

TOWN OF ORANGETOWN PLANNING BOARD

MEETING OF MARCH 25, 2009

MEMBERS PRESENT:

Robert Dell, Chairperson; Bruce Bond, Vice-Chairperson; Kevin Garvey; Jeffrey Golda; William Young; John Foody and Andy Stewart

MEMBERS ABSENT: None

ALSO PRESENT: John Giardiello, Director, Department of Building, Zoning , Planning Administration and Enforcement; Robert Magrino, Deputy Town Attorney; Richard Pakola, Deputy Town Attorney; Ann Marie Ambrose, Stenographer and Cheryl Coopersmith, Chief Clerk

Robert Dell, Chairperson called the meeting to order at 7:30 p.m. Mr. Garvey read the agenda. Hearings as listed on this meeting's agenda which are made a part of these minutes, were held as noted below:

PB #09-14- Colonial Court Subdivision- Postponed to April 29th Meeting;

Request for an Extension of the Term of the Performance Bond; or Recommendation to the Town Board to Release the Performance Bond 69.13/2/2; R-22 zoning district

PB #09-02 - Lowe's Garden Center Site Plan-Preliminary Site Plan Approval Subject to Conditions/Neg. Dec.; 74.15/1/3 & 4; LI zoning district

PB #08-58- Luckhardt Site Plan- Final Site Plan Approval Subject to Conditions/Neg. Dec.; Critical Environmental Area; 71.13/1/35; R-22 zoning district

PB #09-18- Mountainview –Hiep Plan- Continued: Provide Site Plan; Site Plan and Change of Use Plan; Prepreliminary/Preliminary/Final Site Plan and SEQRA Review; 74.07/1/32; LI zoning district

Other Business:

1) March 9, 2009 Letter from the Palisades Interstate Park Commission regarding Tappan Golf Site Plan was reviewed. The applicant submitted a letter from Jon Manos Golf Academy, Golf Pro at the Tappan Golf Range, dated March 24, 2009 and a revised Site Plan dated March 24, 2009. Donald Brenner, attorney for the applicant, noted that the only change from the approved Site Plan is the orientation of the golf stalls and the addition of black netting. After reading both letters and reviewing the plan the Board accepted the Site Plan

2) The Planning Board requested that McLaren Engineering Group consider providing the drainage review for a proposed electrical substation site plan application. The project site is located at 2000 Corporate Drive in Orangeburg, the applicant is Orange and Rockland Utilities, Inc., and the property owner is Verizon Wireless. A letter will be sent to McLaren requesting their services.

The decisions of the March 11, 2009 Planning Board Meeting was reviewed, edited and approved. The motion for adoption was made and moved by Kevin Garvey and seconded by Andy Stewart and carried as follows: Robert Dell, aye; Kevin Garvey, aye; Bruce Bond, aye; Jeffrey Golda, aye; John Foody, aye; Andy Stewart, aye and William Young, aye.

The Decisions of the above hearings, as attached hereto, although made by the Board before the conclusion of the meeting are not deemed accepted and adopted by the Board until adopted by a formal motion for adoption of such minutes by the Board. Following such approval and adoption by the Board, the Decisions are mailed to the applicant. The verbatim transactions are not transcribed, but are available.

Since there was no further business to come before the Board, a motion to adjourn the meeting was made by Kevin Garvey and seconded by William Young and agreed to by all in attendance. The meeting was adjourned at 9:00 p.m. The next Planning Board meeting is scheduled for April 6, 2009.

DATED: March 25, 2009; Planning Board Town of Orangetown

**PB #09-02- TOWN OF ORANGETOWN PLANNING BOARD DECISION
Lowe's Garden Center Expansion Site Plan: Preliminary Site Plan Approval
Subject to Conditions / Neg. Dec.**

March 25, 2009

TO: Brian Nelson,

FROM: Orangetown Planning Board

RE: The application of the Brian Nelson, applicant, for Orangeburg Holdings, LLC, owner, for Prepreliminary/Preliminary Site Plan Review at a site known as "**Lowe's Garden Center Expansion Site Plan**", in accordance with Article 16 of the Town Law of the State of New York, the Land Development Regulations of the Town of Orangetown, Chapter 21A of the Code of the Town of Orangetown and to determine the environmental significance of the application pursuant to the requirements of the New York State Environmental Quality Review Act. The site is located at 206 Route 303, Orangeburg, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section 74.15, Block 1, Lots 3 & 4 in the LI zoning district.

Heard by the Planning Board of the Town of Orangetown at meetings held **Wednesday, January 14 and March 25, 2009**, at which time the Board made the following determinations:

January 14, 2009

Brian Nelson appeared and testified.

The Board received the following communications:

1. Project Review Report dated January 7, 2009.
2. Interdepartmental memorandum from the Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown, signed by John Giardiello, P.E., Director, dated January 14, 2009.
3. Interdepartmental memorandum from the Department of Environmental Management and Engineering, (DEME) Town of Orangetown, signed by Bruce Peters, P.E., dated January 8, 2009.
4. A letter from HDR signed by Harvey Goldberg, P.E., dated January 3, 2009.
5. A letter from the Rockland County Department of Planning, signed by Salvatore Corallo, Commissioner of Planning, dated December 15, 2008.
6. A letter from Rockland County Drainage Agency, signed by Edward Devine, Executive Director, dated December 16, 2008.
7. Letters from the Rockland County Department of Highways, signed by Joseph Arena, Principal Engineering Technician, dated January 8, 2009 and signed by Sonny Lin, P.E., dated January 12, 2009.
8. Letters from Rockland County Department of Health, signed by Scott McKane, P.E., Senior Public Health Engineer, dated November 13, 2008.
9. Plans prepared by BBR, dated March 4, 2008, last revised July 4, 2008: Architectural, Structural, Fire Protection, Plumbing and Electrical.
10. Short Environmental Assessment Form dated November 4, 2008, signed by Brian Nelson.
11. Interdepartmental memorandum from the Highway Department, Town of Orangetown, signed by James Dean, Superintendent of Highways, dated January 8, 2009.
12. Interdepartmental memorandum from the Bureau of Fire Prevention, Town of Orangetown, signed by Michael Bettmann, Chief Fire Inspector, dated January 8, 2009.

The Board reviewed the plans.

March 25, 2009

Dan Yanosh, Jr., P.E., appeared and testified for the applicant.

The Board received the following communications:

1. Project Review Report dated March 18, 2009.
 2. Interdepartmental memorandum from the Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown, signed by John Giardiello, P.E., Director, dated March 25, 2009.
 3. Interdepartmental memorandum from the Department of Environmental Management and Engineering, (DEME) Town of Orangetown, signed by Bruce Peters, P.E., dated March 26, 2009.
 4. A letter from HDR signed by Harvey Goldberg, P.E., dated March 14, 2009.
 5. A letter from the Rockland County Department of Planning, signed by Salvatore Corallo, Commissioner of Planning, dated March 16, 2009.
 6. A letter from the Rockland County Department of Highways, signed by Joseph Arena, Principal Engineering Technician, dated March 17, 2009.
 7. A letter from the Rockland County Sewer District #1, signed by Joseph LaFiandra, Engineer II, dated January 27, 2009.
 8. A letter from the New York State Department of Transportation, signed by Mary Jo Russo, Rockland County Permit Engineer, dated February 24, 2009.
- A motion was made to close the Public Hearing portion of the meeting by Kevin Garvey and seconded by Bruce Bond and carried as follows:
Bruce Bond, aye; Andy Stewart, aye; John Foody, aye; William Young, aye; Robert Dell, aye; Jeffrey Golda, aye and Kevin Garvey, aye.

The proposed action is classified as an "unlisted action" as defined by Section 617.2 (ak) of the New York State Environmental Quality Review Regulations (SEQRR). No agency, other than the Orangetown Planning Board will have any significant involvement in the review process, pursuant to Section 617.6 of SEQRA. On motion by Kevin Garvey and seconded by Bruce Bond and carried as follows: Bruce Bond, aye; Andy Stewart, aye; William Young, aye; Robert Dell, aye; John Foody, aye; Jeffrey Golda, aye and Kevin Garvey, aye the Board declared itself SEQRA Lead Agency.

The Orangetown Planning Board, as Lead Agency, determined that the proposed action will not have a significant adverse impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared. The reasons supporting this determination are as follows:

It will not have a significant adverse impact upon the environment and a DEIS will not be prepared because the proposed action does not significantly adversely affect air quality, surface or ground water quality, noise levels, drainage or existing traffic patterns. In addition, it will have no adverse impact upon the aesthetics, agricultural or cultural resources of the neighborhood and no vegetation, fauna or wildlife species will be adversely affected as a result of the proposed action. The proposed action is consistent with the Town's Master Plan and will not have any adverse economic or social impacts upon the Town of Orangetown.

On motion by Kevin Garvey and seconded by Bruce Bond and carried as follows: Bruce Bond, aye; Andy Stewart, aye; Robert Dell, aye; John Foody, aye; William Young, aye; Jeffrey Golda, aye; and Kevin Garvey, aye the Board made a Negative Declaration.

DECISION: In view of the foregoing and the testimony before the Board, the application was GRANTED A PRELIMINARY SITE PLAN APPROVAL SUBJECT TO THE FOLLOWING CONDITIONS:

1. The following note shall be placed on the Site Plan: "At least one week prior to the commencement of any work, including the installation of erosion control devices or the removal of trees and vegetation, a pre-construction meeting must be held with the Town of Orangetown Department of Environmental Management and Engineering, Superintendent of Highways and the Office of Building, Zoning and Planning Administration and Enforcement. It is the responsibility and obligation of the property owner to arrange such a meeting."

- 2.** The following note shall be placed on the Site Plan regarding Stormwater Management Phase II Regulations: Additional certification, by an appropriate licensed or certified design professional shall be required for all matters before the Planning Board indicating that the drawings and project are in compliance with the Stormwater Management Phase II Regulations.
- 3.** Clarify the parking calculations. It appears the proposed total number of parking spaces is 559 (543 Standard and 16 Handicap). The “possible future spaces” of 109 spaces shall be shown/labeled on the Site Plan.
- 4.** The following variance shall be sought from the Town of Orangetown Zoning Board of Appeals:
 - A.) The total number of parking spaces required is 739 spaces and 559 total parking spaces are provided.
- 5.** The proposed Garden Center expansion will required the approval of the Town of Orangetown Architecture and Community Appearance Board of Review.
- 6.** The 20 foot fence as shown will not require a variance from the Town of Orangetown Zoning Board of Appeals based upon the side yard setback.
- 7.** The Site Plan shall contain a Zoning Bulk Table.
- 8.** The Short Environmental Assessment Form, item #8 needs to be answered “No” and the variances listed.
- 9.** Because this existing site still has outstanding items, As-Built drawings and monumentation from its initial Site Plan Approval, this proposed Site Amendment can not receive final approval until those outstanding items are satisfied and completed.
- 10.** The existing ten foot high fencing with privacy screening, at the exit onto Greenbush Road partially obstructs the site distance as you exit the site onto Greenbush Road. Therefore, the fencing shall be “pulled back” in order to expand the site distance.
- 11.** The site is located between Greenbush Road on the west and NYS Route 303 on the east approximately 1500-ft north of the Palisades Interstate Parkway in Orangeburg, NY. The 12.03 acre site contains an existing building and existing paved driveways and parking areas with access from Route 303 and Greenbush Road. The Applicant proposes to expand the existing garden center. The Drainage Consultant to the Planning Board reviewed the Plan and found that in its previous review letter dated January 3, 2009, they requested that the Applicant document actual existing conditions on the site by providing an Existing Conditions Plan that shows all existing conditions, including existing pervious and impervious surfaces within the work area. They also asked the Applicant to clarify whether or not additional impervious surfaces would be created under the proposed plan.

In the current submittal, consisting of Drawings C1, C2 and C3, and a letter from the Applicants Engineer, dated February 10, 2009, the Applicant indicated that “There is no proposed increase in the impervious area for this project, and therefore, there will be no net increase in stormwater runoff.”

Based on the above statement and review of the current submittal, the Planning Board’s Drainage Consultant believed that the proposed development will not increase the runoff rate from the developed site, and therefore recommended acceptance for drainage subject to the following conditions:

- Provide an Existing Condition Drainage Plan of the work area showing all existing conditions including existing pervious and impervious surfaces, all existing underground utilities including all drainage lines, roof leaders, catch basins, storm manholes, existing grade contours, etc. The intent of this plan is to show where the runoff from existing surfaces goes.
- Provide a Proposed Condition Drainage Plan (i.e. the existing plan with a proposed condition overlay of the shade structures and canopy.) This plan shall also show where the existing and proposed roof leaders will be discharged to; and any proposed storm sewers and their discharge points. The intent of this plan is to show where the runoff from proposed surfaces goes.

Although the Drainage Consultant agrees with the Applicant that there will be a zero net increase in runoff from the developed site, it remains unclear if the existing drainage pattern will be altered. As an example, the Applicant has proposed to discharge runoff from the proposed canopy roof leader into the loading dock drainage system. What is unclear is where the runoff from the surfaces beneath the proposed canopy goes to under existing conditions. If it drains to the loading dock, then there is no change. However, if it drains to a different system under existing conditions and is being diverted to the loading dock under proposed conditions, then the pattern has been altered and will require closer examination. The Planning Board's Drainage Consultant may add additional conditions based on response to these conditions.

12. A review shall be completed by the New York State Department of Transportation and any required permits obtained.

13. The Town shall be satisfied that the requirements of the Route 303 Overlay Zone have been addressed to the extent applicable and appropriate.

14. If the number of parking spaces will change, the Site Plan shall be revised to include parking calculations relative to the applicable parking requirements.

15. The Town shall be assured that there will be adequate parking available on site to prevent parking along the State road right of way.

16. The fire zones must be clearly marked on the Site Plan. Access to the fire zones shall be unimpeded by other parking area and maneuverability on the site feasible.

17. The fire department connections shall be designated on the site plan and kept clear for easy access by the emergency response vehicles.

18. There shall be no net increase in stormwater runoff under a 24 hour, 100 year Type III storm.

19. The Rockland County Department of Planning requests the opportunity to review any variances that may be required to implement the proposed Site Plan, as required by New York State General Municipal Law, Section 239-m (3)(v).

20. The applicant is advised by to provide the Pavement and Signage Plan, Grading and Drainage Plan and Soil Erosion & Sediment Control Plan for review and approval to the Rockland County Department of Highways.

21. The applicant shall offer a discussion to the Rockland County Department of Highways pertaining to the effect of the proposed addition upon existing traffic flow at the area.

22. A Rockland County Highway Department Work Permit will be required for the development of this parcel and shall be secured prior to the start of any construction on site.

23. The Rockland County Highway Department noted in its January 8, 2009 letter that based upon the plans and information provided, it found that the requested action will have no foreseeable adverse impact to County roads in the area.

24. In its letter of March 17, 2009, the Rockland County Department of Highways found that based upon the plans and information provided for the project, the requested action will have a de minimus impact to County Roads in the area. The Rules and Regulations of the Rockland County Highway Department for control of development of properties having frontage on, access to, or being otherwise directly related to any county road, have been developed under Section 136 (2) of Highway Law of the State of New York. The Rockland County Highway Department Rules and Regulations General Condition #1 states "no construction or development shall be undertaken on any property having frontage on, access to or being otherwise directly related to a County Road without first securing a permit from the County Superintendent of Highways". The County Highway Department defines "construction or development" as any work within 500 feet of the County Owned Right of Way, changing the contours of the property, such as filling or grading or to install new or alter existing means of access (including proposed subdivisions streets and repair existing driveways). If the proposed construction is within 500 feet of the County Right of Way, then the applicant will be responsible to obtain a Work Permit from The Rockland County Highway Department in addition to any and all permits required by the Town of Orangetown and various involved governmental agencies.

25. Rockland County Sewer District does not object to the plan as shown. This

project does not affect any sanitary sewers within the District and no future correspondence is requested for this site.

26. Based upon Rockland County Drainage Agency (RCDA) evaluation of available mapping and information submitted, it has been determined that the proposed activity is outside the jurisdiction of the RCDA. Therefore, a permit from the RCDA pursuant to the Rockland County Stream Control Act, Chapter 846, is not required based upon its review of the information provided. However, the site appears to be located in close proximity to mapped federal wetlands. The RCDA suggests that the U.S. Army Corps of Engineers be contacted by the lead agency and requested to make a jurisdictional determination regarding the proposed activity.

27. The Rockland County Department of Health (RCDOH) received the plans and found that there are no necessary Rockland County Department of Health approvals associated with this application.

28. The Town of Orangetown Fire Prevention Bureau had the following comments in regards to the expansion to Lowes Garden Center:

Maintain the required Fire Lanes around the building and note on the Site Plan. Install a Key Box (form provided by the Town of Orangetown Fire Prevention Bureau) on the north end of the new proposed gate in the rear of the building and provide a key for the locks.

Maintain at least a 20 foot wide drive through within the fence from north to south. This shall be noted and labeled on the Site Plan.

Extend the garden center dry Sprinkler system and provide calculations that the sprinkler system will continue to meet the demand of the sprinkler system.

Show egress plan (Travel Distance) on the Site Plan and the required exists.

29. The Town of Orangetown Highway Department had the following comments:

The applicant must correct the driveway exit/entrance site obstruction created by the existing 10' chain link fence with black screening slats, at the existing driveway exit/entrance at South Greenbush Road.

Steven's Way and South Greenbush Road shall be labeled on the Site Plan.

30. The New York State Department of Transportation reviewed the site plan and found that the project does not have any significant impact on the state highway system and has no comment at this time.

31. The following agencies do not object to the Town of Orangetown Planning Board assuming responsibilities of lead agency for SEQRA purposes:

- Rockland County Sewer District #1
- Rockland County Drainage Agency
- Rockland County Department of Health

32. The applicant shall comply with all pertinent items in the Guide to the Preparation of Site Plans prior to signing the final plans.

33. All reviews and approvals from various governmental agencies must be obtained prior to stamping of the Site Plan.

34. TREE PROTECTION: The following note shall be placed on the Site Plan:

The Tree Protection and Preservation Guidelines adopted pursuant to Section 21-24 of the Land Development Regulations of the Town of Orangetown will be implemented in order to protect and preserve both individual specimen trees and buffer area with many trees. Steps that will be taken to reserve and protect existing trees to remain are as follows:

- a. No construction equipment shall be parked under the tree canopy.
- b. There will be no excavation or stockpiling of earth underneath the trees.
- c. Trees designated to be preserved shall be marked conspicuously on all sides at a 5 to 10 foot height.
- d. The Tree Protection Zone for trees designated to be preserved will be established by one of the following methods:

One (1) foot radius from trunk per inch DBH

Drip line of the Tree Canopy. The method chosen should be based on providing the maximum protection zone possible. A barrier of snow fence or equal is to be placed and maintained one yard beyond the established tree protection zone. If it is agreed that the tree protection zone of a selected tree must be violated, one of the following methods must be

employed to mitigate the impact: (1) Light to Heavy Impacts – Minimum of eight inches of wood chips installed in the area to be protected. Chips shall be removed upon completion of work. (2) Light Impacts Only – Installation of ¾ inch of plywood or boards, or equal over the area to be protected.

The builder or its agent may not change grade within the tree protection zone of a preserved tree unless such grade change has received final approval from the Planning Board. If the grade level is to be changed more than six (6) inches, trees designated to be preserved shall be welled and/or preserved in a raised bed, with the tree well a radius of three (3) feet larger than the tree canopy.

- 35.** All landscaping shown on the site plans shall be maintained in a vigorous growing condition throughout the duration of the use of this site. Any plants not so maintained shall be replaced with new plants at the beginning of the next immediately following growing season.
- 36.** Prior to the commencement of any site work, including the removal of trees, the applicant shall install the soil erosion and sedimentation control as required by the Planning Board. Prior to the authorization to proceed with any phase of the site work, the Town of Orangetown Department of Environmental Management and Engineering (DEME) shall inspect the installation of all required soil erosion and sedimentation control measures. The applicant shall contact DEME at least 48 hours in advance for an inspection.
- 37.** The contractor's trailer, if any is proposed, shall be located as approved by the Planning Board.
- 38.** If the applicant, during the course of construction, encounters such conditions as flood areas, underground water, soft or silty areas, improper drainage, or any other unusual circumstances or conditions that were not foreseen in the original planning, such conditions shall be reported immediately to DEME. The applicant shall submit their recommendations as to the special treatment to be given such areas to secure adequate, permanent and satisfactory construction. DEME shall investigate the condition(s), and shall either approve the applicant's recommendations to correct the condition(s), or order a modification thereof. In the event of the applicant's disagreement with the decision of DEME, or in the event of a significant change resulting to the site plan or any change that involves a wetland regulated area, the matter shall be decided by the agency with jurisdiction in that area (i.e. Wetlands - U.S. Army Corps of Engineers).
- 39.** Permanent vegetation cover of disturbed areas shall be established on the site within thirty (30) days of the completion of construction.
- 40.** Prior (at least 14 days) to the placing of any road sub-base, the applicant shall provide the Town of Orangetown Superintendent of Highways and DEME with a plan and profile of the graded road to be paved in order that these departments may review the drawings conformance to the approved construction plans and the Town Street Specifications
- 41.** The Planning Board shall retain jurisdiction over lighting, landscaping, signs and refuse control.

The foregoing Resolution was made and moved by Bruce Bond and seconded by Kevin Garvey and carried as follows: Bruce Bond, aye; Andy Stewart, aye; William Young, aye; John Foody, aye; Robert Dell, aye; Jeffrey Golda, aye and Kevin Garvey, aye.

The Clerk to the Board is hereby authorized, directed and empowered to sign this **DECISION** and file a certified copy in the Office of the Town Clerk and the Office of the Planning Board.

Dated: March 25, 2009

**State Environmental Quality Review Regulations
NEGATIVE DECLARATION
Notice of Determination of Non-Significance
PB #09-02- TOWN OF ORANGETOWN PLANNING BOARD DECISION**

**Lowe's Garden Center Expansion Site Plan: Preliminary Site Plan Approval
Subject to Conditions / Neg. Dec.**

March 25, 2009

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Regulation) of the Environmental Conservation Law.

The PLANNING BOARD, TOWN OF ORANGETOWN, as Lead Agency, has determined that the proposed action described below will not have a significant impact on the environment and a Draft Environmental Impact Statement will not be prepared.

NAME OF ACTION: **Lowe's Garden Center Expansion Site Plan**

SEQR STATUS: Type I _____; Unlisted XXXXXX

CONDITIONED NEGATIVE DECLARATION: Yes _____; No XXXXXX

DESCRIPTION OF ACTION: **Site Plan Review**

LOCATION: The site is located at 206 Route 303, Orangeburg, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section 74.15, Block 1, Lots 3 & 4 in the LI zoning district.

REASONS SUPPORTING THIS DETERMINATION:

The Orangetown Planning Board, as Lead Agency, determined that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared. The reasons supporting this determination are as follows:

The project will not have a significant impact upon the environment and a DEIS need not be prepared because the proposed action does not significantly affect air quality, surface or ground water quality, noise levels or existing external traffic patterns. In addition, it will have no impact upon the aesthetic, agricultural or cultural resources of the neighborhood. No vegetation, fauna or wildlife species will be affected as a result of this proposed action. The proposed action is consistent with the Town of Orangetown's Master Plan and will not have any adverse economic or social impacts upon the Town or its businesses or residences.

If Conditioned Negative Declaration, the specific mitigation is provided on an attachment.

For Further Information contact:

John Giardiello, P.E., Director, Office of Building, Zoning and Planning
Administration and Enforcement
Town of Orangetown
20 Greenbush Road
Orangeburg, NY 10962
Telephone Number: 845-359-5100

For Type I Actions and Conditioned Negative Declarations, a copy of this notice is sent: - Commissioner, New York State Department of Environmental Conservation, Region 3 Headquarters, NYSDEC, Town Supervisor, Applicant, Involved Agencies

PB #08-58 - TOWN OF ORANGETOWN PLANNING BOARD DECISION

**Luckhardt Site Plan; Final Site Plan Approval Subject to
Conditions/ Neg. Dec.; Critical Environmental Area**

March 25, 2009

TO: Ken DeGennaro, Brooker Engineering, 76 Lafayette Ave. Suffern, NY

FROM: Orangetown Planning Board

RE: The application of the Carol Luckhardt, owner to construct a new Driveway at an existing home. The application is for Prepreliminary/Preliminary/Final Site Plan and to determine the environmental significance of the application pursuant to the requirements of the New York State Environmental Quality Review Act, at a site known as **Luckhardt Site Plan**, in the Critical Environmental Area, in accordance with Article 16 of the Town Law of the State of New York, the Land Development Regulations of the

Town of Orangetown, Chapter 21A of the code of the Town of Orangetown. The site on Route 9W, Upper Grandview, Town of Orangetown, Rockland County, New York and as shown on the Orangetown Tax Map as Section 71.13, Block 1, Lot 35 in the R-22 zoning district.

Heard by the Planning Board of the Town of Orangetown at meetings held **October 6, 2008 and March 25, 2009**, at which time the Board made the following determinations:

October 6, 2008

Ken DeGennaro appeared and testified.

The Board received the following communications:

1. A Project Review Report dated October 1, 2008.
2. An interdepartmental memorandum from the Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown, signed by John Giardiello, P.E., Director, dated October 6, 2008.
3. An Interdepartmental memorandum from the Department of Environmental Management and Engineering (DEME), Town of Orangetown, signed by Bruce Peters, P.E., dated October 1, 2008.
4. A letter from HDR signed by Harvey Goldberg, P.E., dated September 29, 2008.
5. Letters from the Rockland County Department of Planning, signed by Eileen Miller, dated September 23, 2008 and Salvatore Corallo, Commissioner of Planning, dated September 24, 2008.
6. A letter from Rockland County Highway Department, signed by Joseph Arena, Senior Engineering Technician, dated September 29, 2008.
7. Letters from the Rockland County Department of Health, signed by Scott McKane, P.E., Senior Public Health Engineer, dated September 11, 2008.
8. A letter from the Village of Grandview –on-Hudson, signed by Donald Vernon, Planning Board Chairperson, dated October 1, 2008.
9. A letter from the Town of Orangetown Zoning Board of Appeals, signed by William Mowerson, Chairperson, dated October 1, 2008.
10. A Short Environmental Assessment Form signed by Kenneth DeGennaro dated September 3, 2008.
11. Drainage Calculations prepared by Kenneth DeGennaro, P.E., dated August 20, 2008, with a cover letter dated August 20, 2008.
12. Plans prepared by Brooker Engineering, dated June 26, 2008, revised August 20, 2008:
 - Drawing 1: Site Plan
 - Drawing 2: Grading, Utility and Erosion Control Plan

The Board reviewed the plans.

Public Comment:

Stuart Lewis, 924 Route 9W, raised concerns regarding the removal of plantings on the site and site disturbances.

March 25, 2009

Ken DeGennaro and Carol Luckhardt appeared and testified.

The Board received the following communications:

1. A Project Review Report dated March 18, 2008.
2. An interdepartmental memorandum from the Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown, signed by John Giardiello, P.E., Director, dated March 25, 2009.
3. An Interdepartmental memorandum from the Department of Environmental Management and Engineering (DEME), Town of Orangetown, signed by Bruce Peters, P.E., dated March 20, 2009.
4. A letter from HDR signed by Harvey Goldberg, P.E., dated March 5, 2009.
5. A letter from the Rockland County Department of Planning, signed by Salvatore Corallo, Commissioner of Planning, dated March 11, 2009.

6. A letter from Rockland County Highway Department, signed by Joseph Arena, Senior Engineering Technician, dated March 13, 2009.
7. A letter from the Rockland County Department of Health, signed by Scott McKane, P.E., Senior Public Health Engineer, dated February 17, 2009.
8. A letter from the Rockland County Sewer District #1, signed by Joseph LaFiandra, Engineer II, dated March 16, 2009.
9. Plans prepared by Brooker Engineering, dated June 26, 2008, revised January 7, 2009:
 - Drawing 1: Site Plan
 - Drawing 2: Grading, Utility and Erosion Control Plan
10. A letter from Brooker Engineering, signed by Kenneth DeGennaro, P.E., dated February 5, 2009.
11. Letters from the New York State Department of Transportation, signed by Mary Jo Russo, Rockland County Permit Engineer, dated February 24, 2009 and October 15, 2008.

A motion was made to close the Public Hearing portion of the meeting by Kevin Garvey and seconded by William Young and carried as follows: Robert Dell, aye; Bruce Bond, aye; Andy Stewart, aye; John Foody, aye; William Young, aye; Jeffrey Golda, aye and Kevin Garvey, aye.

The proposed action is classified as an “unlisted action” as defined by Section 617.2 (ak) of the New York State Environmental Quality Review Regulations (SEQRR). No agency, other than the Orangetown Planning Board will have any significant involvement in the review process, pursuant to Section 617.6 of SEQRA. On motion by Bruce Bond and seconded by Kevin Garvey and carried as follows: Robert Dell, aye; Andy Stewart, aye; William Young, aye; Bruce Bond, aye; John Foody, aye; Jeffrey Golda, aye and Kevin Garvey, aye the Board declared itself Lead Agency.

The Orangetown Planning Board, as lead agency, determined that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared. The reasons supporting this determination are as follows:

It will not have a significant impact upon the environment and a DEIS will not be prepared because the proposed action does not significantly affect air quality, surface or ground water quality, noise levels, drainage or existing traffic patterns. In addition, it will have no impact upon the aesthetics, agricultural or cultural resources of the neighborhood and no vegetation, fauna or wildlife species will be affected as a result of the proposed action. The proposed action is consistent with the Town’s Master Plan and will not have any adverse economic or social impacts upon the Town of Orangetown.

On motion by Kevin Garvey and seconded by Andy Stewart and carried as follows: Bruce Bond, aye; Andy Stewart, aye; Robert Dell, aye; John Foody, aye; William Young, aye; Jeffrey Golda, aye and Kevin Garvey, aye the Board made a Negative Declaration.

DECISION: In view of the foregoing and the testimony before the Board, the application was GRANTED A FINAL SITE PLAN APPROVAL SUBJECT TO THE FOLLOWING CONDITIONS:

1. The following note shall be placed on the Site Plan: “At least one week prior to the commencement of any work, including the installation of erosion control devices or the removal of trees and vegetation, a pre-construction meeting must be held with the Town of Orangetown Department of Environmental Management and Engineering, Superintendent of Highways and the Office of Building, Zoning and Planning Administration and Enforcement. It is the responsibility and obligation of the property owner to arrange such a meeting.”

2. The following note shall be placed on the Site Plan regarding Stormwater Management Phase II Regulations: Additional certification, by an appropriate licensed or certified design professional shall be required for all matters before the Planning Board indicating that the drawings and project are in compliance with the Stormwater Management Phase II Regulations.
3. The applicant shall place the following as a Note on the Site Plan: The Planning Board does not approve the Pre-existing encroachment as part of the Site Plan Approval.
4. The Planning Board recommends that the applicant contact and request the owner of Lot #71.13/1/17, the location of the encroachment, and obtain a letter between the two parties allowing the encroachment. The letter shall be filed at the Rockland County Clerk's Office.
5. The Short Environmental Assessment Form appears to be in order.
6. The proposed retaining walls will have to be designed, stamped and inspected by a New York State Professional Engineer.
7. The Rockland County Department of Health shall approve the proposed project as it relates to the location of the septic system.
8. All existing utilities including the septic system location shall be shown on the site plans.
9. The last item of the letter prepared by Mr. Kenneth DeGennaro, P.E. dated February 5, 2009 is acceptable and shall be part of the Planning Board decision:
The required test pits to determine depth to bedrock and perc rate may be performed after Final Planning Board Approval, but before signature of the Site Plan. Access for the test pit will require removal of the existing wall southeast of the detached garage; this process is almost as intensive as the future work itself, therefore, the applicant may perform this work knowing the project has been approved and the construction budget has been established. If the test pits yield variations in the proposed design, the applicant **shall** reappear before the Planning Board at the determination of the DEME.
10. The drainage calculations are currently under review by DEME. The design engineer's request (letter of February 5, 2009) is acceptable to DEME – that the perc test be performed after Final Approval by the Planning Board, but before signing of the Site Plan.
11. The soil erosion and sediment control plans and details are under review by DEME.
12. A maintenance plan shall be developed and supplied for the proposed drywell, including a yearly inspection report.
13. The site is located on the west side of Route 9W, approximately 1,800-ft south of Treeline Terrace in Upper Grandview. The 1.068 acre site contains an existing 1-story frame building and a detached garage that are to remain. The site also contains an existing paved driveway with access from Route 9W. The Applicant proposes to expand the existing driveway to make it easier and safer to exit the site onto Route 9W. The proposed development will increase the impervious area of the site by 1,500-SF. The Applicant proposes to provide an 8-ft diameter by 5-ft deep drywell in a 12-ft square stone gallery to mitigate the effect of the increased runoff.
In the Drainage Consultant's previous review letter dated September 29, 2008, they recommended acceptance for drainage subject to several conditions. Upon review of the current submittal consisting of revised Drawings 1 & 2 (last revised January 7, 2009), and a letter from the Applicants Engineer dated February 5, 2009, it is noted that the Applicants Engineer is proposing to provide a 6-in high earthen landscaped berm along the low (easterly) side of the driveway instead of a curb. Although the proposed berm may work, the Drainage Consultant does not believe it will work as well, and would be more susceptible to tire damage than a curb. The Drainage Consultant therefore reiterate it's previous recommendations as follow:

- Provide a 6-in high curb on the low side of the driveway (to prevent runoff from flowing onto Route 9W and bypassing the drywell). Show the extent of the curb on the Plan and provide a construction detail of the curb.

- Provide a catch basin with 30-in by 4-ft curb inlet grate, 24-in deep sump and catch basin trap on the driveway along the curb. (On the current plan, the catch basin is shown on the high side of the driveway and must be moved to the low side). The Catch Basin Detail must be revised and must include a plan view as well as sections. The Catch Basin Detail must show the connection of the trench drain and drywell pipe.

14. The Rockland County Department of Planning had the following recommendations:

The concerns expressed in the October 15, 2008 letter from the New York State Department of Transportation shall be addressed and all required permits obtained.

Prior to any grading or construction on the site, a soil and erosion control plan shall be developed that meets the New York State Guidelines for urban Erosion and Sediment Control.

There shall be no net increase in stormwater runoff from the site.

15. The Rockland County Highway Department reviewed the plans and information and found that the requested action will have no foreseeable adverse impacts to county roads in the area. The Town of Orangetown Land Use Boards shall ensure a zero net increase in runoff from the site shall be achieved to minimize any possible adverse impact upon roadways and parcels west of this parcel from Route 9W to the Hudson River.

16. The Rockland County Health Department reviewed the plans revised through January 7, 2009 and all comments from its September 11, 2008 letter have been adequately addressed. This office makes no further comment and has no objection to the approval of this application. (Application is to be made to the Rockland County Department of Health for review of the stormwater management system for compliance with the County Mosquito Code. The applicant shall contact Brian Hunderfund to coordinate).

17. Rockland County Sewer District does not object to the plan as shown. This project does not affect any sanitary sewers within the District and no future correspondence is requested for this site.

18. The New York State Department of Transportation (NYSDOT) had the following comments:

The site plans shall indicate the width and radius of the existing and proposed driveways.

Neighboring driveways and roadside drainage shall be shown on the plans.

Engineering calculations, signed by a Professional Engineer must be provided for the retaining wall proposed in the right of way. More details are needed showing the end section of the wall. The offset from the road shall also be included.

The proposed wall continues beyond the property line. The plans shall include right of way details for neighboring property.

Drainage calculations must be provided showing zero net increase in runoff in the state drainage system.

The width of the asphalt shoulder shall be shown on the plans.

The west side of the parking area shall be curbed to direct runoff to the trench drain.

The bottom of the drywells must be placed 2 feet higher than existing bedrock. A test pit will be required in the vicinity of the drywell before the plans can be approved.

A maintenance schedule shall be included in the plans for the drywell and trench drain and shall indicate the names of the responsible party.

The pavement cross section shall be included in the plans.

Site Plan approval shall not take place without taking borings to determine the elevation of bedrock. The plan shows removing 11 feet of existing fill above parking area and excavating an additional 5 feet for the drywell. The drywell must have a minimum of 2 feet of permeable material surrounding the basin. It is not likely that they will not hit rock 17 feet down. This would require a complete change to the Site Plan.

The drywell shall have an outlet for overflow and shall indicate where this will lead. It will not be allowed to run down the slope to the swale on (If not properly maintained, this will become the typical drainage pattern.

The drainage study indicates 24 inches of stone surrounding the drywell. The detail on the plan only shows 12 inches.

An asphalt or concrete curb must be placed along the eastern edge of the driveway.

Segmental block walls in the along the NYS right of way must be fabricated with approved materials. The wall shall be designed and stamped by a professional engineer.

The asphalt pavement section must meet NYSDOT specifications 15 feet back from the road. Paving limits shall be shown. The plans shall indicate the roadside swale in front of the driveway along 9W must be maintained.

As the driveway and wall have been moved east to the property line, the proposed landscaping will be on the state right of way. The landscape plan must be reviewed and approved by NYSDOT regional landscape engineer. The landscape plan was not included in the SEQRA package.

The plans show a stone wall on the south side of the driveway. Elevations shall be shown.

19. The following agencies do not object to the Town of Orangetown Planning Board assuming responsibilities of lead agency for SEQRA purposes:

- Rockland County Department of Highways
- Rockland County Sewer District #1
- Town of Orangetown Zoning Board of Appeals
- Village of Grand View on Hudson

20. The applicant shall comply with all pertinent items in the Guide to the Preparation of Site Plans prior to signing the final plans.

21. All reviews and approvals from various governmental agencies must be obtained prior to stamping of the Site Plan.

22. TREE PROTECTION: The following note shall be placed on the site plan: The Tree Protection and Preservation Guidelines adopted pursuant to Section 21-24 of the Land Development Regulations of the Town of Orangetown will be implemented in order to protect and preserve both individual specimen trees and buffer area with many trees. Steps that will be taken to reserve and protect existing trees to remain are as follows:

- a. No construction equipment shall be parked under the tree canopy.
- b. There will be no excavation or stockpiling of earth underneath the trees.
- c. Trees designated to be preserved shall be marked conspicuously on all sides at a 5 to 10 foot height.
- d. The Tree Protection Zone for trees designated to be preserved will be established by one of the following methods:

One (1) foot radius from trunk per inch DBH

Drip line of the Tree Canopy. The method chosen should be based on providing the maximum protection zone possible. A barrier of snow fence or equal is to be placed and maintained one yard beyond the established tree protection zone. If it is agreed that the tree protection zone of a selected tree must be violated, one of the following methods must be employed to mitigate the impact:

Light to Heavy Impacts – Minimum of eight inches of wood chips installed in the area to be protected. Chips shall be removed upon completion of work.

Light Impacts Only – Installation of ¾ inch of plywood or boards, or equal over the area to be protected.

The builder or its agent may not change grade within the tree protection zone of a preserved tree unless such grade change has received final approval from the Planning Board. If the grade level is to be changed more than six (6) inches, trees designated to be preserved shall be welled and/or preserved in a raised bed, with the tree well a radius of three (3) feet larger than the tree canopy.

23. All landscaping shown on the site plans shall be maintained in a vigorous growing condition throughout the duration of the use of this site. Any plants not

so maintained shall be replaced with new plants at the beginning of the next immediately following growing season.

24. Prior to the commencement of any site work, including the removal of trees, the applicant shall install the soil erosion and sedimentation control as required by the Planning Board. Prior to the authorization to proceed with any phase of the site work, the Town of Orangetown Department of Environmental Management and Engineering (DEME) shall inspect the installation of all required soil erosion and sedimentation control measures. The applicant shall contact DEME at least 48 hours in advance for an inspection.

25. The contractor's trailer, if any is proposed, shall be located as approved by the Planning Board.

26. If the applicant, during the course of construction, encounters such conditions as flood areas, underground water, soft or silty areas, improper drainage, or any other unusual circumstances or conditions that were not foreseen in the original planning, such conditions shall be reported immediately to DEME. The applicant shall submit their recommendations as to the special treatment to be given such areas to secure adequate, permanent and satisfactory construction. DEME shall investigate the condition(s), and shall either approve the applicant's recommendations to correct the condition(s), or order a modification thereof. In the event of the applicant's disagreement with the decision of DEME, or in the event of a significant change resulting to the site plan or any change that involves a wetland regulated area, the matter shall be decided by the agency with jurisdiction in that area (i.e. Wetlands - U.S. Army Corps of Engineers).

27. Permanent vegetation cover of disturbed areas shall be established on the site within thirty (30) days of the completion of construction.

28. Prior (at least 14 days) to the placing of any road sub-base, the applicant shall provide the Town of Orangetown Superintendent of Highways and DEME with a plan and profile of the graded road to be paved in order that these departments may review the drawings conformance to the approved construction plans and the Town Street Specifications

29. The Planning Board shall retain jurisdiction over lighting, landscaping, signs and refuse control.

The foregoing Resolution was made and moved by Bruce Bond and seconded by Kevin Garvey and carried as follows: Robert Dell, aye; Bruce Bond, aye; Andy Stewart, aye; William Young, aye; John Foody, aye; Jeffrey Golda, aye and Kevin Garvey, aye.

The Clerk to the Board is hereby authorized, directed and empowered to sign this **DECISION** and file a certified copy in the Office of the Town Clerk and the Office of the Planning Board.

Dated: March 25, 2009

Town of Orangetown Planning Board

**State Environmental Quality Review Regulations
NEGATIVE DECLARATION
Notice of Determination of Non-Significance**

PB #08-58 - TOWN OF ORANGETOWN PLANNING BOARD DECISION

**Luckhardt Site Plan; Final Site Plan Approval Subject to
Conditions/ Neg. Dec.; Critical Environmental Area
March 25, 2009**

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Regulation) of the Environmental Conservation Law.

The PLANNING BOARD, TOWN OF ORANGETOWN, as Lead Agency, has determined that the proposed action described below will not have a significant impact on the environment and a Draft Environmental Impact Statement will not be prepared.

NAME OF ACTION: **Luckhardt Site Plan.**

SEQR STATUS: Type I _____; Unlisted XXXXXX

CONDITIONED NEGATIVE DECLARATION: Yes _____; No XXXXXX

DESCRIPTION OF ACTION: **Site Plan Review: Critical Environmental Area**

LOCATION: The site on Route 9W, Upper Grandview, Town of Orangetown, Rockland County, New York and as shown on the Orangetown Tax Map as Section 71.13, Block 1, Lot 35 in the R-22 zoning district.

REASONS SUPPORTING THIS DETERMINATION:

The Orangetown Planning Board, as Lead Agency, determined that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared. The reasons supporting this determination are as follows:

The project will not have a significant impact upon the environment and a DEIS need not be prepared because the proposed action does not significantly affect air quality, surface or ground water quality, noise levels or existing external traffic patterns. In addition, it will have no impact upon the aesthetic, agricultural or cultural resources of the neighborhood. No vegetation, fauna or wildlife species will be affected as a result of this proposed action. The proposed action is consistent with the Town of Orangetown's Master Plan and will not have any adverse economic or social impacts upon the Town or its businesses or residences.

If Conditioned Negative Declaration, the specific mitigation is provided on an attachment.

For Further Information contact:

John Giardiello, P.E., Director, Office of Building, Zoning and Planning
Administration and Enforcement
Town of Orangetown
20 Greenbush Road
Orangeburg, NY 10962
Telephone Number: 845-359-5100

For Type I Actions and Conditioned Negative Declarations, a copy of this notice is sent: - Commissioner, New York State Department of Environmental Conservation, Region 3 Headquarters, NYSDEC, Town Supervisor, Applicant, Involved Agencies