

North Salem Planning Board Minutes

June 2, 2010

7:30 PM – Annex

PRESENT: **Cynthia Curtis, Chairwoman**
 Charlotte Harris, Board Member
 Gary Jacobi, Board Member
 Bernard Sweeney, Board Member
 Roland A. Baroni, Town Attorney
 Will Agresta, AICP, Director of Planning

ABSENT: **Robert Tompkins, Board Member**

ATTENDANTS: **Clearwater Excavating:** **Joe Buschnyski**
 Crown Atlantic Company, LLC: **Michael Sheridan**
 Keith Betensky
 LP Partners: **Tim Allen**
 Peach Lake Commons: **Tim Allen**
 Peach Lake Sewer District: **Ken Kohlbrenner**

Chairwoman Cynthia Curtis calls the June 2, 2010 North Salem Planning Board Meeting to order.

PUBLIC HEARINGS:

1. **Salem Hunt:** Tim Miller Assoc. (owner – June Road Properties, LLC)
 Site Dev. Plan, Subdiv., Wetlands Permit (location – June Road & Starlea Road)
 - Continue the Public Hearing Regarding Site Development Plan Approval
 - Continue the Public Hearing Regarding Wetland Permit Approval

Cynthia states that these Public Hearings will be held over until next month.

2. **Clearwater Excavating:** Joe Buschnyski (owner – Gilbert Shott)
 Conditional Use Permit/Site Development Plan (location – 110 Hardscrabble Road)
 Wetland Permit
 - Continue the Public Hearing Regarding Conditional Use and Site Development Plan Approval
 - Continue the Public Hearing Regarding Wetland Permit Approval

Cynthia reconvenes the Public Hearings and then closes them after confirming that no one is here tonight wishing to speak. Cynthia states that comments under the GML from the County have been circulated to the various parties including Mr. Liguori and Mr. Rossi.

PRE-APPLICATIONS:

**3. Crown Atlantic Company, LLC: Michael Sheridan (owner – Croton Falls Fire District)
Conditional Use Permit/Site Development Plan (location – Sun Valley Drive)**

- Consider Request to Renew Conditional Use Permit.

Cynthia states that a renewal request letter was submitted to the Planning Board from Snyder & Snyder, LLP. Mike Sheridan and Keith Betensky are here tonight from Snyder & Snyder, LLP. Cynthia states this Pre-Application is in regards to an existing cell tower on the top of Sun Valley Drive. The property is owned by the Croton Falls Fire District. Originally, the very acceptable wooden tower started off at 90 feet tall with two whips. Some time in the year 2000, that tower was taken down and replaced with a tower 10 feet higher with several layers of equipment on it. A few years later more equipment was added to it. It has been 10 years since the replacement tower was installed. The current Pre-Application before the Board is for a request to renew the original Permit. The Board would like to consider the concerns and issues that may be raised with regards to this tower now that we have seen it in place and with all the parts and pieces on it, and whether or not the renewal should be automatic, or go through some type of review. Cynthia states that personally, she would like to consider asking the question as to whether or not the equipment on this pole may be improved. Cynthia states that it has been 10 years, and now there is the capability of erecting monopoles utilizing whips and equipment which are less intrusive and provide less visual impacts. Cynthia states she drives by this tower every day and there was a marked difference between the 90 foot wooden pole with the two whips and the replacement tower with the addition of all the equipment on it. Cynthia states there is a marked visual impact. Cynthia would like to know from each of the users on the tower whether or not there is some form of improvement that may be made to cut back on the visual impact. Cynthia states the first tower was a perfect acceptable example, it hardly broke the tree line, and the whips that went up another ten feet could not be seen. When replaced with a tower 10 feet higher, with additional equipment, we now have a tower that is very visible. Cynthia states that with improved technology, the Board would like the Applicant to go back to each of the users that were put on that year. Cynthia states if the Town Attorney were here, she would ask him if we have a right to ask latter users whether there is anything that may be done to make the tower less visible.

Mr. Betensky states he is here tonight on behalf of Crown Atlantic LLC (“Crown”). Crown is here tonight to renew the existing Special Use and Site Development Plan Approval for another ten years. Mr. Betensky states that the way the Code reads, the renewal is automatic so long as no modifications have been made to the facility. Cynthia states that is not quite how it works and asks Mr. Betensky if he would like to quote the Code directly. Mr. Betensky refers back to the Code and states that the Board approved the facility back in the year 2000, and granted the Special Use Permit and Final Site Plan Approval. Mr. Betensky states that AT&T then co-located in 2004. The Board again reviewed the Application at that time and approved the facility. Mr. Betensky states he is quoting from language in the wireless law regarding the renewal, under Code Chapter 250-77.5(H)(1). Cynthia states that the Code Chapter is 250-77.5(H)(1)(d). Mr. Betensky reads (d) in the Code where it states that “Alternatively, if it is found that no alteration of the existing tower, antennas or facilities is required, then the Planning Board shall grant a renewal of the conditional use and site development plan approvals. In this case, an application, review, public hearing and approval shall not be required”. Cynthia states we have not found that no alteration of the existing tower is required. Mr. Betensky states that this Application will not require any changes whatsoever with respect to the facility. There have been no changes made since AT&T had been added in the year 2004. Mr. Betensky states that in the wireless law, the Code seeks to facilitate co-location. There are now four wireless carriers that have been able to co-locate on this one facility as opposed to having four separate facilities dispersed around the Town. This site is located behind a residential cul-de-sac on property owned by the Fire District. The whip antennas that have been referred to are utilized by the Town’s Fire District so they may continue to speak with one another in the event of an emergency. As far as alternative technologies are concerned, the technologies suggested are utilized at the time a site is designed. The Board carefully reviewed the visual impacts of the facility back in

the year 2000 and found that it did not have a negative adverse visual impact on the surrounding area. It is specified in the Resolution of Approval that the pole should be painted specific colors in order for the visual impact to be less. Those requirements back in 2000 have been complied with. There have been no other changes since 2004 at which time AT&T co-located on the pole. We respectfully submit that there are no changes that are necessary at this time.

Cynthia states that first of all, going back to the history on this project, one thing that really bothers her, is that the 2000 Resolution of Approval for this tower states “whereas an existing 101 foot high wooden communications tower....” Cynthia states that the tower was not 101 feet high it was actually 90 feet high. Cynthia states that throughout all of the paperwork she has seen, it is clear that there was a 90 foot tower, but the documentation refers to a 101 foot high wooden communications tower. Comparatively speaking, the replacement tower at 100 feet may have given a misconception that the visual impact didn’t happen. The fact remains that the first tower went up, and then the second tower went up. No matter what the Planning Board might have envisioned, we now know what we see out there. We see a tower that is quite different from the first one that went up. It does have a visual impact. Our Code does state in 250-77.5(H)(1)(b), that the Planning Board has an opportunity for periodic review of this tower and facility. Cynthia states that the Board’s Planning Consultant is with us tonight. Cynthia asks Will if he has anything to add to this discussion as far as the appropriateness of the renewal and request for additional information to confirm this appears to be aligned before the Board jumps to the conclusion to provide an automatic renewal.

Will states that a lot of the Code would be found irrelevant if it is determined the Applicant is not proposing anything different, therefore the renewal may be automatic. The Applicant may propose anything different at anytime and ask for an amendment of the application. To have language in the Code as Cynthia has stated, does not make a lot of sense. The point of the renewal is to have a periodic review to look at technological changes as well as how well has the tower complied with the conditions and determinations made under the SEQR determination as far as visual impacts, and the soundness of the property. Will states that rapid changes in technology are also a reason for a periodic renewal. As technology improves, why not improve the facilities? Cynthia states that rather than standing here and arguing with the Board, it might behoove the Applicant to go back to each of the carriers to ask the question and obtain a response to see if there is something that may be done to improve what we are seeing, if not, ask them to provide us with good reasons why it is not feasible. Cynthia states that the Board needs additional information to understand whether or not this may be able to become a better tower. Cynthia states that towers will continue to be erected in the Town. The Board wants to learn from this, and improve it. The Board would like to work with the Applicant to see about making this tower better.

Cynthia states that the whips on the 90 foot tower were the original NYNEX providers. They were not only utilized by the Fire Department. Gary states that whips are not usually used for public communications. Cynthia talks about the possibility of locating the equipment inside the tower up towards the top so that all of the users may go inside. Mr. Betensky states that is not the way works. Mr. Betensky states that this tower was designed and constructed in the field, as opposed to the previous wooden tower. Mr. Betensky states that he believes the towers the Board has talked about tonight are designed ahead of time. Mr. Betensky states that it is his understanding that this type of pole may not be retrofitted. Cynthia states that the Board would like to have a professional answer that. Gary states that it is not so much as having the tower retrofitted. Why not put up a new tower? Mr. Betensky states that this is an existing tower which provides service. There isn’t anything in the Code that would require the tower to be replaced when it is in full compliance with all the conditions set forth in the Resolution, including a Certificate of Occupancy. Mr. Betensky states that it would be unreasonable for this Board to require the existing tower to be replaced. The Board has no authority in the Zoning Code to request this. Cynthia would like to know if the 10 or 15 feet on the top part of the tower could be adapted so that some of the equipment could be located on the inside instead of it all being on the outside. Also, could some of the equipment on the outside be made less visibly intrusive? Is there any other design

technology out there to improve this tower?

Cynthia states that she received a memo from the Building Inspector which brought issues regarding the access road to the site to the Board's attention. The Town has continued to have problems with this access road and the lack of maintenance. Cynthia believes this information was shared with someone else with Snyder & Snyder. If not, Cynthia will forward it. The Building Inspector has stated that the maintenance of the access road could be better than it has been. The memo states that the access road is a major problem and there should be some provision in the renewal for a minimum of semi-annual inspections in April/May and September/October to take stock of needed maintenance and perform same so that all design features are functioning as they were intended to and any design deficiencies are addressed on an as-needed basis. An active list of users should be maintained with any/all changes in corporate identification updated in advance of the effective change date, including contact information. The Building Inspector stated that the CFFD should be notified to confirm that its dealings with Crown Atlantic are consistent with the Town's entities using the tower and any access issues in common with the towers interests. The Building Inspector stated that the original Planning Board Site Plan Approval is incomplete inasmuch as the addition of the AT&T Wireless per Planning Board Resolution dated 7/18/07 and Plan dated 8/6/08, filed as Map #289, amended the original approval and corrected erroneous as-built information that had been submitted upon completion of the cell tower memorialized in subject Conditional Use and Site Development Plan Approval dated 6/7/00. A renewal should include the subsequent amendment and all of its related information. Cynthia states that the access road is a major problem. It is a very steep road that is not maintained. It washes out with heavy rains. Mr. Betensky asks the date of the memo from the Building Inspector. Cynthia states it is dated April 13, 2010. Mr. Betensky states he has not seen that memo. Cynthia will forward it to him. Mr. Betensky states that four wheel drive vehicles are utilized by the carriers.

Cynthia brings Roland up to speed and states she asked the Applicant to come back with answers as to whether or not there may be any kind of improvements in regards to the visual impacts of the tower. Cynthia states that the Board would like to know from each of the carriers if it would be feasible. If not, why not.

Cynthia states this approval is expiring in a couple of days. Cynthia confirms with Roland it would be appropriate for the Board to grant an extension. Cynthia asks Mr. Betensky how much time he will need. Mr. Betensky states he would prefer not to come back for another extension. Therefore, he requests a six month extension. Mr. Betensky states that it could be argued that the 2004 Resolution of Approval has not expired. Cynthia states that has been discussed with Leslie Snyder.

Cynthia asks if the Board Members have any other questions. They do not. Cynthia asks Mr. Betensky if he has any other questions. Mr. Betensky asks if the Board will grant the extension. Cynthia states she will make that motion.

Chairwoman motions that the Planning Board Grant a Six-Month Extension of the 2000 Approval of Conditional Use and Final Site Development Plan Approval With Conditions from June 2, 2010 to December 2, 2010 for Crown Atlantic Company, LLC Regarding the Communications Tower Located on Sun Valley Drive. Gary Jacobi seconds. All in favor. No opposed.

After the motion Cynthia lets Mr. Betensky that the deadline date is three weeks prior to the regular monthly meeting. Cynthia asks Mr. Betensky if he will itemize all of the users and their contact information for the Board to see when he returns the next time. Mr. Betensky states he will be happy to do that. Mr. Betensky provides Dawn with his business card so she may e-mail him the memo from Bruce Thompson.

REGULAR MEETING:

4. Clearwater Excavating: Joe Buschynski (owner – Gilbert Shott)
Conditional Use Permit/Site Development Plan (location – 110 Hardscrabble Road)
Wetland Permit

- Consider Draft Resolution of Approval, With Conditions

Cynthia states the Board has a Draft Resolution for tonight’s meeting. Cynthia states we have a request from Don Rossi to change the conditions regarding the use of the scale which is referenced three or four times throughout the Draft. We use the term that the use for the weighing of materials or trucks not originating from the site will not be permitted. Cynthia states that language will not work because there are trucks coming in with material in connection to the uses on the site. Mr. Rossi suggested the language be “the existing truck scale (and any future scale) utilized on the subject property will be restricted to the contents and materials used, sold, purchased, processed, or stored in connection with the approved site use (the use of the truck scale for other uses will not be permitted)”. Will is concerned with the words “purchased” and “processed”, and asks what if materials are purchased from a construction site which need to be weighed. Cynthia states the problem was that other trucks totally disconnected from this business were utilizing the scale. We would like to limit the weighing for uses connected to this site. Cynthia states that Mr. Shott is here tonight, maybe he could explain why the words “purchased” or “processed” should be part of the weighting process. Mr. Shott states that all the material they buy to resell is bought and sold by the ton. Mr. Shott states that they process the screening of top soil. The Board agrees to this change. Cynthia refers to the second paragraph on Page 4 in the Draft and states that the language should be changed to “Type I” instead of an unlisted action. A second comment has been provided by Mr. Rossi on Page 6 in regards to dust control practices. Mr. Rossi has asked us to take out the word “improved” where possible, as it is too subjective. Cynthia does not feel it is restrictive. Will does not have a problem with the change, but suggests adding “continued at a minimum”. Cynthia refers to the fourth bullet on Page 6 regarding site landscaping. Cynthia wants to make sure that the evergreen trees within the buffer are not considered landscaping. If those happen to die or become damaged, they are not proposed to be replaced. The Board agrees. Cynthia states that Pages 7 and 8 both have the stormwater paragraph. Cynthia refers to Page 9 and states that at the top, the last sentence, the word “served” should be “serve”. Page 13 (d), Item 17 is discussed as far as the Applicant providing a minimum of 48 hours notification to the Building Inspector and Wetland’s Inspector prior to commencement of any site disturbance or construction activities. Cynthia would like the reference to the Wetland’s Inspector taken out of that sentence. Will states that all the conditions are lumped into one area at the end for all permits. Will states that all the conditions are in one place. Cynthia states that there may be occasions where it is not necessary to call the Wetland’s Inspector out there. The Board discusses adding the words “where appropriate”. Cynthia states that there are occasions when the Wetland’s Inspector should be called, but not necessarily for everything.

Cynthia asks if the Board has any other comments or questions. They do not. Cynthia asks Mr. Buschynski if he has other comments or questions. He does not.

Chairwoman motions that the Board Adopt the Draft Resolution of SEQR Negative Declaration, Chapter 107 Wetland Permit Approval, Stormwater Permit Recommendation, Conditional Use Permit Approval, and Site Development Plan Approval as Amended for Clearwater Excavating. Bernard Sweeney seconds. All in favor. No opposed.

After the motion Cynthia advises Mr. Buschynski to pay close attention to the timeframes within the Resolution.

5. LP Partners: Tim Allen (owner – Peter Kamenstein)
Subdivision (location – Vail Lane/Chestnut Hill Road)

- Review Reports from Planner and Engineer on Completeness
- Consider Setting Public Hearing Date

Cynthia states that the Board is ready to declare themselves Lead Agency and set a Public Hearing. Cynthia asks Tim Allen if he has any questions or concerns regarding the two consultant memos. Mr. Allen states no, he is ready to move forward with a Public Hearing. Mr. Allen states that there were a couple of issues to be worked out. One being the bridle trails which are being worked on, in addition to the recreation fees. Cynthia states it is her understanding that there was no offer for bridle trails. There is discussion about the Board providing consideration for the recreation fees in regards to the Conservation Easement.

Mr. Allen states that we have two lots on approximately 100 acres. Cynthia inquires about the road widening strip and states normally that is asked for by the Planning Board. Cynthia states that when the Stonewall Farm Subdivision was done to the north, they did have a road widening strip. Cynthia states that it looks like Mr. Allen is showing a 50 foot right-of-way. Cynthia asks Mr. Allen if it has been surveyed. Mr. Allen states that he believes it has been surveyed from the old Stonewall Farm Subdivision. Cynthia asks Mr. Allen to confirm the right-of-way.

There is a discussion about the Applicant going before the Zoning Board of Appeals (ZBA). Cynthia states it is a coordinated review. Will states that the ZBA may be strained by making a decision. If this is for a single family development, it would be considered Type II under SEQR. The variance would be on the individual lot and not subject to SEQR. The ZBA would not be an involved agency. Mr. Allen states that the ZBA is waiting for the Planning Board to provide their Negative Declaration. There is discussion about an un-coordinated review. Will states that their action is their action. Roland states this is part of a subdivision. Will states that would be Roland's call. Roland states that they have always had the Planning Board provide their Negative Declaration first.

Chairwoman motions that the Planning Board Declare Themselves as Lead Agency, and set a Public Hearing for July 7, 2010 for the LP Partners Subdivision. Charlotte Harris seconds. All in favor. No opposed.

6. Peach Lake Commons: Tim Allen (owner – Peach Lake Commons, LLC)
Site Development Plan (location – Route 121/Peach Lake Road)

- Review Reports from Planner and Engineer on Completeness
- SEQRA Lead Agency Circulation

7. Peach Lake Sewer District: Ken Kohlbrenner (owner of property – Peach Lake Commons, LLC)
Cond. Use Permit/Site Dev. Plan (owner of facility – Peach Lake Sewer District)
(location – Route 121/Peach Lake Road)

- Review Reports from Planner and Engineer on Completeness
- SEQRA Lead Agency Circulation

Both projects listed above will be discussed together below.

Cynthia states it appears we are well enough along in the completeness process that the Board may set a Public Hearing, if the Board would like to do that. We don't have to do a SEQR Lead Agency Circulation. We could restate our last SEQR that was done. Mr. Allen states that he is requesting a Waiver of the Public Hearing. Cynthia states that we will work both items together, one being the Public Hearing, and the other being a referral under GML to the County which requires a 30 day waiting period under the Planning Board Approval. Cynthia confirms with Roland that if this happened under the prior Approval, it is sufficient.

Roland states that there were no changes. Cynthia asks Roland if she is required to do a Notification Only. Cynthia states she will prepare a notification only for the Peach Lake Sewer District Pump Station Project. Roland states that he believes it is not necessary for Peach Lake Commons since no changes have been made to the plans.

Cynthia refers to the Peach Lake Sewer District Pump Station Project and states they are close enough to declare completeness and take the next step which would normally be to set a Public Hearing. Cynthia states this is a Type II action. Cynthia states the Applicant has already done their SEQR as this is the Peach Lake Sewer District. Cynthia talks about preparing a GML Notification Only.

Cynthia states the Board has a request for a Waiver of Public Hearing for Peach Lake Commons for which there are two actions on one lot. Cynthia states that while there is no change to the Plans for Peach Lake Commons, the Board may want to consider whether the utilities should be part of the Public Hearing or whether they may be waived. Gary states he would like to hold a Public Hearing on the Pump Station aspect. Roland states that holding a Public Hearing on the Pump Station may hold up the Approval for Peach Lake Commons. Bernard would like to know the location for the proposed Pump Station. Cynthia shows the location of the Pump Station on the map and states it will be located at Route 121 and Peach Lake Road. There will be two items underground and one item above ground. Bernard asks if Peach Lake Market will be affected by this Pump Station. Cynthia states the Town Board has requested the Pump Station be properly screened. Mr. Allen reads the provisions from the Town Code. Cynthia states the Pump Station is supposed to be a Special Permit by the Town Board. Mr. Allen states that Peach Lake Market is the only neighbor, and they will benefit from the Pump Station. Cynthia states there may be questions or concerns regarding the Pump Station, as we have never had anything like this before in North Salem. Roland states he has represented a school district elsewhere and that pump stations generally are very harmless. They run, and usually have a generator back-up. They are usually silenced. There is little chance of a back-up. Mr. Kohlbrenner talks about the odor control mechanisms. Mr. Kohlbrenner states they will also provide sufficient screening per the comments. Cynthia states that the Board knows what the building in the back is going to look like. They see where the driveway will be taken out. Cynthia refers to the stormwater and asks if a detention pit is being proposed. Mr. Kohlbrenner states they are proposing a mostly dry basin. Mr. Kohlbrenner states that DEP is looking at this project separately from Peach Lake Commons. There is discussion about the sloped ramp. Mr. Kohlbrenner agrees that the ramp is sloped and states there will not be a lot of traffic. We will need the ability to utilize a hand truck to get up there for maintenance and for chemical deliveries with a pump truck. Cynthia refers to the detention area as far as screening. Mr. Kohlbrenner states that had been one of the comments. Cynthia refers to the Odor Control Pad and asks if has to be in that location. Cynthia states that Supervisor Lucas has requested the Odor Control Pad be located down further and cut into the slope. Mr. Kohlbrenner states he will look into that. Mr. Kohlbrenner talks about also providing evergreens. Will asks if there is an elevation requirement. Mr. Allen states he will speak with Mr. Kohlbrenner about the height of the evergreens. There is discussion about the location of the canisters. Will asks if there are any horizontal canisters. Mr. Kohlbrenner is not sure. Mr. Kohlbrenner states they have Westchester County Health Department approval on vertical canisters. Mr. Allen states he is fine with the height of the landscaping. The metes and bounds are discussed.

Cynthia inquires what will happen if the Pump Station starts first, and then Peach Lake Commons is delayed. The driveway access is discussed. Cynthia states that is critical. Mr. Allen talks about coordinating the driveway access along with the Draft Resolution. Mr. Allen talks about his request for the Board to Waive the Public Hearing for the Peach Lake Commons Project. There is discussion about the Easement Agreement. Roland asks Mr. Allen if he should go back and make it a blanket Easement. Roland will prepare a revised Draft. Roland inquires about the timing for the construction of the Pump Station. Mr. Kohlbrenner states the contractor is working in Vails Grove right now, and will go over to Pietsch Gardens. Roland confirms he will prepare the Draft for Mr. Zadrina's signature. Mr. Allen asks Roland to let Warren Lucas know his client is

onboard. Roland will forward the Draft to Mr. Allen.

Mr. Allen refers to the traffic flow and roundabout for Peach Lake Commons which has already been discussed many times. Mr. Allen talks about the proposed one-way and two-way traffic flow, and states he does not want vehicles to have difficulty exiting if parking spaces are filled. Mr. Allen talks about delivery trucks being able to enter and exit properly. Will inquires about the location of the septic system. Mr. Allen talks about revisiting the issue once the Pump Station is in. Cynthia states she does not want the DOT to come in and install a traffic light. A traffic circle is discussed as a possibility for the future. Mr. Allen states that there is a record of our discussions regarding the roundabout. Mr. Allen states the record is very clear. Cynthia does not want anyone to conclude that based on this Site Plan a roundabout would definitely not work. Cynthia confirms Mr. Allen does not have any further questions regarding the consultant's memos and he will submit a response. Cynthia talks about preparing a Notification Only to the County regarding Peach Lake Commons. Cynthia asks the Board if they would consider waiving the Public Hearing. The Board agrees.

Cynthia asks the Board if they would consider waiving the Public Hearing for the Peach Lake Sewer District Pump Station. Gary and Charlotte do not feel it is necessary to have a Public Hearing. Bernard refers to Peach Lake Market and states they may have concerns. Mr. Allen states they want to hook up to the Pump Station. There is a discussion about getting a letter from Peach Lake Market endorsing the Projects. Bernard would like to know that Peach Lake Market is fully aware of what is going on. Cynthia confirms the Board is comfortable with waiving the Public Hearing for the Peach Lake Sewer District Pump Station. Cynthia informs Mr. Kohlbrenner that the deadline date for submittals is three weeks prior to the next regular meeting date.

Will refers back to Peach Lake Commons and asks Mr. Allen if he has gone to the Zoning Board of Appeals (ZBA) regarding the driveway. Mr. Allen states no, not at this point. Cynthia states that now that this is an uncoordinated review, Mr. Allen may go to the ZBA. Mr. Allen states that they are looking forward to a Draft Resolution from the Planning Board. Cynthia refers to the first meeting in July, and states that the Board may also vote at the Work Session if everything is in place.

8. Proposed Zoning Code Revisions:

- Stormwater Regulation Amendment Regarding Phosphorus
- Restaurant – Outside Dining

Cynthia refers to the 19% phosphorus reduction and states that it is a requirement for everyone unless certain exemptions are met. We have the requirement applying to all commercial and subdivision properties with the exception of minor subdivisions where we are going to grant a building envelope, or where a certain size will not be exceeded. The last item deals with existing residential properties which are exempt provided the total site disturbance is limited to a maximum of one acre. The Board is comfortable with that. On the minor subdivisions, they are exempt provided each lot is one acre or less or they include a building envelope that limits them to either 50% of the allowable area, or a maximum one acre, whichever is greater. Cynthia confirms the Board is comfortable referring this Draft to the Town Board. Will asks if this Draft has been sent to Hahn. Cynthia states no. Will states that the Draft should be forwarded to Hahn for them to review D-1. Cynthia will forward the Draft to Frank at Hahn and the Town Board. Cynthia will advise the Town Board that Frank will review D-1.

Roland asks about residential property that comes about as a result of a Site Plan, not a Subdivision. Will states that would be Site Plan which would pertain to the one acre or more. It would be covered by the one acre threshold. Roland refers to a multi-family zone that doesn't come in as a fee simple, it comes in as

condos. Will states it would be the one acre threshold. If they are under one acre, they would be exempt. Cynthia states that the 19% reduction is calculated on all the land being disturbed, not on the whole site. Charlotte states that is where we came up with the building envelope idea. Cynthia states that an additional condition will be included in the Plat's in the future about satisfying the phosphorus requirement or meeting the criteria for an exemption. Will states that they would be limited to the building envelope and can't disturb more than the Code provides an exemption for. Cynthia states they would become an existing residential property.

Referring to the outside dining Cynthia states that the PD-CCRC District was added. There is a discussion about the outdoor sound. Referring to the Croton Creek Steakhouse and Wine Bar, Cynthia is not sure what the ZBA has decided. Will asks if the Town has metering equipment. There is a discussion about regulating nights and times.

Cynthia confirms the Board would like a clean copy of the Draft sent over to the Town Board. The Draft is written so it will cover any restaurant.

There is discussion about having both the Phosphorus and Outside Dining Drafts go to the Town Board at the same time.

9. Release of Escrow per Written Request:

- Marsh-Rijssenbeek - \$500.00
- Salem Hills Healthcare Center - \$523.65

Chairwoman motions that the Planning Board release the escrow for Marsh-Rjssenbeek in the amount of \$500.00 per her written request. Gary Jacobi seconds. All in favor. No opposed.

Chairwoman motions that the Planning Board release the escrow for Salem Hills Healthcare Center in the amount of \$523.65 per written request from Dan Gallagher. Gary Jacobi seconds. All in favor. No opposed.

10. Financial Report:

- April, 2010
- May, 2010

Chairwoman motions that the Planning Board Approve the Financial Reports for April and May, 2010. Charlotte Harris seconds. All in favor. No opposed.

11. Minutes:

- April 7, 2010
- April 21, 2010
- May 5, 2010

Chairwoman motions that the Planning Board Approve the Minutes for April 7, 2010, April 21, 2010, Planning Board Minutes – 06/02/10

and May 5, 2010. Gary Jacobi seconds. All in favor. No opposed.

12. Next Meetings:

- Work Session – June 16, 2010
- Regular Meeting – July 7, 2010

13. Comments from the Chair:

- Tonery Wetlands Permit – Possible Site Inspection
- Wetland Amendment Law Revisions Update

Cynthia refers to the Tonery Wetlands Permit Referral from Joe Bridges to the Planning Board. This property has a single family home on it, and is located at 89 June Road. Pam Tonery would like to dredge a small pond behind the house. Ms. Tonery originally met with the Building Inspector in 2008 to discuss the dredging of the pond. An Application was not actually filed with the Town until December, 2009. Joe Bridges referred the Applicant to the Planning Board in March, 2010. Discussions have taken place between the Town and Paul Jaehnig, the Consultant for Ms. Tonery. During this time, Ms. Tonery was being billed for work that was happening while the Application was in front of the Building Inspector. Both the Building Inspector and Wetlands Inspector went out to the property ahead of time to identify the wetland boundaries. This project has escalated to a concern about how much time it has taken and how much review is happening before the Application is even processed. The Application may be coming to the Planning Board very soon. Bruce has spoken with Ms. Tonery about clearing up the fees owed to the Town. Cynthia states the season is coming upon us where these ponds may be dredged. Cynthia states that assuming the fees and application are submitted; the Board may want to consider setting up a Site Inspection. Cynthia talks about having Mr. Jaehnig and Ms. Tonery come to the next Work Session to go over the referral memo from the Wetlands Inspector. Cynthia thought it would be better if the Board took a look at the pond first. Cynthia states there is a very steep slope, and then the pond. Cynthia is having a tough time envisioning the proposal. The Board talks about having a Site Inspection prior to the Work Session on June 16th. Gary talks about putting the cart before the horse. Cynthia states that we will not have the Site Inspection if the paperwork and fees are not submitted. Gary asks if Ms. Tonery still wants to do this since it has dragged on for so long. Cynthia states that Ms. Tonery was at the Town Board Meeting last Tuesday and has had several conversations with the Supervisor about procedures and fees. Charlotte states that part of the issue is that Ms. Tonery did not understand the process. Cynthia states that Paul Jaehnig started with the DEC instead of filing with the Town first. The Board decides to make a Site Visit on June 16th at 6:30 p.m. Bernard states he is unable to attend the Site Visit or Meeting that night. Dawn will let Robert and Bruce know, and send out a reminder.

Cynthia refers to the Wetland Amendment Law Revisions and states she made a presentation to the Town Board which went fairly well. The Town Board did ask for clarification of the definition of a wetland. Cynthia will work with MDRA on the definition. There were discussions about a definition for environmental monitoring. A provision will be added for bridle trail maintenance. A provision will be added regarding the collection of fees for the Pre-Application review. A definition will be added regarding buffers, wetlands, and controlled areas. As far as process and procedures, there were no concerns from the Town Board. Cynthia states that the Town Board Meetings may be viewed on the Town's Website.

14. Resolution:

Chairwoman motions to adjourn the Planning Board Meeting. Bernard Sweeney seconds. All in favor. No opposed.