

Town of Pine Plains Zoning Commission Minutes
December 6, 2006

Members Present: Jon DePreter, Peter Caldwell, Gary Keeler, Helene McQuade, Scott Chase, Vikki Soracco, Nan Stolzenburg (Consultant)

Members Absent: Margo Jackson

Guests: Warren Replansky, (5) members of the public

Meeting called to order at 5:25 PM.

DePreter explained that Warren Replansky is in attendance and that he had submitted a pretty substantial set of comments on the zoning law. DePreter stated that some of the comments are small issues and some are larger.

DePreter asked for a motion to adopt the minutes from the previous meeting. Caldwell motioned to adopt the November 8, 2006 minutes. Seconded by McQuade. All in favor.

DePreter stated that the Town Board has asked the Commission to discuss the moratorium and approximately how much time the Commission will need to finish its work.

DePreter stated that the Commission went through the discussion about multi-family housing very quickly. DePreter went on to state that the idea is to talk with Replansky to see what format we are going to use for reviewing Replansky's comments but otherwise the plan would be to go through the draft zoning law and the number of discussion points that Stolzenburg has noted. DePreter stated that the first discussion point is on page 17 and that he would like to go through and start talking about it.

DePreter stated that the Commission had a discussion at the end of the last meeting about the modifications of density or dimensions permitted and there was a discussion on multi-family dwellings. DePreter stated that the group decided that they were in favor of making the recommendation of four dwelling units per acre for the hamlet. DePreter stated that he recalls that the Commission agreed with a 4-0 vote. DePreter further stated that the one question he thought of was whether there would be a requirement for a septic approval. DePreter explained that in Replansky's comments he says that it has to be made clear if sewage is a community septic or a municipal one. DePreter stated that is a different question but in this particular case he does want to clarify this and wants to know when the Commission voted on this was everyone thinking of this as being if someone could qualify on an acre of land with the Board of Health to get four units on the property then they would qualify. DePreter stated that he thinks what is important is that a multi-family could have one apartment or it could have three. DePreter explained that there are three bedroom houses that could fit on the same piece of land or if it's three

one bedroom apartments, it might not be that big a difference. DePreter asked around the table for the Commissions comments. Caldwell stated that he felt multi-family dwellings need to meet the public health septic requirement. McQuade stated that she had noted that it was for the Hamlet, Center Residential Hamlet, Residential and Main Street. DePreter stated yes. Soracco asked if what it comes down to is as long as the Board of Health will approve it. DePreter stated yes. Soracco asked if it is less than an acre and they will accept it, can it still be four units. DePreter stated that is a good question and explained that it would be four units per acre and two per half acre. DePreter stated that he thinks the density would be set, unless the Commission wants to say as much as the septic could handle but he thinks what we are trying to do is set an outside threshold so he thinks it would be four units on an acre and if you have three quarters of an acre it would be three units and on a half acre, it would be two units. Brief discussion followed. DePreter asked if everyone is on the same page and if we're saying if someone can qualify for a septic it is not the sewage allowance that we have here. DePreter read the Commission's previous vote from the November 8, 2006 minutes, which read, **"The Commission members agreed to permit multi-family dwellings with a special use permit and site plan review in the Hamlet Residential Area, the Hamlet Center Residential Area and the Main Street Overlay. The Commission further agreed that in no case shall the density exceed four (4) dwelling units per acre of buildable land and that the Planning Board shall determine the maximum density for multi-family dwellings in each case based upon relevant special use permit and site plan review criteria and the standards in this Draft Zoning Law"**. DePreter stated that means that would be the maximum that someone could get and they would have to get a special use permit anyway. DePreter further stated that would mean four dwelling units per acre of buildable land but we can ask Stolzenburg and Replansky if it needs to be worded in a different way.

Caldwell stated that the Commission hasn't finished the discussion on incentives. DePreter stated that we are done with the decision of allowing the density bonus in the Agricultural Area, Rural Area and the Main Street. DePreter stated that we had no density bonus in the Wellhead Area.

Replansky and Stolzenburg came to the table. DePreter stated that while the Commission has Replansky in attendance he would like have a discussion about the moratorium extension so a letter can be written to the Town Board. Replansky asked when the moratorium expires. Pineda stated it expires on January 23, 2007. Replansky stated that there isn't much time so there needs to be a recommendation immediately indicating how long the Commission thinks it will take to complete their work. Replansky explained that he suspects that the Town Board will then make a decision to extend the moratorium.

DePreter asked Replansky and Stolzenburg if they had any ideas on the timeframe since they both have some experience with this sort of thing. Replansky stated that he feels the Commission has a lot more work to do. Stolzenburg agreed and stated that there are a lot of details that haven't been discussed yet. Stolzenburg stated that the Commission needs to come up with a way of making the meetings more efficient with less in depth discussion. DePreter stated that he thinks the Commission is going to try to through the

draft zoning law now and discuss the bullets included by Stolzenburg. DePreter stated that he thinks it's going to be incumbent on everyone really reading these bullets so when they come in, they are really ready to make a decision on them. DePreter agreed that he thinks the Commission needs to find a way to move more efficiently.

Replansky went on to explain the content of his memo to the Commission which he stated that he feels should be a confidential memo at this point and would rather not make it public yet but he can discuss some issues with the Commission so they can get an idea. Replansky stated that basically he devoted the first portion of his letter to comments concerning the way the Commission utilized the net density control formula and the fact that there are no minimize lot sizes in the Rural and Ag Districts. Replansky stated that he has some real problems with that which he discussed in his letter and part of it might be relieved by needed amendments or additions to the zoning law. Replansky further stated that then he had gone through the zoning law, not word by word, line by line but he read it through and what he did was he gave the Commission representative comments on certain portions. Stolzenburg asked Replansky if someone like herself could take his comments and put them in the same kind of boxes that we have all of the other comments so when the Commission goes along her comments and Replansky's comments will all be right there pooled together for the Commission to discuss. Replansky stated that some of his comments are simply style and editing and some are regarding terms that are confusing and some related to really hot button issues that really need a lot more work like the control of cellular towers and gravel mines and others refer to the fact that there are no definitions of certain key items. Replansky stated that a lot of it is that it is a very preliminary draft and he recognizes that but some editing might help. DePreter stated some of Replansky's questions have already been answered in recent discussions. Stolzenburg stated that there have been many months of discussion that has already updated the document but the changes have not been made in hard copy yet.

Replansky stated that affordable housing and incentives are very important components to any zoning law. Chase stated that when the Commission was polled we had all, except the Chairman, been in agreement to mandate a percentage of affordable housing. Replansky stated that there are all kinds of ways of doing it and one way would be incentives and another way is to encourage accessory dwellings. Stolzenburg stated that both of those options are already in the plan. Replansky stated that at some point we should probably have some evaluation of what our affordable housing needs are so we can back this up and the Commission can probably work in conjunction with Dutchess County so they can determine what our local and regional needs are and make sure that this zoning law addresses that. Discussion followed regarding the importance of including affordable housing into the zoning law and the items on affordable housing that are already in the zoning law.

DePreter asked Replansky and Stolzenburg since they are consultants who have worked with other towns, if there is a more efficient way that the Commission can be reviewing the draft law other than going through it page by page. Stolzenburg stated that there is no efficient way of doing it. Replansky stated that the Commission may have spent a lot of time dealing with issues regarding net density and minimum lot sizes and that's important

but there is a whole host of other things that make up a zoning law that are very important also and they require a lot of discussion and he thinks that the Commission needs to move more quickly and deal with these issues more efficiently. Replansky stated that the Commission doesn't have the luxury at this time to engage in theoretical discussions. DePreter agreed.

Caldwell commented on Replansky's concern that the Commission hasn't specified minimum lot size or a minimum acreage in the Rural or Agricultural areas of the town. Caldwell stated that the Commission did that quite deliberately because we wanted the less than wealthy individuals who want to build a house to be able to build a house without having to buy a minimum of 5 acres or 10 acres, etc. Caldwell explained that the Commission thought that as long as there is a parcel of land large enough to put in a septic system and a well and have adequate automobile access, someone should be allowed to build an individual residence on it. Caldwell asked Replansky if there is anything wrong with doing that. Replansky stated that there isn't anything wrong with the concept but he feels there is a lot wrong with the way the Commission approached it. Replansky stated that he has never seen a zoning ordinance that approaches density and minimum lot size in this manner. Replansky explained that the failure to have a minimum lot size in the Rural and Agricultural districts is a critical failing of the zoning law because it's going to create overly complex and difficult methods of subdividing property and record keeping. Replansky stated that his biggest complaint about it is that what you are in effect allowing a subdivider to do is cluster, subdivide a large piece of property without the usual protections and criteria and provisions that are put in cluster subdivisions. Discussion followed.

DePreter stated that the Commission had agreed to make this clustering discretionary for the Planning Board given a set of guidelines. Replansky asked if the Planning Board will be able to mandate it. DePreter stated yes. Replansky stated that he thinks that is an important tool. DePreter stated that the Commission didn't want to make it mandated for every subdivision because we felt that would be too restrictive so we have given the Planning Board discretionary power to mandate clustering. Brief discussion ensued. Replansky stated that he has never seen it done like this so he doesn't know if it's workable. DePreter stated that he thinks in the Comprehensive Plan it was pretty clear that no minimum lot size was one of the major conceptual components of the plan. Replansky stated that Comprehensive Plans can also be changed and very often you get to the zoning and you go back and change the Comprehensive Plan so those are not inscribed in stone. Replansky explained that if you find that the concepts don't work, you don't have to stick with the Comprehensive Plan if it results in something that isn't workable.

Replansky stated that he would recommend getting the county involved sooner instead of later so the Commission can have the benefit of the county's input now rather than at the end of the process having the county say this is not going to work or that they are opposed to it. Replansky stated that he would also recommend that the law be referred as soon as possible to Ag and Markets for their review because there are a lot of issues regarding unreasonable restrictions on farming operations which Ag and Markets usually

weigh in on. Replansky stated that he noticed some things in the law that might be restrictive of the right to farm law. Chase stated that Replansky talked about keeping track of the no minimum lot size issue and affordable housing and asked Replansky if there were other major issues that the Commission should talk about conceptually. Chase stated that he thinks that probably the best thing to do would be to let Stolzenburg go through what Replansky has written because there have been significant discussions since this draft first came out which may have addressed some of the issues already. Chase stated that he thinks that when Stolzenburg goes through Replansky's list she will probably eliminate 75 – 80% of the concerns. Replansky stated hopefully.

Replansky stated that he had another concern regarding the net density formula in terms of applying it to all subdivisions. Replansky stated that he sees it as a fairly expensive, cumbersome process. Replansky explained that if you have a 200 acre parcel and you're doing a 20 or 30 lot subdivision then it's not unreasonable to go through all of that expense but in terms of the formula in order to apply it to every subdivision, you have to have a surveyor identify what is on the property and that's a lot of surveyor costs. Replansky stated that the Commission might want to consider applying that formula to major subdivisions rather than to minor subdivisions. Replansky further stated that he has no objection to the concept of a net density formula in terms of determining what your actual buildout is even in a traditional subdivision but he has a problem with listing the soils of statewide significance and prime soils as environmental constraints. Replansky stated that he doesn't see those as environmental constraints on the same level as wetlands or steep slopes. Replansky stated that he sees those as things that you want to protect to the maximum extent practicable but he feels that the Commission is giving the farmers a double hit if you subtract from their maximum buildout because they have 20 acres of prime or statewide significant soils and then if it's the Commission's intention when they subdivide to further restrict them so that they can't build on those soils to the extent practicable and they can't put houses on them, they are basically being restricted twice. Discussion followed.

DePreter asked Replansky if there are anymore larger issues. Replansky stated that what he mentioned already were the larger issues. DePreter stated that Replansky thought the use schedule was overly restrictive. Replansky stated that is one of his minor issues. Replansky stated that he does think the uses are a little restrictive and the Commission might want to consider expanding the allowable uses and in many cases, the uses don't have definitions. Stolzenburg stated that is because the uses were added in after the draft zoning law was done. Replansky stated that he thinks it's important to have a user friendly, understandable zoning law. Replansky stated that zoning laws are always hard to understand but when he tried to read this one it took him a while to understand the density. Replansky stated that part of it was that it wasn't well explained. Discussion followed.

DePreter stated that one of the things that the Commission talked about briefly is the fact that all of the buildouts that were done for the public presentation were done using the GIS information. DePreter stated that essentially all of that information can be broken down and although that information is not exact, it is a thought that possibly what people

can do to get to Replansky's point about the expense for people is we can possibly have that on the town computer system and people could access it and find out according to our formula how many homes they would be able to get. DePreter stated that they can either use that information or if they would like to have more properties or if they want to challenge that then they can pay for the survey. DePreter stated that if cumbersome is the problem then maybe one approach is to look at how we can make it less cumbersome if we had it on the property card. Discussion followed.

Replansky stated that his major concern is about allowing someone with a large lot to essentially create a clustered subdivision of small lots without the traditional cluster subdivision protection. Stolzenburg asked Replansky what he is referring to when he says the typical cluster subdivision. Replansky stated that normally when you have clustered subdivisions there are all kinds of criteria and that normally in clustered subdivisions the board, if it's mandating it or if it's optional, is looking to achieve a certain end purpose such as preservation of open lands and you don't want the lot sizes to be too small and you want to control the configuration of the lot sizes and keep them away from not only environmental constraints but protect view sheds and things like that. Discussion followed.

DePreter asked Replansky if he would be comfortable going through the use table and commenting on what he thinks was too restrictive. Chase stated that he doesn't think it's worthwhile at this point. Replansky stated that he isn't a planner, he's a lawyer and in a lot of his comments he identified a lot of legal hot button issues, non-conforming uses being one example. Replansky stated that he doesn't know if the Commission realizes it or not but almost everything in the town is going to be non-conforming so when you create your first zoning law you have to pay a lot of attention to how you want to deal with non-conforming uses. Replansky stated that there is a provision in the law but feels it needs a lot more work. Further discussion ensued regarding non-conforming uses and how they should be handled.

Replansky stated that regarding escrow fees, the town already has an escrow law so we can just take that and put it into the zoning law. Replansky stated that he would rather implement existing laws into the zoning law rather than to refer to a third party document.

DePreter stated that the Commission should probably get back to the discussion about how long the Commission thinks it will need to extend the moratorium. DePreter referred to Replansky and Stolzenburg stating that they have experience with this stuff. DePreter stated that he does think that the Commission has been pretty philosophical and that's been really good but we really have to go through these comments and people really need to come ready to make these decisions and just go around the table and vote on them. DePreter stated that saying that the Commission will do that and saying that Replansky and Stolzenburg will communicate and cull through some of this stuff how much time should the Commission ask for. Stolzenburg stated that she thinks the most helpful thing would be to move things along would be where there are three ways to address a particular issue that has arisen, rather than come to the meeting and say we

have to address this issue, just come forward with the three best options, and you make a decision on those three best options instead of leaving it open ended. Caldwell asked if Stolzenburg will be providing those options for the Commission. Stolzenburg stated that she will work with Replansky and provide the options. DePreter stated that he thinks if the Commission can do that then we can move quickly. Chase stated that he thinks the fastest the Commission will get through the process is six months and then the Town Board has to go through the environmental review process. Replansky stated that the Town Board also has to go through its own adoption process. DePreter stated that he was thinking six months for the Commission. After a brief discussion, Replansky stated that he will recommend a one year extension of the moratorium. Replansky stated that legally we are fine because the town is moving forward actively with our zoning law so from a legal standpoint, a year is highly defensible. Replansky stated that he would rather do one long extension instead of every six months.

Keeler suggested that if the Commission gets to some things that we're not that familiar with, maybe we can put them off for one meeting and ask Replansky to come and give us his advice on those issues. Keeler stated why make a bunch of decisions and then they go to Replansky and they come back as not being defensible. Replansky stated that there isn't that much in a zoning law that he is concerned about from a legal standpoint but there are five or six sections that are very critical. Replansky stated that another problem is that the uniform code for enforcement of the uniform code has new regulations coming out as of January 1, 2007 that provide for new statewide regulations to create uniformity. Replansky stated that he just drafted a local law for the town so that should be put into the zoning law. Replansky further stated that there are some things in the zoning about the building inspector administrating the zoning law but it has to be a zoning enforcement officer or a code enforcement officer and those things have to be clarified. Discussion followed regarding how to efficiently move forward with the zoning law. Replansky stated that he will commit himself to the Commission to try to get some of this done.

Replansky stated that we need a provision on cellular communications towers. Stolzenburg stated that we do need a cell tower law but asked if we need a cell tower law right now in this round of zoning or can that be added in later. Replansky stated that he has done a cellular communications towers law and that can be put into the zoning law. Replansky explained that the problem with not having a cell tower law is that you won't have any control. Stolzenburg stated that she agrees that there needs to be a cell tower law but the issue was, given the time that it takes to go through the discussions and make the decisions can we do everything at once and are there some things that could be done as an amendment or a local law at another time. Replansky stated that the danger is that the one thing that gets left out could be the one thing someone suddenly submits an application for and then nobody knows what to do with it. Replansky stated that he doesn't think it's wise to ignore some of the issues like gravel mining and cell towers. Stolzenburg stated that the mining comments are coming from Ray Jurkowski but he hasn't gotten them to the Commission yet. Replansky stated that he did a cell tower law years ago and many towns have utilized his law in different ways. Stolzenburg asked Replansky to send it to her and she can implement it into the zoning law. Discussion followed.

Replansky stated that he wouldn't leave out important provisions for the sake of expediency. Replansky explained that there are provisions that he feels are important. Stolzenburg asked Replansky to email those provisions to her so she can implement them into the draft zoning law.

Chase suggested that the Commission get back to settling the moratorium extension. Chase stated that our job is to make a recommendation to the Town Board and our recommendation is that we need at least six months and then we need the Town Board to figure out how much time they need to add on to that to do their part. Replansky stated that he would say six to eight months is needed for the Commission to complete their work. **Chase made a motion that the Chairman be authorized somehow to get a letter to the Town Board that conveys to them that the Commission needs six to eight more months. Motion seconded by Keeler. All in favor.**

DePreter stated that at the last meeting, the Commission had a unanimous vote to allow multi-family dwellings of four dwelling units per acre and he just wanted to clarify that it was with a Board of Health approved septic and it does not mean that the person would have to have a municipal sewer. DePreter stated that the Commission had agreed that was what their intention was. Replansky stated that the Commission talks in terms of sewer but there's no definition of sewer on the Table of District-wide base density. Replansky asked if the Commission is talking about municipal sewer or central sewer provided by the developer. Stolzenburg stated that she would have to go back to the minutes but she made a note that it was discussed but she didn't know what the Commission decided. DePreter stated that he thinks what was decided was that for individual dwelling units it would be a public sewage system. Stolzenburg stated that she thinks what Replansky is asking is if it's a sewer or if it's a privately developed sewer. Stolzenburg stated that she thinks that what the Commission decided was that it is OK if it's a private system and it didn't have to be a Pine Plains municipal sewer. Replansky explained that there needs to be a definition of sewer and an explanation of exactly what the Commission means.

Caldwell asked Replansky if he sees a hazard in authorizing a developer to put in a private sewer system for a specific development because of the long term maintenance requirements for that sewer system. Caldwell asked if that would fall back to the town's responsibility. Replansky explained that if a developer wants to create a private sewage system more than likely before they get DEC and Board of Health approval it will require the creation of a sewage works corporation under the transportation law. Replansky stated that to create a sewage works corporation, they have to come to the town and the town has to give its approval for the creation of the system and the town will require a bond be posted for the first 5 years of operation so if they do default within that period of time, the town has the option of taking over the system and can call upon the bond. Replansky stated that the problem is that after that period of time sometimes these systems go defunct for one reason or another and then property owners are clamoring for the town to take it over. Replansky explained that the town is not required to take it over but the town can. Replansky stated that there is a danger but it's not a danger to the town

if the town doesn't take over the system. Chase stated that he thinks it might be different for water and sewer. Chase explained that with water the town doesn't have to take it over but with sewer, he thinks the town is obligated to take it over. Replansky stated that some people have told him that so he will take another look at that. Discussion ensued.

DePreter stated that he noticed on page 13 of the draft zoning law that Stolzenburg noted that she isn't sure if a density bonus is appropriate in the wellhead area. DePreter stated that he doesn't think the Commission covered that. **DePreter asked the Commission if they feel there should be a density bonus in the wellhead area. Chase stated that he is happy to leave it as no. Keeler, DePreter, Caldwell and Soracco agreed. McQuade and Jackson were absent for the vote.**

Stolzenburg stated that there are several notes in the draft zoning law for Jurkowski to comment on and it would be nice for someone else to contact him other than herself. DePreter asked Pineda to write a letter to Ray Jurkowski asking him to submit his comments on the draft zoning law. Chase stated that he feels it might be a good idea to send a note to Roger Akeley from the Zoning Chairman requesting Anne Saylor to forward her document on affordable housing. Replansky asked if Anne Saylor is coming up with some sort of affordable housing model. Chase explained that one of the good things he sees about it is that there's going to be sort of a system whereby you try having a system of criteria to target local people first. Chase further explained that sometimes a town might run out of local people and then it goes to the next layer. Chase stated that nobody at the local level wants to play God and choose which family gets it so the county is talking about maybe setting up a countywide committee that would implement the affordable housing provisions at the local level and he feels that would take a big headache and big political difficulty away from the local municipalities and give it to a non-political entity that would run it. Replansky stated that we should also ask them about what studies or information they have for Pine Plains to compile some sort of data on what our affordable housing needs are. Discussion followed.

The Commission went on to review the draft zoning law. Keeler stated that he does not think the side setbacks of 15 feet are enough in the hamlet and he thinks they should be something like a combination of 30 feet with a 20 foot minimum on one side. Replansky stated that he doesn't know if that would be achievable. Stolzenburg stated that some of the lots are so small that she doesn't think that is realistic. Stolzenburg stated that if you have 15 feet on either side then that is 30 feet between structures. Keeler stated that you can't count on that because what people do is they start planting stuff down the sides and they start putting fences up and then there's a problem and you can't get to the back of the house. After some discussion, Replansky stated that he doesn't think the 15 foot side setback is a major issue. Keeler stated that he had a question regarding lot coverage and asked if lot coverage will be 30%. Replansky stated that there is no lot coverage provision. Stolzenburg stated that it just hasn't been added in yet. Stolzenburg explained that the entire table needs to be carefully reviewed and discussed. Stolzenburg stated that the table is kind of like a place holder because the Commission had not discussed it yet. Brief discussion followed.

Replansky stated that he didn't see a minimum setback requirement for front yards in the zoning law. Stolzenburg stated that she will add another column for minimum setback requirements for front yards.

DePreter asked if lot coverage should be added. Stolzenburg stated that it should because lot coverage is important. Keeler suggested 30%. Stolzenburg stated that she agrees there needs to be a lot coverage but she thinks it takes a little more thought than just saying everyone uses 30% because lot coverage can be a very powerful tool to use and she doesn't think it's necessarily the same in each district. Keeler stated that he was talking about in the hamlet. Stolzenburg stated that in the hamlet 30% is probably average. Discussion followed regarding lot coverage. **Stolzenburg stated that she thinks in the Business District, the percentage of lot coverage should be higher and in the residential areas of the hamlet 30% of impervious surfaces are certainly in line. DePreter asked if lot coverage of 30% of impervious surfaces in the hamlet is agreeable to the Commission. Caldwell, Soracco, Keeler, Chase and DePreter agreed. Jackson and McQuade were absent for the vote.**

DePreter asked the Commission if lot coverage of 75% in the Business District is agreeable to the Commission. Caldwell, Soracco, Keeler, Chase and DePreter agreed. Jackson and McQuade were absent for the vote.

Keeler asked if it's usual to have lot coverage in the rural area. Stolzenburg stated that a lot of rural areas do and that some communities are using lot coverage as a way of controlling McMansion development. Stolzenburg explained that they may not want to say that development is going to be limited but may say that they are going to have very low lot coverage so that you can't have a 10,000 square foot huge building. Stolzenburg stated that in a rural area she thinks especially with what the Commission is trying to do, unless the Commission changes its philosophy about the way to approach it, the lot coverage itself is not that important because there are other controls in terms of open space and things like that. **DePreter stated that he would think that a lot coverage provision is not necessary in the rural area. Keeler, Caldwell, Chase, Soracco agreed.** Replansky asked why the Commission wouldn't want a minimum lot coverage provision in the rural area if you're going to be able to create half acre lots. Stolzenburg agreed and stated that in that case those in the overall view of the parcel, the open space ratio is important and in view of the new parcels being created keep it at 30% for the new parcels. Chase asked if the lot coverage is being defined by footprint or impervious surfaces. Stolzenburg stated it would be building footprint of all structures and all impervious surfaces.

Replansky asked why there is a provision in the draft zoning law that states that the Planning Board can reduce the lot depth. Stolzenburg stated that if someone comes forward with a lot or a parcel that has an opportunity to preserve more open space by reducing that, it would give the Planning Board the option to discuss that rather than missing an opportunity to do a good design simply because there was that requirement. Chase stated that it would give more flexibility to the Planning Board. Replansky suggested changing it to say that the Planning Board in a subdivision application may

reduce the lot depth so it is clear that it's part of their subdivision discretion and that they are not exercising a variance which is a power that can only be exercised by the Zoning Board once you create zoning. Stolzenburg stated that she will make the change.

Replansky offered a comment on the incentive zoning. Replansky stated that he thinks the incentive zoning provision contained in subparagraph 6 at page 17 needs further discussion. Replansky further stated that it is not clear to him why the incentive zoning should be left to the discretion of the Town Board. Replansky stated that he is a firm believer that once a zoning law is created that the incentive zoning provision should be put in the zoning law with criteria for incentives and not going to the Town Board. Replansky recommended that the Commission take a look at section 261-b of the town law because it has a provision regarding incentive zoning and this zoning law has to be consistent with that. Stolzenburg stated that is the opposite of what the zoning Commission has been talking about because they felt it was important that it be the decision of the Town Board. Replansky stated that the problem is he doesn't think you can have it both ways because once you create a zoning law you delegate powers to the Zoning Board and the Planning Board. Replansky explained that there are certain things that the Town Board can reserve like the creation of a PUD through re-zoning. Stolzenburg stated that she has seen in other places where the Planning Board makes a recommendation based on their review of the application and then the Town Board is the one to say whether they will give the bonus or not. Replansky stated that then you have another layer and another two or three months for an application to get back to the Town Board. Stolzenburg agreed that if it does go to the Town Board, it does take away some of the niceties of having an incentive because it does mean a whole other process. Replansky stated that he thinks incentives should be built into the zoning law giving the Planning Board the authority. Further discussion followed.

Replansky stated that he thinks the issue of the incentive zoning provision requires some further discussion and he would like to do some research on 261-b of the Town Law to see if there has been any case law interpreting to what extent you can lawfully delegate it to the Town Board. Stolzenburg stated that she will make a note to discuss further whether the incentives are actually authorized by the Town Board or the Planning Board. DePreter stated that the Commission members should give this some thought for the next time the Commission meets. Brief discussion followed.

DePreter stated that as he recalls the Commission left the conversation on incentives with a maximum amount of 50% aggregate density incentives. Caldwell stated that there were two members, Chase and himself who opposed that number as being too high. DePreter explained to Replansky how the Commission arrived at the 50% aggregate density incentives. DePreter stated that what the Commission didn't do was come up with what percentage each category would be. Stolzenburg stated except for senior citizens which her notes indicate was a one to one. Stolzenburg stated that her notes are to mandate this but give a one to one bonus. DePreter stated that he thinks there was a curiosity to look at that but he doesn't know if the Commission decided to do it. Stolzenburg stated that she wrote down mandate but give a one to one bonus. DePreter stated that he thinks the mandate was to look at Anne Saylor's law and everyone agreed to give it a look but he

doesn't think anybody voted to do it because we don't have anything to look at yet. DePreter stated that as we have it written for the permanent conservation of natural areas for agriculture Stolzenburg had recommended 30%, senior housing was 30%, permanent preservation of a cultural or historic facilities were 30% and then public recreation basically taking that protected land and make it into a public park and that would be 30%. DePreter stated that then the one that he had thought he would like to have in there was the new hamlet. Stolzenburg stated that she had notes for a hamlet, fishing and hunting rights and stream access. Stolzenburg stated that those could fall under public recreational things and maybe we can add those. Discussion followed.

DePreter asked the Commission if they are comfortable with the 30% density incentive for each of the items discussed. Keeler stated 30% is fine. Caldwell asked Replansky what he knows about the percentage of increments in numbers of residences for various amenities for the community that are permitted as incentives to developers. Replansky stated that he is not that familiar with how this section is applied. Replansky stated that he is more familiar with incentives for affordable housing which usually range around 10% and sometimes 15%. DePreter stated that he thought Replansky said something in his comments about incentives not being high enough. DePreter asked Replansky if he was talking about density incentives or some other types of incentives. Replansky stated that he doesn't remember what he was criticizing at that point. Replansky asked if the Commission is talking about 50% for open space. DePreter stated that we are talking about 30%. Replansky stated that is quite a big density bonus. Caldwell stated that is the problem. DePreter stated that Chase and Caldwell thought that was too high and also to be fair what we said was if you did 30% for the open space and then you did a new hamlet design, those can combine to 50% of an increase, feeling that if the people are doing those things then they are probably doing something right. DePreter stated that he wanted to give the people a healthy incentive but Chase and Caldwell thought that it was too big and the rest of the group thought that it was fair. Caldwell stated that it is too generous. Stolzenburg stated that if you have too small of an incentive, it's not worth anybody doing it so it has to be truly an incentive. Replansky stated that 30% is a healthy incentive and 50% is a very healthy incentive. DePreter stated that this gets back to the conversation about whether it could go to the Town Board. Replansky stated that this is an area where he doesn't have that much familiarity in terms of creation of the zoning law and he's having a hard time just looking at the law, which Replansky stated is based on Section 261-b of the town law. Replansky further stated that Stolzenburg could probably provide examples of what other communities are doing. DePreter stated that unless everyone wants to go back and redo it, he thinks that 50% has already been voted on and decided. DePreter stated that the only thing that was left to do was that each of the items was 30%. Stolzenburg stated that her notes indicate that for senior housing it was a one to one. Stolzenburg stated that she remembers Chase saying that if someone was going to make an affordable house that they should get another house for that. DePreter suggested just leaving the senior housing and workforce housing out for now because we are going to have Anne Saylor's model and he thinks there are just too many things on the table right now. Brief discussion followed.

Public input – Jane Waters stated that the way the Commission has estimated how much time will be needed for the moratorium purposes and talking about going to public hearing, the Commission is not allowing any time after the public hearing for looking over what the public had to say and maybe revising things. Stolzenburg stated that she thinks that is built into the process. Waters stated that the Commission was talking about having the public hearing at the end. DePreter stated that we could probably take some of that stuff and submit it to the Town Board. Keeler stated that it depends on how much we get from the public. Stolzenburg stated that she wouldn't necessarily feel comfortable giving the Town Board a draft zoning law and just attaching the public comments for the Town Board to deal with. Caldwell stated that the Commission needs to go back and finish it.

DePreter asked if there were any further comments from the community. There were no further comments.

DePreter stated to the Commission that it his understanding that we already have a vote for the 50% aggregate density bonus and we are taking senior housing and workforce affordable housing off for now because we can't discuss that until we get the model from Anne Saylor. DePreter asked if everyone is comfortable with 30% for the individual items. Keeler stated that he is comfortable with that, DePreter and Soracco also stated that they are comfortable with it. Caldwell stated that he is not comfortable with it. DePreter stated that is a 3-1 vote so each will be a 30% increase to the density for one of them singularly and up to a total of 50%.

Stolzenburg asked Replansky if he will email his cell tower law to her. Replansky stated yes but that he is starting a jury trial on Monday so he's not sure when he can email it. DePreter stated that Replansky is always welcome to attend the meetings if he has the time. Replansky stated to just let him know in advance and he will try to come.

Caldwell motioned to adjourn. Seconded by Soracco. All in favor.

Respectfully submitted by:

Karen Pineda
Zoning Commission Secretary

*** Bold font denotes a decision made by, and agreed to, by the Zoning Commission for purposes of composing the Generic Environmental Impact Statement.**