

**PLANNING BOARD  
TOWN OF BETHLEHEM**

**September 16, 2003**

The Planning Board of the Town of Bethlehem, Albany County, New York, held a **Public Hearing** on Tuesday, September 16, 2003, at the Bethlehem Town Hall, 445 Delaware Ave., Delmar, NY, re: **BANAHAN SUBDIVISION**, 1 lot subdivision on 585 Old Quarry Rd., Selkirk, NY 12158. Chairman Douglas C. Hasbrouck presided and called the hearing to order at 7:30 pm.

Present: Douglas C. Hasbrouck, Chairman  
Howard Engel  
Katherine McCarthy  
Brian Collier  
Parker Mathusa  
Keith Silliman, Counsel to the Board  
Jeffrey Lipnicky, Town Planner  
Janine Saatman, Deputy Town Planner  
Randall Passmann, Senior Engineer  
Bill Banahan  
Tim Banahan  
John DeMis, P.E., L.S.

CHAIRMAN HASBROUCK: First thing on the agenda tonight is a public hearing for the Banahan Subdivision on Quarry Road and I'd ask first for a motion to indent the public notice into the record.

MR. MATHUSA: So moved

MS. McCARTHY: Second

CHAIRMAN HASBROUCK: All in favor

ALL: Aye

CHAIRMAN HASBROUCK: Opposed.

NOTICE OF PUBLIC HEARING

---

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

Notice Is hereby given that the Planning Board of the Town of Bethlehem, Albany County, New York, will hold a public hearing on Tuesday, September 16, 2003 at 7:30 pm, at the Town Offices, 445 Delaware Ave., Delmar, New York, on the application of William H. Banahan, 551 Old Quarry Road, Selkirk, N.Y. 12158, for approval of a one (1) lot subdivision located at 585 Old Quarry Rd., Selkirk, N.Y. 12158, Albany County, N.Y. as shown on map entitled: Map of BANAHAN SUBDIVISION No. 2, Town of Bethlehem, Albany County, State of New York, dated June 25, 2003, revised August 15, 2003, and prepared by John C. Demis, P.E. & L.S., 2280 Berne-Altamont Road, Altamont, N.Y., 12009.

CHAIRMAN HASBROUCK: Everybody I think is familiar with the project, I don't know if there is anybody here from residences down in that area that are interested in this project besides that applicant, without further introduction I'll ask the applicant to go ahead and make whatever presentation they want to and see where we go from there.

MR. DEMIS: Bill Banahan proposes to cut off a 7.16 acre parcel from a 26.6 acre parcel that he owns on Old Quarry Road. It is presently divided by lands of the Albany Water Board that run through here. It's gonna be one single residential building lot, the remaining lands are to remain agricultural, not for building purposes for a residence. We've talked with the Department of Public Works regarding the highway work permit and the existing driveway meets their criteria, no work permit was required, unless they do any changes Albany County Department of Health was out there they ran perk tests and a conventional in ground septic system can be installed and again it's only for a single family residence.

CHAIRMAN HASBROUCK: That's it?

MR. DEMIS: That's it.

CHAIRMAN HASBROUCK: Boy, I like that.

MR. DEMIS: Simple.

CHAIRMAN HASBROUCK: Any questions from the Board first of all? Or staff. Is there anyone here who wishes to ask questions, make comments or whatever with respect to this proposal? No one. OK, then given the fact that we have no comment or commentors, I will ask for a motion to close the public hearing.

MR. MATHUSA: So moved

MS. McCARTHY: Second.

CHAIRMAN HASBOUCK: All in favor

ALL: Aye

CHAIRMAN HASBROUCK: Opposed

HEARING CLOSED AT 7:40.

Respectfully submitted,

Nanci Moquin  
Secretary to the Planning Board

**PLANNING BOARD  
TOWN OF BETHLEHEM**

**September 16, 2003**

A **regular meeting** of the Planning Board, Town of Bethlehem, Albany County, New York was held on Tuesday, September 16, 2003 at 7:40pm in the Town Hall, 445 Delaware Avenue, Delmar, NY. Chairman Douglas Hasbrouck presided and called the meeting to order at 7:40 pm.

Agenda Items:            RDA Associates Subdivision  
                                 Price Chopper Plaza Extension – Windsor Properties  
                                 Town Squire Plaza Phase II – Schuyler Companies – Rt. 9W  
                                 The Hammocks – Milltowne Plaza, Inc.  
                                 Bethlehem Tomorrow - Presentation  
                                 Action on Minutes

Present:                    Douglas C. Hasbrouck, Chairman  
                                 Howard Engel  
                                 Katherine McCarthy  
                                 Brian Collier  
                                 Parker Mathusa  
                                 Keith Silliman, Counsel to the Board  
                                 Jeffrey Lipnicky, Town Planner  
                                 Janine Saatman, Deputy Town Planner  
                                 Randall Passmann, Senior Engineer  
                                 Tom Andress, ABD Engineers, 411 Union St, Schenectady, 12305  
                                 Bill Banahan  
                                 Tim Banahan

---

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

12009

John Demis, P.E., L.S. 2280 Berne-Altamont Rd., Altamont, NY

Linda Pine

Nancy Heinzen, Delmar, NY

Tony Califano, 41 Barrington Ct., Niskayuna, NY 12309

Bruce Ginsburg

Rob Spiak

Shelly Johnston, CME, 4 Automation Ln., Albany, NY 12205

Jim Villasenor, Bethlehem Realty

George Haseotes, The Hammocks

The public hearing for Banahan Subdivision was closed at 7:40.

### **BANAHAN SUBDIVISION – 585 Old Quarry Road – 1 lot**

Mr. Hasbrouck asked the Board to turn their attention to the draft documents that were prepared for the Banahan Subdivision. Ms. Saatman stated that she had drawn up the documents and as in the past with one-lot subdivisions, the Board had not required an archeological study. Mr. Hasbrouck asked the Board if there were any questions concerning that practice. He asked for a consensus for the archeological review to be waived. The Board was in agreement. Ms. Saatman stated the Albany County Planning Board's recommendation was included in the document and there was an additional comment that not part of the actual recommendation that had to do with showing a building envelope and leaving a buffer area near the Hollyhock Hollow Sanctuary property. The clearing had already been done and the applicant had stated that additional clearing would not be necessary. There was ample room to build. The clearing does extend to that lot line adjoining the Sanctuary in one area but not the complete line. The proposed footprint of a house was on the map, but that was for review purposes only. It could change somewhat but if the changes were substantial, it would be subject to review. The existing tree line is shown on the map. Mr. Hasbrouck turned the Board's attention to the 2<sup>nd</sup> Draft of the documents and the changes within. He stated there was not a need to override the entire recommendation of the Albany County Planning Board because 2 of the 3 provisions were already addressed in the draft as requirements needed prior to signing the maps. The only issue that needed an override was the comment concerning review by the Albany County Water Board because the waterline's adjacent to the proposal. The 2<sup>nd</sup> draft addresses that issue by stating that The Water Board had been notified of the Public Hearing and a representative of the Albany Water Board picked up a set of plans of this project. It was originally a 2-lot subdivision but it had since changed to a 1 lot with no accesses required across the Albany Water Board property. The minimum setbacks that had been recommended before had been satisfied. As of the meeting date, there had been no comment from the Albany Water Board. Mr. Hasbrouck asked for a vote to override the recommendation from the Albany County Planning Board based on these previous facts. He reminded the Board that a majority plus one is needed for the override.

Mr. Collier made a motion to override the last provision in the Albany County Planning Board's recommendation, Mr. Mathusa seconded. The vote was 5 in favor, 0 opposed, 1 vacancy and 1 absent.

Mr. Passmann stated that the Engineering Department's comments issued in the August 11, 2003 letter to the applicant had been addressed to their satisfaction.

Mr. Hasbrouck turned the Board's attention to the draft SEQR Resolution. Mr. Collier made a motion to accept the resolution as drafted, Mr. Engel seconded. All were in favor, none opposed.

Next for action was the Parkland Resolution. Ms. McCarthy made a motion to accept the Resolution as written, Mr. Collier seconded. All were in favor, none opposed.

Mr. Hasbrouck turned the Board's attention to the 2<sup>nd</sup> draft of the Conditional Approval of Final Plat. Ms. Saatman stated that because there was no public comment at the Public Hearing Item #10 would be deleted and all subsequent items would be renumbered. Mr. Silliman asked for a copy of the document once the changes had been made. Mr. Collier made a motion to accept the Conditional Approval of Final Plat as amended, Mr. Mathusa seconded. All were in favor, none opposed. Banahan concluded.

### **BETHLEHEM TOMORROW PRESENTATION – Nancy Heizen**

Ms. Heizen stated Bethlehem Tomorrow was a community group that came together because of their common interest in the future of the Town. Their major concerns dealt with the impact the current growth patterns would have on school taxes, water supply, traffic, infrastructure and the Town character. The group included a cross section of the Town in terms of old and new residents. The group had initiated three activities with a culmination in the upcoming Community Conversation. Ms. Heizen invited the Planning Board to attend. She passed out a booklet that was a guide for the Community Conversation that included a brief history of the Town. The information was gathered by interviewing a number of Town officials, staff and various agencies from the Town. There was a fairly large section dedicated to the LUMAC report. She explained the format of the Community Conversation. Ms. Heizen stated the group tried to contact developers in the area for their input into the booklet and did not receive any response back. She expressed her disappointment in that gap in the booklet. She invited the developers present to participate in the Community Conversation. Ms. Heizen's group was attempting to gather information on the issues that the Town as a whole felt the strongest about. They will compile the notes from the evening and present their findings to the Town Board and other local leaders that would be interested. Ms. McCarthy asked what would be done with the information that was compiled. Ms. Heizen stated that there was no specific goal at this time other than generating a report that could be used as a resource for Town officials in upcoming decisions about the Town. Mr. Hasbrouck thanked Ms. Heizen for her presentation.

## **RDA ASSOCIATES SUBDIVISION – Anthony Califano – Russell Road**

Mr. Hasbrouck stated that after recent communication with Mr. Califano, he asked to come before the Board to ask permission to begin clearing and grading prior to Final Plat Approval. Mr. Califano stated that though the project was called RDA Associates Subdivision, at this time it was a single building lot for his house. They had received verbal approval from the County for the sewer line. The paperwork for a curb cut permit had been submitted but had not yet been received back from the County. They had submitted revised plans with the Planning Department that show the details of the open cut for the roadway. Once those issues had been completed and the Engineering Department was satisfied, they assumed they could get the building permit and start the house. Prior to that, they would like to start some clearing. Due to some confusion on his part, he was under the impression that he could start this clearing without asking for permission from the Board; so some clearing had already been started. Mr. Califano asked the Board's permission to continue the clearing and grading. Mr. Hasbrouck stated that in the past and under similar circumstances the Board had granted permission for this. It was done on a case-by-case basis. Mr. Passmann stated they had received the new plans and he had done a site visit to examine the conditions. The plans submitted were showing the limits of clearing and grading that were requested. There were some questions as to how the storm water would be conveyed along the driveway, down to the frontage and into the existing culvert. The plans show that area outside of the limits of disturbance for the construction and the erosion control measures. The site visit revealed that some equipment had been along clearing that area and the culvert appeared to be damaged. Mr. Passmann stated the applicant needed to supply elevation information in relation to the driveway area. Without this information a determination as whether the water will drain to the culvert cannot be made. Mr. Passmann requested additional information from the applicant about the grading and creation of a ditch in that area so the water can be conveyed to the culvert and not go onto the property next door. He felt that repair of the culvert would need to be done. Mr. Passmann stated that they were recommending the site be stabilized. On observation it didn't appear there was any erosion control in place or any protection measures for the culvert. Mr. Hasbrouck asked Mr. Passmann if the one-acre limit set by the storm water regulations was applicable. Mr. Califano stated that they were at .89 acres in their grading plan according to S.Y. Kim, the surveyor. He stated it was their intention to use the culvert for the purpose of drainage. Mr. Passmann stated that engineering would require revised plans how they planned on doing that. Mr. Califano was not sure of the condition of the culvert on the other side of the road, he also thought it needed work. He's not sure if that would be a county issue. Mr. Hasbrouck stated that the new plans would need to be reviewed by the Engineering Department prior to the start of any more clearing and grading on the site. Mr. Passmann stated the most recent plans submitted showed the .89-acre disturbance. He observed during the site visit that the area to the west of the site, showed clearing beyond the limits shown. The actual area that had been disturbed plus the area that would be needed to get to the culvert should be figured into the total disturbed area. Mr. Califano stated the .89 included depths behind the house that would not be disturbed. Mr. Passmann stated the area that was already disturbed on inspection was reflective of what

was being shown on the plans. Mr. Califano stated that the area was cleared but not disturbed, it was only gruff that was taken out not trees. There were also stumps that had been piled up at the end of the driveway that he assumed would have to be taken care of in order not to go over the one acre limit. Mr. Collier asked what Mr. Califano's wishes were at this time. Mr. Califano stated he just wanted to build his house. He said the effort with the County had taken much longer than he had anticipated. As far as the major subdivision was concerned, he was doing background work only. His main concern was the house. Mr. Hasbrouck stated the issues that were brought up were engineering issues. He suggested the Board grant their approval for the requested clearing and grading, subject to the Engineering Department's approval of the documentation they had requested from the applicant. Mr. Califano stated the culvert was county property and ran through an adjacent piece of property. It was outside of his lot. He asked if that property disturbance off his lot was included in the one-acre limit set by DEC. Mr. Passmann stated that Mr. Califano's question should be answered by DEC. His understanding was any area associated with the construction site was within those limits. Mr. Califano stated he wanted S.Y. Kim to modify the grading plan to include going to the culvert and remaining within the 1 acre. Mr. Silliman stated that it's not Mr. Passmann that would have a problem with a greater than 1 acre disturbance, it would be DEC. Mr. Hasbrouck stated DEC didn't look at property lines but total disturbed area. Mr. Califano asked that if he had to get DEC involved, could he withdraw his subdivision application and just apply for a building permit down his 30-foot easement. He felt if he had to wait for DEC, his house would not get built. Mr. Silliman suggested that Mr. Califano speak to his own attorney about that. Mr. Passmann stated that Mr. Califano's design professional should be looking at all the regulations. Mr. Silliman stated it was DEC that would have the concern as to whether his design fits their regulations. Mr. Collier asked Mr. Califano if the comments on the design made by the Engineering Department would put him over the 1-acre limit. Mr. Califano was not sure. Mr. Silliman stated that Mr. Passmann's comments related to additional disturbance not shown on the plans. This was an observation that he made during his site visit. What DEC thinks about that, the Board cannot answer. Mr. Califano felt they still fell within the acceptable range of disturbed area. He would have S.Y. Kim contact the Engineering Department and make the necessary revisions. Mr. Hasbrouck stated that it was within the scope of the Planning Board to issue a letter granting his request for clearing and grading subject to approval by the Engineering Department. The issue of the amount of land disturbed had to be addressed by the DEC. If Mr. Califano decided to withdraw his application it would be his choice. The issuing of this letter would stop the necessity for Mr. Califano to come back before the Board for this matter. Mr. Passmann stated that he didn't have a problem issuing a letter if the applicant complied with the Engineering Department's requests. Mr. Mathusa stated he would prefer to have the plans approved first before the issuing of the letter. Mr. Califano stated that he was prepared to do what was necessary to satisfy the Engineering Department. Mr. Lipnicky stated that if the Board issued the letter, it could expedite the time frame that Mr. Califano was working within.

A motion to issue a letter to the applicant, approving clearing and grading, contingent on satisfaction of the requested comments by the Engineering Department was made by Mr. Mathusa, seconded by Mr. Collier. All approved, none opposed.

### **PRICE CHOPPER PLAZA EXTENSION – Windsor Properties - New Scotland Avenue**

Mr. Hasbrouck stated that there was a draft resolution concerning the Price Chopper Plaza amendment. He stated that there were still some issues to discuss. Mr. Lipnicky stated that revised plans were received late in the day and the draft resolution does not address those plans. Mr. Hasbrouck asked the applicant for an update concerning the Army Corp. of Engineers. Mr. Andress stated ABD Engineers was not working with the Army Corp. Windsor Development had another firm for that matter. He had been in contact with the firm. He stated that they were disturbing about 1.3 acres of wetland. They had just less than 1 acre of disturbance originally. The applicant had been in constant contact with the Army Corp of Engineers to find out what they wanted done. The fact that most of the site was wooded wetlands would create a problem for onsite mitigation. Within the next month the developer would be working with the Army Corp to come up with another acceptable site for a mitigation plan. The applicant currently owns property with existing wetland mitigation on it, they will be purchasing additional land in that area. They do not have final approval to do offsite mitigation. This would occur prior to them seeking Building Project Approval. They were currently looking for the recommendation from the Board concerning the zoning. Mr. Hasbrouck stated that there was significant discussion by the Board at the last meeting pertaining to the history of the site. The Board was an advisory body on this issue. There was not a final decision made at that meeting. The Planning Board wanted input from the Town Board Public Hearing before making a recommendation. Mr. Silliman stated Mr. Hasbrouck had commented at the last meeting they ask Mr. Lipnicky to prepare a document for the Town Board recommending they go forward with the Public Hearing prior to the Planning Board giving their final recommendation. Mr. Silliman had since reviewed the regulations that govern the Board in this area. Mr. Silliman stated that under Section 28-6.E the Planning Board was required to take an action. Mr. Silliman suggested that the Planning Board could send back an approval concerning the SEQR resolution with a recommendation to seek further input during the Public Hearing. Mr. Silliman stated that the Town Board was required to have a Public Hearing regardless of what the Planning Board says. The reason to tell the Town Board that the Planning Board recommended they have the additional input from the Public Hearing was because this Board had a concern that the public has an opportunity to express their opinion. Mr. Mathusa stated he wanted the document to state that the Planning Board was still sensitive to the fact that during the original project the community wanted the 99,000 sq. ft. limit set. Mr. Hasbrouck stated that what the Board needed to do was make a recommendation back to the Town Board on this issue, the options being approval, disapproval or approval with modification. Mr. Collier stated that other than one paragraph in the draft recommendation, he felt that the Board had stated their recommendation. Mr. Hasbrouck stated they had voted to issue a negative declaration but the document didn't include a recommendation on the zoning issue of raising the 99,000 sq. ft. limit. Mr. Silliman

stated there were a few areas in the document that would need to be changed to clarify the Board's recommendation. With direction from the Board, Mr. Lipnicky and Mr. Silliman could prepare the necessary documents for the Board to vote on at the next Board meeting. Mr. Silliman didn't feel that a motion should be made at the present meeting because one of the Board members with strong feelings on the issue was not present to vote. Ms. McCarthy stated her inclination would be to vote against the change in the zoning limits. The project was not established that long ago and to change it already would be hasty. The Board worked very hard to remain fair to all sides and she did not want to negate decisions it had made. She continued to state that Price Chopper was a good business and a good neighbor. She asked for clarification as to the type of modifications that could be included. Mr. Lipnicky stated that the type of modifications had to pertain to the concept plan, something physical to the plan that they wanted changed. Mr. Collier stated the Town Board had the final vote. He did not want to discuss a large list of modifications. He thought that having Mr. Lipnicky draft documents for both an approval and a disapproval for a vote at the next meeting was the best. Mr. Lipnicky suggested having separate documents for the SEQR recommendation and the zoning limit recommendation. The Board agreed.

Mr. Mathusa made a motion to table the discussion, Mr. Collier seconded. All in favor none opposed.

### **TOWN SQUIRE PHASE II – Schuyler Companies**

Mr. Hasbrouck stated that the Board had received a new set of plans. Mr. Lipnicky had sent out a memo with comments concerning this project. The Board had asked Mr. Silliman for advise on the question of legal access. Mr. Silliman stated that access to the new site would be from the existing Town Squire Plaza, in order to do that the applicant needs to go to the Town Board for the establishment of an open development area for the new parcel because its access would not be from its frontage on 9W. Cross easements would be entered into between the new and the existing parcel so all parties had the right to use the internal roadways. This is standard procedure. Mr. Lipnicky stated that the primary issue here was, under 280 –A did access equate to frontage and do these parcels fall within that language. Mr. Silliman believed it does not. He stated that it would defeat the whole purpose of the open development concept. Mr. Ginsburg stated that the ownership between the two parcels were different legal entities. A suggestion that was brought up by their attorney in lieu of going in front of the Town Board was to move the lot line into the middle of the driveway. The attorney would discuss with staff the location of the line to effectively resolve the access issue. Mr. Silliman stated that once he had that draft in his possession for review he would discuss it with Mr. Lipnicky and Mr. Hasbrouck. Mr. Lipnicky stated that in a prior project, the splitting of the access with one entity owning the entrance and the other owning the exit had not been acceptable. Mr. Silliman stated after review, they might not have to go in front of the Town Board but he believed that they would still need some cross easements. Mr. Ginsburg stated that the necessary easements would be drawn up. Mr. Lipnicky suggested amending the property line to include the whole driveway on the new development since the existing project had access onto Glenmont Road. Mr. Hasbrouck

requested that the Planning Board make a contingent recommendation to the Town Board that they create an open development if the other options do not work. This had been discussed with Supervisor Fuller and she agreed it would save time. Mr. Silliman stated that the recommendation shouldn't be made until the other options had been explored. Mr. Hasbrouck agreed.

A motion was made by Mr. Mathusa that in the event the lot line revision was not acceptable, the Planning Board recommends the Town Board proceed with the creation of an open development to provide access to the site, it was seconded by Mr. Collier. All were in favor, none opposed.

Mr. Hasbrouck turned the Board's attention back to the memo that had been written by Mr. Lipnicky. A question was raised concerning the wetlands issue. Mr. Spiak answered there was an assessment done when the property was purchased. There was a determination by the Army Corp that there wasn't any impact. He said he would supply the Board with copies of the correspondence. Mr. Lipnicky asked if the assessment encompassed the whole site. Mr. Spiak confirmed. He stated as long as there was no additional disturbance in the area that they would remain in compliance. Mr. Hasbrouck stated after review of the documentation, the Board would decide if there were any further questions. He said the new plans addressed some of the storm water management and impact to the buffer area on the east side. Mr. Hasbrouck asked the applicant to identify where the change occurred on the revised plan. Mr. Spiak stated the design incorporated a swale area and some plantings to assist in cleaning and slowing the water down. It would then proceed into the existing stream channel. There was a 20-foot no cut buffer along the property line and they would not be encroaching into that area. There shouldn't be any visual impact upon the residents in the area. It was designed as such because the soil conditions were not conducive for ground water infiltration. They did not want to create a pond and there wasn't an outlet control structure. Mr. Passmann stated that the Engineering Department had been in contact with the designers of the project to make sure the storm water management design was in compliance with the DEC. They did have piping under the parking lot to control larger rain events; smaller rain events would go through the swale described. The Engineering Department had commented on the slope stability and the need for some more information on design issues. Mr. Passmann felt they were going in the right direction. Mr. Lipnicky stated some of the buffer between the back of the project and the residential area was being eliminated. He felt the Board would have to decide if coming that close to the property line was acceptable. Mr. Hasbrouck asked if there were other options of design for the storm water management. Mr. Spiak replied they were limited in the area that could be used. Mr. Passmann pointed out another area that might be used, but Mr. Spiak was concerned with coming too close to the residential area. Mr. Hasbrouck stated keeping as much buffer as possible would be beneficial. Mr. Spiak commented they were sensitive about keeping the lighting as unobtrusive as possible. He stated the basin area came the closest to the property line. Mr. Lipnicky stated one of the comments given to the applicant concerned the dumpster area for the bank. That area was close to the property line. Mr. Ginsburg stated that they did not have a bank tenant as of yet. Mr. Collier asked if the proposed line of clearing had been marked on the site. Mr. Neuremberg stated the area

was staked out with poles where the bank would be. They would be more visible with the falling foliage. They were planning more landscaping in that area. Mr. Collier stated that they might consider pushing some of the buildings closer to the road instead of back by the neighbors. The charts that show the lighting were quite high. He felt that the reaction from the residents in the area could be significant. Mr. Spiak stated that the lights were shielded. Mr. Lipnicky stated that light trespass could be taken care of with these shields. Mr. Hasbrouck stated a coordinated review for SEQR could be in order. Mr. Lipnicky responded there were a number of agencies involved in a prior application. His understanding was that the Army Corp would not have to issue a permit, there wouldn't be any permit or water quality certification required from DEC. DOT would not have to issue a permit because there wasn't any highway work or curb cuts proposed. DOT was concerned about the drainage, whether the applicant would need approval to discharge to their culvert under 9W was still a question. Mr. Neuremberg stated that in regards to DOT, he had been in contact with them concerning the storm water and the erosion in that area. He felt that DOT was satisfied with how they had fulfilled their requirements. As far as the other agencies that could be involved, they felt that they could supply the Board with information and correspondence to show compliance. Mr. Hasbrouck stated that the options before the Board were to do a coordinated review now or wait until SEQR was underway. Mr. Lipnicky asked if there was anything in terms of the sewer that would be turned over to the Town. Mr. Passmann stated that the sanitary sewer would be. Mr. Lipnicky wanted to know if it would have to be moved. Mr. Spiak stated it had already been adjusted. Mr. Lipnicky stated that DOT might have some comment concerning the traffic situation. He stated that the coordinated review was not mandatory it was up to the Board. Mr. Mathusa stated that if the Board wasn't required to do a coordinated review, they should just proceed. They decided to proceed without initiating a coordinated review at this time. Mr. Lipnicky stated the most recent trip count calculation from Creighton Manning was more consistent with the number that staff had calculated from that particular driveway. The premise of Creighton Manning was that the traffic study that was done during the original Town Squire redevelopment was still applicable. Creighton Manning felt that with this project they still fell within the acceptable trip generation set out by the ITE rate for shopping centers. He stated that his concern was using the shopping center trip rate for these new uses. He felt that the new uses would generate traffic above the trips generated by the existing plaza. Mr. Lipnicky questioned the use of a study from a few years ago for a trip generation of today and the assumption that the acceptable threshold would not be exceeded. Ms. Johnson stated the ITE definition of a shopping center included the out parcels that were currently being proposed, so in turn they would be figured into the trip generation figures for a shopping center. Using the ITE trip generation rate was standard procedure in dealing with DOT and that standard had been used in the Town before. They had used the higher trip rate pertaining to internal trip rate verses the rate figured on individual land uses. They had supplied different methodologies that were approved by DOT. They were below the DOT threshold. She stated the Board could request comment from DOT on the analysis. Mr. Lipnicky stated the shopping center trip rate was not used in the prior evaluation. Mr. Hasbrouck commented that the internal safety of pedestrians was a concern. Mr. Ginsburg stated was a video store in the plaza and it was opened at the time of the report being done. Mr. Spiak responded to a comment made by Mr. Lipnicky concerning the

design of the driveway. He submitted a new design proposal with the specific purpose of safety for the user. The intersections were now lined up with each other.

Mr. Hasbrouck turned the Board's attention to the architecture of the proposed buildings; the Chili's Restaurant was looked at first. Mr. Pablo Medeiros from the Brinker Restaurant Corp., parent company of Chili's, was in attendance to answer questions. Mr. Hasbrouck asked if there was an existing Chili's around that had the large outside pepper. Mr. Medeiros stated that the nearest building would be in Buffalo or outside NYC. The Clifton Park Restaurant presently under construction, was awaiting approval of the pepper. The pepper was considered part of the architectural design, not a sign. It was not lit nor does it move. He felt in Colonie where it wasn't approved, it looked blank. The oval on the front of the building was designed to be a backdrop to the pepper. Ms. Saatman asked where the other local restaurants were located. Mr. Medeiros stated that they were in Colonie and Clifton Park. The newer designs of the restaurant were very different from the prior designs. He stated the new design was on their website. The lighting of the structure was very soft and one of the requirements of the parking lot lighting was to not be harsh near the restaurant to detract from that soft lighting. Mr. Hasbrouck asked if the colors shown on the plans were relatively close to the actual service materials. Mr. Medeiros said yes, it was simulated wood. Mr. Hasbrouck turned the Board's attention to the architecture of Hollywood Video. Mr. Neuremberg stated the design was a split face block building in a beige color with a glass front and awnings. Mr. Hasbrouck stated that the architecture of the video store was not at all attractive. He asked if there was flexibility with the company as to the design. Mr. Neuremberg wasn't sure. He had the same concern and he was looking into it. Mr. Lipnicky felt that with an all glass front, the architecture would in essence be the shelves on the inside of the store. Mr. Hasbrouck felt this store would detract from Chili's and the architecture of the restaurant was very nice. Mr. Hasbrouck stated the Board was not interested in changing the footprint and some glass in front would be fine. Mr. Neuremberg stated he was having an ongoing conversation with the company about this topic. He knew it would be a concern. He would have more information on this for the Board. Mr. Mathusa stated that the contrast between Hollywood and Chili's was tremendous. Mr. Ginsburg stated that their intention in the choice of materials and color was to tie this structure in with the Town Squire Plaza, but there was some latitude. Mr. Collier stated that national retailers have a main design that they prefer using but usually would have a few variations of that design. There was no further comment by the Board concerning the architecture of the video store.

Mr. Hasbrouck stated that there were still some outstanding commitments for the Town Squire project that had not been satisfied, including the letter of credit and some easements. Mr. Ginsburg stated they had the easements with them it had been an oversight. He stated they would work on the architecture and a deliver a copy of the correspondence with the Army Corp. They would also supply a copy of the plans to include the revised driveway.

Mr. Hasbrouck asked if the Board or staff had any further comment concerning the traffic issue. Mr. Mathusa stated that he felt the traffic would only get worse. There were a lot

of new stores in that area that would add to the situation. Mr. Engel felt the situation on 9W had already become unmanageable. During the rush hours traffic was bumper to bumper. He felt all projects in the area were contributing to the problem. He felt the traffic issue had to stay in the forefront of all projects. The truck traffic had also continued to increase. Ms. McCarthy agreed that the situation would continue to worsen. Mr. Mathusa asked what the Board could do with the differences in the traffic numbers between what was presented by Mr. Lipnicky and Ms. Johnston. For instance should the Board limit the number of seats in the restaurant, defer the approval of the bank, or approved everything because the Town needs the commercial business and the price for that business would be the traffic. Mr. Engel stated his added concern was with the volume of the projects being approved, would there be room for highway development. Mr. Hasbrouck responded, as part of the approval was a road setback of the projects that assured there would be enough room for highway expansion if needed. Mr. Ginsburg added that Town Squire Phase II had the parking out front in order to assure that space. He stated that the traffic pattern within the plaza moved very efficiently. The insurance company would back that up with few incident reports. Mr. Ginsburg stated he understood the 9W growth was an issue but they felt that this project would not significantly add to that problem. He felt that customers of the Plaza use the Glenmont Road exit more and more instead of taking a left hand turn onto 9W. Mr. Hasbrouck stated the reason the Board needed to look at the traffic analysis for this project was to review the traffic's effect on SEQR. Mr. Collier felt that after looking at the numbers presented earlier, some trips would be added, how many was speculative. During the approval process of the Town Squire Redevelopment project, these traffic issues were also discussed. He stated the applicant had contributed to an escrow account in the amount of \$70,000 to be used for future improvements of the traffic situation. Town Squire Phase II was smaller but a similar concept of fund contribution could be useful. Mr. Ginsburg felt that the original escrow amount was set up to also include Phase II. Both Mr. Hasbrouck and Mr. Collier stated that when the Town Squire Redevelopment was under way they had not anticipated the extent of the Phase II project. On a final note, Mr. Lipnicky asked that the applicant embellish the landscaping for the project.

A motion was made by Mr. Engel to table the project, seconded by Mr. Mathusa and passed by all present.

## **THE HAMMOCKS**

Mr. Hasbrouck turned the Board's attention to The Hammocks project. They were on the agenda to present the new plans that had been submitted. Mr. Arico was the presenter. He stated that the wetland delineation survey had been finalized. It was determined that the back corner of the project had more wetlands than previously thought. The Army Corps had not been to the project yet. They were trying to stay within their 1-acre limitation of disturbance. They reworked the project to accommodate this. There was a second style building introduced, a three story building with the same look as the 2 story. They would have 19 units in each of them. That would put their total of units at 195 instead of 200. The three story buildings do not have the same amount of parking garages as the 2 stories. The parking lots were concentrated around the larger buildings. There were still 2

spaces for each unit. These plans have tried to address the comments from the Board and staff. The main change was the added three-story buildings to reduce the building mass and keep the number of units up. They had increased the separation of buildings and reconfigured the road access. He showed a model elevation of the three-story building. The roofline would be changed which would allow those buildings to fit in with the lower structures. Mr. Mathusa asked if one of the buildings that were set in the corner could be moved for a better flow. Mr. Arico stated that building position was due to the wetlands on the property but they would look into moving around that one corner building. The width of the road in that area would be increased to accommodate emergency vehicles. Mr. Riedman showed a drawing of the proposed three-story building. They tried to keep the footprints of the both styles of the buildings the same. Mr. Hasbrouck asked if DEC would claim wetlands. Mr. Arico stated he had a letter from DEC stating confirming they would not be claiming wetlands on the property. They have also filed with the Army Corp and it currently was in the review process. They were waiting for them verify the location of the wetlands. Ms. Saatman suggested rotating the back building that had been discussed prior also to help the flow. Mr. Passmann stated that the Selkirk Fire Department might not have a ladder truck that could service a three-story building. He suggested a consultation with the Fire Department. Mr. Arico stated that the structure would have a sprinkler system. Mr. Passmann didn't know if that made this a non-issue. Mr. Collier asked if they had looked at the fire code regulations pertaining to three-story apartment buildings. Mr. Riedman stated that sprinklers were cost prohibitive. The structures would be masonry and steel, he stated that the international code requiring sprinklers pertained to stick built buildings. Mr. Collier stated that NYS looked very closely at that issue. He preferred this set of plans; it appeared to have more green space. Mr. Arico thought it might be about a 15% increase in green space. When asked Mr. Arico stated the school district for the complex was Ravena-Coeymans-Selkirk. It had also been decided which buildings were in or out of the water district. They had conversations with the Health Department and they didn't have a problem running the water lines. They just wouldn't give them the connection permits. The Health Department also told them they wouldn't have a problem approving a project with some buildings in the water district and some out. They would not be able to obtain a building permit for the buildings out of the water district. Mr. Hasbrouck stated one possibility of the configuration of buildings might be to increase the number of three-story buildings and take out the one in the back entirely. It would give them back 18 of the 19 units. Mr. Riedman didn't want more than 10% of his units on the third floor. Third floor apartments without garages would be harder to market. There won't be any elevators in these buildings. Mr. Passmann asked about where would the discharge for the storm water management on the eastside spill out. Mr. Arico stated there were wetlands in that area that could be used. It isn't final. Mr. Passmann stated the sooner they could supply the Engineering Department with that information, the better. Mr. Arico didn't want to completely finish the storm water management plans until the Board adopted a concept plan. The area they were considering draining into would become an enhanced wetland. Mr. Hasbrouck stated the reason they were before the Board was to get a first response from the Board and to see if there were any issues that came to mind. Mr. Hasbrouck stated he did not like the circular roadway that went through a parking lot. He didn't feel there were any major issues. The applicant stated they would take the comments from

tonight and bring the plans further along. They would be going back to DOT to see if with the new configuration a traffic light would be necessary.

A motion to table was made by Mr. Mathusa, seconded by Mr. Engel and approved by all present.

A motion to accept the minutes of the Public Hearing/ Regular Meeting of July 1, 2003 by Mr. Collier, seconded by Ms. McCarthy and approved by all present.

A motion to accept the minutes of July 15, 2003 with amendments was made by Mr. Mathusa, seconded by Mr. Engel and approved by all present.

August 5 minutes were held over for the next agenda.

The meeting adjourned at 11:45.