Meeting of the Planning Board of the Town of Lewisboro held at the Town House, 11 Main Street, South Salem, New York on Tuesday April 15, 2008 at 7:30 P.M.

Present: P.J. Rossi, Chairman
Joseph Decaminada (arrived at 7:35 P.M.)
John Gusmano
Richard Ellrodt
Maureen Maguire
William Agresta, Matthew D. Rudikoff Associates, Planning Consultant
Thomas Altermatt, Town Consulting Engineer
Bruce Barber, Interim Wetland Inspector (arrived at 7:36 P.M.)
Dan Welsh, Town Councilman
Janet Anderson, Chair CAC
Craig Ungaro, CAC
Aimee Hodges, Planning Board Secretary

I. DECISIONS

Jeffrey Hubsher, DVM & Arnold Leitner, DVM, 1310 NYS Route 35, South Salem – Subdivision, Lot Line Change with Anthony & Anne Marie Mendola, 3120 NYS Route 35, South Salem & Wetland Activity Permit – Cal. #1-02 P.B.

Mr. Agresta reviewed the draft resolution he prepared for the Board’s consideration.

On a motion made by Mr. Ellrodt, seconded by Mr. Gusmano the resolution issuing a Negative SEQR Declaration and Preliminary Subdivision Plat Approval was adopted.

Vote: Yes: Gusmano, Rossi, Ellrodt, Maguire
Absent: Decaminada

Mr. Decaminada entered the meeting at 7:35 P.M.

Blake Berg was present.

Mr. Agresta reviewed the draft resolution he prepared for the Board’s consideration.

Ms. Maguire questioned whether there would be a sign directing the public to the trail and it was noted that the Park & Recreation Department should provide the sign.
On a motion made by Mr. Gusmano, seconded by Ms. Maguire the resolution issuing a Negative SEQR Declaration, Wetland Activity Permit Approval and Site Development Plan Approval was adopted.

Vote: Yes: Decaminada, Gusmano, Rossi, Ellrodt, Maguire

Town of Lewisboro, 11 Main Street, South Salem – Preliminary Subdivision Plat Approval – Leon Levy Preserve, intersection of NYS Routes 123 & 35, South Salem – Cal. #7-06 P.B.

Ms. Anderson questioned whether the public would be restricted from utilizing the existing AT & T easement once the properties are subdivided.

Mr. Altermatt advised that there had been two different opinions as the previous Town Board had expressed concern that an easement allowing public access would devalue the properties. This may have changed, but it had been envisioned that the public would have access to the site at the parking area off of Route 123.

Mr. Rossi noted that the easements would be filed when the plat is filed in the County Clerk’s office. He believed that the main benefactor of the preserve, Shelby White, should be contacted and suggested that Ms. Anderson contact Paul Gallay of the Westchester Land Trust.

After further discussion with regard to the easement, Mr. Welsh noted that the Town Board had discussed this at their previous meeting and would be looking to the Town Attorney to fully understand the legal issues. He assured the Board that all of the concerns that had been discussed this evening the Town Board is aware of.

Mr. Agresta reviewed the draft resolution he prepared for the Board’s consideration.

On a motion made by Mr. Ellrodt, seconded by Ms. Maguire the resolution granting Preliminary Subdivision Plat approval was adopted.

Vote: Yes: Decaminada, Gusmano, Rossi, Ellrodt, Maguire

II. PROJECT REVIEW

Town of Lewisboro, 11 Main Street, South Salem – Application for Site Development Approval pertaining to the construction of a proposed foot trail connection associated with an Eagle Scout project of Christopher Bergstrom at the western end of the Leon Levy Preserve, South Salem – Cal. #3-08 P.B.

Christopher Bergstrom was present.

In response to a question of Mr. Decaminada, Mr. Bergstrom advised that he was authorized to represent the Town on this application by the Town Board. In addition he had discussed his
project with the Park & Recreation Department, members of the CAC as well as the Westchester Land Trust.

Mr. Bergstrom advised that he is proposing to create a four foot wide 1500 foot trail, running from the east to the west. In November he discussed his project with Mr. Clark and Mr. King of the CAC who expressed a need for a foot trail to direct hikers away from the residential areas. He noted some points of interest along this trail; remains of an old house, old trees and an old carriage trail. He advised that his troop would help build the trail; he is responsible to create and manage the trail. In addition the trail would be recorded by GPS for use in creating a trail map. He will disturb the area as little as possible. He hoped that this trail will help people to enjoy the preserve more.

In response to Mr. Rossi’s question as to whether there were any time constraints Mr. Bergstrom advised that he had two years until his 18th birthday to complete the project. He further advised that only hand tools would be used in blazing the trail.

In response to questions of Mr. Decaminada Mr. Bergstrom advised that he did not raise any money to offset the expense of the project. He further advised that he had mapped out the trail with the help of the CAC.

In response to a question of Mr. Ellrodt he advised that the markers were nailed into the trees.

Mr. Agresta advised that it is his understanding that this will connect two existing trails. He advised that he was comfortable with the level of information provided.

Mr. Barber advised that the applicant had completed and submitted a wetland questionnaire as well as marked out the center of the trail. He noted that it was his understanding that the trail would meander in such a way as to disturb the stone walls and trees as little as possible. He advised that there were no wetland impacts.

Ms. Anderson advised that there had been good communication. The main contact on the CAC is Alan King. In addition Damon Oscarson of the Westchester Land Trust has been involved. She advised that the major partners of the Levy preserve have been involved and support this project.

Given that this is Town property the Board elected to schedule the public hearing to allow the input of any interested residents. It was agreed that a draft resolution would be prepared for the Board’s consideration on the evening of the public hearing.

### III. SKETCH PLAN REVIEW

**Timothy Engel, 193 Todd Road & Lawrence Gold, 189 Todd Road, Katonah – Proposed driveway relocation & Wetland Activity Permit Approval**

Dr. Lawrence Gold was present. Anthony Gioffre, Esq. and Joshua Grauer, Esq. were present with Barry Naderman, PE.
Mr. Gioffre displayed the proposed plan to relocate an existing driveway and advised that they had received the commentary and hoped to address the questions. He noted the fifteen foot wide easement over Mr. Engel’s property where the Gold’s driveway currently located. He noted the separate driveway off of Todd Road for the Engel residence. In response to a question of Mr. Rossi, Mr. Gioffre advised that the Engel driveway was not a part of the 1988 subdivision approval. He was told that it was created in concert with the then Superintendent of Highway but had not received verification of this from Mr. Engel.

In response to a question of Mr. Decaminada, Mr. Gioffre advised that Mr. Engel was not the owner of the property at the time of the subdivision; he could not verify when Mr. Engel acquired the property.

Mr. Decaminada questioned whether title reports were prepared at the time of purchase.

Mr. Gioffre could not say for sure but added that he was confident that this had been done. He reviewed the configuration of Dr. Gold’s property noting that there were two legs that provided road frontage. He noted that the benefits of relocating the driveway as being the elimination of the easement over Mr. Engel’s property as well as for liability and maintenance reasons. He noted that they had included a traffic report prepared by Barry Adler who was also present this evening. This report demonstrated that the existing site lines for the driveways are insufficient. He advised that they had included a number of traffic accidents along Todd Road, although none are in the immediate vicinity of these driveways. Most of the accidents that occur on this road involved vehicles exiting the driveways and expressed concern that an accident may occur here. It is the applicant’s belief that proposed grading and the pruning of the shrubbery in relocating the Gold driveway would improve the site lines.

Mr. Grauer advised that Mr. Engel purchased his property in 1993.

Mr. Rossi questioned whether the applicant is suggesting that the previous 1988 Planning Board subdivision approval was done so with insufficient site lines.

Mr. Altermatt advised that the standard for site lines is 200 feet; this was measured by his office as well as the Highway Superintendent and currently met Town standards.

Mr. Altermatt reviewed his memo to the Board dated April 11, 2008 noting that this two lot subdivision was approved with a common driveway which minimized the curb cuts along Todd Road. The Gold’s driveway is located within the easement; Mr. Engel’s driveway is outside of the easement. This application proposes moving the entrance 110 feet to the west. He advised that there is a high ledge knoll in this area which would limit the site distance and would require a substantial cut into the hillside. If there is a concern with the site distance they could cut the knoll back to the edge of the road. He believed that the purpose of this proposal was to move Dr. Gold’s driveway off of the Engel property. He further advised that there are underground utilities along the easement to the Gold residence. This proposal would require moving two telephone poles. He noted that the drywell shown to collect the runoff from the driveway is in an area he believed to be ledge.
Mr. Altermatt advised that in 2005 there was a technical meeting attended by the applicants and their attorneys as well as the Planning Board's attorney Lawrence Praga, Esq., Mr. Agresta and himself. During this meeting options were discussed and the Town's consultants could not see the logic in moving the driveway closer to the wetland within the wetland buffer. It was recommended at that time that they not proceed with this environmentally challenged plan. He advised that the traffic report is adequate but suggested that if speeding is an issue that it be reported to the police department.

Mr. Agresta reviewed his memo to the Board dated March 11, 2008 and advised that when this subdivision was reviewed and approved there were alternative analysis' provided for different driveway locations. The record will show that one of the alternatives reviewed by the previous Planning Board was this particular driveway location; he believed it was determined that it was not realistic. The only realistic solution is the driveway in its current location. It was also the intent to have a common driveway and the approving resolution clearly states that there shall be no new curb cuts; the common driveway was limited to the easement. He advised that at the time of the subdivision approval a driveway already existed; there was no new curb cut required.

Mr. Engel entered the meeting at 8:15 P.M.

Mr. Altermatt displayed the approved subdivision plat and noted the existing driveway.

Mr. Rossi questioned how the Engel driveway was moved without Planning Board approval. He stated that there was some reason why the previous Planning Board had made their determination which he believed would be found in the subdivision file. He did not know how the process had been circumvented even if the Highway Superintendent did give an approval.

Mr. Agresta noted that the Highway Superintendent had the authority to issue permits for curb cuts but that it should be done in accordance with the approvals granted. He suggested that the Board discuss this with their counsel. Unless someone can demonstrate that there had been an amendment to the 1988 subdivision approval, this additional driveway cut was against the terms of the approval. He noted that the existing curb cut had been taken into consideration by the previous Planning Board when considering the impacts. Mr. Agresta stated that multiple curb cuts play into public safety and suggested that the applicant consider connecting the Gold driveway to the existing Engel driveway as an alternative to improve the site lines.

Mr. Barber reviewed his memo to the Board dated April 11, 2008 and noted that the majority of the proposed driveway is located within the Town's 150 foot wetland buffer as well as a portion of the NYS DEC wetland buffer. He concurred with both Mr. Agresta and Mr. Altermatt that there really needed to be a demonstrated purpose for the relocation of this driveway noting that the major tenant of the wetland ordinance is avoidance. He has not heard as of yet a demonstrated need that would merit this application. He suggested that the applicant consider some alternatives such as pruning and pulling the rock ledge back to improve the site distance if necessary. If the applicant elects to continue with this application his memo outlined the additional information required.
Ms. Anderson referred to the CAC memo dated April 8, 2008 noting that Mr. Barber had summarized their concerns with regard to the proposed activity within the wetland buffer. She believed that this proposal would also require a number of trees to be removed and encouraged the Planning Board to look for another way to address the concerns of the applicants.

Ms. Maguire noted that she resides on Todd Road and is very familiar with the area, traffic, and driveways. She advised that she had read through the accident reports. Although she does not go in or out of the driveways in question, she advised that this did not appear to be an area of concern for accidents. She noted that there is a full stop for Mt. Holly Road and traffic slows at that intersection. She referred to the applicant’s Exhibit “B” which is the Planning Board’s resolution dated July 5, 1988 and noted that on Page 3, section 2C stated that “No driveway access shall be permitted between Parcel A and Todd Road. Driveway access shall be limited to use of the common access point shared with Parcel B.” Today although there is one correct access point, there is an additional curb cut. In addition this Board is being asked to move the driveway closer to a wetland that is regulated by both the Town as well as the NYS DEC. She advised that she has not seen a demonstrated need. The applicant may choose if they wish to move forward with this application.

Mr. Decaminada advised that he would like to be made aware of the utility company’s authorization to move the utility poles. In addition he would like input from the current Highway Superintendent. He noted that the wetland delineation would have to be updated. He expressed concern with the previous meeting between the applicant’s consultants and the Town’s consultants.

Mr. Ellrodt advised that he was uncomfortable with this application noting that he has not yet seen a demonstrated need. He noted that the original subdivision approval was granted with a requirement for a common driveway.

Ms. Maguire noted that the Planning Board’s 1988 resolution also required that the construction plans show the detail for a swale to be constructed north of the property line of the N/F Conner property and believed that this was done to intercept the runoff off this steep property so that it would not impact the neighboring property.

Mr. Rossi questioned whether the applicants had considered any other alternatives short of moving the driveway to address the concern of site distance. He advised that his first reaction to this application is that someone doesn’t want the easement across their property noting that the current site distance met the Town Standards. It appeared that they did not like the 1988 resolution and were asking this Planning Board to amend it. In addition it appeared that there is a code enforcement issue and cannot imagine that there would have been an approval granted when the Planning Board’s approval clearly stated that there is to be one curb cut; now there are two. He asked that the documentation is provided which would show that this additional curb cut was done appropriately. He advised that it appeared that this common driveway was a portion of the mitigation which was presented in order to approve this subdivision in 1988. He questioned what the applicants are now presenting in terms of mitigation to not only remove this common curb cut but move the driveway closer to the wetland regulated area and for the removal of five trees. He
advised that this application has a long road to hoe. If the applicant chooses to move forward this Board will schedule a site walk once the comments have been addressed.

Mr. Grauer introduced Mr. Engel to the Board advising that part of the reason why they were present was that Mr. Engel has been living on this property and experienced hardships with a driveway that goes across his lawn where his children play ball and have birthdays. There have been situations where there have been near misses with people backing down the driveway. The applicants are looking to separate what was originally a common driveway in a manner which would work well for both homes. He advised that the Board would hear some of the problems that had been experienced in their day to day life in trying to function as neighbors with this driveway running across Mr. Engel's property. The Board will also hear the circumstances under which he purchased his property as well as the condition of the property.

Mr. Engel indicated that he was not aware of the easement at the time of the purchase of his property.

Mr. Grauer advised that they had been working with Dr. Gold and his attorney, Lisa Smith, Esq. of Zarin & Steinmetz (also in attendance) approximately one and one half years trying to come to terms on what they both believe is in the best interest of both their properties. Mr. Engel will bear the entire cost of this application. Mr. Engel would not want to bear the cost of reducing the knoll to improve the safety of the Gold driveway which is a tremendous source of anxiety for his wife, his family and his children.

Mr. Decaminada assured the applicant that this was a prudent process; this Board would listen to the applicant’s observations and consider them but had no desire to make this a long process.

Mr. Altermatt suggested that the applicants consider a lot line change.

On a motion made by Mr. Decaminada, seconded by Mr. Ellrodt the resolution establishing an initial escrow deposit in the amount of $4000 was adopted.

Vote: Yes: Decaminada, Gusmano, Rossi, Ellrodt, Maguire

IV. DISCUSSION

Michael & Terry Bocklet, 6 Cove Road, South Salem – Amendment to Wetland Activity Permit Approval – Cal. #96-05 W.P.

Beth Evans and Barry Naderman, PE were present.

Mr. Barber noted that after construction began there were several items that had not been envisioned during the approval process which needed to be changed. The applicant and her contractor had met with him and discussed a sketch of the proposed changes. Mr. Barber advised that he in turn discussed these changes with the Board who determined that due to the number of changes it would be appropriate for this Board to review them.
Ms. Evans displayed the approved plan advising that the minimal changes and had become apparent as the property was being developed. She reviewed the changes; moving plantings from the garage towards the edge of the wetlands, reduction of the gravel driveway, maintain an existing raised planting bed not shown on the approved plans. The house is now only utilizing propane and there is a need for a larger tank that what had been approved which they are proposing to install above ground beside the garage. The applicant is proposing to build a small free standing deck on a small island in the wetland area for two air condition condensers. In addition they would like to construct an 8’ by 8’ storage shed.

Mr. Barber advised that he had walked the site with the contractor and agreed that the changes were minimal but would need more details from the applicant.

In response to a question of Mr. Ellrodt, Ms. Evans advised that the air conditioning lines would run along the septic lines.

Ms. Anderson noted that there had been good communication through out the process. She noticed that there did not appear to be a garage door on the garage and would not like to see a problem in the future.

Mr. Welsh who is a neighbor questioned whether this was a garage and advised that there are windows and stonework that would make it difficult to access as a garage. He advised that this was not an issue to him as it was such a tremendous improvement over what had previously existed.

Mr. Naderman reviewed the installation of the proposed septic lines now being proposed to run along the boardwalk rather than through the wetlands.

Mr. Barber requested that the applicant show the flood plain barriers as well as providing a schematic plan of the sewage lines for the review of the Town Engineer.

The Board agreed that as long as the Town Engineer is comfortable with the proposed sewer lines that Mr. Barber could issue the amendments administratively.

On a motion made by Ms. Maguire, seconded by Mr. Ellrodt the Planning Board authorized Mr. Barber to amend the wetland activity permit Cal. #96-05 WP once the Town Consulting Engineer approved the proposed sewer lines.

Vote: Yes: Decaminada, Gusmano, Rossi, Ellrodt, Maguire

V. SITE WALK REPORTS

Clark, Deepwell Farm Road

Mr. Rossi advised that on Saturday April 12, 2008 the five Board members met at the Mark Clark property with Mr. Barber as well as Janet Anderson and Joe Tansey of the CAC. Arthur Clark was present with his wetland consultant Aleksandra Moch.
Mr. Barber advised that the site walk followed up on the memo he had prepared for the Board's March 11, 2008 meeting wherein he stated that he could not demonstrate an ecological gain by the actual removal of the fill post eight years from its installation. There was no question that at the time the fill was installed that the wetland functional values and vegetation had been compromised; it would have been beneficial to have it removed eight years ago. Due to the natural process which occurred over the last eight years, the hydrology and vegetation being what it was the wetland had been modified, but he could not demonstrate an ecological gain to have it removed. He noted that as two members of the Board were new and that the Board had not been at the site for several years they elected to schedule a site visit. During this site visit they examined the areas where the soil samples were taken, discussed the vegetation and hydrology of the site. The Board looked at the watercourse on the site which discharges into an offsite wetland. The property borders were looked at and there was some discussion with regard to the proposed driveway and septic locations.

Mr. Rossi advised that the purpose of the site walk was for this Board to observe firsthand what Mr. Barber had discussed in his memo. He advised that he would canvass the Board as to their opinion with regard to the fill.

Mr. Decaminada advised that it showed that the finding of Mr. Barber's report as accurate.

Mr. Gusmano advised that visually you could see where the fill had been added, but it looked very natural.

Mr. Ellrodt advised that moving the fill now would create more damage.

Ms. Maguire agreed and advised that it was a thorough site walk where they looked at the test holes, observed the area that had been filled and walked over to the actual wetland which is located on Town property. The Board observed the vegetation now growing on the site and advised that at this point it appeared that it would be detrimental to remove the fill.

Mr. Rossi advised that during the site walk Mr. Clark had given the Board photographs which he had given to the Secretary for the file. He agreed with the Board members that at this juncture that nature had corrected whatever damage had been done by the fill. He believed that removing the fill now would only exacerbate the problem. He further advised that the site looked better now than it did three years ago. Given that the Board members agreed with Mr. Barber's assessment he noted that the applicant could now move forward with this project as a normal application process noting that there is a 30-day time period to submit the revised materials for an upcoming agenda. Noting that this project had been tentatively scheduled for May 13th, it was agreed that there needed to be a resubmission of materials before this project is placed on the Board’s agenda. Mr. Rossi suggested that it might make sense for Ms. Moch to meet with Mr. Barber as it would not make sense to discuss this on the May 13th agenda if there were open items.

It was noted that the Board’s determination not to remove the fill would be incorporated into their resolution of the application.
Mr. Rossi advised that this same group met at the Riina site at 8:45 AM. Also in attendance were Mr. Altermatt and Peter Ripperger, Highway Superintendent. He advised that the Deputy Building Inspector had been invited to the site walk, knowing that this application had been at the Building Department for four years, who respectfully declined to attend the site walk. Given this project had considerably more Building Department issues than Planning issues, he believed that he should have been present in deference to the numerous residents who attended. Mr. Rossi advised that the Board had the written authorization from several neighbors to walk on their properties: John & Karen Conti, Lawrence Grant, Liza Loesch and Jim & Margaret Hackett. He advised that many people joined the site walk. He noted that the day before the site walk there had been an inch of rain in an eight hour period so that any flows that had been discussed during the public hearing the Board was able to observe.

Mr. Gusmano advised that the effect on the wetlands would be beneficial for all of the homeowners. He observed that the issues were more Building Department responsibilities. This is a very restricted site and the homeowner's directly below had many concerns.

Mr. Decaminada stated that the Board had walked the site of the proposed construction with Mr. Altermatt as well as the applicant’s consultant who showed the Board the net positives that would occur such as the runoff from the road. It is a sound project being proposed but obviously when walking below on the adjacent properties it was shocking to see the location of the buildings.

Mr. Ellrodt noted that the property below was very wet and advised that they had a small septic. If there is a net gain on drainage it could be a good project.

Ms. Maguire advised that the big question was with regard to the seeps. She stated that because of the nature of the seeps it is hard to understand what the long term impact would be especially with large rainfalls in short periods of time. It is one of those projects where if something goes wrong it could be extremely impactful in a negative way to the homeowners below the site. She stated that it appeared that there were more building department issues than wetland issues. They should be very careful and incorporate as many fail safes as possible.

Mr. Rossi advised that it appeared that the wetland mitigation and drainage is coming down to the Hackett’s property. There was a discussion as to whether the existing drainage is sufficient to handle that runoff. He noted that he would ask the applicant to address this concern.

Mr. Altermatt noted that during the site walk it was determined that the existing drainage is inadequate. He advised that the applicant’s calculations show that there is no increase in the peak flow; typically they do not have to look down stream unless they are increasing the flow.

Mr. Barber noted that during the public hearing most of the speakers expressed concern with the unpredictability of what would happen with the seeps once construction began. It would be prudent to have provisions for the Hackett’s property.
Mr. Rossi noted the importance of the various departments in Town operating in synergy to avoid a bad project. He stated that in the instance the Building Inspector needs to be involved and would request that Mr. Barrett attend the next meeting this project is on the agenda to answer some of the public questions when it comes to building department issues.

In response to a question of Mr. Ellrodt, Mr. Altermatt did not believe that there would be a measureable difference to the seepage if the drainage was changed by moving rocks.

Mr. Barber advised that the stormwater and effluent in terms of recharging into the ground may possibly increase the groundwater conditions. The actual construction process may change fissures or open things up that may change the pattern down below as well. It would be prudent to suggest that the applicant provide some sort of solution in the eventuality that there is some sort of increase of groundwater. It was agreed that Mr. Barber would write a memo to the applicant’s engineer asking the applicant to address the possibility of increased groundwater prior to reconvening the public hearing.

Mr. Decaminada did not believe that they could put the burden on the applicant to fix a pre-existing condition.

Mr. Gusmano questioned how this Board could measure what is going on now to measure future impacts.

Mr. Barber advised that they could install a meter preconstruction to understand the base flow information pre and post construction noting that the only problem with this is if there is a major storm event post construction.

Mr. Rossi stressed that there had to be a balance between the developer’s rights and those homeowners who are there now. He noted that this is one of the most difficult single family projects this Board has reviewed.

Ms. Maguire would like the input of the Board’s legal counsel with respect to property lines and the flows beyond it.

IV. CORRESPONDENCE & GENERAL BUSINESS

Mr. Rossi acknowledged receipt of the recent correspondence from Patrick Brennan with regard to the Thistlewaithe Learning Center application agreeing to the installation of a water tank and an uncoordinated SEQR review. The Secretary was directed to prepare the public hearing notice for the May 13, 2008 agenda once the applicant provides a sketch detailing where the water tank is proposed to be installed to Mr. Agresta for his review. The revised materials must be received by the Planning Board office by April 28, 2008 or the hearing would be opened and adjourned for a later date.

Ms. Maguire noted that the Board had received correspondence from ACARC with regard to the DeLapa application asking if a member of ACARC should appear at a Planning Board meeting to discuss this memo. Mr. Rossi advised that this was his suggestion to give a better understanding
of ACARC's issues with the proposed project. The Secretary was directed to contact Dr. DeLapa to determine how he would like to proceed.

Mr. Rossi advised that the ad hoc committee has had two meetings where they had scoped out the high level discussion points. A meeting is scheduled for tomorrow evening. They are moving in the direction that had been discussed.

Mr. Decaminada asked that the Board consider the requirement that a deed notice advising that there are wetlands on a particular property similar to the requirements of the NYS DEC.

The Board set the next site walk date for June 21, 2008.

On a motion made by Mr. Ellrodt, seconded by Ms. Maguire the Board entered into Executive Session at 9:51 P.M. to discuss employment matters.

Vote: Yes: Decaminada, Gusmano, Rossi, Ellrodt, Maguire

On a motion made by Ms. Maguire, seconded by Mr. Ellrodt the Board exited the Executive Session at 10:55 P.M.

Vote: Yes: Decaminada, Gusmano, Rossi, Ellrodt, Maguire

On a motion made by Ms. Maguire, seconded by Mr. Ellrodt the meeting was adjourned at 10:56 P.M.

Respectfully submitted,

Aimee M. Hodges
Planning Board Secretary
RESOLUTION
TOWN OF LEWISBORO PLANNING BOARD

SEQR NEGATIVE DECLARATION
and
PRELIMINARY SUBDIVISION PLAT APPROVAL

LEITNER-HUBSHER

SEQR UNLISTED ACTION - NON-COORDINATED ENVIRONMENTAL REVIEW
Sheet 39, Block 10543, Lots 32 and 39
Cal. #1-02 P.B.

APRIL 15, 2008

WHEREAS, the Town of Lewisboro Planning Board has received an application from Arnold Leitner and Jeffrey Hubsher for Preliminary Subdivision Plat Approval for a 2-lot subdivision of an existing approximately 7.598 acre developed parcel and a Lot Line Change involving an adjacent parcel owned by Anthony and Anne Marie Mendola, along with a Wetland Activity Permit to permit construction of a new driveway and portions of the required SSDS area relating to the proposed undeveloped building lot (hereinafter referred to as the “proposed action”); and

WHEREAS, the parcel is partially developed with an existing non-residential use (veterinary office) and is located on the northerly side of Old Post Road (NYS Route 35) within an R-2A Single-Family Residential District, as shown on the Town of Lewisboro Tax Maps as Sheet 39, Block 10543, Lot 32 (“subject property”); and

WHEREAS, the adjacent parcel associated with the proposed Lot Line Change (Mendola) consists of residentially-developed parcel, also located on the northerly side of Old Post Road (NYS Route 35), as shown on the Town of Lewisboro Tax Maps as Sheet 39, Block 10543, Lot 39; and

WHEREAS, the properties involved are entirely located within the New York City Watershed area; and

WHEREAS, the proposed action will result in the following:

- Building Lot 1: Consisting of approximately 2.895 acres and including the existing veterinary office facilities (no changes to the existing developed conditions are proposed);
- Building Lot 2: Consisting of approximately 4.367 acres and including a proposed undeveloped building lot and a Conservation Easement as noted below;
- No further subdivision of Building Lots 1 and 2 as indicated by a note on the proposed plat;
- Reconfigured Tax Lot 39: Consisting of approximately 2.066 acres and including the existing residential improvements (no changes to the existing developed conditions are proposed); and

WHEREAS, the subject property includes areas of steep slopes (15% and greater) and regulated wetlands and associated 150-foot buffer areas, a portion of which will be protected from future disturbances via establishment of a proposed Conservation Easement over an approximately 2.0 acre portion of proposed Lot 2; and
WHEREAS, materials submitted in support of the proposed action include:

- Application for Preliminary Subdivision Plat Approval;
- Application for Wetland Activity Permit;
- Letter to the Applicant from Tara Seonane, NYSDEC Division of Fish, Wildlife & Marine Resources, NHP, July 27, 2007;
- Letter to the Applicant from R. B. Jacobson, Environmental Consultant, September 13, 2007;
- Full Environmental Assessment Form, undated;
- Draft Temporary Construction Easement Agreement;
- Letter to Planning Board from Jeffrey Hubshcr, DVM, undated;
- Letter to Westchester County Department of Health from Robert R. Benoit, PE, January 24, 2008;
- Letter to Robert R. Benoit, PE from Natasha Court, PE, Associate Engineer, Westchester County Department of Health, January 31, 2008;
- Final Subdivision Plat, Stephen T. Johnson, LS, dated March 5, 2003, revised September 13, 2007;
- Overall Subdivision Plan, Sheet 1 of 5, Robert R. Benoit, PE, June 14, 2006, revised August 31, 2007;
- Lot 2 Plan Septic, Grading, Erosion Control, Drainage & Utilities, Sheet 2 of 5, Robert R. Benoit, P.E., June 14, 2006, revised August 31, 2007;
- Lot 2 Driveway Details & Erosion Control & Buffer Planning Plan, Sheet 3 of 5, Robert R. Benoit, P.E., June 14, 2006, revised August 31, 2007;
- Lot 2 Limits of Disturbance & Tree Removal Plan, Sheet 4 of 5, Robert R. Benoit, P.E., June 14, 2006, revised August 31, 2007;
- Construction Details, Sheet 5 of 5, Robert R. Benoit, P.E., June 14, 2006, revised August 31, 2007; and

WHEREAS, the Town of Lewisboro has an ongoing need for the acquisition of land for parks, playgrounds and recreation facilities; and

WHEREAS, the population generated by the proposed action will result in an incremental increased demand for parks, playground and recreation facilities; and

WHEREAS, §195-26(A) of the Land Subdivision Regulations recommends that the minimum acreage of land for parks, playground or recreation facilities be five (5) acres, consisting of relatively level and dry land, not less than two-hundred (200) feet in width, criteria with which the current application does not comply; and

WHEREAS, the Planning Board has determined in accordance with §195-26 of the Land Subdivision Regulations that suitable land for a park, playground or other recreation purpose are limited on the subject property; and

WHEREAS, the proposed subdivision plan presented to the Planning Board does not include the set aside or reservation of land for purposes of a park, playground or other recreation purpose; and

WHEREAS, a duly noticed Public Hearing on the proposed action was held and closed on December 8, 2008, at which time interested parties were provided an opportunity to be heard on this matter; and

WHEREAS, since no new roads or drainage connections to County or State roads or drainage lines are proposed, no referral to the Westchester County Planning Board is required; and

WHEREAS, the Planning Board has considered the Full Environmental Assessment Form, the materials submitted by the applicant in support of its proposal, the comments of the Board's professional consultants made via memoranda (which memoranda are incorporated herein by reference), and the verbal commentary made, including public comments, during the Planning Board's meetings and Public Hearing pertaining to the review and evaluation of the proposed action;
SEQR NEGATIVE DECLARATION

NOW THEREFORE BE IT RESOLVED, that the Planning Board of the Town of Lewisboro hereby determines, pursuant to the provisions of SEQR 6 NYCRR Part 617, that the proposed Unlisted action will not have a significant adverse effect on the environment and that preparation of an Environmental Impact Statement will not be required, thereby issuing a Negative Declaration; and

BE IT FURTHER RESOLVED, that the Planning Board has relied upon the facts and information contained in its record file regarding the proposal, as well as discussions with the applicant, in making the above SEQR determination of non-significance (Negative Declaration); and

BE IT FURTHER RESOLVED, that the Planning Board relies on the following reasons to support its SEQR determination of non-significance:

A. A substantial portion of the site includes sensitive areas of regulated wetlands and associated wetland buffer area, which will be primarily protected from future development considerations through the conveyance of a development restrictive Conservation Easement over portions of proposed building lot 2 and by the applicant proposed provision that there shall be "no further subdivision" of the subject property, as shown on the proposed subdivision plat. Disturbances have been limited to the regulated wetland buffer area (no activities are proposed nor authorized within the wetlands proper), and are proposed to be mitigated with wetland buffer plantings in and around the disturbed areas associated with the construction of the driveway. The proposed residence, its associated grading and infrastructure improvements and approximately half of the new driveway have been designed to completely avoid the regulated wetlands and 150-foot buffer areas on the property. In addition, adequate area has been planned to the rear of the proposed residence building to accommodate a future swimming pool or other customary accessory residential structure without necessitating any encroachment within regulated wetlands or 150-foot buffer areas. Based on the above, potential adverse environmental impacts to wetlands and associated buffer areas have been either avoided, minimized or will be mitigated;

B. The proposed action involves the creation of two separate building lots; one of which is currently developed and no changes to that existing development are proposed. Increased traffic as a result of the second proposed building lot is not anticipated to be significant or appreciable, noting that the adjacent NYS Route 35 is a major collector highway. Also, the proposed action does not involve the development any new roads, road extensions, or road connections, and construction activity involving the closure or modification of traffic flow on NYS Route 35 due to the need to develop a single new residential driveway connection will be limited to non-commuter hours (9:30 AM to 4:00 PM) only;

C. The Lot Line Change with the adjacent parcel to the east is proposed in order to reduce site grading and steep slope disturbances by siting the driveway in the extreme southeast corner of the property where the grade change from the adjacent NYS Route 35 right-of-way and the higher elevations of the subject property is the least impacting;

D. Potential noise and odors generated by proposed construction activities will generate short term impacts which are not deemed significant. Construction activities will be limited to permissible work hours as enforced by the Building Department;
E. All new site utilities (electric, telephone, cable, etc) are required to be installed underground and as such, will be routed to the proposed building lot via the proposed driveway alignment to further limit site disturbances. Also, the installation of any new or replacement oil storage tank facilities on either proposed lot is restricted to a principal building basement, garage or foundation vault only;

F. Upon review of the potential environmental impacts associated with the proposed action, no significant adverse environmental impacts on topography, soils, groundwater, air quality, agricultural land resources, public health, or historic and archeological resources are anticipated;

G. The subject property is located within a Designated Main Street Area whereby a Stormwater Pollution Prevention Plan (SWPPP) is required to be prepared, subject to the review and approval of the New York City Department of Environmental Protection (NYCDEP), the New York State Department of Environmental Conservation (NYSDEC) and the Town of Lewisboro Planning Board. The project SWPPP addresses stormwater quantity and quality control measures as well as erosion and sedimentation controls.

H. Existing investigative test hole pits utilized to assess septic feasibility will be refilled and seeded and to the extent possible, existing Mountain Laurel plants disturbed by proposed lot construction will be transplanted to other portions of the subject property; and

**PRELIMINARY SUBDIVISION APPROVAL**

**BE IT FURTHER RESOLVED,** that the Planning Board hereby determines that suitable land for a park, playground, or other recreation purpose is limited on the subject property; and

**BE IT FURTHER RESOLVED,** that a fee in lieu of the reservation of land (“recreation fee”) shall be required as a condition of any subsequent Final Subdivision Plat Approval; and

**BE IT FURTHER RESOLVED,** that upon full consideration of the above, the Planning Board of the Town of Lewisboro hereby grants Preliminary Subdivision Plat Approval subject to the following conditions:

**TO BE COMPLETED PRIOR TO APPLICATION FOR FINAL APPROVAL**

*The applicant shall complete the following conditions prior to any subsequent submission of an application for Final Subdivision Plat Approval:*

1. Signature on the proposed Plat by the Westchester County Health Department is hereby waived as a submission requirement of an application for Final Subdivision Plat Approval.

2. A *Final Subdivision Plat* shall be prepared by a licensed surveyor and submitted in accordance with the requirements and standards set forth in §195-16 and §A-5 of the Land Subdivision Regulations.

3. *Final Construction Plans* shall be prepared and submitted in accordance with the requirements and standards set forth in §195-16 and §A-6 of the Land Subdivision Regulations.
4. The current SWPPP shall be resubmitted to NYCDEP for review and approval; any changes made thereto shall be incorporated into the Final Construction Plans, subject to the further review and approval by the Planning Board.

5. An Application for a Stormwater Permit as set forth in Chapter 189 of the Code of the Town of Lewisboro shall be submitted.

6. Final proposed drafts of the Conservation Easement and Temporary Construction Easement shall be submitted.

7. Confirmation from Mendola shall be submitted in regard to their acceptance of the elimination of the five (5) year expiration term in the Temporary Construction Easement.

8. The applicant shall pay to the Town of Lewisboro, by certified check, all outstanding professional review fees in accordance with §220-77 of the Zoning Ordinance.

APPROVAL EXPIRATION

9. This Preliminary Subdivision Plat Approval shall expire and be revoked, without further notice, unless a revised Plat, prepared in final form as set forth in §195-16 of the Land Subdivision Regulations of the Town of Lewisboro, and as required herein, is submitted within six (6) months of the date of this Resolution, unless such time has been extended by the Planning Board, as may be granted, upon request of the applicant in writing, stating the reason or justification for such extension, prior to said expiration.

10. No site work, clearing or construction activity is authorized to commence pursuant to this Resolution of Preliminary Subdivision Plat Approval.

ADOPTION OF RESOLUTION

WHEREUPON, the Resolution herein was declared adopted by the Planning Board of the Town of Lewisboro as follows:

The motion was moved by

Richard Ellrodt

The motion was seconded by

John Gusmano

The vote was as follows:

P.J. Rossi
Joseph Decaminada
Maureen Maguire
Richard Ellrodt
John Gusmano

Leitner-Hubsher / Neg Dec and Preliminary Subdivision Plat Approval Resolution / LW96021 / April 15, 2008
RESOLUTION
TOWN OF LEWISBORO PLANNING BOARD
SEQR NEGATIVE DECLARATION UNCOORDINATED REVIEW
WETLAND ACTIVITY PERMIT
and
SITE DEVELOPMENT PLAN APPROVAL

PAR COURSE EXERCISE TRAIL - FOX VALLEY TOWN PARK
SEQR UNLISTED ACTION
Sheet 10, Block 11152, Lot 1
Cal. No. #2-08 P.B.

APRIL 15, 2008

WHEREAS, the Town of Lewisboro Planning Board has received applications for Wetland Activity Permit and Site Development Plan Approvals from the Town of Lewisboro pertaining to trail improvements associated with an Eagle Scout project of Blake Berg involving the installation of a “Par Course Exercise” stations along an existing widened trail located within the Fox Valley Town Park (hereinafter referred to as the “proposed action”); and

WHEREAS, the subject property (Fox Valley Town Park; hereinafter referred to as “Park”) consists of approximately 52.03 acres and is located on the southerly side of Indian Hill Road, as shown on the Town of Lewisboro Tax Maps as Sheet 10, Block 11152, Lot 1; and

WHEREAS, the portion of the Park within which the existing trail is situated is located within an R-2A One-Family Residential District, while the remaining acreage is located within an R-4A One-Family Residential District; and

WHEREAS, the Par Course Exercise Trail is proposed to include seven (7) exercise stations located along the existing loop trail and the trail is also proposed to be widened to approximately 3-feet; and

WHEREAS, a substantial portion of the existing trail traverses through Town-regulated 150-foot wetland buffer area and crosses a stream in two (2) locations; and

WHEREAS, total land area affected by the proposed action consists of less than 0.1 acres; and

WHEREAS, the proposed action more specifically includes the following site improvements:

- Placement of logs alongside the widened trail;
- Installation of a prefabricated plank pedestrian bridge to replace an existing bridge in disrepair;
- Placement of stepping stones at the second existing trail stream crossing;
- Installation of signage describing each exercise station, which signage will be supported by hand-dug, concrete filled sono-tube piers; and

WHEREAS, the proposed action is an Unlisted action pursuant to SEQR 6 NYCRR Part 617; and
WHEREAS, materials submitted in support of the proposed action include:

- Application for Wetland Activity Permit Approval;
- Application for Site Development Plan Approval;
- Short EAF, Insite Engineering, Surveying & Landscape Architecture, P.C., February 29, 2008;
- Fox Valley Park Amended Site Plan, Scott W. Blakely, RLA, Insite Engineering, Surveying & Landscape Architecture, P.C., February 25, 2008; and

WHEREAS, the Planning Board has considered the proposed action at a duly noticed joint (Wetlands and Site Plan) Public Hearing opened and closed on April 8, 2008, at which time all interested parties were afforded an opportunity to be heard; and

WHEREAS, the Planning Board has considered the application materials submitted by the applicant in support of the proposed action, the comments of the Board’s consultants made via memoranda (which memoranda are incorporated herein by reference) and verbal commentary during the Planning Board’s meetings and joint Public Hearing pertaining to the review and evaluation of the proposed action;

SEQR NEGATIVE DECLARATION

NOW THEREFORE BE IT RESOLVED, that the Planning Board of the Town of Lewisboro hereby determines, pursuant to the provisions of SEQR 6 NYCRR Part 617, that the proposed Unlisted action will not have a significant effect on the environment and that preparation of an Environmental Impact Statement will not be required, thereby issuing a Negative Declaration; and

BE IT FURTHER RESOLVED, that the Planning Board relies on the following reasons to support its SEQR determination of non-significance:

A. The proposed action consists of minor disturbances for accessory recreational park features intended to facilitate health and fitness;

B. The construction aspects of the proposed action primarily consist of the widening of an existing dirt trail and installation of informational signage, thus related physical and environmental adverse impacts will be generally limited to the location of the existing trail;

C. The existing trail and portions of the proposed site improvements are located within locally-regulated wetland buffer areas. Related land impacts will be minimal and limited to use of stepping stones and a prefabricated bridge to cross wet areas. The trail surface will remain in its natural condition following existing contours. Excavation for the par course signage will be limited to small hand dug holes (approximately 1 foot in diameter and 3.5 feet deep). No filling is required or proposed as the existing grade will be reestablished following installation of the signage;

D. The proposed action will provide a new recreational component to Town Park facilities, thus increasing available recreational opportunities accessible to the public for passive and/or active recreation (walking or par course exercising) and is considered a beneficial impact;

E. The proposed action will not result in any impacts on the growth and character of the community or surrounding neighborhood, nor on any areas designated as a Critical Environmental Area;
F. Upon review of the potential environmental impacts associated with the proposed action, no significant adverse environmental impacts on topography, soils, geology, surface or groundwater, air or noise quality, agricultural or open space land resources, energy, traffic, public health, or historic and archeological resources are anticipated; and

WETLAND ACTIVITY PERMIT APPROVAL

BE IT FURTHER RESOLVED, that it has been demonstrated that the proposed regulated wetland buffer area activities will not have significant adverse impacts on the public health and welfare, as mandated under Section 217-8B of the Town of Lewisboro Wetlands and Watercourses Law, including impacts on such wetland functions as water quality preservation, flood control and wildlife habitat. All proposed action activities will occur within areas previously disturbed (existing trail); and

BE IT FURTHER RESOLVED, that the Planning Board has taken into consideration the overall impact of the proposed action and existing and reasonably anticipated similar activities, upon neighboring land uses and wetlands, watercourses and/or buffer area functions, including but not limited to:

- Direct impacts to the site stream will be limited to and mitigated by the installation of a prefabricated plank bridge to replace an existing bridge in disrepair and installation of stepping stones at the second existing trail stream crossing. These improvements will improve the existing stream crossings;
- Direct impacts to associated regulated 150-foot wetland/watercourse buffer area will be limited to minor widening of the existing approximately 1-foot wide trail to 3-feet;
- Disturbance or destruction of native flora and fauna will not occur as the activities involve utilization of an existing trail and tree removal is not necessary to widen the trail;
- There will be no reductions or increases in wetland or watercourse water supply, or interference with wetland or watercourse water circulation, flow or existing physical and chemical conditions;
- The trail provides residents with an appropriate access from which to experience site wetlands and buffer areas and increases the recreational functions of the Town's wetland resources with only minor modifications; and

BE IT FURTHER RESOLVED, that the Planning Board hereby finds that there are no practical or reasonable alternatives to the proposed action; and

BE IT FURTHER RESOLVED, that upon full consideration of the above, the Planning Board hereby finds that the application of the Town of Lewisboro for a Wetland Activity Permit is consistent with the provisions and policies of Chapter 217 of the Code of the Town of Lewisboro and said permit is approved, subject to the following conditions and issuance of a separate Wetland Activity Implementation Permit by the Wetland Inspector:

CONDITIONS OF PERMIT IMPLEMENTATION

W1. The Wetland Activity Permit granted herein shall not take effect until the Site Development Plans (Site Plans) also approved herein are revised and filed with sufficient copies of same in the office of the Planning Board as required below.
W2. The Site Plans also approved herein, as signed final by the Planning Board Chair and Secretary, shall also constitute the approved Wetland Activity Permit Plans.

W3. No construction activity shall commence prior to the issuance of an authorized Wetland Activity Implementation Permit by the Wetland Inspector and a Building Permit by the Building Inspector, if required.

W4. Prior to the issuance of a Wetland Activity Implementation Permit by the Wetland Inspector, the owner/applicant shall provide a written statement to the Planning Board Secretary acknowledging that they have read, and will abide by all conditions of this Resolution.

CONDITIONS OF WETLAND ACTIVITY CONSTRUCTION

W5. There shall be no clearing, grading, removal of vegetation, or other alteration except as shown on the approved and signed Site Plans.

W6. Any changes or modifications to the regulated activities approved herein or for any other disturbances or alterations of wetlands, watercourses or associated 150-foot buffer areas shall require the prior review and approval by the Planning Board.

PRIOR TO ISSUANCE OF CERTIFICATE OF COMPLIANCE

W7. Prior to issuance of a Certificate of Compliance by the Wetland Inspector, all site improvements shall be completed in accordance with the approved Site Plans. The owner shall be responsible for all work and ongoing future maintenance thereof, and shall request the Wetland Inspector to inspect completed work in support of its request for a Certificate of Compliance. Incomplete work or unsatisfactory site conditions shall be remediated immediately upon notice by the Wetland Inspector or his authorized representative, and failure to remediate shall subject the work to suspension or cause the commencement of permit revocation proceedings and issuance of a Notice of Violation.

W8. A Certificate of Compliance shall be deemed to authorize the initial and continued activity and use affecting the regulated resources so long as continued full conformity and compliance are maintained with the terms and conditions of this Resolution and the provisions of the Town’s Wetlands and Watercourses Law, as it may be amended from time to time.

WETLAND ACTIVITY PERMIT APPROVAL EXPIRATION

W9. As provided pursuant to the Town’s Wetland and Watercourse Law, this Wetland Activity Permit is subject to revocation should the owner not comply with the terms and conditions of this Resolution.

W10. This Wetland Activity Permit shall expire without further written notice if the conditions of this Resolution are not completed as set forth herein.
W11. This Wetland Activity Permit shall expire two (2) years from the date of the filing of the Site Plans approved herein, unless a Certificate of Compliance as required above has been obtained prior thereto.

SITE DEVELOPMENT PLAN APPROVAL

BE IT FURTHER RESOLVED, that upon full consideration of the above, the Planning Board hereby finds that the application of the Town of Lewisboro for Site Development Plan Approval for the proposed action is consistent with the provisions and policies of Chapter 220 of the Code of the Town of Lewisboro and said permit is approved, subject to the following conditions:

PRIOR TO PLANNING BOARD ENDORSEMENT OF FINAL SITE PLANS

The following conditions shall be completed by the applicant prior to endorsement of the Site Plans as Final by the Planning Board Chair and Secretary:

S1. Within six (6) months of the date of this Resolution of Approval, the applicant shall submit nine (9) original copies of the Site Plan (Fox Valley Park Amended Site Plan, Sheet SP-1, as prepared by Insite Engineering, dated February 25, 2008), all endorsed with an original signature of the Town of Lewisboro Supervisor, for final review by the Town Consulting Engineer and signature by the Planning Board Chair and Secretary. This Resolution authorizes only the activities approved herein and as delineated on the signed and filed final Site Plans. Any alterations or modifications to the approved Site Plans or approved facilities shall require the prior review and approval of the Planning Board of the Town of Lewisboro.

PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY

The following conditions shall be completed by the applicant prior to the issuance of a Certificate of Occupancy or Completion:

S2. Prior to the issuance of a Certificate of Occupancy or Completion, Station #3 shall be relocated outside of the regulated buffer area, as shown on the Site Plan, and all settled areas at the base of the par course exercise signage (around the concrete filled sono tubes) shall be restored to pre-excavation conditions and grade by compacting and racking the exposed soil in the surrounding area and then seeding and mulching.

S3. Prior to the issuance of a Certificate of Occupancy or Completion, all associated site improvements shall be completed and the Town Consulting Engineer and/or Wetland Inspector shall confirm that all such approved site improvements have been completed in accordance with the final signed Site Plan.

S3. Failure to comply with any of the conditions set forth herein shall be deemed a violation of this Approval, which may lead to the revocation of said Approval, or the revocation by the Building Inspector of any issued Certificate of Occupancy pertaining thereto.
S4. A Certificate of Occupancy or Completion shall be deemed to authorize and is required for both initial and continued occupancy and use of the building or land to which it applies, and shall continue in effect as long as such building and the use thereof, or use of such land, is in full conformity with the provisions of the Lewisboro Zoning Ordinance and any requirements made pursuant thereto.

**APPROVAL EXPIRATION**

**BE IT FURTHER RESOLVED,** that this Approval shall be deemed to authorize only the particular site use and improvements specified herein, and shall be null and void without further written notice, if revised Site Plans are not signed as final within six (6) months as required above, or a Building Permit as appropriate is not obtained and work initiated pursuant thereto within one (1) year, or if the approved improvements are not completed and a Certificate of Occupancy is not obtained within three (3) years from the date of this Resolution, or if the construction or use shall cease for more than one (1) year for any reason, or if the approved improvements are not maintained and all conditions and standards complied with; and

**BE IT FURTHER RESOLVED,** that the time frames set forth in this Resolution of Approval may only be amended or extended by the Planning Board. Any request for extension of the Approvals granted herein shall be made in writing a minimum of forty-five (45) days prior to the expiration date as stipulated in this Resolution of Approval, and shall state the circumstances for the requested extension. In considering any such requests, the Planning Board may require an Amendment review and may require a Public Hearing.

**ADOPTION OF RESOLUTION**

**WHEREUPON,** the Resolution herein was declared adopted by the Planning Board of the Town of Lewisboro as follows:

The motion was moved by ________________________________

The motion was seconded by ______________________________

The vote was as follows:

P.J. ROSSI
JOSEPH DECAMINADA
MAUREEN MAGUIRE
RICHARD ELLRODT
JOHN GUSMANO

P.J. Rossi, Chair

Date: 3/15/08
RESOLUTION
TOWN OF LEWISBORO PLANNING BOARD

PRELIMINARY SUBDIVISION PLAT APPROVAL

TOWN OF LEWISBORO (TOWN BOARD)
LEON LEVY PRESERVE
ROUTE 123 / ROUTE 35
(Sheet 40, Block 10263, Lot 1)
Cal. #7-06 P.B.

APRIL 15, 2008

WHEREAS, the Town of Lewisboro Planning Board has received an application from the
Town of Lewisboro (Town Board) for Preliminary Subdivision Plat Approval for a 4-lot subdivision of
an existing approximately 145 acre parcel (hereinafter referred to as the “proposed action”); and

WHEREAS, the subject property is located at the southwesterly intersection of Old Post Road
(NYS 35) and Smith Ridge Road (NYS Route 123), partially within an R-4A One-Family Residence
District and partially within an R-2A One-Family Residence District, as identified on the Town of
Lewisboro Tax Assessor Maps as Sheet 40, Block 10263, Lot 1; and

WHEREAS, the subject property is one of many parcels collectively known as the “Leon Levy
Preserve” comprising a total of approximately 390 acres; and

WHEREAS, the proposed subdivision application consists of the subdivision of Lot 1 into
three individual building lots, which each will include one of the three existing residences located at
the intersection of NYS Route 35 and NYS Route 123:

Lot 1: An approximate 2.28 acre Building Lot;
Lot 2: An approximate 2.35 acre Building Lot;
Lot 3: An approximate 3.33 acre Building Lot; and

WHEREAS, the balance (proposed Parcel A) will remain as an open space parcel (except one
acre to be conveyed and merged with the adjacent Reifenheiser property at the southwesterly reaches of
the parcel, for which Final Subdivision Plat Approval was granted on June 26, 2007); and

WHEREAS, the proposed subdivision application also involves the simultaneous merger with
proposed Parcel A of several other adjoining Leon Levy Preserve parcels as follows:

- Parcel A (balance of Tax Lot 1, Block 10263, Map 40) 134.893 acres
- Tax Lot 3, Block 10263, Map 40 9.938 acres
- Tax Lot 11, Block 10263, Map 40 10.678 acres
- Tax Lot 12, Block 10263, Map 40 4.918 acres
- Tax Lot 52, Block 10263, Map 42 1.012 acres
- Tax Lot 60, Block 10263, Map 42 1.009 acres

For a total combined area of Parcel A of approximately 162.448 acres; and
WHEREAS, the acquisition and preservation of the Leon Levy Preserve contemplated the subsequent subdivision and potential sale, if necessary, of the existing dwellings located thereon; and

WHEREAS, each of the above lots will include complying minimum street frontage, as well as all applicable minimum lot area and bulk requirements of the underlying R-2A Zoning District in the case of proposed Lots 1, 2 and 3, and both the R-2A and R-4A Zoning Districts in the case of proposed Parcel A; and

WHEREAS, proposed Lots 1, 2 and 3 are entirely located within an R-2A One-Family Residence District, while proposed Parcel A is partially located in an R-2A One-Family Residence District and partially in an R-4A One-Family Residence District; and

WHEREAS, each dwelling is presently served by a separate on-site subsurface septic system and individual water supply well; and

WHEREAS, a septic reserve system (or expansion) area has been identified for each of three building lots proposed as shown on the Subdivision Plans. Related soil testing for the expansion areas for each system was witnessed by both NYCDEP and WCDH with the Town Consulting Engineer. No changes to the existing systems are proposed in connection with the instant application for subdivision; and

WHEREAS, electric and telephone service is provided via existing overhead lines located in the adjacent Old Post Road (NYS Route 35) and Smith Ridge Road (NY Route 123) road rights-of-way; and

WHEREAS, street access to the three proposed building lots will remain via the existing single driveway from Old Post Road (NYS Route 35), subject to the provisions of a Common Driveway Access and Maintenance Agreement; and

WHEREAS, the existing driveway also presently provides easement access to a land-locked approximately 4 acre out-parcel (not part of the larger Preserve property) associated with an existing communications tower, which easement will not be affected or altered by implementation of the proposed subdivision; and

WHEREAS, the existing paved driveway will be redeveloped to provide a flattened entry at Old Post Road (NYS Route 35), drainage improvements and a new pavement surface; and

WHEREAS, a Common Driveway Access Easement and Maintenance Agreement and other necessary easements associated with the location of existing utilities and drainage improvements will be subsequently established with the filing of the Final Approved Subdivision Plat; and

WHEREAS, subsequent filing of the Final Subdivision Plat will also result in the establishment of an Access Easement in favor of Parcel A over the existing driveway; and
WHEREAS, the subject property includes areas of regulated Federal, State and local wetlands, as well as locally regulated 150-foot buffer areas and State regulated 100-foot Adjacent Area associated with portions of NYSDEC Wetland L-37 and NYSDEC Wetland D-5; and

WHEREAS, none of the subject property’s water-related resources and associated buffers affect or impact the continued use or future development potential of proposed Lots 1, 2 and 3. A very small fringe area of local 150-foot regulated wetland buffer occurs within proposed Lot 1 only, which area is within the front yard building set back located along the frontage of Smith Ridge Road; and

WHEREAS, the only site disturbances proposed in relation to the proposed subdivision involves improvements to the existing driveway and its related drainage. Proposed site disturbance will impact an area of less than 0.5 acre and thus is under all State (NYSDEC), NYCDEP and local thresholds required for a Stormwater Pollution Prevention Plan and related stormwater permits; and

WHEREAS, materials submitted in support of the proposed action include:

- Application for Preliminary Subdivision Plat Approval;
- Final Subdivision Plat, Sheets 1 and 2, RKW Land Surveying, September 16, 2003, revised August 30, 2007;
- Cover Sheet, Sheet 1, Altematt Engineering LLC, December 20, 2005, revised March 11, 2008;
- Integrated Plot Plan, Sheet 2, Altematt Engineering LLC, December 20, 2005, revised March 11, 2008;
- Soil Erosion Control Details, Sheet 3, Altematt Engineering LLC, December 20, 2005, revised March 11, 2008; and

WHEREAS, a SEQR Negative Declaration (pertaining to a larger SEQR Type 1 action for which the proposed subdivision action described herein is only a component) was issued in accordance with SEQR 6 NYCRR Part 617 and LEQR by the Lewisboro Town Board, as lead agency, on June 27, 2005 pursuant to a coordinated environmental review for which the Planning Board was an involved agency; and

WHEREAS, on June 3, 2006, the Planning Board conducted a site visit of the subject property with its consultants and representatives of the applicant and Town of Lewisboro Conservation Advisory Council; and

WHEREAS, on April 8, 2008, a duly noticed Public Hearing on the proposed action was opened and closed, at which time interested parties were provided an opportunity to be heard on this matter; and

WHEREAS, in response to a referral to the Westchester County Planning Board in accordance with §§239-1, m and n of the General Municipal Law and §277.61 of the County Administrative Code, the Westchester County Planning Board recommended that a “no disturbance buffer” area be required along the frontage of Old Post Road and the common property line of the Preserve (Parcel A) consistent with recommendations of the Town’s Master Plan; and

WHEREAS, in response, a series of restrictive buffer areas limiting future tree clearing and grade alteration are proposed along the frontage of Old Post Road (NYS Route 35), as well as along portions of the shared property lines of the Leon Levy Preserve (Parcel A) as shown on the Final Subdivision Plat; and
WHEREAS, the Planning Board has considered the application materials submitted by the applicant in support of the proposed action, has considered the comments of the Board’s consultants made via memoranda (which memoranda are incorporated herein by reference) and verbal commentary during the Planning Board’s meetings and Public Hearing pertaining to the review and evaluation of the proposed action;

PRELIMINARY SUBDIVISION APPROVAL

NOW THEREFORE BE IT RESOLVED, that since no increase in potential number of dwelling units is proposed and approximately 94% of the overall acreage of the subject property will remain as public accessible open space as part of the larger Town of Lewisboro Leon Levy Preserve property, further reservation of land for a park, playground, or other recreation purposes is not warranted or required; and

BE IT FURTHER RESOLVED, that upon full consideration of the above, the Planning Board of the Town of Lewisboro hereby grants Preliminary Subdivision Plat Approval to the Town of Lewisboro (Town Board) as described above, subject to the following conditions:

TO BE COMPLETED PRIOR TO APPLICATION FOR FINAL APPROVAL

The applicant shall complete the following conditions prior to any subsequent submission of an application for Final Subdivision Plat Approval:

1. Signature on the proposed Plat by the Westchester County Health Department is hereby waived as a submission requirement of an application for Final Subdivision Plat Approval.

2. A **Final Subdivision Plat** shall be prepared by a New York State licensed land surveyor and submitted in accordance with the requirements and standards set forth in §195-16 and §A-5 of the Land Subdivision Regulations. The Plat shall also be revised to include the proposed driveway drainage improvements within an expanded Common Driveway Easement area.

3. **Final Construction Plans** shall be prepared and submitted in accordance with the requirements and standards set forth in §195-16 and §A-6 of the Land Subdivision Regulations, and shall also be revised as follows:

   **Cover Sheet (Sheet 1)**

   a. Include appropriate notation in regard to the existing separate approvals previously granted pertaining to the shown and referenced Leon Levy Preserve Parking Area and Reifenheiser Lot Line Change.

   b. Delete the “Summary of Lot Area” table.

   c. Delete reference to Town Attorney and Environmental Consultant.

   d. Revise the “Site Data” to be consistent with the Plat.

   e. Revise Note #6 consistent with the April 3, 2008 correspondence letter from NYCDEP.
Integrated Plot Plan (Sheet 2)

f. Show and label the Restrictive Buffer Areas consistent with the Plat, as well as all other easement areas.

4. Draft proposed legal instruments shall be prepared and submitted for review and approval pertaining to the following:

- Common Driveway Access, Drainage and Maintenance Agreement.
- Access easement over the common driveway (within Lot #3) granted to Parcel A, as to be retained by the Town of Lewisboro.
- Utility Easements as appropriate.
- Buffer Area Restrictions.

APPROVAL EXPIRATION

5. This Preliminary Subdivision Plat Approval shall expire and be revoked, without further notice, unless a revised Plat, prepared in final form as set forth in §195-16 of the Land Subdivision Regulations of the Town of Lewisboro, and as required herein, is submitted within six (6) months of the date of this Resolution, unless such time has been extended by the Planning Board, as may be granted, upon request of the applicant in writing, stating the reason or justification for such extension, prior to said expiration.

6. No site work, clearing or construction activity is authorized to commence pursuant to this Resolution of Preliminary Subdivision Plat Approval.

ADOPTION OF RESOLUTION

WHEREUPON, the Resolution herein was declared adopted by the Planning Board of the Town of Lewisboro as follows:

The motion was moved by Richard Ellrodt

The motion was seconded by Maureen Maguire

The vote was as follows:

P.J. Rossi
Joseph Decaminada
Maureen Maguire
Richard Ellrodt
John Gusmano

Date

P.J. Rossi, Chair
RESOLUTION
TOWN OF LEWISBORO PLANNING BOARD
ESTABLISHMENT OF INITIAL ESCROW DEPOSIT
ENGEL-GOLD SUBDIVISION AMENDMENT
SHEET 10, BLOCK #152, LOTS 5 (ENGEL) and 270 (GOLD)

APRIL 15, 2008

WHEREAS, § 220-77B of the Town of Lewisboro Zoning Ordinance authorizes the Planning Board to refer any application to professionals as deemed reasonably necessary to assist in the review of such application; and

WHEREAS, § 220-77C of the Zoning Ordinance establishes escrow account procedures and according to those procedures, the Planning Board may require the establishment of an escrow account, from which withdrawals shall be made to reimburse the town for the cost of professional review services related to the proposed action; and

WHEREAS, when the balance in any such escrow account is reduced to one-half (½) of the full escrow deposit amount, the applicant shall deposit additional funds into such account to bring its balance up to one hundred percent (100%) of the amount of the full escrow deposit, or to some lesser amount as deemed acceptable by the Planning Board to complete the proposed action; and

WHEREAS, the Planning Board may suspend its review of the proposed action if such account is not replenished accordingly; and

WHEREAS, a Building Permit or Certificate of Occupancy shall not be issued unless all professional review fees charged in connection to the proposed action have been reimbursed to the town; and

WHEREAS, after all pertinent charges have been paid, the town shall refund to the applicant any funds remaining on deposit;

NOW THEREFORE BE IT RESOLVED, that based on estimates of anticipated review costs from the Planning Board's consultants, excluding applicable SEQR related review costs, the Planning Board hereby determines that an initial escrow deposit in the amount $4,000.00 shall be established relating to the application for Subdivision Amendment and Wetland Activity Permit Approvals; and

BE IT FURTHER RESOLVED, that the Planning Board Secretary is directed to inform the applicant(s) of the initial escrow account required and to notify the applicant(s) of the escrow procedure in § 220-77 of the Town of Lewisboro Zoning Ordinance.

The motion was moved by Joseph Decaminada

The motion was seconded by Richard Ehrman

The vote was as follows:

Ayes 5  Nays 0  Absent 0  Abstentions

Date: April 15, 2008  By: P.J. Rossi, Planning Board Chair