

**PLANNING BOARD MEETING
NOVEMBER 20, 2013**

Chairman Johnston called the Meeting to Order at 7:00 P. M. with the following members present: Mr. Dwight Anson, Mrs. Evelyn Brant, Mr. Alan Hipps, Ms. MaryLou Fitzgerald and Mr. Ken White. Alternate in attendance, Ms. Cynthia Fairbanks. Excused, Mr. Chris Maron and Alternate Mr. Brian Houseal. Chairman Johnston designated Ms. Fairbanks as a voting member this evening. Also present, Mr. George Hainer, Building Codes/Zoning Officer and Secretary, Ms. Barbara Breyette. Guests in attendance, Mr. Kevin Hall, Land Surveyor, representing the Requadt/Updike project. Ms. Susie Becker and Mr. Matt Foley.

MINUTES: The Minutes of the October 23, 2013 Public Hearing and Regular Meeting were approved on a unanimous vote, with a Motion by Mr. Ken White, Second, Mrs. Evelyn Brant. No discussion or corrections voiced. Carried.

Chairman Johnston - I have a question, George, you did approve two Special Permits at that Meeting, correct?

Mr. Hainer - Yes.

Chairman Johnston - Has anyone drafted those permits.

Mr. Hainer - No.

Chairman Johnston - No, ok, Liberi and Rush. Is that something I should do?

Mr. Hainer - Probably.

Chairman Johnston - Ok, I will do it and have them for the next meeting.

Mr. Hainer - The Liberi one will be the same as the other one, the Rusch one should be pretty straight forward.

Chairman Johnston - Ok, I'll take care of that.

Mr. Anson - Are you saying Ken didn't take care of that for you.

Chairman Johnston - Apparently, not.

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Mr. White - For the record Mr. Chairman, I just wanted to say we did a lot of business while you were away and we did it expeditiously, if you could keep to that schedule, we would all appreciate it.

Chairman Johnston - I notice that the meeting on the 23rd went much longer than they typically have been going.

The next matter is the Requadt project. Kevin are you here to explain that - **Requadt, Dieter B. Tax Map Nos. 66.74-2-8.120, 66.74-2-8.200 & 66.74-2-10.200 (Hannelore Requadt) and Charles Updike, Charles B. Tax Map No. 66.74-2-10.100 - Planning Board to Classify.**

Mr. Hall - Dieter Requadt has proposed to sell three (3) parcels to Charlie Updike. There's three different tax map numbers - 66.74-2-10.200, the little piece here (Preliminary Map dated November 12, 2013 - Map of Survey prepared for Charles B. Updike) presented to the Board by Mr. Hall this evening. And then there's the 66.74-2-8.120, this piece, if you look at the colored tax map, that I had sent in previous, that's the easiest way to look at this project, (attached, page 2A). And then he owns 66.74-2-8.200, and as part of the proposal Mr. Updike wants to know that he can acquire these three parcels and then adjust the boundaries. Updike's house and parcel is down here, which is 10.1, if you look at your colored tax map. He would propose to add this little triangle, which there are some trees that basically buffers his house and then acquire the 10.2 piece to merge that into one, his house lot. And then merge these two pieces into one building lot. So, it's taking four parcels and creating two, four lots to create it. In my discussion with George, it seemed to be that it might be considered Minor Division. These previous lots were created, reviewed by ___ I included in the initial application. I guess that's, Updike, when all is said and done will have one building right associated with, what I'm calling amended Lot C, and amended Lot B was Updike's house lot with these two additions.

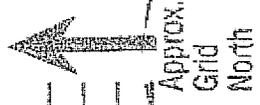
Chairman Johnston - Correct me if I'm wrong, George or Kevin, it appears that the only actionable item is this carving off this sliver of land. Merging lots is not something we normally review, if there's no change in the boundary lines.

WE-13-123
EXHIBIT X

75.15
7.2
144.95
104.5
5
107.51
107.51

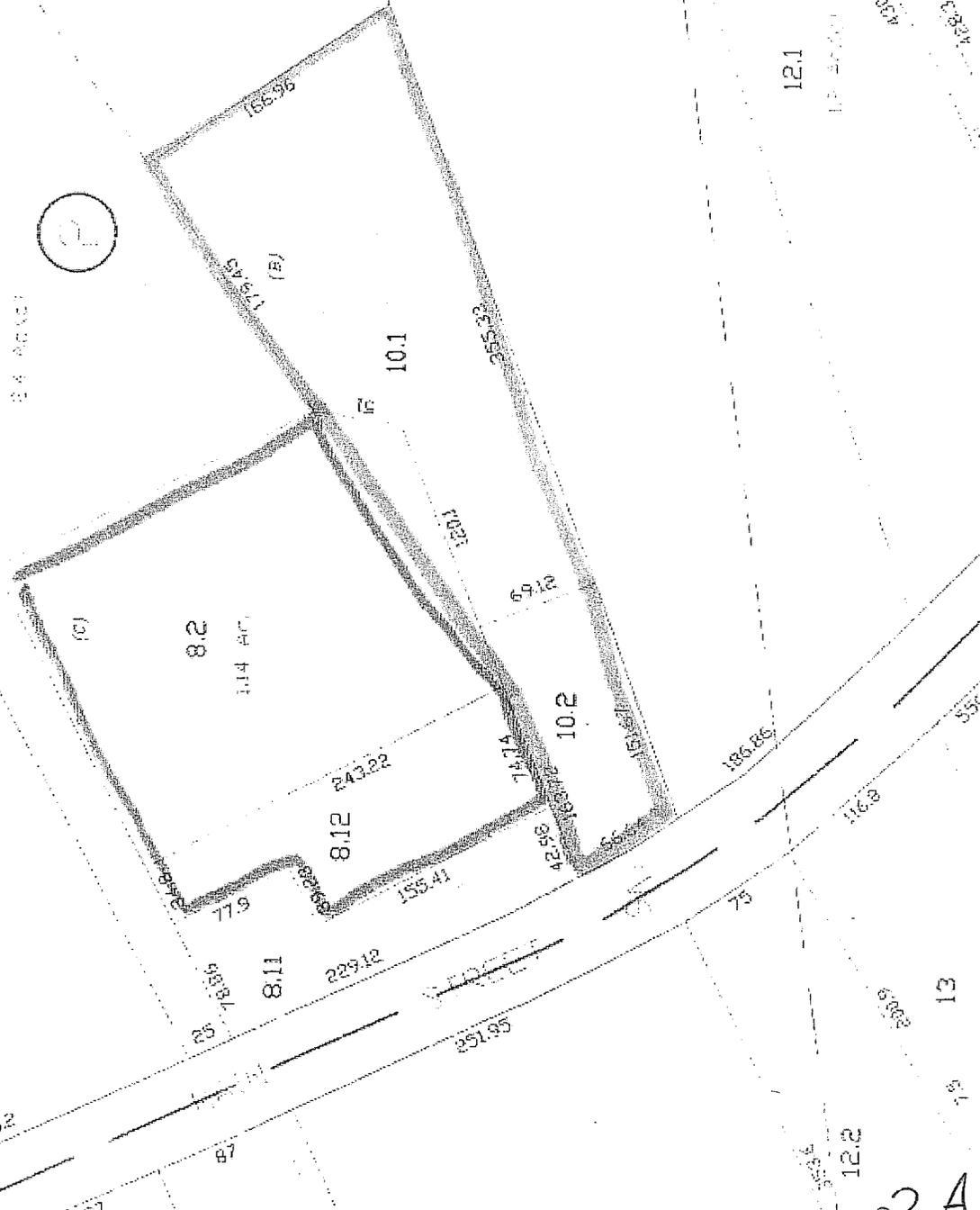
7.1
333 ACRES

ESSEX COUNTY
REAL PROPERTY TAX MAP
No. 106.74 BLOCK 2
TOWN WESTPORT
Village
SCALE 1" = 100'
Subject to Revision
for Tax Purpose Only



9.2
333 ACRES

9.1
333 ACRES
(P)



PART OF
J.H. WORMAN ESTA
P.B.9 P.G.21

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2A

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Mr. Hall - Well, that's, Mr. Updike is an attorney and he wants to make sure this was approvable, acceptable.

Chairman Johnston - Ok.

Mr. Hall - If you don't approve it or whether you don't have jurisdiction, I'm presenting what he asked me to present.

Chairman Johnston - Yes. I'll ask the Planning Board to comment, but it appears that the only thing that we would normally take action on would be this boundary line, moving the boundary line which is a Minor Division. Is everybody in agreement, that's the way we would normally handle it.

Mr. Hipps - Now for taxing purposes, what does he do. Maybe, George you would know.

Mr. Hainer - I know that when someone comes in and wants to combine lots, and they talk to the Assessor, the first thing the Assessor says, "I can't combine lots, I won't combine lots".

Mr. Hall - The process for combining tax map lots in most cases, and Mr. Updike is going to do this, is he would actually have to have a deed having the various parcels included in one deed.

Mr. Hipps - Right.

Mr. Hall -- And, once that's done then the landowner can go to the tax assessor, and say, "these are all covered by one parcel, I'm asking you to make the change, he then contacts the County and then the County tax map makes the adjustment and then the Town Assessor then adjusts his assessments accordingly. That's the step as you're doing "by the book".

Mr. Hainer - I think you're right Bill, as far as the Minor Division that little sliver of land and then you will handle the legal end of it.

Mr. Hall - Yes, and so Mr. Updike is going to acquire the property, the three parcels, by the same descriptions Dieter had when he purchased them from Bender, previously, and then he's going to turn around and do two deeds from himself to himself, using this lot configuration.

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Chairman Johnston - It looks like a Motion is in order to deem this a Minor Division and Mr. Anson you're moving that.

Mr. Anson - So moved.

Mr. White - Second.

Chairman Johnston - Any discussion, all in favor. Carried. I will write a letter comparable to the letter I wrote to Mrs. Stephens -

Mr. Hall - Yes.

Chairman Johnston - advising her that this, we deem this a Minor Division.

Mr. Hall - Yes. I'm actually, in that particular map, I was hoping to have done tonight to have you sign it, Bill, but I haven't, what I'll do, if I could drop this map and the Stephen's map off to the Town Hall -

Chairman Johnston - That would be fine.

Mr. Hall - Thank you

Mr. Hall left at 7:15 P. M.

Chairman Johnston - Matt and Susie we're up to you, you're next on the Agenda.

Matthew Foley - Riverat Electric - Tax Map No. 57.1-1-12.000 - Three-Lot Minor Subdivision - Continuation from October 23, 2012 Meeting. -

I read the Minutes of the Meeting, the October 23rd Meeting and there were a couple of things I think came up in the discussion that you were going to address.

Mr. Foley - Yes.

Chairman Johnston - Do you want to have the floor?

Mr. Foley - I have submitted copies of this to George (Proposed Subdivision, Topo dated October 29, 2013). (This map was forwarded to the Planning Board members, via email). Well, there were questions about entrances, so we consulted with the County Highway Department and the State

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DOT. The County wants an entrance here, it's the only place they will approve. We have an existing one here, that was used the last time the property was logged, but it's about 50 feet outside of the 30 MPH zone, so that means that they have to consider this a 55 MPH zone and you know that the sight lines, so it's right up here the top of the rise. We had Mark Bonfey from State DOT come along and he sees three good entrances along Route 22, one of which is existing connecting to a road that's already there. As far as test pits go, we had the APA staffers here, twice, actually, looking at a bunch of holes and some of them failed and some of them passed and some, we don't know. These are very good up here, very sandy, no problem. All these over here, were bad, we think there may be a better spot right here and the others, I don't know yet. Peter Gibbs will be here Friday with the logger to go look around some more. However, this is Hamlet so this is quarter-acre (1/4) zoning, so you could put any number of things on it that the land would support. I don't think it will support a lot, this is a clay hillside which has been unstable in the past and the slump over here by the brook is also slumped right here where they cut the road the last time they logged. It's uphill from the sewage treatment plant and so if you were going to do much of any development on this, the intelligent thing to do would be to try and connect it there.

Chairman Johnston - It's in the District, isn't it Matt?

Mr. Foley - No, it's not.

Chairman Johnston - Oh.

Mr. Foley - Gordon and Anne Sherman owned it at the time the District was formed, they were very definite about not wanting to be in the District. Farther up the hill, you still have possibilities of either going down and connecting to Lorraine's house or going down our driveway and in the more remote areas it would be more difficult but it looks like we have good percolation there. All we really want to do right now is split this off and sell it to somebody, if we can manage it. It's 22 acres, Rural Use, so presumably you could get two houses on it, if you could figure out a way to dispose the sewage. If you look at the topography, you could put two houses on it, probably no more. There's actually a cliff right here and this is all pretty steep.

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Mr. Hipps - Is that clay over there also?

Mr. Foley - Yes, except we found some sand here, stuck right in there, one of the things Peter will be looking at when he comes around.

Mr. Hipps - How long, you said that it's slumped, how long ago was it that it slumped? Near the brook, on the other piece.

Mr. Foley - It's been a while,

Mr. Hipps - Ok.

Mr. Foley -- but, I don't know if you know, but right in here they're having a real problem because Route 22 keeps sliding down, they keep putting in more pavement and one of our problems, if this is developed, I mean it's, there's 44 acres of Hamlet here, but the Rural Use is about 70 acres, which means you could get, presumably get eight (8) houses on it. If you put one over here, none over here, the topography up here, if you could do the sewage disposal would support that many. Anything closer to the brook at about this line, it gets very steep but this is all reasonably flat. But if you do that it means you're still going to be stuck with two entrances, so you're going to have to put a road in which would be something like this (Mr. Foley was indicating the road with a magic marker on his map), down to there and all we really want to do right now is get rid of this and split some of this off to go with our house which is right here. But, we do have to do this as if this was eventually going to happen.

Mr. Hipps - Do you know how many building rights you'll let go with that piece that you'd like to split off?

Mr. Foley - this?

Mr. Hipps - That darker darker color, yes, you said -

Mr. Foley - That depends, you could also just say there's no building rights and then it's part of this, it's just a woodlot, it depends if we could find a good spot for septic disposal. The other thing is if you sell it to somebody that does want to subdivide it again and put two houses on it, I don't know I'm not an engineer, I don't know if it would be worth the person's while to run a sewer line over

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here, where the sewer line crosses --- it remains to be seen.

Mr. Hipps - And, the dotted line, the orange line, is that a logging trail?

Mr. Foley - That's the CATS Trail and the brown lines are the existing roads of the property.

Chairman Johnston - Matt, when we review subdivisions, we typically require the subdivider to allocate development rights. Are you prepared to do that?

Mr. Foley - Yes, once we find out what the possibilities are for this lot. We asked for a three-lot subdivision, but this could as well be a two-lot subdivision.

Mr. Hipps - Three, so you don't have to come back again?

Mr. Foley - Yes, there's no possibilities to build anything here, it just has to stay terminally attached to somebody else here, I would guess.

Chairman Johnston - It sounds like you're not really ready yet for us to take action.

Mr. Foley - I'm going to be leaving town for the winter, I won't be here when you have another meeting, I can't be, I have obligations.

Chairman Johnston - You could have a representative.

Ms. Becker - that didn't work. I'm sorry, when you say, "we're not ready", what else exactly, are you thinking?

Chairman Johnston - It sounds like the perc tests are not completed yet.

Mr. Foley - Really, the only intelligent thing to do here is to connect to the sewage plant. I mean, we think this is a good pit, but this, the field -

Chairman Johnston - We could conceivably make that a condition of the subdivision approval.

Mr. Foley - Yes, that's what I mean, the little that we want to do, if I were a developer and I came in and said,

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"well I want to put six houses here and four houses here, and so-on and so-forth", then you would really need to know, but that's not happening.

Chairman Johnston - Matt, the other thing I want to mention is, are you aware of the map requirement for subdivision regulations?

Mr. Foley - No, what is it? Maybe I am, maybe not.

Chairman Johnston - A couple of issues here. One, is once we approve a subdivision, it has to be filed with the County Clerk

Mr. Foley - Yes.

Chairman Johnston -- and they require, have you seen their requirements, you know what they are?

Mr. Foley - Not really, no.

Chairman Johnston - Ok, let me give you (attached, pages (A & B) a copy of their requirements. They require that the map be certified by a surveyor -

Mr. Foley - Yes.

Chairman Johnston - and, we also under subdivision regulations, the map certified by a surveyor, so that would be a requirement of approval.

Mr. Foley - Yes, what else has to be on it?

Chairman Johnston - I would refer the, whoever prepares your map, do you have someone in mind?

Mr. Foley -- Yes.

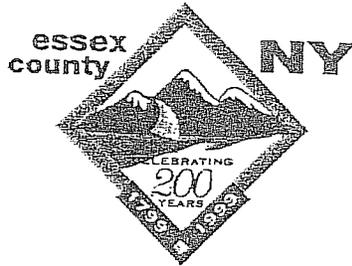
Chairman Johnston - I think whoever you have in mind, should take a look at our subdivision regulations.

Mr. Foley - Yes.

Chairman Johnston - You can have that copy.

Mr. Foley - I don't see it as being a problem.

OFFICE OF THE COUNTY CLERK
SUBDIVISION MAP REQUIREMENTS



Before any real property is subdivided into lots for sale, a copy of a map of the subdivided property, which meets the following requirements, must be filed in the Office of the Essex County Clerk.

1. All maps presented for filing must be printed or drawn with pen and India ink upon transparent tracing cloth or polyester film or be photographic copies on transparent tracing cloth or polyester film. Please note - maps on paper will only be accepted as copies for transmittal to Tax Map Department.
2. MUST submit in duplicate to distributed by the County Clerk as follows:
Original Mylar filed in County Clerk plat cabinets.
One paper copy forwarded to County Tax Map Department for filing.
(Section 334 Real Property Law, Article 9, as amended August, 1984.)
3. MUST be not less than 8 ½ x 11 inches and not more than 24 x 36 inches in size.
(Section 334, Real Property Law, Article 9, as amended August, 1984.)
4. MUST have a certificate of the licenses land survey or filing said map attached showing the date of the completion of the survey by said land surveyor and of the making of the map by said land surveyor and the name of the subdivision.
(Section 334, Real Property Law.)
5. MUST have Town or Village planning board final approval endorsed on the map and be signed by the duly authorized officer of the planning board.
(Section 278, Town Law; Section 7-732, Village Law.)
6. MUST have New York State Department of Health approval, endorsed on the map, if the subdivision consists of five (5) or more parcels which are five (5) acres or less.
(Section 1115-1118, Public Health Law, Article II, Title II.)
7. MUST be filed with the County Clerk within sixty (60) days of Planning Board final approval in towns; and within ninety (90) days of Planning Board final approval in villages.
(Section 276, Town Law; Section 7-728, Village Law.)

8. MUST have endorsed thereon or annexed thereto a certificate of the County Treasurer or of an abstract and title company and of all tax collecting officers stating that all taxes on the property have been paid.

(Section 334, Real Property Law.)

9. Any subdivision map with more than three (3) lots must first be submitted to the County Office of Real Property Tax Services in Essex County.

| | |
|---|----------|
| Four (4) - Nine (9) lot subdivision map - Original | \$50.00 |
| Four (4) - Nine (9) lot subdivision map - Alteration | \$50.00 |
| Four (4) - Nine (9) lot subdivision map - Abandonment | \$50.00 |
| Four (4) - Nine (9) lot condominium map | \$50.00 |
| | |
| Ten (10) or more lot subdivision map - Original | \$100.00 |
| Ten (10) or more lot subdivision map - Alteration | \$100.00 |
| Ten (10) or more lot subdivision map - Abandonment | \$100.00 |
| Ten (10) or more lot condominium map | \$100.00 |

The Office of Real Property Tax Services will affix a certificate of payment.

(Section 503 subdivision 7, Real Property Law.)

10. Filing fee for County Clerk is \$10.00.

COUNTY CLERK'S RESPONSIBILITY:

1. "It shall be the duty of the County Clerk to notify the (local) planning board in writing within three (3) days of the filing or recording of any plat approved by such planning board, identifying such plat by its title, date of filing or recording, and official file number."

(Section 278, Town Law; Section 7-732 Village Law.)

2. "All such (subdivision) maps shall be placed and kept, by some suitable method, in consecutive order and shall be consecutively numbered in the order of their filing and shall be indexed under the initial letters of all substantives in the title of the subdivision."

(Section 334, Real Property Law, Article 9.)

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Chairman Johnston - Ok.

Ms. Fairbanks - Bill, the notes that Barbara sent out, including the letter from APA, I'm not sure if that's what you're referring to where they have to do more samples, I think, that's what you're talking about now. They need more samples?

Mr. Foley - No, the APA has approved this.

Ms. Fairbanks - Ok.

Mr. Foley - The APA has stated this is non-jurisdictional, they came and dug their holes and inspected the property because at the time we were considering asking for map amendment, but we decided not to do that. I guess what we're looking for is some sort of conditional approval and know that we have good test holes here, we think we do here, but this is adjacent to a house connected to the sewage treatment plant. We don't know about this yet, but the possibility is that piece of property would just carry building rights with it.

Chairman Johnston - Typically, when we approve subdivision, these questions are either answered or if there's an unanswered question, there's usually a condition put on the subdivision.

Mr. Foley - What about connecting this to the sewage treatment plant? When does the question get asked and when does the question get answered?

Chairman Johnston - That could be a requirement of approval, but it would have to be noted on the map.

Mr. Hainer - But, you have to go to the Town Board to get it, that would have to be approved by the Town Board. If it was capable of being expanded it would be a contract between an out of district user and the district.

Chairman Johnston - Ok.

Mr. Hainer - As we do in other areas here, we have five or six of those out. The McCormick's, that was one. You basically need a letter from the Town that says, "their sewage plant can accept another user or five users, etc".

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Ms. Fairbanks - Thank you.

Chairman Johnston - When are you leaving, Matt?

Mr. Foley - Probably, about the 7th or 8th of December.

Mr. Hipps - Friday or Saturday.

Chairman Johnston - It's your hope that we will approve this, before you leave.

Mr. Foley - Well, I'd like to move it along a little farther, I'd like to know what we need to do next. The question of building rights, this is 40 acres, so you could presumably build six houses. We're looking for a three-lot subdivision, do we need to assign building rights -

Chairman Johnston - If you're dividing this along APA boundary lines, the question of allocating building rights, I don't believe is an issue.

Mr. Foley - No.

Mr. Hainer - But, there should be one test pit for every lot,

Mr. Foley - for every lot.

Mr. Hainer - at least one.

Mr. Foley - Yes.

Chairman Johnston - Because, since you're dividing along APA boundary lines, it's not a question of taking the total number of potential building rights and allocating some to one piece and some to the other, each of these pieces has a potential number of building rights -

Mr. Foley - Yes.

Chairman Johnston - and I use the word "potential" because actual conditions on the ground may prohibit full build out.

Mr. Foley - Yes, sure.

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Chairman Johnston - So, I guess, let me strike that, that's not an issue, building rights, is not an issue, cross that out, --

Mr. Hipps - It almost always is, but in this case it isn't.

Chairman Johnston - But, in case of the sewage, that would be an issue and, how quickly does the Town Board meet, George?

Mr. Hainer - If you were to call tomorrow, they have a Board meeting coming up next Tuesday, if you were to call tomorrow with a question, can the plant handle one more, two more people, Dan could probably find out pretty quickly, talk to water and sewer people. It could probably get back by next Tuesday.

Mr. Foley - Ok.

Chairman Johnston - So, the entry points have been identified, so that issue has been addressed.

Mr. Foley - Yes.

Chairman Johnston - It sounds like, appears to me, jump in if I'm wrong, that we need a sewer letter and the map has to be prepared by a surveyor.

Mr. Foley - ~~Do you need a surveyor's map to approve the subdivision, or is it, does that only come into play, this says, "before the property is subdivided, or the lots are saleable". We're asking for you to approve the lots that will be created when it's subdivided.~~

Chairman Johnston - The thing is -

Mr. Foley - That's what I don't understand.

Chairman Johnston - ok, Town Law, requires that, this is a quotation from Town Law, "final approval, whether by actual or default approval, expires within 62 days of the approval, unless the subdivider files the approved final plat in the County Clerk's office during that time period."

Mr. Foley - Ok.

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Chairman Johnston - Ok, so you have 62 days following approval to file the plat.

Mr. Foley - Ok.

Chairman Johnston - Part of the approval is that the Planning Board authorizes me, the Chairman, to sign the plat, that's also a requirement.

Mr. Foley - And, what exactly is the plat?

Mr. Hipps - The map.

Chairman Johnston - Plat or map, the words are interchangeable -

Mr. Foley - My map or the surveyor's map?

Chairman Johnston - You have to file the surveyor's map.

Mr. Foley - Ok, that's the one you have to sign.

Chairman Johnston - Yes.

Mr. Foley - Ok, thank you.

Chairman Johnston - George, can show you an example of one.

Mr. Foley - I'm sure.

Ms. Becker - That 62 days, business or calendar days? That's the holiday vortex, between Thanksgiving and Christmas, --

Chairman Johnston - I'm not a hundred per cent certain, Susie, but I imagine it's set at 62 calendar days, that's my guess, but I'm not a hundred per cent certain.

Mr. Hainer - There is approval, there's approval with conditions, and then there's conditional approval.

Chairman Johnston - Right.

Mr. Hainer - Which is another thing, you can't file the plat till the conditions, remember we had that one on the septic system on the Stevenson Road, until they brought the dirt in and let it set over the winter and everything.

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Mr. Hipps - Let me ask this. If we were to have an approval, and they don't file it within the 62 days, what happens - they have to come back -

Chairman Johnston - Start over again.

Mr. Hipps - Oh, ok, not just with this step, from the beginning.

Mr. Foley - So, you have to submit all the same paper again.

Chairman Johnston - Yes, but, since you've jumped through all these hurdles, already, it will go very quickly the next time.

Ms. Becker - Have to write another check.

Chairman Johnston - Probably.

Ms. Becker - Yes.

Mr. Foley - I guess one of the questions I have, you really can't identify any place for sewage disposal there, can you cut this out, and this is all one lot, for later subdivision and any building rights which may have been on this property, go with this, stay over here, and this is part -

Chairman Johnston - Would you have a connection, a corridor that connects these two parcels -

Mr. Foley - No, because, see the APA has said that this is non-jurisdictional, you make a corridor then you have to get back into it with them.

Chairman Johnston - Yes, George is telling me that they're not contiguous and I have the same question, I don't know the answer to this. What is the definition of a lot? I would think it would have to be continuous land.

Mr. Hipps - When you ask that, was your objective to have the development rights on the other piece or was it to have the two joined? Were you interested in both of those, or just, because the development rights, you might be able to solve that, and I'll ask Bill, but you might be able to

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solve that before you subdivide or as you subdivide. You might be able to sell the one without development rights and make sure that they wind up with your principal piece that -

Mr. Foley - I thought you couldn't create a lot that didn't have development rights.

Chairman Johnston - I believe you can. Because the Rock Harbor Subdivision, has a wood lot that I believe has no development rights.

Mr. Hainer - That's part of the whole subdivision, that was set aside.

Mr. Foley - What I've been afraid of is that if you can't figure out a way to dispose of sewage, on this piece, which isn't worth much anyway, you're not going to be able to subdivide any of it.

Mr. Anson - I was wondering about on the sewer because I see there are quite a few places here that wasn't eligible for sewer, why couldn't they do the same as they did on this lot on the Stevenson Road.

Chairman Johnston - You mean amend the soil.

Mr. Anson - Yes.

Mr. Hipps - That's something I think your engineer could help you with.

Mr. Foley - Yes, that's the thing. This Friday will be the first time a real engineer has looked at it. We're not in too much of a hurry, we have other important stuff to do, actually, this road can't stay, we have to lay this out, because this is going to be a real road, eventually. If you put ROW, but also, this can't stay where it is because they cut this the last time they logged it and because they cut the bank, the bank is now moving down hill and this is kind of a brook here, so this either going to have to go over like this and up this way or over like this and up that way. I'm not a road builder, I'm going to have to talk to somebody, more experienced than that, because that was probably, wind up being, we're going to want to split some of this off to go with the house and that would

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probably be where the boundary line is. That's going to have to appear on a surveyor's map.

Chairman Johnston - You've talked to Peter about the road?

Mr. Foley - Yes.

Mrs. Brant - Are you still going to have the tower?

Mr. Foley - We have no idea. They've been paying us every year for an option, to lease it. If you try to get information from them, you're dealing with a Rochester office of Nixon Peabody, which is a great big law firm. We do have a plan, very, very detailed, they even go in and count the trees, the tower will be in here somewhere and the entrance will be about there. I could show you the plan, but that's not up to me.

Mr. Anson - I wish they would, maybe it would help with cell service around Wadhams, the one on the Boyle Road doesn't do a thing.

Mr. Foley - Their option came up for renewal at the beginning of 2013 and they renewed it, that's all I can tell you.

Mr. Hainer - I think they made application to the APA, I think they're moving forward on this. They're planning on Spring time.

Chairman Johnston - Matt, it just seems like you're really not there yet, with your plan.

Mr. Foley - No, but this isn't necessarily simple, either.

Chairman Johnston - I understand.

Mr. Foley - Particularly, since we're trying to make allowances for things that are probably going to be done after we're buried and dead. I didn't own this property, the APA did, everything else around the house is Resource Management.

Mr. Hainer - I think there would have to be at least one building right on that property, whether you use it or not, but to create a lot without a building right --. And that

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wood lot you're talking about, would that wood lot be without a building right, a lot created without.

Chairman Johnston - I would have to check the actual permit, but I believe that they concentrated all the development rights on the shore line and they had a large parcel that had no building rights, that's my recollection, but that was back in the 70's (referring to Rock Harbor).

Mr. Hainer - So, then if someone were to own that, why would they want it, why would they own it.

Chairman Johnston - For tipper, for tipper management.

Mr. Hainer - For that, I'm saying for this here, there any timber here?

Mr. Foley - Actually right now, it's function besides the hiking trail is Tommy Conley's private hunting club.

Mr. Anson - Where the green leaves off on the right hand side, where the green part is, where you said it was sandy, over there where the hiking trail is, is that, the white part there, is that Tommy Conley's?

Mr. Foley - Yes, this is all Conley's and that's Kapper's.

Mr. Anson - Ok.

Mr. Foley - And this is a little piece we just sold to Bruce and Bridgett, there are no building rights.

Mr. Hainer - Right, that was a Minor Division.

Mr. Foley - Yes. Champlain Trails have to get into an agreement with each land owner and part of the agreement with Tom is the trail is closed during hunting season.

Mr. Hainer - Is that an easement that's renewed every year and that can go away if somebody buys that -

Mr. Foley - That would depend who buys it, that would depend on my attitude at the time, so on. Most of their agreements, I do a lot of work with Chris, most of these agreements are year-to-year, he would like them to be permanent, of course and this route you probably couldn't change very much, the bridge just got built right here so

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that's not going to change, but this all follows the road so there's lots of other places you could put the trail. Some people think it's a bad thing to have because they lose their privacy, but some people think it improves the value of the property. You don't know who you deal with. I guess we need to go talk to the Town about what to do, here and see what they have to say. I don't want to have to do things with the surveyor and then change things later.

Chairman Johnston - That makes a lot of sense, obviously. Maybe this is just an extended phase of the sketch plan, part of the process.

Mr. Foley - From your point of view, if we could just, regardless of how many potential building rights, there are anywhere, if we can identify one potential spot for sewage disposal on each one of these lots, we're ok, we got a three or four page report from the APA soils guys to go with the map and Peter has read that and he says, "these two are fine". Actually, it looks like someone was mining sand here, a long time ago, a big hole.

Chairman Johnston - Does anyone have anything else to say? Matt, it looks like your on the right track.

Mr. Foley - You will be looking for a letter from the Town Board, sewer possibilities.

Chairman Johnston - Yes, since that particular parcel, you can't have septic systems on it.

Mr. Foley - That one probably could, but it's quarter-acre zoning, and if your going to put more than one or two houses up there, it's the sensible thing to do, if you're going to run a pipe down the hill and save yourself the trouble.

Chairman Johnston - Right.

Mr. Foley - My information is that the sewer plant is under utilized, anyway.

Mr. Foley and Ms. Becker left at 7:36 P. M.

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Chairman Johnston - Looks like we're up to **Mudie, Paul/Kelley, Kathleen** - Tax Map No. 57.3-1-27.120—Two-Lot Minor Subdivision - George, are you going to present this.

Mr. Hainer - I thought he was going to be here. This has to do with the former Miele Subdivision that we approved. Paul bought the other side of Route 22, there's a North and a South lot, he wants to divide it along the Rural guidelines, the Rural 17.8 acres along the Rural side, 38.8 acres on the Resource Management, he wants to subdivide.

Ms. Fitzgerald - You talking about the East Side of 22.

Mr. Hainer - Right.

Mr. Hipps - And he wanted to move the building envelope on one of the -

Mr. Hainer - But, that's not the one we're talking about, he's retaining that one and he wants to sell the other one which has a setback from the road of 150 feet, from the CEA (Critically Environmental Area) they have to stay behind that, otherwise the APA will get involved. They're more than a quarter mile from the Bouquet River. I asked them to call DOT and speak with Mark Bonfey. Mark told them for some reason told them this is too soon to discuss entrances. I don't know what he asked him. I tried to get in touch with Mark today, he was not available. Paul's visibility, there's a turn, a bend there, I'm not sure where the entrance would be off from that.

Mr. Anson - There's one there now where they come out with the hay wagons. I don't think it's a very good place

Mr. Hainer - Right.

Chairman Johnston - Has he submitted an application?

Mr. Hainer - Yes, he's paid the fee and has the sketch plan. There's a test pit, this lot up here, I don't believe has a sewer test pit done on it.

Chairman Johnston - Is Kevin Hall going to do the survey, the map.

Mr. Hainer - I don't know who's going to do the map. I would assume so. If this is something --

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Chairman Johnston - Do you think it's premature to schedule a Public Hearing on this, given the fact that he's not here?

Mr. Hainer - Yes.

Mr. Hipps - It would seem, he has the whole stretch of road there, if he doesn't have to come off the road right at the building lot, he could come off there anywhere and have a driveway, I'm not sure it's going to be a problem.

Mr. Anson - You mean on the south one towards the railroad tracks.

Mr. Hipps - Yes, it's just that if that whole blue line along the road is his property he could come off the road there anywhere.

Mr. Anson - He could make a driveway there.

Ms. Fitzgerald - Wouldn't we need to know the driveway before we have the Public Hearing?

Chairman Johnston - It would be a good thing to know.

The Planning Board viewed the bigger map.

Mr. Hainer - Here's a proposed driveway, right here.

Mr. Hipps - But, not DOT approved.

Mr. Hainer - I wonder if it wasn't DOT approved, because that's the one building lot that we approved.

Ms. Fitzgerald - The one close to the railroad tracks.

Mr. Hainer - That would have to have been, for Kevin to put that on there, he would have had to contact DOT.

Chairman Johnston - Yes, I agree.

Mr. Hainer - I'm looking at this one up here.

Chairman Johnston - It seems like then he should verify that this is acceptable.

Mr. Hainer - Yes, I can FAX this over to Mark,

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Mr. Anson - You say there's no test pits here.

Mr. Hainer - No.

Chairman Johnston - Should we require test pits somewhere on that property?

Mr. Anson - That's what I was talking about.

Mr. Hainer - Probably, yes. Probably now, it's going to be a secondary lot. At the time, they didn't want to do this one, because of the inspection, they didn't know if they could construct -

The Planning Board was all discussing the map.

Chairman Johnston - This end of the table has concluded, that the proposed access is not good?

Mr. Anson - It is good. My thinking was I didn't think too much of it being down here.

Chairman Johnston - Ok.

Mr. Anson - Up here is good.

Chairman Johnston - Ok.

Mr. Anson -- Because, there's a straight-away there.

Chairman Johnston - Ok, so we need George to FAX this to Mark and Mark can sign-off on it.

Mr. Hipps - Yes, that he's agreed to it.

Chairman Johnston - But, George, also points out that they did not do a test pit on this North lot, so, we would want them to do that for the approval of the subdivision.

Secretary--that's what you're calling the secondary lot?

Chairman Johnston - Yes, right.

Mr. Hipps - North lot, they have two proposed lots up there.

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Chairman Johnston - Ok, other than that is there anything else we would want?

Mr. Hainer - I don't think so, I think everything is pretty much laid out.

Mr. Hipps - Just so long as they know they're confirming that building envelope.

Mr. Hainer - Right.

Mr. Hipps - They've already done that, I guess.

Mr. Hainer - Yes. Because there's Rural Use and Resource Management, they're following the APA boundaries for district boundaries and the building envelope -

Mr. Anson - is right behind the barn.

Mr. Hainer - That's the other one.

Mr. Anson - Oh.

Mr. Hipps indicated the lot.

Mr. Anson - Ok.

Chairman Johnston - Ok, we need to confirm access building envelope and they need to do a test pit on the secondary lot, right?

Mr. Anson - Right, north side.

Mr. Hipps - The development rights, that was settled when this subdivision was made.

Mr. Hainer - It should be written in there, where the development rights are.

Mr. Hipps - We don't have to worry about that.

Mr. Hainer - Principal building rights, in AL (Ag Lands) there's one on each.

Chairman Johnston - George, can you convey this information to Paul. MaryLou, you're the only one that's expressed an opinion about the Hearing, do you think we should wait

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till January till we get this other information, anybody else feel the same way.

Mr. Anson - I go along with that.

Chairman Johnston -- Ok, so we won't schedule a Hearing for the December meeting, but they should move right along.

Mr. Hainer - The test pit, the building envelope and the access.

Chairman Johnston - We're up to **Palmer, William - Tax Map No. 66.2-1-30.112** - Gift Provision for Minor Subdivision. George, you're probably presenting this one, too.

Mr. Hainer - Mr. Palmer wants to take his entire holdings, except for about five acres, around his house, he wants to gift it to his son. Does everyone have the map. He's planning on keeping a 4.9 acre parcel around his house and everything else would go to his son, which is about 33 acres. Bill, was going to bring in his big survey map. The gift provision, the dangerous gift provision.

Chairman Johnston - Now, refresh my memory, we still require a survey map, do we not?

Mr. Hainer - That's the thing, it says when a lot is for sale, this is not for sale.

Chairman Johnston - But, that's a somewhat different story, according to when I read the map, in Town Law, if we approve this subdivision, even though it's a gift, he still has to file a map with the County Clerk, does he not.

Mr. Hainer - From my understanding, there's some loophole in the Real Property tax law and the Real Property law for gifts, that you can draw up a deed and file it with the County, because it's not a sale.

Chairman Johnston - There's two sections of law here that apply, there's Real Property Law -

Mr. Hainer - Right.

Chairman Johnston - that says, "there is a general requirement applicable to all land in New York State that a

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map must be filed in the County Clerk's Office before sales may be made -

Mr. Hainer - Right, but this isn't a sale.

Chairman Johnston - Right, but then there's this other section of Town Law that says, "when you approve a subdivision they have to file a map within 62 days".

Mr. Hainer - Right, it's just a question of -

Chairman Johnston - Well, then it falls back on what the County Clerk requires.

Mr. Hainer - His thing, what he says is the four lots are for sale, right, all maps Mr. Hainer read from, "Office of the County Clerk Subdivision Requirements", (refer to page 8A, first Paragraph). Our law states that you just have to sign it, right?

Chairman Johnston - For his signature, to facilitate record keeping of all subdivisions. I think if these maps are not filed, they ought to be filed.

Mr. Hainer - He's getting a JIF, he filed a JIF with the APA to find out if it's jurisdictional, the wetland, opposite, quite a bit of wetlands, up on that property, we haven't received those ----- yet.

Chairman Johnston - George, does Gary Wilson ever stop in.

Mr. Hainer - Yes, he stops in a lot.

Chairman Johnston - Could you talk this over with him?

Mr. Hainer - Yes, I will.

Chairman Johnston - I think for the sake of consistency and record keeping we ought to, he ought to have it surveyed, and he ought to file it with the County Clerk.

Mr. Hainer - Yes.

Chairman Johnston - Everyone else agree?

Ms. Fitzgerald - Nobody wants to pay for a survey.

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Chairman Johnston - Nobody does.

National Grid - Tax Map No. 87.2-2-7.100 - APA Major Project Notice P2013-233 - Replacement of Utility Poles along Route 9 - Town of Westport (ROW Brian P. Mann). -
Would you present this one, too, George.

Mr. Hainer - It's the, I guess they're doing a lot of upgrades and the APA is doing it, just an information item.

Mr. Hipps - They're going to move the poles to the other side of the road.

Mr. Anson - Do you know what Mann, they're talking about and Carlisle?

Mr. Hainer - Jim Carlisle was Bloomberg's property and Mann's was Judy Moore's house.

Mr. Hipps - She had the brick house, across from the Mormon Church.

Mr. Anson - Oh, down there.

Mr. Hipps - They're talking about moving these across the road right in front, on the side by the Mormon Church, because where Judy used to live it gets wet back there and they can't maintain it. They want to bring it over and put the lines down on the Church side and when they get past Carlisle's, which was Bloomberg, then they will go back over to the West side of the road again.

Mr. Anson - Is that North or South of the Church, Carlisle?

Mr. Hipps - Carlisle is South, the other side of Presbury Road, that's his boundary there.

Mr. Anson - Ok.

Changed tape to Side Two.

Mr. Hipps - All the neighbors received Notices, that we were hearing this tonight.

Mr. Anson - Ok.

Chairman Johnston - First of all, for a point of information, Chris Maron called me and asked me if I would

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write a support letter for an application on Wildlife Conservation Society that applied to the Lake Champlain Basin Program. They're looking for money to publish a book about the West Champlain Hills. It seemed like a harmless enough thing, so I wrote a support letter. This is a copy of the letter which I will give to Barbara for the file, ok, and I didn't say on behalf of the Planning Board, I said, "Chairman", so I didn't implicate anybody else.

Next thing is, I'd like to propose that we have an executive session. The Planning Board went into Executive Session at 7:52 P. M. to discuss

The tape was turned off at this point.

The Planning Board returned to the Regular Session of the Meeting at 8:11 P. M, and the tape was started.

Chairman Johnston brought up information regarding Hamlet Expansion and PUD (Planned Unit Development) a draft from Matt Rogers. Our attorney has not seen it and he's going to look at it and make comment, but that has come in and at some point George or Barbara can provide you with copies of this information, it's quite lengthy, it's like 22 pages long and if this supposed to be plugged into our Zoning, it's really going to make the Zoning even longer. I was hoping that what would be developed, this missing section, would not be that long. Maybe, once the attorney, Joel Russell, has a look at it, maybe he could suggest some ways to pare it back, it just seems long.

Mr. Anson - Bill, is this something that went on at the all those meetings we had, the Blue Ribbon Committee.

Chairman Johnston - This is the outcome of all these plans.

Mr. Anson - We spent a lot of time on that.

Chairman Johnston - Right, I didn't bring it with me tonight but we have these revisions, we were going through the definitions, with the Zoning, there was a section, if you look in that revised Zoning, there's a section on the Hamlet Expansion areas that's missing, so this is the missing piece, it's finally arrived after a year or more a year-and-a-half. In any event, Barbara, can you provide copies to the Planning Board.

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Secretary - Yes.

Chairman Johnston - The way this thing was supposed to be produced is that the guy, Matt Rogers, was supposed to do it in conjunction with the attorney, Joel Russell, and Matt was supposed to make the first move, he was supposed to initiate this and he didn't and Dan Connell hounded him for a long, long, time. Joel Russell says he also hounded him. Finally, Matt did produce something but he did not show it to the attorney, so the attorney hasn't reviewed it.

Mr. Anson - Our attorney?

Chairman Johnston - No, Joel Russell, yes.

Mr. Hipps - Our attorney, Joel Russell.

Chairman Johnston - Our attorney for the purposes of the revisions to the zoning.

Mr. Anson - Not the Town attorney.

Chairman Johnston - Not the Town attorney.

Mr. Anson - Oh, that's the one I was thinking of, Gary.

Chairman Johnston - No, no. This project is closed out as far as the Department of State is concerned but Matt Rogers and Joel Russell, there's an understanding that they owe us some work and Matt has finally produced this work, but it has not been reviewed by the attorney. It just arrived within the last couple of weeks.

Mr. Hipps - Rogers works for a ___ group.

Chairman Johnston - Saratoga Associates.

Mr. Hipps - Ok, the other one.

Mr. Anson - Is this the guy that was on the Mann project?

Chairman Johnston - Both of them were on the Mann project.

Mr. Hainer - The LA Group. They reviewed on our behalf, Saratoga.

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Chairman Johnston - Saratoga Associates worked for us and Joel Russell worked for us. Joel Russell drafted the permit.

Mr. Anson - Ok.

Chairman Johnston - So, this is an announcement. George, do you want to add anything?

Mr. Hainer - No.

Ms. Fitzgerald - I move the meeting be adjourned.

Mr. White - Second.

Chairman Johnston - All in favor, carried. Good-night everybody.

Meeting adjourned 8:22 P. M.

Respectfully submitted,

Barbara A. Breyette
Secretary