doyle updated the Planning Board as to the status of Rensselaer County

Health Department review on proposed septic layout, and that due to the County's review, some redesign work on some of the lots was required in order to satisfy County Health comments. These adjustments have been minimal, and do address comments of the County concerning expansion area for septic systems, and also take into account location of the proposed public waterline. Mr. Doyle reported that this may result in the redesign of a few lots, and that the applicant was scheduled to resubmit information to the Rensselaer County Health Department by the end of December. Mr. Doyle then stated that the applicant would be in a position to submit any proposed final plat on the project to the Planning Board. The Planning Board requested that the information submitted by the applicant with the Rensselaer County Health Department also be submitted to the Planning Board so that the proposed redesign can be reviewed. Mr. Doyle stated that he would have copies of the submittal to the Health Department also sent to the Planning Board as well. This matter is placed on the January 7 agenda for further discussion.

The next item of business on the agenda was the Reiser Bros. Inc. commercial subdivision and site plan application for property located along NYS Route 2 and Route 278. This application has been adjourned upon request of the applicant, without date.

The next item of business on the agenda was the waiver of subdivision application by Ashcroft for property located on Plank Road. John Ashcroft appeared on the application. Chairman Oster reviewed with the applicant the application fee and review fee requirement, and Mr. Kreiger confirmed that all application fees had been paid. Mr. Ashcroft stated that he was seeking to divide approximately 2 acres from his existing 11.5 acre property located at 415 Plank Road, to be transferred to the adjoining property owner. This will result in a lot line adjustment. Mr. Ashcroft confirmed that there were no septic or well infrastructure implicated in the lot line adjustments. The adjoining property owner, Vartigan, was also present, and stated that it was

their intent to acquire the 2 acres from Ashcroft to be part of their lot (401 Plank Road). The Planning Board explained that in this circumstance, an additional building lot was not being created, but rather these 2 acres of property would need to be merged into the existing Vartigan parcel. Vartigan understood this requirement, and inquired whether the property could be subdivided in the future in the event they sought to have one of their children build a home. The Planning Board explained that the parcel could be subdivided in the future, but would need to come before the Planning Board for review. Vartigan understood this as well. Chairman Oster inquired whether the Planning Board had any questions concerning the application. Hearing none, Member Czornyj made a motion to adopt a Negative Declaration under SEQRA, which motion was seconded by Member Tarbox. The motion was unanimously approved, and a Negative Declaration adopted under SEQRA. Member Czornyj then made a motion to approve the waiver of subdivision application subject to the condition that the 2 acres be legally merged into the adjoining property parcel (401 Plank Road), and that proof of merger be submitted to the Brunswick Building Department. Member Wetmiller seconded the motion subject to the stated condition. The motion was unanimously approved, and the waiver of subdivision application granted subject to the stated condition.

The next item of business on the agenda was the site plan application of Gaston Robert for property located on NYS Route 2 (site of the existing Shed Man/self storage unit facility). The applicant seeks to construct additional self storage units on the site. The applicant has presented a site plan showing 2 phases of additional self storage unit construction, denominated as Phase II and Phase III. The applicant states that he is seeking to construct only Phase II at the present time, and is not anticipating constructing Phase III for several years. However, the applicant wished to present the overall plan to the Planning Board for review. Chairman Oster

asked whether the applicant was going to be out of the shed sales business at this location. The applicant stated that he would continue to display sheds in the area denominated as Phase III, and it was unlikely that the self storage units in that location would be built for several years. Chairman Oster did note that the Planning Board would be discussing appropriate landscaping and buffering of this facility from Route 2 given that it was moving from a shed display location to a self storage unit location. The applicant understood this and was agreeable to additional vegetative screening or buffering in the front of the parcel. Member Czornyj had questions concerning location of the sanitary sewer line. The applicant explained that both this parcel as well as the adjacent Sunoco station utilized the sanitary system at the ARC facility to the rear of these properties, and that the location of the sanitary line would not be impacted by the construction of additional self storage units. Chairman Oster inquired whether the applicant proposed to install a fence for security purposes. The applicant stated that he did not want to install a fence, and that he did not have any security issues whatsoever with the self storage units currently on the site. The applicant did state that the self storage units currently on the site are about 2/3's full, and that he has not had any security issues to date. Member Mainello wanted to confirm that there would be no outside storage of materials. The applicant stated that there was no outside storage of materials permitted, and that all storage needed to be within the enclosed buildings. Member Wetmiller discussed the area in Phase III on the site plan, and whether this provided adequate area for shed display. The applicant stated that given the dimensions of the sheds that he does have on display at this location, there was adequate width within the Phase III area for shed display. Mr. Kestner raised questions regarding stormwater management, and stated that calculations needed to be submitted for the additional stormwater runoff, as well as whether the detention area to the rear of the property was adequate, in connection with the

proposed additional self storage buildings. The applicant stated that this information needed to be prepared by his engineer, and would be submitted to the Planning Board. Member Czornyj looked at the proposed site plan, and had questions regarding the topographic elevations. The applicant stated that his engineer had used the original topography for the site, and had not corrected the existing topography to address the elevation change in the area of the existing self storage buildings on the site. The applicant stated that his engineer will need to update this site plan to provide correct current topographic elevation. Member Czornyj stated that he would like to see both the corrected current topographic information as well as the proposed topographic elevation for Phases II and III when completed. Member Mainello inquired regarding dedicated parking areas on the site. Mr. Kreiger stated that there are two other storage locations in Town for public storage, and that there are not dedicated parking areas. The Planning Board generally discussed the need for parking in connection with the shed display area. The applicant explained that there had never been a dedicated parking area when the site had been exclusively used for shed display, and that principally people will park in an available location and walk around to view the sheds. The applicant did state that the amount of customers viewing the sheds on the site had decreased, and customers appeared to be relying more and more on the company's website for review of the shed items and for purchase. Chairman Oster confirmed the additional information that the applicant needs to submit on the site plan application, including current topographic elevations' (both current and proposed), stormwater calculations, and proposed landscaping in the front of the parcel to act as a vegetative buffer and screening. Mr. Kreiger will forward this application to the Rensselaer County Planning Department for review and recommendation. This matter was originally tentatively placed on the December 17 agenda for further discussion. It is noted that the applicant subsequently contacted the Town, and stated that

his engineer required additional time to prepare the requested information, and therefore this matter was adjourned to the first meeting in January.

The **index** for the December 3, 2009 meeting is as follows:

1. Rensselaer Honda – site plan – approved with conditions;
2. Brooks Heritage, LLC – major subdivision – 1/7/10;
3. Reiser Bros, Inc. – commercial subdivision and site plan – adjourned without date;
4. Ashcroft – waiver of subdivision – approved with condition;
5. Gaston Robert – site plan – 1/7/10.

There are no agenda items for the December 17, 2009 meeting. The Planning Board has cancelled the December 17 meeting. The Planning Board will next meet on January 7, 2010.

The **proposed agenda** for the January 7, 2010 meeting currently is as follows:

1. Brooks Heritage, LLC – major subdivision;
2. Gaston Robert – site plan.