

APPROVED

Town of Lansing

Monday, December 17, 2012 7:15 PM

PLANNING BOARD

PLANNING BOARD MEMBERS

(*Denotes present)

*	Tom Ellis		
*	Larry Sharpsteen	*	Lin Davidson, Chairman
*	David Hatfield		
	Richard Prybyl		
*	Al Fiorille		
*	Jeffrey Overstrom, EIT		
*	Lorraine Moynihan Schmitt, Esq.		
	Robert Cree, TB Liaison		

Public Present

Claes Nyberg
Deborah Trumbull
Geraldine Gay
Oya Rieger
Robert Rieger
A couple other unknown people

General Business

Lin Davidson Chairperson called the Planning Board Meeting to order at 7:15 PM. Mr. Davidson inquired if there were any questions or concerns from the Public that is not related to the Agenda. There were none.

For the record, due to a previous commitment, H. Floyd Davis was not able to be present. However, he was on speaker phone for the entire presentation.

Public Hearing SEQR Review - Applicant, H. Floyd Davis, 54 Lake Forest Drive, Tax # 32.-1-37.428

David Hatfield made a motion to open the SEQR Public Hearing at 7:21 PM. Larry Sharpsteen seconded the motion and it was carried by the following roll call vote:

Vote of Planning Board . . . (Aye) Thomas Ellis, Member
Vote of Planning Board . . . (Aye) Al Fiorille, Member
Vote of Planning Board . . . (Aye) David Hatfield, Member
Vote of Planning Board . . . (Aye) Larry Sharpsteen, Member

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Vote of Planning Board . . . (Aye) Lin Davidson, Member

Chairman Davidson asked for Public comments. There were none.

David Hatfield made a motion to close the SEQR Public Hearing at 7:22 PM. Larry Sharpsteen seconded the motion and it was carried by the following roll call vote:

Vote of Planning Board . . . (Aye) Thomas Ellis, Member
Vote of Planning Board . . . (Aye) Al Fiorille, Member
Vote of Planning Board . . . (Aye) David Hatfield, Member
Vote of Planning Board . . . (Aye) Larry Sharpsteen, Member
Vote of Planning Board . . . (Aye) Lin Davidson, Member

The Planning Board Members reviewed Part I and completed Part II of the Full Environmental Assessment Form.

Thomas Ellis offered the following Resolution declaring a negative declaration. David seconded the motion and it was carried by the following roll call vote:

Vote of Planning Board . . . (Aye) Thomas Ellis, Member
Vote of Planning Board . . . (Aye) Al Fiorille, Member
Vote of Planning Board . . . (Aye) David Hatfield, Member
Vote of Planning Board . . . (Aye) Larry Sharpsteen, Member
Vote of Planning Board . . . (Aye) Lin Davidson, Member

RESOLUTION 12-61

**RESOLUTION OF THE LANSING PLANNING BOARD ISSUING A NEGATIVE
DECLARATION OF ENVIRONMENTAL SIGNIFICANCE RESPECTING THE
STATE ENVIRONMENTAL QUALITY REVIEW ("SEQR")
OF THE H. FLOYD DAVIS REVISED SUBDIVISION PLAT FOR A MINOR
SUBDIVISION AND TWO PARCEL LAND SWAP WITH COMMON DRIVEWAY**

WHEREAS, after preliminary approval with conditions by the Planning Board on July 9, 2012, of a minor residential subdivision of a 43.86 +/- acre parcel into two (2) non-conforming frontage lots of certain land, located at 54 Forest Lake Drive, Lansing, New York and otherwise known as Tax Map Parcel # 32.-1-37.428 in the L1 District; and

WHEREAS, after submission thereof, the Lansing Planning Board has reviewed the Revised Subdivision Application Preliminary Plat/Final Plat, dated October 17, 2012,

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for approval of a minor subdivision and 2 parcel land swap, together with shared driveway, of the following parcels: Subdivision of Applicant H. Floyd Davis Tax Map Parcel # 32.-1-37.428 (43.545 acres) thereby creating Parcel "D-1" (2.216 acres) and Parcel "D-2" (4.888 acres) to be transferred to Rieger, together with a proposed land swap transfer between Davis and Nyberg/McCarter with Parcel "B" (0.327 acres) to be transferred to Nyberg/McCarter from Davis and Parcel "C" (0.108 acres, P/O Tax Map # 32.-1-57) to be transferred to Davis from Nyberg/McCarter, with the final residual parent parcel "A" lot to be retained by Davis (36.222 acres). The above common development plan includes a shared driveway between parcels "A" and "D-1" and "D-2" and an easement to said common driveway over parcel "A", granted to Nyberg/McCarter by Davis, connecting to Parcel "B", all within the L1 District; and

WHEREAS, the original and revised proposed subdivision contained two non-conforming frontage lots, Parcel "A" and Parcel "B" (now combined parcels D-1 and D-2), both of which have less than the 150 feet of road frontage required for the L1 District; and

WHEREAS, the Applicant was granted a variance by the Town of Lansing Zoning Board of Appeals, by Decision dated June 19, 2012 permitting new lot parcel B (now parcels D-1 and D-2) an area variance for 75 feet of reduced road frontage and the residual lot parcel, Parcel A, a variance of reduced road frontage of 88 feet, subject to the Condition that the Planning Board consider the recommendations of the Tompkins County Department of Planning, dated May 2, 2012, respecting a recommended 50 foot no-build buffering zone and a rare and scarce plant species inventory with mitigation measures, given the location of the Parcels are located in a Unique Natural area (Lake Cliffs- UNA-24); and

WHEREAS, the Revised Preliminary Plat/Final Plat now references the original Parcel "B" set forth above as Parcel "D-1 and D-2, conveying both parcels to the same owner with a right of reversion to the Applicant Floyd Davis associated with Parcel D-2 for potential future road frontage in the event of a future roadway built within the entire development; and

WHEREAS, the Tompkins County Department of Planning, by correspondence dated May 2, 2012, made the following GML 239 recommended modifications which if not adopted requires a super - majority (majority plus one) vote of all members of the Planning Board in order to approve the Application:

- *The Unique Natural Area in which this subdivision is proposed, Lake Cliffs (UNA-24) was established in large part due to the rare and [scarce] plant species found along dry cliffs. These plant species include the rare species of Cooper's milk vetch, creeping bush clover and elm-leaved goldenrod. Care should be taken to inventory these plants species and adequate mitigation measures, including possibly restricting the area of site*

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disturbance, should be required in order to reduce the impacts of the proposed development.

- *To help protect water quality, we recommend that the Town require a minimum 50-foot, no build buffer to the intermittent stream which follows the parcel's southern boundary. This buffer should be measured from the top of the stream bank and maintained as natural vegetation.*

WHEREAS, the Tompkins County Department of Planning, by correspondence, dated December 3, 2012, has made no additional comments in addition to their original comments set forth in its correspondence of May 2, 2012 set forth above; and

WHEREAS, the Town of Lansing Planning Board requested comment from the Highway Department, respecting the impacts of the proposed Common Driveway and potential future roadway set forth in the Applicant's Revised Preliminary/Final Plat and application and the Lansing Highway Department has stated, by correspondence, dated November 19, 2012, that it has "no comment" respecting same as "it appears to be a private driveway"; and

WHEREAS, the requisite General Municipal Law 239 Referrals of Article 12-8 referrals were duly effected by the Town of Lansing Planning Department, as set forth above, and formal recommendations of the Tompkins County Department of Planning have been duly considered and the Planning Board determined, by supermajority vote, on July 9, 2012, not to require the Applicant to undergo a rare and scarce plant inventory, as suggested by the Tompkins County Department of Planning, finding that such an inventory is unnecessarily onerous upon the Applicant and the site's slope plant species shall be protected by a no-build buffer; and the Planning Board, by supermajority vote, determined to require a 35 no-build buffer from the house and a 50 foot no-build buffer from the road, instead of the overall 50 foot buffer recommended by the Tompkins County Department of Planning and the 25 foot buffer requested by the Applicant, and, upon a full review of the application and site plan materials, the Planning Board determined that a 35 foot buffer from the house shall be adequate to protect the water quality upon and off the site, and adequate to protect the intermittent stream and the slopes and plant species upon the site; and

WHEREAS, the Tompkins County Environmental Management Council, by correspondence dated February 13, 2012, has made comments on a preliminary proposal and the Planning Board has duly reviewed those comments; and

WHEREAS, the subject subdivision is a non-conforming minor subdivision, due to inadequate road frontages of two parcels, and this is an Unlisted Action under the State Environmental

Quality Review Act which requires environmental review; and

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WHEREAS, the Applicant has submitted a new short form Environmental Assessment Form (EAF), dated November 20, 2012, for the State Environmental Quality Review (SEQR) of the proposed minor subdivision and 2 parcel land swap with common driveway, said review to be Uncoordinated Review without declaration of Lead Agency; and

WHEREAS, the requisite General Municipal Law 239 Referrals of Article 12-8 referrals were duly effected by the Town of Lansing Planning Department, as set forth above, and formal recommendations of the Tompkins County Department of Planning have been duly considered and the Planning Board determined, by supermajority vote, not to require the Applicant to undergo a rare and scarce plant inventory, as suggested by the Tompkins County Department of Planning, finding that such an inventory is unnecessarily onerous upon the Applicant and the site's slope plant species shall be protected by a no-build buffer; and the Planning Board, by super-majority vote, determined to require a 35 no-build buffer from the house and a 50 foot no-build buffer from the road, instead of the overall 50 foot buffer recommended by the Tompkins County Department of Planning and the 25 foot buffer requested by the Applicant, and, upon a full review of the application and site plan materials, the Planning Board determined that a 35 foot buffer from the house shall be adequate to protect the water quality upon and off the site, and adequate to protect the intermittent stream and the slopes and plant species upon the site; and

WHEREAS, on December 17, 2012, the Town of Lansing Planning Board, in performing its reviewing Agency function in conducting an environmental review in accordance with Article 8 of the New York State Environmental Conservation Law – the State Environmental Quality Review Act (“SEQR”), (i) pursued its thorough review of the applicant's completed Short Form Environmental Assessment Form (“EAF”) Part I, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review, and (ii) thoroughly analyzed the potential relevant areas of environmental concern of the project to determine if the proposed action may have a significant adverse impact on the environment, including the criteria identified in 6 NYCRR Section 617.7(c), and (iii) reviewed, on the record, the EAF, Part II on the record (and reviewed and completed, if necessary, Part III of the EAF);

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

The Town of Lansing Planning Board, based upon (i) its thorough review of the EAF, Part I, and any and all other documents prepared and submitted with respect to this proposed action and its environmental review, (ii) its thorough review of the potential relevant areas of environmental concern of the proposed project to determine if the proposed action may have a significant adverse impact on the environment, including the criteria identified in 6 NYCRR Section 617.7(c), and (iii) its review and completion of

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the EAF, Part II (and, if applicable, Part III), including the findings noted thereon (which findings are incorporated herein as if set forth at length), hereby makes a negative determination of environmental significance (“**NEGATIVE DECLARATION**”) in accordance with SEQRA for the above referenced proposed action, and determines that an Environmental Impact Statement will not be required.

Dated: December 17, 2012

Public Hearing - Revised Subdivision Final Preliminary Plat/Final Plat, Applicant, H. Floyd Davis, 54 Lake Forest Drive, Tax # 32.-1-37.428

David Hatfield made a motion to open the Public Hearing at 7:25 PM on the overall Application. Larry Sharpsteen seconded the motion and it was carried by the following roll call vote:

Vote of Planning Board . . . (Aye) Thomas Ellis, Member
Vote of Planning Board . . . (Aye) Al Fiorille, Member
Vote of Planning Board . . . (Aye) David Hatfield, Member
Vote of Planning Board . . . (Aye) Larry Sharpsteen, Member
Vote of Planning Board . . . (Aye) Lin Davidson, Member

Chairman Davidson asked for Public comments. There were none.

David Hatfield made a motion to close the Public Hearing on the overall Application at 7:28 PM. Larry Sharpsteen seconded the motion and it was carried by the following roll call vote:

Vote of Planning Board . . . (Aye) Thomas Ellis, Member
Vote of Planning Board . . . (Aye) Al Fiorille, Member
Vote of Planning Board . . . (Aye) David Hatfield, Member
Vote of Planning Board . . . (Aye) Larry Sharpsteen, Member
Vote of Planning Board . . . (Aye) Lin Davidson, Member

Member Comments/Concerns

Thomas Ellis inquired if the Highway and Fire Department have reviewed this proposal and made any comments with respect to the driveway lengths. Jeff Overstrom indicated they have, and have commented that it is no different than other places such as Fiddlers Green as long as the driveway is wide enough for EMS vehicles. Mr. Ellis

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felt the Planning Board should remove the driveway issues related to this subdivision as he feels the Town should not get involved and sanction this action.

Larry Sharpsteen totally agreed with Mr. Ellis. Mr. Sharpsteen feels the Town should not become arbiters in a driveway agreement between three private parties.

Lorraine Moynihan Schmitt, Planning Board Legal Counsel states in the proposed driveway agreement and the Resolution, condition #14 is a lengthy release of liability to the Town related to this driveway. Ms. Moynihan Schmitt advised the Board that she and Guy Krogh, Town Counsel is comfortable with this moving forward.

Of the 15 conditions placed on the proposed Resolution for approval, Chairman Davidson read the following condition aloud:

1. **No further subdivision, land swap(s), boundary change(s), consolidation(s), lot line adjustment(s) and/or any other changes to the boundaries** depicted in the Applicant's revised common plan of development and Final Preliminary Plat/Final Plat, dated October 17, 2012, and prepared by Stockwin Surveying, R. James Stockwin PLS #049012 and entitled "Proposed Land Swap" of the "Lands of H. Floyd Davis, III, **without a full revised preliminary subdivision plat presented to the Planning Board for review and approval;**

In addition, the following stamp will be placed on the Final Plat along with the approving stamp.

See also, the following documents filed in the Tompkins County Clerk's Office:

1. Common Driveway Agreement, dated December 27, 2012, executed by Davis, Rieger, and Nyberg/McCarter;
2. December 27, 2012 Davis to Rieger Deed Schedule A respecting rights of reversion affecting Parcel D-2;
3. H. Floyd Davis Minor Subdivision With 2 Parcel Land Swap and Common Driveway Approval Resolution With Conditions of the Town of Lansing Planning Board, dated December 17, 2012

Ms. Moynihan Schmitt requested changes be made prior to approval:

- Condition # 9, second line, should read; and a Town of Lansing driveway Permit.
- Condition # 13, the language needs to be tighten up

Jeff Overstrom states the Town does not require a permit to install a driveway, they only require a permit for the culvert.

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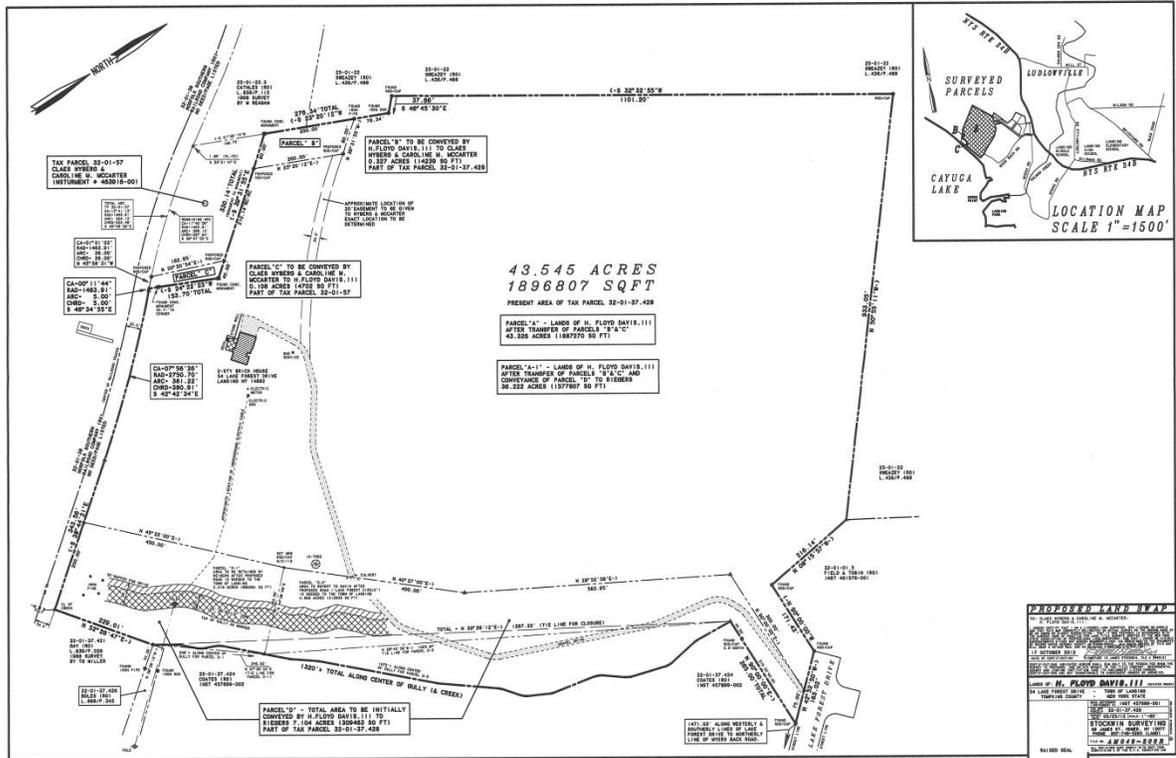
Larry Sharpsteen states specifications for the driveway should have been written into the proposed Resolution.

Al Fiorille states his concerns are that the driveway is constructed to specifications that allow for emergency vehicles to enter.

After further discussion, the Board requested that specifications for the driveway be incorporated in the Resolution. It should be made 12' wide and built like the existing driveway of Davis. Both Riger and Nyberg agreed to this condition.

Larry Sharpsteen suggested that the Resolution include that the Town Highway and the Fire Department take a final look at the driveway.

In addition, the May 2, 2012 County 239 over ride was conducted by a supermajority vote by the Planning Board on July 9, 2012. The County's new comments dated December 3, 2012 are exactly the same therefore, the over ride still holds.



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Al Fiorille offered the following Resolution with conditions. David Hatfield seconded the motion and it was carried by the following roll call vote:

Vote of Planning Board . . . (No) Thomas Ellis, Member
Vote of Planning Board . . . (Aye) Al Fiorille, Member
Vote of Planning Board . . . (Aye) David Hatfield, Member
Vote of Planning Board . . . (Aye) Larry Sharpsteen, Member
Vote of Planning Board . . . (Aye) Lin Davidson, Member

RESOLUTION 12-64

RESOLUTION OF THE LANSING PLANNING BOARD CONDITIONALLY APPROVING THE H. FLOYD DAVIS REVISED SUBDIVISION PLAT FOR A MINOR SUBDIVISION AND TWO PARCEL LAND SWAP WITH COMMON DRIVEWAY

WHEREAS, after preliminary approval with conditions by the Planning Board on July 9, 2012, of a minor residential subdivision of a 43.86 +/- acre parcel into two (2) non-conforming frontage lots of certain land, located at 54 Forest Lake Drive, Lansing, New York and otherwise known as Tax Map Parcel # 32.-1-37.428 in the L1 District, the **Applicant has submitted a revised Preliminary Plat/Final Plat, dated October 17, 2012, for approval of a minor subdivision and 2 parcel land swap, together with shared driveway, of the following parcels: Subdivision of Applicant H. Floyd Davis Tax Map Parcel # 32.-1-37.428 (43.545 acres) thereby creating Parcel "D-1" (2.216 acres) and Parcel "D-2" (4.888 acres) to be transferred to Rieger, together with a proposed land swap transfer between Davis and Nyberg/McCarter with Parcel "B" (0.327 acres) to be transferred to Nyberg/McCarter from Davis and Parcel "C" (0.108 acres, P/O Tax Map # 32.-1-57) to be transferred to Davis from Nyberg/McCarter, with the final residual parent parcel "A" lot to be retained by Davis (36.222 acres). The above common development plan includes a shared driveway between parcels "A" and "D-1" and "D-2" and an easement to said common driveway over parcel "A", granted to Nyberg/McCarter by Davis, connecting to Parcel "B"; and**

WHEREAS, the original and revised proposed subdivision contained two non-conforming frontage lots, Parcel "A" and Parcel "B" (now combined parcels D-1 and D-2), both of which have less than the 150 feet of road frontage required for the L1 District; and

WHEREAS, the Applicant was granted a variance by the Town of Lansing Zoning Board of Appeals, by Decision dated June 19, 2012 permitting new lot parcel B (now parcels D-1 and D-2) an area variance for 75 feet of reduced road frontage and the residual lot parcel, Parcel A, a variance of reduced road frontage of 88 feet, subject to the Condition that the Planning Board consider the recommendations of the Tomkins County Department of Planning, dated May 2, 2012, respecting a recommended 50 foot

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no-build buffering zone and a rare and scarce plant species inventory with mitigation measures, given the location of the Parcels are located in a Unique Natural area (Lake Cliffs- UNA-24); and

WHEREAS, the Revised Preliminary Plat/Final Plat now references the original Parcel "B" set forth above as Parcel "D-1 and D-2, conveying both parcels to the same owner with a right of reversion to the Applicant Floyd Davis associated with Parcel D-2 for potential future road frontage in the event of a future roadway built within the entire development; and

WHEREAS, the Tompkins County Department of Planning, by correspondence dated May 2, 2012, made the following GML 239 recommended modifications which if not adopted requires a super - majority (majority plus one) vote of all members of the Planning Board in order to approve the Application:

- *The Unique Natural Area in which this subdivision is proposed, Lake Cliffs (UNA-24) was established in large part due to the rare and [scarce] plant species found along dry cliffs. These plant species include the rare species of Cooper's milk vetch, creeping bush clover and elm-leaved goldenrod. Care should be taken to inventory these plants species and adequate mitigation measures, including possibly restricting the area of site disturbance, should be required in order to reduce the impacts of the proposed development.*
- *To help protect water quality, we recommend that the Town require a minimum 50-foot, no build buffer to the intermittent stream which follows the parcel's southern boundary. This buffer should be measured from the top of the stream bank and maintained as natural vegetation.*

WHEREAS, the Tompkins County Department of Planning, by correspondence, dated December 3, 2012, has made no additional comments in addition to their original comments set forth in its correspondence of May 2, 2012 set forth above; and

WHEREAS, the Town of Lansing Planning Board requested comment from the Highway Department, respecting the impacts of the proposed Common Driveway and potential future roadway set forth in the Applicant's Revised Preliminary/Final Plat and application and the Lansing Highway Department has stated, by correspondence dated November 19, 2012, that it has "no comment" respecting same as "it appears to be a private driveway"; and

WHEREAS, the requisite General Municipal Law 239 Referrals of Article 12-8 referrals were duly effected by the Town of Lansing Planning Department, as set forth above, and formal recommendations of the Tomkins County Department of Planning have been duly considered and the Planning Board determined, by supermajority vote, on July 9, 2012, not to require the Applicant to undergo a rare and scarce plant inventory,

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as suggested by the Tompkins County Department of Planning, finding that such an inventory is unnecessarily onerous upon the Applicant and the site's slope plant species shall be protected by a no-build buffer; and the Planning Board, by super-majority vote, determined to require a 35 no-build buffer from the house and a 50 foot no-build buffer from the road, instead of the overall 50 foot buffer recommended by the Tompkins County Department of Planning and the 25 foot buffer requested by the Applicant, and, upon a full review of the application and site plan materials, the Planning Board determined that a 35 foot buffer from the house shall be adequate to protect the water quality upon and off the site, and adequate to protect the intermittent stream and the slopes and plant species upon the site; and

WHEREAS, the Tompkins County Environmental Management Council, by correspondence dated February 13, 2012, has made comments on a preliminary proposal and the Planning Board has duly reviewed those comments; and

WHEREAS, this action is classified as an Unlisted Action, pursuant to 6 NYCRR Part 617 *et seq.* of the State Environmental Quality Review Act, which requires environmental review of the impacts of the project; and

WHEREAS, on December 17, 2012, the Planning Board, acting on a uncoordinated environmental review, reviewed and accepted, as adequate, a new short form Environmental Assessment Form ("EAF") Part I, dated November 20, 2012, submitted by the Applicant; and the Lansing Planning Board completed Part II on the record (and, if applicable, Part III of the EAF); and

WHEREAS, by resolution adopted December 17, 2012 the Town of Lansing Planning Board determined that, pursuant to the provisions of the State Environmental Quality Review Act, the proposed revised subdivision plat and common plan of development will result in no significant impact on the environment and issued a Negative Declaration of environmental significance for purposes of Article 8 of the Environmental Conservation Law; and

WHEREAS, at the Lansing Planning Board Meeting, held on December 17, 2012 at the Lansing Town Hall, the Planning Board reviewed the overall Revised Common Plan of Development and the Planning Board underwent preliminary final plat/ final plat review of the proposed revised minor subdivision with two parcel land swap with common driveway, and has considered and carefully reviewed the requirements of the Land Use Ordinance Section 701 *et seq.*, relative to Planning Board site plan review and the unique needs of the Town due to the topography, the soil types and distributions, and other natural and man made features upon and surrounding the area of the proposed Site Plan, and consideration of storm water drainage, erosion control, parking, water and sewer facilities, driveways, site lighting, off site impacts, roadways and walkways, height regulations, landscaping, open space, and compliance with other

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state, county and local agency regulations; and the Planning Board has also considered the Town's Comprehensive Plan and compliance therewith; and

WHEREAS, the Planning Board has considered and carefully reviewed the requirements of the Town's Laws relative to subdivisions and the unique needs of the Town due to the topography, the soil types and distributions, and other natural and man-made features upon and surrounding the area of the proposed Subdivision, and the Town has also considered the Town's Comprehensive Plan and compliance therewith; and

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

RESOLVED: that the Town of Lansing Planning Board *grants Approval* of the Floyd Davis Subdivision, an Application for a Preliminary Plat/Final Plat, dated October 17, 2012, for approval of a minor subdivision and 2 parcel land swap, together with shared driveway, of the following parcels: Subdivision of Applicant H. Floyd Davis Tax Map Parcel # 32.-1-37.428 (43.545 acres) thereby creating Parcel "D-1" (2.216 acres) and Parcel "D-2" (4.888 acres) to be transferred to Rieger, together with a proposed land swap transfer between Davis and Nyberg/McCarter with Parcel "B" (0.327 acres) to be transferred to Nyberg/McCarter from Davis and Parcel "C" (0.108 acres, P/O Tax Map # 32.-1-57) to be transferred to Davis from Nyberg/McCarter, with the final residual parent parcel "A" lot to be retained by Davis (36.222 acres). The above common development plan includes a shared driveway between parcels "A" and "D-1" and "D-2" and an easement to said common driveway over parcel "A", granted to Nyberg/McCarter by Davis, connecting to Parcel "B", **said approval is subject to the following conditions:**

2. **No further subdivision, land swap(s), boundary change(s), consolidation(s), lot line adjustment(s) and/or any other changes to the boundaries** depicted in the Applicant's revised common plan of development and Final Preliminary Plat/Final Plat, dated October 17, 2012, and prepared by Stockwin Surveying, R. James Stockwin PLS #049012 and entitled "Proposed Land Swap" of the "Lands of H. Floyd Davis, III, **without a full revised preliminary subdivision plat presented to the Planning Board for review and approval;**
3. Execution of the attached Revised Common Driveway Agreement Between Davis, Rieger and Nyberg McCarter, said Driveway Agreement to be attached to this Resolution of Conditional Approval and Incorporated by Reference herein;
4. Said Revised Common Driveway Agreement between Davis, Rieger and Nyberg McCarter shall be filed by the Applicant in the Tompkins County

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- Clerk's Office with a notation to the aforementioned parties' deeds and also to the filed Applicant's Revised Common Plan of Development and Final Preliminary Plat/Final Plat, dated October 17, 2012, and prepared by Stockwin Surveying, R. James Stockwin PLS #049012; and said common Driveway Agreement filing shall also carry a notation referencing this December 17, 2012 Planning Board Resolution of Conditional Approval (to be filed by the Applicant);
5. No future Revisions to Revised Common Driveway Agreement between Davis, Rieger and Nyberg McCarter shall be permitted without Town of Lansing Planning Board review and approval and no other Common Driveway Agreements may be executed by any parties with respect the parcels depicted on the aforementioned October 17, 2012 revised subdivision Plat map entitled "Proposed Land Swap" of the "Lands of H. Floyd Davis, III, without review and prior approval of the Town of Lansing Planning Board;
 6. Revised "Schedule A" of Proposed deed from Davis to Rieger shall be filed in the Tompkins County Clerk's Office with notations to (1) all deeds of Davis, Reiger, and Nyberg/McCarter; (2) the filed Applicant's Revised Common Plan of Development and Final Preliminary Plat/Final Plat, dated October 17, 2012, and prepared by Stockwin Surveying, R. James Stockwin, PLS #049012 entitled "Proposed Land Swap" of the "Lands of H. Floyd Davis, III; and (3) this instant December 17, 2012 Planning Board Resolution of Conditional Approval;
 7. As referenced in Condition #3 above, this Conditional Resolution of approval shall be filed in the Tompkins County Clerk's Office in addition to the other record filings and notations set forth in Conditions #3 and #5 above;
 8. Revised "Schedule A" of Proposed Deed from Davis to Rieger shall be attached to this Resolution of approval and incorporated by reference herein;
 9. Any future Town Road shall be built to Town of Lansing Public Highway Specifications (including frontage requirements) and shall conform to New York Town Law 280-a requisites;
 10. Any construction of the proposed Driveway Extensions (or *any* future extensions) shall be built to specifications permitting proper emergency vehicle access at a minimum of 12' width together with an improved driveway base that will support emergency vehicles, such base being at least as improved as the existing Davis driveway, and any construction of the proposed Driveway Extensions (or *any* future extensions) shall require Town

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- of Lansing Highway Department and Town of Lansing Fire Department inspection as to adequacy of said driveway width and improved base to permit emergency vehicle access upon said driveway and extension(s);
11. The 35 foot No-build Buffer from the house and 50 foot no-build buffer from the road on Parcels D1 and D2 shall remain in full force and effect;
 12. Stair construction on the D-1 site to be inspected and approved by the Town of Lansing Codes Office;
 13. The Applicant and all current and future owners of Parcels A, B, C, D-1 and D-2 shall post signage at the split of the shared driveway so as to alert fire and rescue service personnel as to the location of each specific lot served by the common driveway;
 14. Any changes, additions or revisions affecting any of the aforementioned properties' driveway(s), roadway(s), easement(s), access and/or rights of reversion of Parcel D-2 back to lands of Parcel A, are subject to Planning Board approval. No such changes shall be permitted without Planning Board approval;
 15. The parties to the Common Driveway Agreement shall release the Town Of Lansing and the Town of Lansing Planning Board from any liability associated with the Common Driveway as follows and set forth in the Parties Common Driveway Agreement to be executed and filed with the Tompkins County Clerk's Office:

DAVIS, RIEGER, NYBERG and MCCARTER (in this paragraph, the "Releasers") acknowledge and agree that each Releaser has received sufficient consideration from each other releaser and from the Town of Lansing (the "Town"), jointly or severally, and that the acceptance of this agreement by the Town as sufficient to meet the conditions of approval of the subdivision and land swap plan/plat (as well as any approval or acceptance of the form of any deeds or other transfers of rights, duties, and obligations), shall not imply, or be construed as, an approval of the Town of the rights, obligations, and duties of the Releasers, each of which Releasers is free to make its own determination as to whether this agreement and the accompanying deed(s) fulfill their safety and needs. All risk and liability arising from this Agreement and any related improvements, maintenance, easements, rights of way, and the like, including the failure of any grant of or rights in and to such improvements, maintenance rights and duties, easements, rights of way, and the like, or of any Releaser to effect proper maintenance, or of any Releaser to honor or effect any anticipated future grant or reversion, is expressly and solely assumed by the Releasers, and all claims now or hereafter arising, discovered, or existing that sound in admiralty, equity or law against the Town of Lansing (the "Claims") are knowingly and expressly hereby waived by all of the Releasers; and for this purpose the Town is made an express and intended third party beneficiary of this paragraph and these waivers for the purposes of enforcement of the same or the imposition of any bar or defense premised, in whole or in part, upon these assumptions of risk and liability and such waivers by the Releasers. The Releasers, with full understanding of the contents and legal effect of this agreement and the deeds, and having had the right and opportunity to consult with counsel of their choice, each jointly and severally, for themselves and their respective heirs, executors, and assigns, agree to release, defend, discharge, and hold the Town and its officers, supervisors, managers, employees, agents, and representatives of any kind or nature, and each and all of their predecessors, successors, heirs, executors, administrators, and assigns (collectively, the "Released Parties") harmless (including reimbursement for the

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reasonable counsel fees and other costs and expenses of the Town), from and against any and all claims, demands, actions, causes of action, debts, costs, expenses, attorneys' and professional fees, injuries, damages, losses, rights, remedies, grievances, suits, charges, and liabilities of whatever kind and complaints of any kind or nature whatsoever (also herein, the "Claims"), that such Releasers ever had or now has, whether fixed or contingent, liquidated or un-liquidated, known or unknown, suspected or unsuspected, and whether arising in tort, contract, statute, admiralty, equity or otherwise. The foregoing provisions shall be interpreted and applied to the greatest extent permitted by law; and without limiting the generality of the foregoing, it being the intention of the Releasers to make this release (and related rights and indemnities) as broad and as general as the law permits. The Releasers agree not to bring any Claim(s) and further agree that this waiver and release and agreement not to make or file Claims is, will constitute, and may be pleaded as a bar to any such claim, action, cause of action, or proceeding. If any government agency, court, or other tribunal assumes jurisdiction of any Claim the Releasers agree that they shall not seek or accept any equitable or monetary relief in connection with such Claim against the Town of Lansing, and each Releaser waives all rights to seek, recover, or enforce the same in law, admiralty, or in equity

16. **Violation of any of the aforementioned conditions shall result in a termination of this conditional approval.**

Dated: December 17, 2012

Approval/Denial of November 26, 2012 Minutes

David Hatfield made a motion to approve the minutes as presented. Al Fiorille seconded the motion and it was carried by the following roll call vote:

Vote of Planning Board . . . (Aye) Thomas Ellis, Member
Vote of Planning Board . . . (Aye) Al Fiorille, Member
Vote of Planning Board . . . (Aye) David Hatfield, Member
Vote of Planning Board . . . (Aye) Larry Sharpsteen, Member
Vote of Planning Board . . . (Aye) Lin Davidson, Member

David Hatfield made a motion to adjourn the Meeting at 7:53 PM. Larry Sharpsteen seconded the motion and it was carried by the following roll call vote:

Vote of Planning Board . . . (Aye) Thomas Ellis, Member
Vote of Planning Board . . . (Aye) Al Fiorille, Member
Vote of Planning Board . . . (Aye) David Hatfield, Member
Vote of Planning Board . . . (Aye) Larry Sharpsteen, Member
Vote of Planning Board . . . (Aye) Lin Davidson, Member

APPROVED

**RESOLUTION PB 2013
RESOLUTION OF THE LANSING PLANNING BOARD
REVISING CONDITION #9 OF THE DECEMBER 17, 2012 CONDITIONAL
APPROVAL OF THE H. FLOYD DAVIS
REVISED SUBDIVISION PLAT FOR A MINOR SUBDIVISION AND TWO
PARCEL LAND SWAP WITH COMMON DRIVEWAY**

WHEREAS, after preliminary approval with conditions by the Planning Board on July 9, 2012, of a minor residential subdivision of a 43.86 +/- acre parcel into two (2) non-conforming frontage lots of certain land, located at 54 Forest Lake Drive, Lansing, New York and otherwise known as Tax Map Parcel # 32.-1-37.428 in the L1 District, the Applicant submitted a revised Preliminary Plat/Final Plat, dated October 17, 2012, for approval of a minor subdivision and 2 parcel land swap, together with shared driveway, of the following parcels: Subdivision of Applicant H. Floyd Davis Tax Map Parcel # 32.-1-37.428 (43.545 acres) thereby creating Parcel "D-1" (2.216 acres) and Parcel "D-2" (4.888 acres) to be transferred to Rieger, together with a proposed land swap transfer between Davis and Nyberg/McCarter with Parcel "B" (0.327 acres) to be transferred to Nyberg/McCarter from Davis and Parcel "C" (0.108 acres, P/O Tax Map # 32.-1-57) to be transferred to Davis from Nyberg/McCarter, with the final residual parent parcel "A" lot to be retained by Davis (36.222 acres). The above common development plan includes a shared driveway between parcels "A" and "D-1" and "D-2" and an easement to said common driveway over parcel "A", granted to Nyberg/McCarter by Davis, connecting to Parcel "B"; and

WHEREAS, the revised Preliminary Plat/Final Plat, dated October 17, 2012, for approval of a minor subdivision and 2 parcel land swap, together with shared driveway was approved by the Planning Board on December 17, 2012, subject to fifteen (15) conditions including Condition #9 which stated as follows:

Any construction of the proposed Driveway Extensions (or *any* future extensions) shall be built to specifications permitting proper emergency vehicle access at a minimum of 12' width together with an improved driveway base that will support emergency vehicles, such base being at least as improved as the existing Davis driveway, and any construction of the proposed Driveway Extensions (or *any* future extensions) shall require Town of Lansing Highway Department and Town of Lansing Fire Department inspection as to adequacy of said driveway width and improved base to permit emergency vehicle access upon said driveway and extension(s);

and

APPROVED

WHEREAS, Condition #9 has been subsequently reviewed by the Planning Board on the basis that the Town Highway Superintendent and Fire Chief have declined to perform the requested driveway inspections; and

WHEREAS, on January 14, 2013, upon due deliberation on the issues set forth above and the Provisions of the New York State Fire Code, the Planning Board determined to revise the condition accordingly;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

RESOLVED: that the Town of Lansing Planning Board amends condition #9 of the December 17, 2012 Approval Resolution of H. Floyd Davis Minor Subdivision and 2 Parcel Land Swap, together with Shared Driveway to state the following:

Any construction of the proposed Driveway Extensions (or any future extensions) shall be built to specifications permitting proper emergency vehicle access in compliance with the attached provisions of Section 511 of the New York State Fire Code/ Residential Code of the State of New York - Driveway/Private Road §511 *et seq.*, and any future amendments thereto, said specifications to include a minimum of 12' width together with an improved driveway base that will support emergency vehicles, such base being at least as improved as the existing Davis driveway, and any construction of the proposed Driveway Extensions (or any future extensions) shall require Town of Lansing Code Enforcement Officer inspection as to adequacy of said driveway width and improved base to permit emergency vehicle access upon said driveway and extension(s) in compliance with the provisions above.

and

IT IS FUTHER RESOLVED that a copy of this resolution be attached to the original resolution of December 17, 2012 in both Planning Department subdivision project files and the Planning Board resolution records.

Dated: January 14, 2013