

Meeting of the Planning Board of the Town of Lewisboro held at the Town Offices at Orchard Square, 20 Cross River Plaza, Lower Level, Cross River, New York on Tuesday, September 16, 2014 at 7:30 p.m.

Present: Jerome Kerner, Chairman  
Robert Goett  
Gregory LaSorsa  
John O'Donnell  
Ron Tetelman  
Judson Siebert, Esq., Keane & Beane P.C., Planning Board Counsel  
Greg Monteleone, Esq., Special Counsel  
Jan Johannessen, AICP, Kellard Sessions Consulting, Town Planner/Wetland Consultant  
Joseph Cermele, PE, Kellard Sessions Consulting, Town Engineer  
Lisa Pisera, Planning Board Secretary

Also in Attendance: Janet Andersen, Conservation Advisory Council (CAC).

The Chairman called the meeting to order at 7:30 p.m. and noted the exits.

Mr. Kerner announced that a Planning Board meeting will be held on October 7, 2014 for discussion of the Petruccelli matter, in addition to other matters. This meeting is not a public hearing.

## I. PUBLIC HEARING

**Sprint Nextel (Sprint), applicant (American Towers, Inc., owner of record), South NYS 35 & West Route 123, South Salem, NY – Equipment Upgrade – Cal# 4-14PB**

Doug Warden, Esq., Snyder & Snyder, represented the applicant.

Mr. Warden reviewed the application.

Mr. O'Donnell noted that the Planning Board received a letter from the Antenna Advisory Board (AAB) indicating that the AAB is in favor of the application.

Mr. O'Donnell also noted that the Architectural and Community Appearance Review Council (ACARC) approved the Sprint application to ACARC.

Mr. Johannessen reviewed the proposed resolution.

Discussion of the color of the antennas was discussed.

The CAC had no comment.

It was the consensus of the Board that the proposed Planning Board resolution would be amended to state that all proposed antennas and equipment to be mounted on the tower will match the color of the existing tower; and that all new antennas and other related equipment to be mounted on the communication tower shall match the color of the tower.

On a motion made by Mr. Goett, seconded by Mr. LaSorsa, the public hearing of Sprint Nextel (Sprint), applicant (American Towers, Inc., owner of record), South NYS 35 & West Route 123, South Salem – Equipment Upgrade – Cal# 4-14PB was closed.

In Favor: Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. O'Donnell, Mr. Tetelman.

On a motion made by Mr. O'Donnell, seconded by Mr. Goett, the resolution dated September 16, 2014, granting Exemption of Requirements, to Sprint-Nextel (American Towers, Inc., owner of record), South NYS 35 & West Route 123, South Salem, Cal# 4-14PB was adopted, as modified.

In Favor: Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. O'Donnell, Mr. Tetelman.

## II. DECISION

**Estate Motors Mercedes Benz, (Charisma Holding, Inc., owner of record), 321 Main Street (NYS Rte. 22), Goldens Bridge - Application for Waiver of Site Plan Approval Procedures – Approval to demolish two old wood frame buildings located on property and proposed landscaping along the northerly property line - Cal# 4-13PB**

Stephen Spina, Project Manager, John Meyer Consulting, was present on behalf of the applicant.

Mr. Johannessen stated that he had met with Bob Roth, John Meyer Consulting, and Melanie DeNicola, neighbor of Estate Motors, at the DeNicola property. Mrs. DeNicola was generally satisfied with the design of the proposed berm. Mr. Johannessen stated that the chain link fence that runs between the property line and the berm was also discussed. The fence is located on the Estate Motors property. The location of the chain link fence to be replaced by a six foot solid wood fence was identified. It was agreed that the color of the wood fence would be selected by Mrs. De Nicola at the time of installation. The point at which the existing chain link fence is to be painted black was identified for Mrs. DeNicola; she was agreeable to the proposal.

Mr. Johannessen stated that the plan must be modified to clearly identify the transition point at which the chain link fence will be replaced with the solid wood fence.

Mr. Kerner recommended that cedar be used for the fence because of its longevity.

Mr. Goett noted that Conditions 15 and 16 of the resolution state that prior to demolition of the two buildings, the drainage at the northern end of the property must be addressed.

Mr. Cermele stated that the applicant has demonstrated that the berm will infiltrate a 90% storm event. The applicant has further demonstrated that the bypass/riprap swale is adequately sized for a 100-year storm.

Mr. Siebert stated that the resolution allows for a pragmatic path to deal with some objectionable conditions on the site without committing the Board or applicant to any future development. Everything else on the site will remain the same until the applicant comes back to the Board with a revised site plan.

The CAC had no comment.

On a motion made by Mr. O'Donnell, seconded by Mr. Tetelman, the resolution dated September 16, 2014, granting Amended Site Development Plan Approval to Estate Motors Mercedes Benz, (Charisma

Holding, Inc., owner of record), 321 Main Street (NYS Rte. 22), Goldens Bridge, Cal# 4-13PB, was adopted.

In Favor: Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. O'Donnell, Mr. Tetelman.

### III. SKETCH PLAN REVIEW

#### **Todd Management, LLC, 251 and 263 Todd Road, Katonah – Application for Sketch Plan Review for a 4 lot subdivision – Cal# 5-14PB**

Paul Pelusio, P.E., J. Robert Folchetti & Associates, was present on behalf of the applicant.

Mr. Pelusio stated that a site walk had taken place in June, 2013. The applicant has addressed the concern regarding the amount of fill being proposed at the wetland crossing.

The applicant has made a submittal to the Goldens Bridge Fire Department (GBFD) for their review of the proposed roadways and driveways with regard to New York State Residential Fire Code. Based on this review, some changes to the layout have been made.

Mr. Pelusio stated that the layout now includes 20 foot wide x 50 foot length turnouts along the section of private roadway, and along the driveway access to proposed Lot 3. The intersection to Lot 3 has been expanded in lieu of providing for a separate cul-de-sac, or hammerhead turnaround, which was originally proposed. This layout was preferred by the GBFD with regard to maneuvering fire department apparatuses.

Soil testing was done in December, 2013. The GBFD requested that the applicant show that the proposed detention basin could serve as a supply of water for the proposed dwellings in the event of a fire.

In response to Mr. Kerner, Mr. Pelusio stated that the majority of the basin is located on Lot 3. An easement will be required. Mr. Pelusio is anticipating that a Homeowner's Association (HOA) will be formed for maintenance of any basins that fall outside of one lot, as well as a section of the private roadway.

Mr. O'Donnell suggested that Mr. Pelusio consult with his attorneys to consider the option of having the detention basin on one property, rather being located on two properties. A discussion of the location of the basins took place.

In response to Mr. Tetelman, Mr. Pelusio stated that with the exception of Lot 1, all of the proposed primary septic are located within the buffer.

Mr. Johannessen stated that to this point, the focus of Kellard Sessions has been zoning compliance related. Kellard Sessions will continue review when more detailed plans are received from the applicant.

Mr. Cermele asked if there had been any consideration to developing the basin as a wetland-type practice. Mr. Pelusio stated that he would be agreeable to exploring this option, however, a permanent pool of operating water is a requirement of the GBFD. Mr. Cermele stated that the stormwater basin would be planted; the infiltrators would be in an open field.

Mr. Pelusio stated that the capacity of the tanks must be 20,000 gallons.

Mr. Johannessen suggested that the Board pay particular attention to the potential visual impacts of the proposed basins at the bottom of the hill, where the road intersects Todd Road.

Mr. Cermele suggested that the applicant consider multiple smaller practices to lessen visual impact.

Mr. Kerner asked whether the applicant was considering any type of stream diversion in order to keep the pond filled.

Mr. Pelusio responded that the soil testing was done to determine where the ground water table was. The ground water table will be used.

Ms. Andersen stated that the major concern of the CAC is the septic in the buffer. In response to Ms. Andersen, Mr. Pelusio stated that the intermittent stream that goes over the area where the driveway has been modified (due to the amount of fill originally proposed) will be handled with culverts under the driveway.

It was the consensus of the Board that the plan submitted was adequate for this stage of the process.

### **III. PROJECT REVIEW**

#### **JT Farm (Peace & Carrots, LLC), 1125 Route 35, South Salem – Application for Final Subdivision Plat Approval Subdivision – Lot Line Change - Cal# 9-13PB**

Stephen Spina, Project Manager, John Meyer Consulting, was present on behalf of the applicant.

Mr. Spina stated that the originally proposed lot line has been adjusted so that a variance would not be required. The plan has been revised to show the change.

Mr. Johannessen stated that there are no outstanding comments.

In response to Mr. O'Donnell, Mr. Spina showed the trail on the plan. The trail crosses a brook, and does not get on or off of the property because of the stone wall at the property line.

In response to Mr. O'Donnell, Mr. Spina stated that he was not aware of any trail connections that go across Route 35 or to Waccabuc River Lane.

The applicant was instructed to notify Westchester County Parks Department due to the close proximity to Ward Pound Ridge Reservation, and possible connection to the Lewisboro Town Park.

The applicant was instructed to submit an Agricultural Data Statement.

A public hearing was scheduled for November 18, 2014.

#### **Wild Oaks Water Company/New York American Water – Nash Road – Application for Wetland Activity Permit to drill two bedrock test well locations in wetland buffer area – Cal# 51-14WP**

Stacy Stieber, Leggette, Brashears and Graham, was present on behalf of the applicant.

Mr. Johannessen stated that the applicant had responded to and addressed all Kellard Sessions comments.

Mr. Johannessen stated that he had been to the site on September 11, 2014. The wetland boundary had been confirmed.

Ms. Stieber stated that Well #4 was just outside of the wetland boundary. Sediment control would be set up on the edge in order to control runoff when the well is being drilled. Seed-free straw will be used.

On a motion made by Mr. Tetelman, seconded by Mr. O'Donnell, it was determined that the proposed action would be handled administratively by the Town Wetland Inspector.

In Favor: Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. O'Donnell, Mr. Tetelman.

Mr. O'Donnell stated that the applicant had provided good paperwork and responses.

**Marie-Claude Boileau, 11 Pine Hill Road, South Salem – Application for Wetland Activity Permit Approval for addition to kitchen and conversion of second floor study to a bedroom – Cal# 63-14WP**

Mr. Kerner stated that he is the architect for the project. Mr. Kerner recused himself and stepped down from the podium.

Mr. O'Donnell acted as Chairman.

Matt Gironda, Insite Engineering, was present on behalf of the applicant.

Mr. Gironda reviewed the project. Preliminary test pits were done throughout the property. Witness test pits were done with the Westchester County Department of Health (WCDH) throughout the area of the septic and above the existing septic. Shallow ground water and soils not conducive to a new septic were found in the area above the existing septic. The existing septic system has been there since the late 1980's. Based on the elevations, soils, and ground water that were found, it made the most sense to add on below the existing septic system, the previously approved expansion area, which is located within the Town's 150-foot wetland buffer. The encroachment into the Town's wetland buffer consists of the installation of two septic absorption trenches in what is now existing lawn area.

Mr. Gironda stated that the applicant had received WCDH approval of the septic system.

Mr. Johannessen stated that the code discourages placement of a septic system in the wetland buffer: the applicant has provided adequate explanation as to why placement could not occur in another location.

Mr. Johannessen reviewed the Kellard Sessions memo dated September 10, 2014.

Ms. Andersen stated that the CAC would prefer not to see the septic system intruding into the buffer, but recognize that it is in a previously approved area.

In response to Mr. O'Donnell, Mr. Gironda stated that the applicant did not consider moving the septic system to the adjacent property. Mr. Johannessen stated that he did not analyze the adjacent property.

Mr. Johannessen stated that he had no issues handling the property administratively.

Mr. Siebert stated that it is at the Board's discretion as to how to handle the application.

Ms. Andersen suggested that as part of the mitigation, some of the area that is currently lawn, no longer be lawn.

It was the consensus of the Board that the proposed action be handled administratively by the Town Wetland Inspector.

Mr. Kerner resumed his place at the podium.

#### **IV. TOWN BOARD REFERRAL**

##### **Proposed change to the zoning designation of property zoned R-1A to R-B affecting real property located at 5 East Street, (Cipriano, Pietro and Jennifer – owners of record), Block 9834, Lot 36, Sheet 53**

Michael Fuller Sirignano represented Mr. & Mrs. Copia. David Coffin, Architect, was present on behalf of Mr. and Mrs. Copia.

Mr. Sirignano submitted the document, "Proposed Changes to Copia Nursery Site and Adjacent Residential Property" and Sketch Plan dated July 24, 2014 (Attachment A).

Mr. Sirignano stated that a memo dated August 7, 2014 had been issued by the Zoning Board of Appeals (ZBA) to the Town Board indicating consensus of the ZBA to support the petition for a zoning change.

Mr. Sirignano stated that a letter from the immediate neighbor (William Bowen and Lisa Margaret Smith, 9 East Street) dated July 28, 2014 supporting the application had been submitted.

Mr. Coffin stated that the existing 25-foot curb cut would be increased to 60 feet, rather than the originally proposed increase to 75-feet. The proposed new curb cut adjacent to the mulch bins has been removed from the plan. The proposed connector between what is now the residential property and the Copia Nursery remains on the plan.

Mr. Kerner restated the Board's concern regarding the interjection of a curb cut (of the size proposed) within a residential road. Mr. Kerner noted that the ZBA comments indicated that there was a demarcation point, and asked that Mr. Coffin point this out to the Board.

In response, Mr. Coffin referred to (page 4) of Attachment A, an aerial photo of the area. The beginning of the Residential District on East Street, and the curb cut are marked in red on the aerial photo. Mr. Coffin also reviewed the photos of street views from East Street, included in Attachment A.

Mr. Sirignano stated that the applicant is not applying for a Use Variance with the ZBA.

Mr. Sirignano stated that at the time the petition was filed with the Town Board, the request was rezone the property from R-1 to R-B (Residential Business). Mr. Sirignano stated that there is precedent with the Vista Garden Center. The Vista Garden Center was rezoned to G-B (General Business) in 2002. With regard to permitted uses, G-B includes everything that can be done in R-B zoning, with the inclusion of Landscape Nursery. Mr. Sirignano referred to §220-2(B) of the Town Code. Mr. Sirignano stated that he plans to file an amended petition to the Town Board to rezone East Street to G-B, with the proviso that the only true G-B use that would be allowed at the Cipriano site would be Landscape

Nursery. This would protect the neighbors from any future owners to extend the use beyond the scope of Landscape Nursery.

Mr. Johannessen confirmed that when the Vista Garden Center was rezoned, it had the condition that the only permitted G-B use would be Landscape Nursery.

Mr. Johannessen stated that he still has concerns over traffic circulation and curb cuts, but that these issues could be dealt with during Site Plan Review with the Planning Board.

Mr. Siebert stated that the report from the Planning Board is limited to the planning considerations related to the proposed zone change. The legal elements are up to the consideration of the Town Board when acting on the proposed zone change.

In response to Mr. Johannessen, Mr. Sirignano stated that the petition would be amended to include that the existing R-B zone would be changed to G-B as well.

It was the consensus of the Board that Kellard Sessions would prepare a positive recommendation, including the concerns noted by the Planning Board, to the Town Board.

Mr. O'Donnell requested that Mr. Sirignano provide a copy of the amended petition to Mr. Johannessen. Mr. Sirignano agreed.

## **V. DISCUSSION**

### **J2 Boniello Builders – Property fronting Bouton Road – Application for Wetland Activity Permit Approval to construct a single family residence serviced by a septic system and drilled well – Cal# 39-14WP**

Jesse Boniello and Jared Boniello, applicants, were present. Gus Boniello was also present.

Mr. Johannessen stated that the wetland boundary has been flagged and confirmed.

A site walk was scheduled for September 20, 2014. Mr. Johannessen stated that he would not be available. The availability of Mr. Sessions would be confirmed.

#### **Septic Compliance Administration**

The Board discussed the language contained in resolutions and wetland permits with regard to the definition of “pumping” and “inspection”.

The frequency requirement of pumping and inspection; the timing of reminder letters; and consequences of non-compliance; and the overall responsibility of record-keeping were also discussed.

Mrs. Pisera stated that Julie McCormick maintains the list of properties requiring pumping and/or inspection as per Planning Board resolutions or wetland permits. Mrs. McCormick sends reminder letters approximately four to six weeks in advance of the reporting due date. Residents send their reports to either Mrs. Pisera (who passes them onto Mrs. McCormick), or directly to Mrs. McCormick.

A discussion took place as to who should be responsible for reviewing the reports submitted. The Board agreed that the reports should be reviewed by a professional, possibly Kellard Sessions. Kellard Sessions currently does not receive copies of the reports.

Mr. Goett suggested that a checklist be completed at the time of inspection.

Mr. Johannessen stated that for the years that the Planning Board has made requirements of pumping/inspection/maintenance, the language has been inconsistent, making it difficult to administrate.

Mr. O'Donnell suggested that a session be scheduled at a time when Mr. Sessions and Ms. McCormick could be present. Mr. O'Donnell also suggested that a copy of County regulations and Town regulations be obtained.

Mr. Johannessen stated his opinion that the County regulations are a separate matter. Mr. Johannessen suggested that consideration should be given to correcting the ambiguities that are contained in existing wetland permits, and perhaps pass an overriding resolution that identifies a clear and concise inspection requirement that would be applied across the board. After such action, notice would be given to the permit holders informing them of the requirements.

With regard to standardizing language, Mr. O'Donnell suggested that because the Board is dealing with individual resolutions, a public hearing might be held in order to give the individual property owners an opportunity to speak. At that time, all of the resolutions may be amended at the same time.

Mr. Kerner suggested that individuals wishing to modify their (frequency) requirements could explain their case to the Board for consideration.

Ms. Andersen expressed concern when making changes to resolutions, as it relates to changes in property owners. Mr. Johannessen stated his opinion that inspections would be indicative of the necessity to pump.

A discussion of the form to be submitted by the property owner was discussed: the County reporting form; or the creation of a specific form required by the Planning Board.

It was the consensus of the Board that Kellard Sessions prepare a proposal for consideration at the next Planning Board meeting. Mr. O'Donnell requested that the proposal be sent to both Mr. Monteleone and Mr. Siebert for review prior to distribution to the Board.

Mr. Tetelman stated that the condition of the septic tank is the key point, rather than the amount of time a homeowner spends at the property. Mr. Cermele agreed that the condition of the tank is a set trigger, and provides for easier administration.

From an administrative perspective, Mrs. Pisera questioned at what point a non-compliant property is turned over to the Wetland Inspector and/or attorney. Mr. O'Donnell stated his opinion that this is a decision to be made by the Town Board, not the Planning Board.

Mr. Tetelman suggested that the Lakes Committee be part of the septic compliance administration discussion. Ms. Andersen agreed to approach the Lakes Committee.

Mr. Monteleone suggested that the Town of North Salem be consulted, as they have a tracking system in place. Ms. Andersen clarified that this is for the 5-year requirement by the State.

**VI. CORRESPONDENCE AND GENERAL BUSINESS**

The Board acknowledged receipt of a letter from the Town of Wilton informing the Town of Lewisboro of a project taking place within the 500-foot boundary.

**VII. MINUTES OF AUGUST 19, 2014**

On a motion made by Mr. Tetelman, seconded by Mr. Goett, the minutes of August 19, 2014 were adopted.

In favor: Mr. Goett, Mr. LaSorsa, Mr. O'Donnell, Mr. Tetelman.

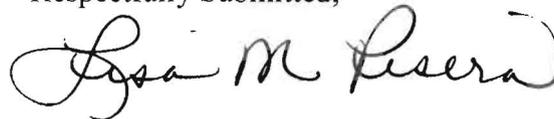
Abstain: Mr. Kerner

**VIII. ADJOURNMENT**

On a motion made by Mr. LaSorsa, seconded by Mr. Tetelman, the meeting was adjourned at 9:13 p.m.

In favor: Mr. Goett, Mr. Kerner, Mr. LaSorsa, Mr. O'Donnell, Mr. Tetelman.

Respectfully Submitted,

A handwritten signature in black ink that reads "Lisa M. Pisera". The signature is written in a cursive, flowing style.

Lisa M. Pisera  
Planning Board Secretary

Attachment A 9-16-14  
Minutes

Received from  
Michael Srignano/  
David Coffin  
9/16/14 PB Mtg.

**PROPOSED CHANGES TO  
COPIA NURSERY SITE AND ADJACENT RESIDENTIAL PROPERTY**

The attached sketch site plan, dated July 24, 2014, reflects the following:

**Existing Commercial Copia Nursery Property:**

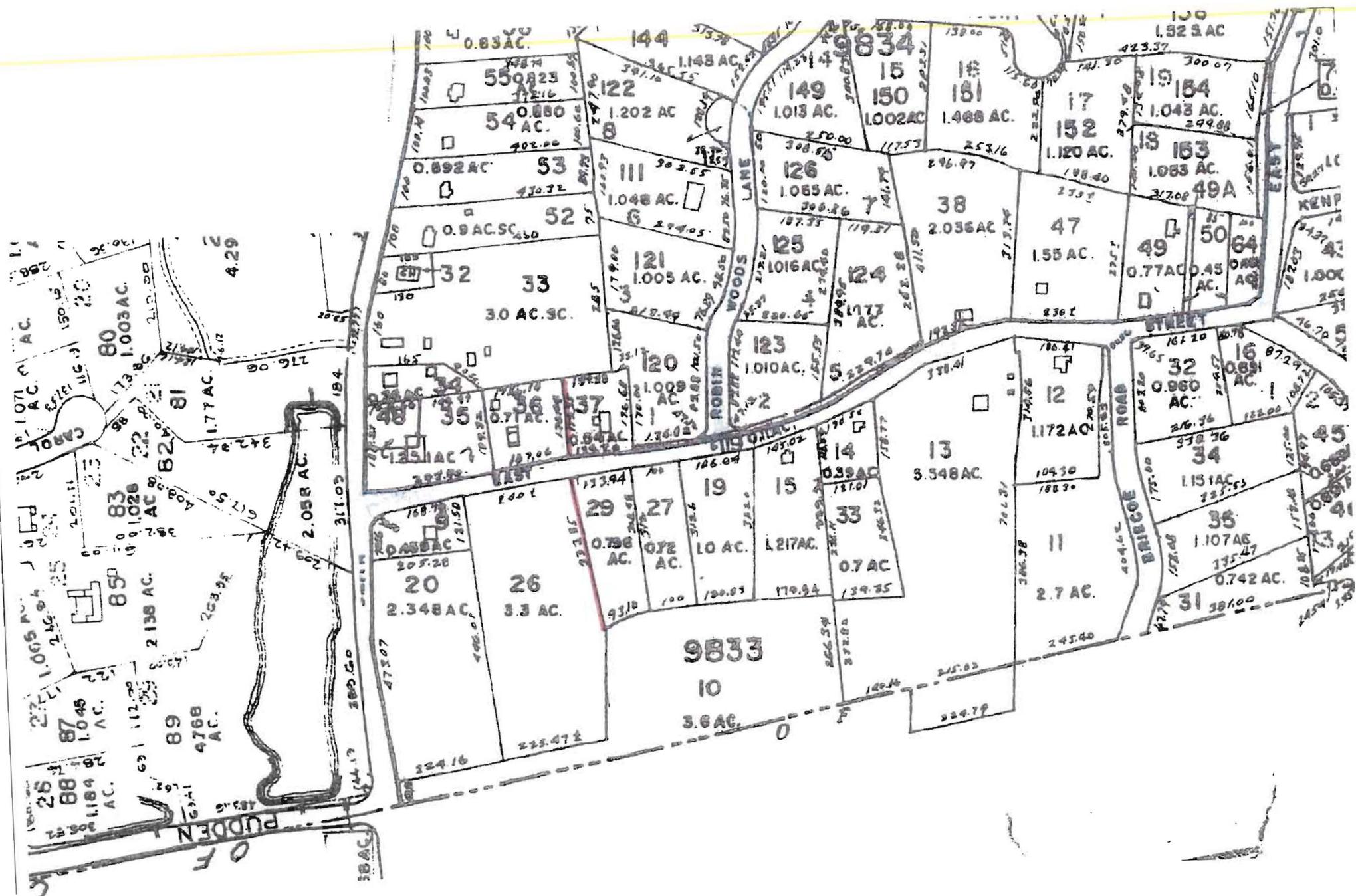
1. Widen existing curb cut off East Street from 25 feet to 60 feet. Extended curb cut is needed for a tractor-trailer to turn and remain off East Street for parking and unloading, then exiting by backing up (on site) toward the Copia Building and then make a 180 degree turn back toward the intersection of East St. and RT 123. This also involves moving the existing railroad tie retaining wall 8 to 10 feet toward the existing Greenhouses and extending/relocating chain link fence and installing a new gate. The extended curb cut next to street will be stabilized with stone for tractor-trailers to drive over, rather than blacktop, which absorbs and radiates heat detrimental to plants. The remaining strip between the fence and street will be grass and new plant screen.
2. Install new connector (stabilized with gravel) connecting the existing Copia Nursery property and the existing residential driveway adjacent to the existing Garage (on Existing Residential property).

**Existing Residential Property:**

1. Change Residential Zoning to Commercial.
2. Install new "solid" gate adjacent to front porch to provide a visual barrier between front of property/street and the rear/garage of the property. Shrubs will be planted adjacent to the gate as needed to further restrict the view from the street. The existing plantings and fence along the front (East Street) of the property remain as a visual barrier. The intent is to maintain and present a residential view from the street. Likewise the existing plantings along the east side of property line remain and extended to the rear property line to provide visual barrier between the adjacent residential property. The rear of the property is totally screened by dense woods on the adjacent property.
3. Plant storage will be along the rear and east side of the property; the front yard remains lawn and free from plant storage, especially since the existing septic system is there. Firewood storage will be located adjacent to the garage and driveway.

July 25, 2014









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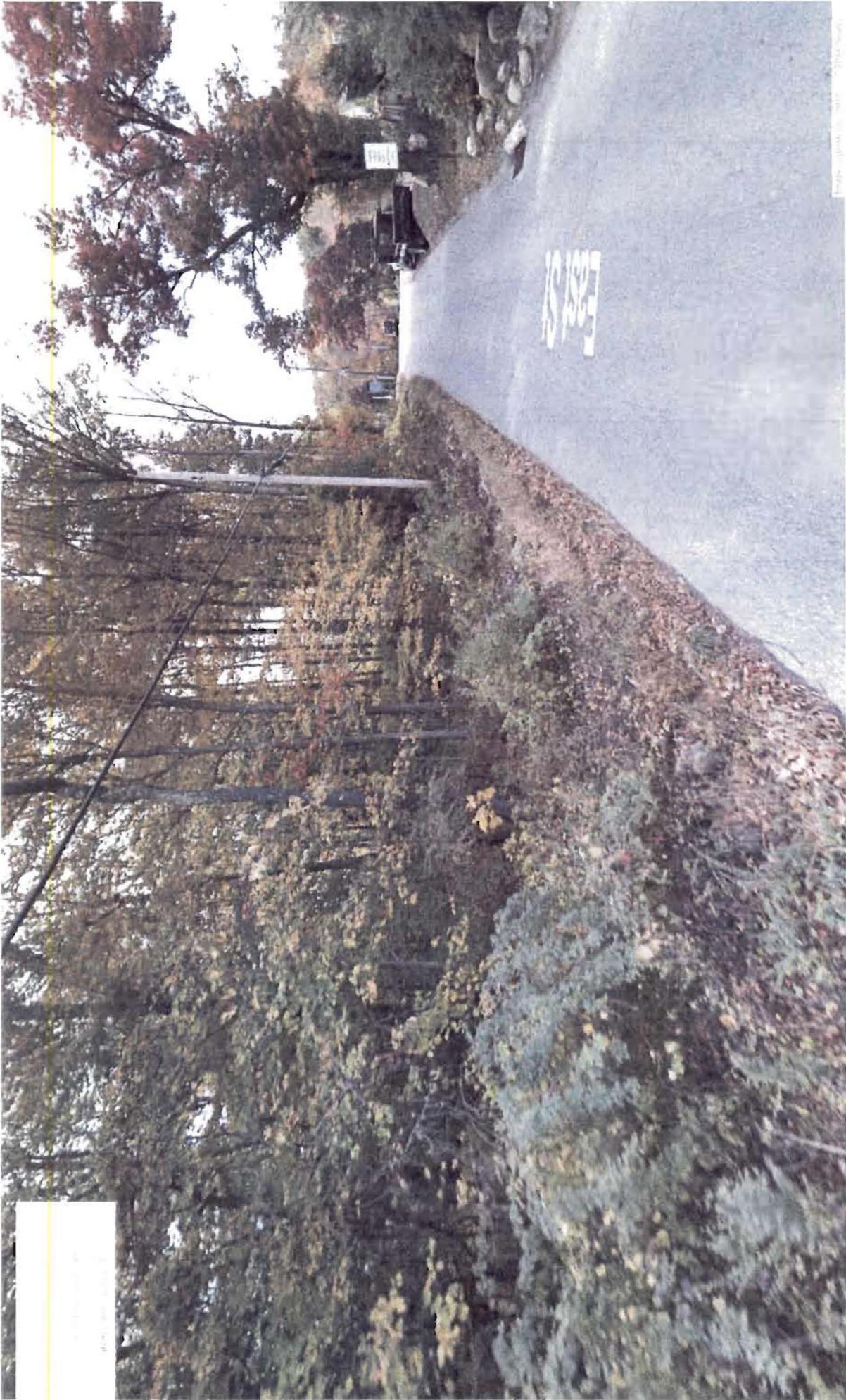


Image courtesy of [unreadable]

Image courtesy of [unreadable]



Photograph by the author, 2014

Figure 1. Stop sign at the intersection of the road and the road.