

**PLANNING BOARD
TOWN OF BETHLEHEM
May 20, 2003**

A **regular meeting** of the Planning Board, Town of Bethlehem, Albany County, New York, was held on Tuesday, May 20, 2003, at the Bethlehem Town Hall, 445 Delaware Avenue, Delmar, NY. Acting Chairman, Daniel Odell, called the meeting to order at 7:30 p.m.

Agenda Items: Amsler Subdivision
Town Squire 2 - Site Plan
McCormack's Hollow - Section 1 - Subdivision
Minutes of May 6, 2003 meeting

Present: Daniel Odell, Acting Planning Board Chairman
Brian Collier, Planning Board Member
Parker Mathusa, Planning Board Member
Katherine McCarthy, Planning Board Member

Keith Silliman, Planning Board Counsel
Deborah M. Kitchen, Acting Secretary to the Board
Jeffrey Lipnicky, Town Planner
Janine Saatman, Deputy Town Planner
Randall Passmann, PE, Department of Public Works

Duane E. Amsler, Sr., 80 Blessing Road, Slingerlands, NY
Dawn Amsler-Nunziato, Albany, NY
Robert Spiak, Bohler Engineering, Albany, NY
Edward Kleinke, Kleinke Associates, Delmar, NY
Bill Button, RCS High School, Ravena, NY
Fallon Breen, RCS High School, Ravena, NY
Kristen Olby, The Spotlight, Delmar, NY
Marie Capone, 440 Delaware Avenue, Delmar, NY

AMSLER - Subdivision - 1 lot - 12 Mosall Drive, was the first item on the agenda.

Acting Chairman Odell stated that the project is a 1 lot subdivision on Mosall Drive near its intersection with Blessing Road. He noted that it is the first time the project is appearing before the Board. The purpose is to discuss the concept plan and go over any issues that may immerge. Acting Chairman Odell asked the applicant to introduce himself and begin his presentation.

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.

Mr. Duane Amsler, Sr., said he is a life long resident of the Town who has a history of employment with the Town - first with the Highway Department and then as a Youth Supervisor from 1956 to 1972. Mr. Amsler also stated that he has a history of cooperative ventures with the Town - which included donating land to the Town, in 1977, for improvements that were being made to Blessing Road. And more recently, the Town cooperated with Mr. Amsler on a National Snow and Ice Control project he was researching.

Referring to the documents previously submitted, Mr. Amsler stated that he is requesting approval to carve out a 2.65 acre parcel from his larger 45 to 50 acre parcel. He said that he has been working closely with the Engineering Division & Planning Department and is getting good cooperation and direction from them.

Mr. Amsler then presented an elevation drawing of a home his daughter would like to build on the site - it is approximately 2,600 sq. ft. in size. He stated that he is also looking into all the engineering and environmental issues associated with this type of project.

Acting Chairman Odell asked if staff had any comments to make at this time. Mr. Passmann stated that the Engineering Division had conducted a review of the materials submitted on April 22, 2003 and had provided Mr. Amsler with comments on May 19, 2003. He indicated that he believed the project to be "pretty straightforward", however, there were still some items that need to be added to the drawings. He said he would be glad to assist the applicant in getting the necessary information on the maps.

Mr. Lipnicky referred to his review of the project and said that his comments were mostly directed to details on the drawings. He stated that there did not appear to be any significant issues related to the subdivision, however, there were two SEQR issues involved. The first is that the site falls within an archeological sensitive area. He stated that the Town does not usually require an archeological study when a small subdivision is involved because the probability of finding a large amount of artifacts on a site this size is doubtful given the fact the applicant does not intend to disturb a large portion of the two-acre site. The second SEQR item that is of concern to Mr. Lipnicky is the low area on the site between the hillside and Mosall Drive which appears to have hydric soils. It is Mr. Lipnicky's opinion that someone who is qualified to make a determination about the hydric soils should take a quick look at the area in question. He stated that these issues have already been discussed with Mr. Amsler.

Acting Chairman Odell asked the Board if they had any further comments. Mr. Mathusa said that he supports the position taken by Mr. Lipnicky. Mr. Amsler stated that he has already hired a person to conduct the study and he hopes to have a report next week.

Mr. Collier asked the Planning Department to address the issue of segmentation based on the fact that Mr. Amsler is "carving out" a 2+ acre site from a 45+ acre parcel. He was wondering if there were any overall plans for the remaining acreage.

Mr. Lipnicky stated that he has no knowledge of any plans to develop the remaining acreage. He also said the Planning Department has already considered the future connection of roadways to the existing Eastmont Subdivision and it is his opinion that it is feasible to get roadways down to connect with Mosall if a future subdivision should occur.

Mr. Amsler stated that he has no further plans to develop the remaining acreage at this time.

Acting Chairman Odell asked the staff if the project was at a point where it could be considered for Conditional Final the next time it appears before the Board. Mr. Lipnicky said that a Public Hearing would be required and he does not feel the map is ready for public hearing at this time. He also stated that if the revised maps were to be submitted prior to the next Planning Board meeting there is a possibility that Mr. Amsler's project could be placed on the agenda and a public hearing could be set at that time. Mr. Lipnicky also said that if all the documents were in order the Board might be able to anticipate moving to conditional final.

Acting Chairman Odell stated that one of the timing issues to be considered is the notification of the adjoining property owners. He concluded that if there were no further questions for the Board or for the staff Mr. Amsler should continue to work closely with the Engineering Division & Planning Department to resolve all outstanding issues so that the project could be scheduled for a public hearing. Mr. Amsler stated that he hoped to have the materials requested by early next week. He also thanked the Board and staff for their attention.

There were no additional comments. A motion was made by Mr. Mathusa, seconded by Mr. Collier and passed by all present, to table further discussion.

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TOWN SQUIRE 2 - Site Plan - Route 9W & Glenmont Road, was the second item on the agenda.

Acting Chairman Odell introduced the project and noted that the developer is proposing a plan to add new buildings and make other improvements to an existing shopping center on Route 9W, north of Glenmont Road. The last time the project came before the Planning Board was on February 18, 2003. Acting Chairman Odell asked the applicant's representative to introduce himself and begin his presentation.

Mr. Rob Spiak, Bohler Engineering, 5 Computer Drive West, Suite 203, Albany, NY 12205, representing the Town Squire, said he was going to present a modified concept plan based on comments made by the Board, as well as those received in subsequent meetings held with representatives of Schuyler, Creighton Manning, and Town staff. What the

developer is proposing is a 5,600 sq. ft. restaurant; a retail space adjacent to the restaurant; and a bank.

Mr. Spiak feels that many of the concerns raised by Mr. Lipnicky at the last meeting have been addressed. The proposed set back for Route 9W has been taken into consideration and an attempt was made to get it in line with the existing parking that is in front of the Price Chopper. The bank building, originally located at the entrance, was moved to the rear of the site. Another issue that was raised relates to formulas and methodology concerning traffic studies that have been performed in the past. This issue still needs work and will be addressed as the project moves forward. Mr. Spiak also stated that some improvements have been made to the entranceway to address cueing concerns. He added that the space was increased 80 feet - about four spaces - which should help to address the issue of the exit cue onto Route 9W. With respect to the area in the rear of the stores, Mr. Spiak said that this has been cleaned up and is still being worked on to delineate the area behind the stores as delivery / truck traffic / loading areas behind Price Chopper. Operational issues and technical comments will continue to be addressed as the project progresses beyond this preliminary stage. He acknowledged that there are not a lot of details on the plans at this point. Mr. Spiak stated that an updated survey is being performed at this time so that he can provide all of the information that is necessary for the site plan checklist. In general all the drive isles will be 24 feet wide. The bank building has been relocated to the rear of the site to address a concern that was raised, which related to the ATM lighting. He believes this issue has been addressed by placing the location of the ATM on the side of the bank building facing the woods. With regard to the operational questions about the restaurant, Mr. Spiak said that restaurant "deliveries generally take place in the early morning and will not inhibit traffic patterns around that area...pretty much along the lines with the retail operation, only their off hours from the main operations of the site".

Mr. Spiak thanked the board for placing the project on the agenda and stated that he would like to get a consensus from the board as to whether or not the concept plan is moving in the right direction so he can take the project to the next level - with some design documents - once the survey has been completed. He offered to answer any questions.

Acting Chairman Odell asked the Board and staff if they had any comments or questions.

Mr. Lipnicky stated that he had some comments but would like to begin with a question. He wanted to know if a tractor-trailer could make the swing in the parking lots. Mr. Spiak said that deliveries are usually made by a 40-foot tractor-trailer and the aisles are at least 30 feet wide so the trucks can maneuver around the building and exit the property. He also stated that he intends to provide truck-turning templates with the design documents.

Acting Chairman Odell asked if the restaurant would be serving early breakfast and wondered if patrons would be there when deliveries were being made. Mr. Spiak said the type of restaurant that is proposed is a casual sit down restaurant serving lunch and dinner business only. He stated that most of the deliveries would be made in the morning

decreasing the likelihood that trucks will block parking spaces or inhibit any other activities.

Mr. Mathusa inquired as to whether or not there were still plans for future residential development on the remaining portion of the site. He wondered if there was going to be a separate entrance for the proposed development. Mr. Spiak stated that there is a steep ravine where the parking lot ends and he believes a separate entrance would be needed should the area become developed. Referring to the plan, Mr. Spiak pointed to an existing public right-of-way and said that any residential development would likely be accessed through that right-of-way and not have an inter-connection to the proposed development outside of pedestrian access. Mr. Mathusa asked if Mr. Spiak thought the access would "theoretically" be made available to the applicant. Mr. Spiak thought it would.

Acting Chairman Odell asked if the entrance/exit that was moved further north on Route 9W had been changed or reconfigured. Mr. Spiak said that it has not been changed from the way it is today, other than extending it further back to assist with traffic flows.

Mr. Collier commented that the new entrance appears to be very similar to the way the entrance used to be in the "old days" when you had to make two 90° turns to get to the front of the store. He stated that he prefers the way the entrance is today because it seems to flow nicely. He wondered if the cueing requirement could be met "by the drive coming off the main over to the Price Chopper - if that was a straight drive - without access off to parking spots - if that could create the cueing space needed without having to take a circuitous route back toward Price Chopper."

Mr. Lipnicky said he agreed with this point. He noted that the existing entrance/exit driveway, to the west of Price Chopper shows the driveway with parking on both sides, leading into the back..."if there was a configuration that was left, something like that, it could provide the stacking depth that you are looking for. However, the first plan that came in had a drive-thru bank on that front parcel and obviously because of the volumes in and out of that, if there was no access provided directly to the bank, we have a circuitous route for people to get to it. So I think that was the reason that they put that first intersection there - was to gain access to the bank. Having both of these entrance points here is probably beneficial than having the circuitous route around the back and then having to weave your way back to the same spot to get out - I think that connection makes for better circulation - although I appreciate the comment that you are making with respect to the turn into the Price Chopper area. Either one would work." What is now proposed is probably more convenient. Mr. Spiak said it is something that he would look into.

Mr. Mathusa asked Mr. Spiak to demonstrate on the map how you would enter the site from Route 9W and get to the bank. Mr. Spiak drew a straight line from Route 9W back to the bank. Mrs. McCarthy asked Mr. Spiak to demonstrate how you would get from the stores facing Glenmont Road to the bank. Mr. Spiak stated that the parking area to the

left of Price Chopper is going to be a dead end lot and traffic will flow toward the entrance/exit and make a 90° turn toward the bank.

Mrs. McCarthy said that she felt the new parking lot north of the entrance drive would be unattractive from the road "to have that flash of metal" (parking lot), especially in the summer. Mr. Spiak said that there are plans to put substantial landscaping around that area. He also stated that the parking is needed to meet the tenant's space requirements. Mrs. McCarthy asked Mr. Spiak how many parking spaces are being proposed versus how many are required. Mr. Spiak said that there were 174 parking spaces and approximately 100 were required. He stated that parking spaces were based on the square footage of each building and according to the Code, the restaurant would need 1 space per 50 square feet; the retail store would need 1 space per 250 square feet for a total of 21 spaces; the bank would need 1 space per 250 square feet for a total of 16 spaces. The plan provides for 115 spaces for the restaurant, 35 spaces for the retail business and 24 spaces for the bank. He said the biggest jump was in the restaurant, which will seat 217 people. He feels that the number of parking spaces required by the Code will barely accommodate the patrons and does not factor in the employees.

Mrs. McCarthy suggested moving the shops closer to the road and relocating the parking to rear of the parcel in order to create a more attractive streetscape. Mr. Spiak stated that the space available at the front of the parcel is limited due to the existing ravine. Mrs. McCarthy stated that she would like to see a more urban look. Mr. Spiak stated that the plan, as shown, is consistent with the street line that currently exists for that site.

Mr. Mathusa inquired about where the landscaping area would be in relation to Route 9W. Mr. Spiak said that the plantings would be made along the right-of-way. He stated that he intends to incorporate the recommendations made on previous traffic plans. The islands would be planted. Mr. Mathusa asked Mr. Spiak to elaborate on the landscaping that will be done, west of the restaurant, which will serve as a screen to block the view of dumpsters. Referring to the map, Mr. Spiak stated that an attempt would be made to come up with a street tree plan that would be similar to existing site and also incorporate plantings where none currently exist - including low level plantings around the buildings.

Mr. Mathusa asked if the height of the buildings were going to be one story or two. Mr. Spiak said the buildings were all one story.

Mr. Collier stated that he recalls there had been a fair amount of discussion by the Planning Board, and by the residents, regarding encroachment on the residential area behind the site. Having said this, Mr. Collier suggested moving the bank building back up to the front of the site where the developer had originally proposed in order to keep activities away from the residential area. Mrs. McCarthy agreed with this suggestion and stated that she believes the buildings should be closer to the corridor. Mr. Collier asked if there was a reason why the bank had been relocated. He wondered what concerns were raised by the Planning Department with respect to the bank being located up front. Mr. Lipnicky said that the issues include accommodating drive-thru lanes (in this case four) and adequate parking, in addition to the building itself. There is also a large ravine to

consider as well as a sewer main that runs through it. At this point it is not known how much fill can be placed there. Additionally, the Route 9W Corridor Study recommendation was to provide an 80-foot setback from centerline in order to allow for future highway widening. Mr. Lipnicky said that he took the approved NYS Department of Transportation plans for the Nigro project and plotted them on the Town Squire site plan. He also looked at what would happen if another travel lane were added in each direction. This resulted in a 28-foot setback from the edge of pavement to the parking lot. He stated that if a symmetrical widening were done it would mean that a travel lane would be added to the Casa Mia side of Route 9W. The result would be that the front of the restaurant would be about 7 feet from the edge of pavement. In light of this fact, Mr. Lipnicky believes it is doubtful there will be a symmetrical widening - it is more likely that the widening will be asymmetrical. If both travel lanes were placed on the Town Squire side of the roadway, the set back would end up being about 16 feet from the edge of pavement to the edge of the proposed parking lot. He stated that without seeing the topography of this area, how deep the ravine is, if there are wetlands, and whether the area can be filled, it is not possible to know if anything can be placed on the front of the site. Based on what he has seen, and the possibility that Route 9W may be widened someday, he feels that it is not a very big area to locate anything.

Acting Chairman Odell expressed his opinion about which tenant he would be inclined to place closest to the residential area. The bank would be the quietest operation of the three occupants in terms of business hours and traffic. If he were one of the neighbors, noise would be a big consideration. Mr. Lipnicky added that the bank would be closed on Sundays, and it would provide a buffer from noise generated on other portions of the site. Mr. Spiak stated that it was part of the logic for placing the bank in the back. He said that there would be a 40-foot buffer zone behind the bank and green space to further buffer the noise. He also said that he believes the bank is the least intensive of uses for that area of the site. Mr. Lipnicky said that a bank is also going to be more attractive to look at rather than a cinderblock wall on the back of a retail structure.

Ms. Saatman conveyed her thoughts about the lighting. She made reference to lighting that has been added to other drive-thru facilities along Delaware Avenue - where very bright lights shine toward the roadway. She asked for clarification about where the lighting would be placed.

Mr. Spiak responded by saying that was one of the concerns for having the bank located up front. He stated that he could not say for certain but it would be his hope that the light could be projected to the north and consideration can and will be given to shielding the light from the neighborhood in the east.

Mr. Mathusa said it is critical to keep the lighting away from the neighborhood and sympathizes with the points that were made about placing the buildings closer to the road. Mr. Spiak said that comments he received from the Planning Department, as well as traffic studies and the possible widening of Route 9W, contributed to the developer's decision to move the bank to the back of the parcel. He also stated that if need be, the parking lot could be reduced to accommodate future road widening.

Mr. Passmann said that he likes the fact that the drive-thru is located on the north side of the bank because they are further away from the residents. He stated that the Engineering and Planning Dept. staff had visited the site and taken a look at the existing growth. It was his opinion that the growth was thin and may not naturally provide enough screening for the residents. He recommended that Mr. Spiak pay close attention to the plantings in that area. Mr. Spiak stated that the developer would supplement with some evergreen type plantings as needed.

Acting Chairman Odell asked Mr. Passmann to comment on the fact that the sewer line that appears to run under the corner of a building. He wondered if the soils were appropriate for that kind of a placement. Mr. Passmann said that was going to be a question he had for Mr. Spiak. He then asked Mr. Spiak what the plans were for the existing 48" storm sewer pipe, which is shown to cross under the footprint of the restaurant. Mr. Spiak said that he believes that a portion of the existing storm sewer will need to be reconfigured - to avoid the building - and to better place catch basins in those paved areas. Mr. Passmann said the sanitary sewer might also need to be relocated to allow for alternate layouts. Mr. Spiak stated that he hopes to avoid the sanitary sewer because that it is a much bigger issue. He expects to receive a survey next week that will help to clarify some areas in question.

Acting Chairman Odell asked about the potential investment in street trees along what is to become the parking area closest to Route 9W given the possibility of future widening of Route 9W. He wondered if the parking lot could be reconfigured so that it is further away from Route 9W. Mr. Spiak stated that the placement of trees will be determined once the survey has been completed and the trees will be planted as far away from Route 9W as possible to avoid a potential conflict. Mr. Lipnicky said there are already four or five trees out there in front of this section.

Mr. Lipnicky said that he prefers the current plan to the previous plan in terms of set back distance from Route 9W. If the widening of Route 9W were going to be symmetrical the placement of this parking lot would not be as much of an issue. However, he added that he would like to see the parking lot back another 10 feet, if possible, to allow for a sidewalk. He said that a sidewalk is typically five feet from edge of pavement and five foot wide and when the sidewalk goes in it will eat up a good portion of the remaining 16 feet. It will also affect the placement of street trees. Mr. Lipnicky stated that the location of the parking lot would depend on what the ravine looks like. He said Mr. Passmann would need to take a look at the sanitary sewer to see if there will be any changes.

Mr. Lipnicky said that they did a good job at improving the layout with the exception of the section in front of the Price Chopper building where there is a sharp curve near the corner of the building. Mr. Lipnicky recommended that they do something to improve the sight distance. Mr. Collier suggested blocking off the access to the parking lots that are off the main drive in order to create a safer situation.

Another concern raised by Mr. Lipnicky had to do with the location of the loading areas in relation to the parking lot. He does not like to see a situation where a tractor-trailer driver is pulling in and attempts to back up while customers are trying to enter the parking lot. He is also concerned about the possibility that parked cars will make it difficult for the truck driver to gain access to the loading area. If the access is blocked the driver might be forced to park in a way that will block cars from getting in and out of parking spaces. This may or may not be problem depending on the time of day when deliveries are made, the size of the delivery truck and how much traffic the retail business will generate. The fact that there will be activity at the bank in the morning is also something that needs to be taken into consideration. Mr. Spiak offered to find out when deliveries are expected to occur and provide the information to the Board.

Mr. Lipnicky said the intersection in the rear is "workable" but he does not feel it is an ideal situation - signage will be needed. He stated that he had visited the site prior to the Planning Board meeting this evening and counted cars during the peak period, between 4:45 p.m. and 5:45 p.m. He noted 429 vehicles that entered and exited the parking lot at the Route 9W access point - there were 90 right turn-outs; 49 left turn-outs; 202 left turn-ins; and 88 right turn-ins. From his observation, overall, it seemed to work okay. "Basically what we have out there, during that time, is traffic that is backed up from Feura Bush Road to Bender Lane, almost continuously, from the time I got out there at 4:30 p.m. until it starts quieting down a little bit after 5:30 p.m. Before 5:30 p.m. cues were past the driveway." The reason he believes the intersection works is because traffic is moving very slowly and when it is moving slowly people have an opportunity to make a left turn out at some point. Motorists who let people merge extend a lot of courtesy. "There was one instance where someone pulled out and they were blocking northbound traffic". He stated that he had brought a stopwatch with him and people were waiting anywhere from 45 seconds to a minute and a half to make a left turn-out. "About ten vehicles originally started with their left turn signal on and decided to make a right turn-out. A couple of them turned around in the parking lot across the street to head back southbound. It was never really a long cue, getting out of there, the longest cue was four vehicles turning left out of there." At this point he does not have a high comfort level about how this will work with additional traffic at that intersection.

The one thing that he and Shelly Johnston, the traffic engineer, are trying to come to an agreement on - is, what is a reasonable trip generation rate for a bank. The ITE rates were somewhere in the order of 60 vehicles per 1,000 square feet during peak hour. Mr. Lipnicky said he visited the Price Chopper Plaza and that bank was generating far less vehicle traffic. It was his understanding that Ms. Johnston was going to look at a couple of existing banks and try and get some data on them. "Obviously the removal of one bank and its replacement with a retail establishment will significantly drop the trip generation rates at this site". This rate is still being discussed. One thing Mr. Lipnicky would like to see from Ms. Johnston is a written explanation outlining her rationale as to why she did not feel it would be a significant impact with respect to traffic.

Mr. Collier directed a question to Mr. Lipnicky and asked if the Planning Department ever looked at moving the entrance north. Mr. Lipnicky said that the Planning

Department had reviewed the previous concept and recommended that they consider moving the entrance. It is still an option but he is not certain it will "gain a lot" given the fact that the traffic is backed up all the way to Bender Lane. Mr. Collier stated that some of the back up is caused by vehicles waiting to make the left hand turn onto Glenmont Road – a problem that is going to be fixed. Mr. Lipnicky stated that the problem would also improve when the right turn lane is added. He noted that it might help to move the entrance further north once the improvements to the Route 9W/Feura Bush/Glenmont Road intersection have been completed. At this point in time, Mr. Lipnicky would like to see a traffic study performed. He said that he is willing to see if Ms. Johnston can convince him that a traffic study is not necessary but he is not convinced of that yet. Ultimately, it will be the Board's decision. Acting Chairman Odell said that he thinks it would be helpful to see Ms. Johnston's rationale - outlined in detail - so that it can be analyzed point by point. Mr. Spiak said that he would pass the information along to Ms. Johnston.

Mr. Lipnicky then mentioned a final observation he made during his site visit. He said that the more congested the traffic became the slower the speed and the easier time the vehicles had making a left turn out. He also said that when it was less congested, people were traveling at higher speeds and those exiting were far more cautious.

Acting Chairman Odell asked Mr. Lipnicky if he had any other concerns or comments. Mr. Lipnicky said that he has comments about ATM lighting and other things that need to be shown on the plans, but the primary concerns had to do with the set back from Route 9W, traffic and whether or not something can be done about the sharp turn near the front corner of the Price Chopper building.

Mr. Spiak said that what he has gathered from the Board's conversation is the plan is generally acceptable. He would like to avoid getting into a detailed design and then find out there were issues with the uses - especially since they will "play into" the traffic study.

Acting Chairman Odell said that he felt a lot of progress had been made and some of the issues that remain – do so because the Board does not have the additional detail they need to resolve them. Mr. Lipnicky agreed.

Acting Chairman Odell asked if there were any other comments. Mr. Mathusa said he does not want the traffic to get backed-up on the site because the retailers will lose business and people won't want to go there. He believes it is to the developer's advantage to consider some of the ideas that have been given to help "make it work for the long term" and ensure the financial success of the project.

Referring to the map, Mr. Passmann said that he had been giving more thought to what Mr. Collier suggested about moving the entrance further north. He believes it would provide more room to make a smoother transition in front of the Price Chopper. Mr. Mathusa agreed. Mr. Collier said it also potentially provides room to get the bank building back up front. Mr. Mathusa said that the survey would help to determine where

everything could be placed. Mr. Spiak said that relocating the entrance is something they can take a look at once they have all the data together on their mapping. They would need to consider the cost of relocating the entrance but it is something they would be willing to explore. Acting Chairman Odell said that seeing the topography on the plans would be helpful when it came time to resolving these issues. Mr. Mathusa said that he wants to make sure to avoid any potential conflicts that might take place when Route 9W is expanded. Mr. Collier, said if the entrance were moved further north, it would mean high visibility for the restaurant, and a building could be placed where the entrance is now which would give it good frontage while still respecting Mr. Lipnicky's recommendation to increase the distance between the parking lot and Route 9W.

Mr. Mathusa said that the bank was proposed where Mr. Collier is suggesting it could go and he recalled it being a "tight squeeze". Mr. Spiak said that it would not be as practical to put the bank building up front. Acting Chairman Odell said that he prefers the bank at the back of the property. Mr. Mathusa asked Mr. Spiak to seriously consider the points raised by Mrs. McCarthy and Mr. Collier. Mrs. McCarthy said that she agrees the best location for the bank is in the back of the property - because it is "quieter" at night, but she still believes there will be headlight issues when people use the drive thru at night. "If things can be in the front and we eliminate that parking lot - which may have to go someday anyway, as 9W is developed - we either have more green space there or we have an attractive line of buildings." Mr. Spiak said that once he gets the survey he will overlay the plans so that everyone can see the layout for the future widening of Route 9W. He believes it will help the Board to put things into better perspective. Mrs. McCarthy stated that she is thinking about more densely populated areas where you would see rows of shops, with sidewalks out front and parking behind the buildings. She feels that this type of development can be quite attractive and as Route 9W develops the applicant will want to do something to entice people to come to the Town Squire versus going elsewhere. Mr. Spiak said that the ravine going through the site is forcing everything to the rear of the property.

Acting Chairman Odell asked if there were any other comments. Mr. Lipnicky stated that he had no further comments. Mr. Spiak said he had no further comments and thanked the board for their time. A motion was made by Mr. Mathusa, seconded by Mrs. McCarthy and passed by all present, to table further discussion.

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MCCORMACK'S HOLLOW – Section 1 - Subdivision – 17 Lots - North Street - was the third item on the agenda.

Acting Chairman Odell introduced the project as a 17 lot subdivision on North Street which last appeared before the Board on January 7, 2003 - at which time the Board granted a Conditional Final Approval for Section 1 - for the 7 lots located within the water district. The remaining 10 lots are located outside of the water district and that is the reason why the project was split into two sections. The Acting Chairman referred to a

letter from Mr. Kleinke, dated May 7, 2003, requesting approval to begin site work prior to filing the plat. Acting Chairman Odell asked Mr. Kleinke to begin his presentation.

Mr. Edward Kleinke of Kleinke Associates, 306 Delaware Avenue, Delmar, NY 12054, introduced himself as representative of the McCormack's Hollow - Section 1 Subdivision. Referring to the map, Mr. Kleinke pointed out the highlighted areas where highway and utility work is being proposed. He said the top street is an extension of Merrifield Place, which will connect to North Street and then continue along North Street into the subdivision area to the limits of Section 1. He added that Section 1, consisting of 7 lots, is outlined in red and the boundaries of each section are highlighted to distinguish between them.

Mr. Kleinke said that he had submitted the wetland permit application in January and was asked to provide extensive information, which he submitted to the A.C.O.E. (Army Corps of Engineers) approximately 3-4 weeks ago. Mr. Kleinke said the material submitted to the ACOE is still being reviewed. He believes he has addressed all of the Engineering review comments and has updated the drawings based on the Planning Department's review letter he received in April. The final plat is ready to submit but he has held onto the map so he can update it based on the proposed mitigation plan that was submitted to the ACOE. He is seeking permission to begin site work in the area of Section 1 and anticipates coming back, very soon, to seek final plat approval for Section 1. Mr. Kleinke said that the project has already undergone all of the necessary Health Department reviews.

Acting Chairman Odell asked Mr. Kleinke to describe the nature of the site work that the developer would like the Board to approve. Mr. Kleinke said that both areas of roadwork involve some grading, storm drainage, utilities, sewer and water. Mr. Mathusa said "in theory" this would be at the developer's expense if the project never gets developed. Mr. Kleinke said that Mr. Mathusa was correct. Ms. Saatman said it sounded as though Mr. Kleinke was talking about utility work. Mr. Odell concurred. Ms. Saatman said that the impression she had gotten from Mr. Kleinke's letter was that the developer intended to make preparations for the future installation of utilities, not actually install them. Mr. Kleinke said that the water line would need to be extended so there is some prep work that needs to be done. There is also some basic grading which needs to be done on Merrifield before they can bring in the base coat of materials and stake out for utilities. He said that he anticipates submitting the final plat very soon and hopes to move forward with the actual installation of the utilities after Final Plat Approval has been granted.

Acting Chairman Odell asked Ms. Saatman to comment on the applicant's request to begin preliminary site work. Ms. Saatman said that a request of this nature would normally come at this point in time, after the Conditional Final Approval is granted, as long as it does not raise any other issues with the project. This is done so long as the applicant understands that the approval does not allow for the actual installation of any utilities. The Acting Chairman asked if the type of work the applicant wants approval for is detailed in the approval letter. Ms. Saatman said that the Planning Board Secretary

usually sends the letter to the applicant and it specifies the type of work that will be permitted. It would need to be clear about what the Board is actually approving.

Mr. Silliman asked Mr. Kleinke to clarify whether or not the preparation for the installation of utilities includes the actual laying of lines in the road. Mr. Kleinke said that "ideally" the contractor would like to install the lines all at once to avoid having to start and stop. There are some areas, particularly along Merrifield Place and along North Street, where the installation of utilities, or the start of them, would not have any impact on anything out there, other than work that is typical for installing roads.

Mr. Collier said that he does not have any objection to the applicant moving ahead and installing the piping but the logistics of doing so is something that needs to be discussed because he does not see the Town Engineering Department coming out to inspect the work without having the proper permits in order, especially when the subdivision has not been approved. He stated that he would be willing to grant the approval if the logistics could be worked out because he realizes the project has been delayed for a number of reasons, some of which were totally out of the developer's control.

Ms. Saatman said that there has never been installation of any utilities on any project that she is aware of, prior to granting the Final Plat Approval. This is because the Town does not get the official Health Department Approval until the Final Plat is stamped. Mr. Mathusa said "theoretically" the only work that is usually done is bulldozing and trench work, no sewer, water, or electric. Ms. Saatman said clearing and grading is the type of work that would be allowed. Mr. Lipnicky said that this process is usually started because someone has a site that needs a lot of grading work or the site is forested and it takes time to clear the land. Mr. Collier wondered if the reason the Board never approves the installation of utilities is because of the Health Department's involvement. Ms. Saatman said the Health Department has to approve the plans. Mr. Lipnicky stated that we would not want the developers to start construction until they have Final Approval. Mr. Collier asked Mr. Kleinke to clarify the reasons why he felt it would be beneficial to allow the contractor to "dig a trench and put gravel in it and then come back later on to install the pipe".

Mr. Kleinke said he is not suggesting that the contractor dig trenches and leave them open. There is base work preparation that needs to be done on Merrifield before Section 1 work can begin. He added that the utility areas along Merrifield Drive are outside the roadbed - as are the utility areas along North Street. This is the type of work the developer wants to get started on and he knows that the Health Department will not stamp the drawings until the Planning Board approves them. He said they have reviewed everything and agree that what is on the drawings is acceptable but they will not issue anything that says everything is okay - - we can go ahead with this. Mr. Odell reiterated that whatever communication goes to the applicant at this point will clearly state that it does not include any work other than grading.

Mr. Passmann said it appears to him that Mr. Kleinke is asking for permission to do work that consists of site clearing, grading, fill placement, and ground work to form the sub-

base for Merrifield Place and to widen shoulders on North Street - - but he is not actually seeking approval to put in the new utilities. He noted that the letter requesting approval to begin site work was reviewed by the Engineering Division, the Commissioner of Public Works and the Highway Superintendent and no objections were raised based on the understanding that the applicant would need further approval to begin installing the utilities. Ms. Saatman asked for clarification as to whether or not the developer intends to do any work on the lots in Section 1 themselves. Mr. Kleinke said the lots are fairly large and he had recommended to the developer to wait until there is a specific program in place for a house to be constructed before doing any site work. He mentioned that there were a couple of driveways that need to be put in but one of them crosses a wetland so they do not intend to do any work on that site.

The Acting Chairman asked if there were any further comments. Mr. Mathusa said that the approval letter from the Planning Department should clarify the discussion that took place today. Acting Chairman Odell asked who normally writes a letter of this type. Ms. Saatman said the Planning Board Secretary usually writes these types of letters. The letter would say that the Board acted at the meeting to grant site work. Mr. Lipnicky said the letter would approve site work in the vicinity of the roadways in Section 1 and also state that the approval does not include any work on utilities.

Mr. Passmann said that this is "a type of sub-phasing for Section 1" and the developer will need to make sure that adequate erosion control measures are in place - even though they may not be shown on the approved drawings. He added that if the developer chooses to proceed with the work, mobilizing their equipment, personnel and materials, they would be doing so at their own risk. If the ball starts rolling on construction and things slow down because of the other approvals it should not be a reason for the applicant to come in and say that he would like to continue work on North Street in Section 2 because he will be faced with additional mobilization costs. Acting Chairman Odell asked if that would be included in the letter. Mr. Mathusa said that he believes the erosion control measures should be mentioned. Mr. Collier said the letter talks about beginning construction in Section 1 only and that it is clear to him. Ms. Saatman said people could always go back and refer to the minutes if need be.

Acting Chairman Odell asked if there were any further questions. Mr. Kleinke stated that he would like to come back, sooner rather than later, with the final plat and he thanked the Board for their time.

There being no additional comments, a motion was made by Mr. Collier, seconded by Mr. Mathusa, and passed by all present to accept the letter as written and grant approval to the applicant to commence preliminary site work.
At this point the discussion concluded.

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MINUTES - May 6, 2003 - regular meeting were discussed and edited with minor revisions. Acting Chairman Odell did not ask for a motion to approve them.

For an official copy of the minutes, please visit the Town Hall, 445 Delaware Avenue, Delmar, NY or call 439-4955, extension 158.

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All business concluded and a motion for adjournment was offered by Mr. Mathusa, seconded by Mrs. McCarthy and passed by all present. Acting Chairman Odell declared the meeting closed at approximately 8:42 p.m.

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Minutes of the May 20, 2003 meeting were transcribed by Deborah M. Kitchen, Acting Secretary to the Board. The minutes were edited and approved by the Board on July 1, 2003.

Respectfully submitted,

Deborah M. Kitchen
Acting Secretary to the Board