

MINUTES
PUBLIC HEARING
PLANNING AND ZONING COMMISSION
LISBON TOWN HALL
WEDNESDAY, NOVEMBER 7, 2012
6:30 P.M.

The Planning and Zoning Commission held the following public hearings in the Lisbon Town Hall, 1 Newent Road, Lisbon, Connecticut beginning at 6:30 PM on Wednesday, November 7, 2012.

1. 6:30 PM - An application to subdivide a 12.92 acre property located on Ames Road and Route 169 (196 South Burnham Highway) into 19 single-family residential house lots. The application for subdivision has been submitted pursuant to Connecticut General Statutes 8-30g. The owner of the property is Brenmor Properties, LLC and listed in the assessor's records as Map 9 / Block 85 / Lot 1.

MEMBERS PRESENT: Robert Adams, Ronald Giroux, Kim Sperry, John Dempsey, Benjamin Hull, III, Gary Ritcco, Lawrence Alice. Alternate: David Gagnon

STAFF PRESENT: James D Rabbitt, AICP, Senior Planner-SCCOG, Lisbon Town Planner

The following Public Hearing was called to order by Chairman Robert Adams at 6:47 PM:

1. 6:30 PM - An application to subdivide a 12.92 acre property located on Ames Road and Route 169 (196 South Burnham Highway) into 19 single-family residential house lots. The application for subdivision has been submitted pursuant to Connecticut General Statutes 8-30g. The owner of the property is Brenmor Properties, LLC and listed in the assessor's records as Map 9 / Block 85 / Lot 1.

Applicant Mark Cohen of Brenmor Properties, LLC, asked the Commission to wait for Atty. Timothy S. Hollister of Shipman & Goodwin, Counselors at Law, One Constitution Plaza, Hartford, CT, as he and two of their experts were stuck in traffic due to an accident caused by extreme weather. Chairman Robert Adams agreed to wait given the circumstances, and stated that the applicant may start a presentation if he wanted to, to which the applicant chose not to. Chairman Adams stated the Board would listen to public testimony in the mean time. Chairman Adams asked for public comment.

Tim Hinchey of 199 S. Burnham Highway, directly across the street from the proposed project, stated that he lived for 15 years across from this property, and knows the property very well. He has some concerns that the wetlands would be damaged during or after construction. He stated that the slope to the land is huge, and he stated that in 2010, water washed out the bridge after coming off that hill, causing the water in his back yard to rise 15 feet. If the project is approved, he said, there would be less natural run-off, giving the potential for flooding. He also has some concern for speeding and traffic. The speed limit is 40 miles an hour, with passing zones in each direction. He says that traffic speeds by at 60 miles an hour, however. He stated that lot 17 is not perking out, and stated that lots 17 & 18 at pole #81 have standing water. He questions, where will this water go? He also stated that the bottom of Ames Road has flooding problems, and is really worried about it. He says he understands the intentions of the project under section 8-30g, but is concerned about the size of this project and may be more open to it on a smaller scale.

Robert Browne of 84 Preston Allen Road showed concern about the safety of the project. He stated that there would be 16 homes on private road, to be maintained by private individuals, with just the minimum of lighting, no sidewalks, no fire hydrants, no parking regulations on the roads. He stated that this could be a disaster waiting to happen. He is concerned for the safety of anyone living there. He is not against affordable housing, he stated, but is just concerned for the safety of anyone going in there during a winter activity.

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Peter Danieluk of 61 Ames Road also voiced concerns about safety. His house is down the hill towards the brook, he stated. He is concerned about the blind corner there. Adding 19 more homes, he said, would add a lot more traffic. He stated that people already don't stop at the stop sign on Mel Road coming onto Ames Road. He is also concerned that we will have accidents coming out of that first driveway there. He also stated that there have been times, during storms, when Ames Road has been completely blocked off by downed trees from both sides. He is very concerned that with so many houses, it will cause a major safety issue in the event of a fire.

John Wolinsky of Preston, stated that he owns property at 183 South Burnham Highway. He is concerned for septic run-off over time, coming down into the pond and the wetlands. He cannot envision the septic systems working in the terrain of that property. As far as traffic goes, he stated that he knows that the speed is excessive as it is now, without adding more to it.

Chairman Adams asked for any other public comment, and then asked for questions from the Commission for Staff J. Rabbitt. J. Dempsey stated that there is a lot of new information that has just been given to the Commission, in the form of a new packet – has everything been fixed?

B. Hull, III asked for confirmation regarding 8-30g, and if 10% of a town's housing needs to fall under that. Staff J. Rabbitt stated "no", that there is no mandate stating that any municipality must have affordable housing. If the municipality does not have 10%, then a landowner "may" apply under section 8-30g, and would not be required to strictly adhere to the town's codes. However the Commission must make a decision, based on the information provided by the applicant, the conditions will allow for safe and sanitary conditions.

At 7:05 P.M., Chairman Adams recessed the Public Hearing until 7:30 P.M. in order to give the applicant's attorney and experts time to arrive.

At 7:38 P.M. the Public Hearing resumed, with the arrival of Attorney Tim Hollister, as well as Mark Vertucci of Fuss and O'Neill of Manchester, CT. Atty. Hollister stated that they first submitted the application on May 31st, and that they were now five months into the process. He asked for guidance from the Commission because at 11:50 today he was faxed a letter from the Fire Marshal. At ten minutes to four, he stated he got lengthy comment memos from Mr. DeLuca and Mr. Rabbitt. He stated that after five months of review, there are now new items that could have been brought up in June, July and August. Secondly, he stated, there are numerous errors, "fabrications", in these comment memos. He stated that the point is, they are not prepared to respond to these memos right now. He has read enough of them to know that they need responding to, but no more than that. He then requested that, based on the fact that they need to close this public hearing by November 14, that the Commission consider holding a special meeting, because of these new comments coming in at the eleventh hour. Chairman Adams polled the Commission as to whether or not the Commission would be willing to hold a special meeting on Tuesday, November 13th, as a continuance for the public hearing. Staff J. Rabbitt interjected that he had an email from Atty. Hollister dated October 24th, saying he would get plans to Staff either on the 25th or the 26th. Documents were delivered to town hall on October 31st, six days after. Staff stated he had assured Atty. Hollister that if he were to receive the revised plans by the 24th, they would be reviewed. Staff did turn those around and edited them as soon as they were able, which was later today (November 7). He also held a meeting on October 10th with Atty. Hollister and Mr. Gardner to go over revised plans, and again Staff received those plans late. He stated that unless the Commission agreed to have a special meeting, they would have to close the public hearing tonight. Atty.

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Hollister stated that he was told to deliver the plans on Monday, but the town hall was closed on Monday and then again on Tuesday. Mark Cohen talked to First Selectman Tom Sparkman twice. On Monday, he said the town hall was closed, and then talked to him on Wednesday, when he was told town hall was open. The plans were delivered on Wednesday, and Mr. Rabbitt got them on the first. Mr. Cohen wanted to be very clear that the town hall was closed after they lost power. Chairman Adams again stated that the issue was whether or not to have a special meeting on Tuesday. The consensus was to have a special meeting, Tuesday, November 13 at 6:00 P.M., with agenda items a) continuation of public hearing and b) discussion and possible action thereon.

Atty. Hollister then asked to start with the Fire Marshal's letter dated October 26th. It was faxed to them at 11:49 A.M. today (November 7). He stated that letter is not based on the final plans. He is not sure why Mr. Hamel was not given the final plans, as they were available the last five or six days. He said Mr. Hamel does not refer to changes that were made since October 10th. Atty. Hollister also said that most of Mr. Hamel's comments refer to CT State Fire Prevention Code section 18. Atty. Hollister stated that section 18 of the codes was appealed in 2009 because of a dispute between the State building code office and State fire office, leaving it up to the local fire marshal. Therefore, he says, any time Mr. Hamel mentions section 18, he is incorrect, and Atty. Hollister stated that there is no section 18, no state standard for roads and driveway access. Atty. Hollister also stated that Mr. Hamel's comment number 1, he is saying that the proposed access road shows a width of twenty feet in front of lot one shows 10 feet wide. Atty. Hollister stated that Mr. Hamel is confusing the difference between an access road and a driveway. Atty. Hollister stated that for example, at lot 1, it is no longer an access road but a driveway, and is the same thing for the other properties here. Atty. Hollister then added that Mr. Hamel talks about the fire code requiring unobstructed vertical clearance of 13'6". Atty. Hollister stated that he, Mr. Vertucci and Mr. Gardner do not know what Mr. Hamel is referring to. Comment #2, he stated, shows Mr. Hamel did not review the right plans because it calls for a gravel base for emergency vehicle turn radii – he stated that at the October 10th meeting with Mr. Rabbitt and Mr. DeLuca, they agreed to pave that area. With regard to comment about snow storage, Atty. Hollister pointed out the Home Owners Association Agreement. One of the specific obligations of the Home Owner Association is to clear snow, and will be a condition of approval. He stated Mr. Hamel is afraid that snow will get in the way of the fire trucks, but Atty. Hollister stated that most fire trucks he knows, if it is fire truck vs. snow bank, the snow bank will lose. He stated that common sense needs to be applied here, that people will not allow snow to accumulate to the point where the fire trucks and emergency vehicles will not be able to get to their homes, and to presume otherwise is not dealing with the reality of what a home owner will deal with.

Mark Vertucci, senior traffic engineer at Fuss and O'Neill, a registered professional traffic operations engineer, brought to the Commission's attention the updated turning movement diagrams for the fire trucks. He stated, looking at the Norwich fleet, they looked at every possible turning movement from Ames Road as well as intersections within the site and stated those trucks will make those turns. He stated that any area prior to these changes where wheels may come off the pavement, it has now been modified to have pavement, and truck tires will not come off the pavement. They are very confident the truck can maneuver in all instances. There are a couple driveway locations where the truck will have to access other parcels, but they can get there safely, even if they need to make a "k" turn. There will be the need for some backing up but they are private driveways, so they can back up and come out safely, he stated. Atty. Hollister then stated that, in regard to the fire marshal's last comment, the entrance did move but it appears that the fire marshal was not looking at the correct plans, as his issue was with the grade to the main entrance.

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R. Giroux commented in regard to the statement about the Commission "needing to use common sense" in making a decision. He stated that the applicant has all these professionals, but stated that the first plans, for example, had all the wells sticking up out of the middle of the road. He stated that maybe if they had used common sense in how they drew the plan, the Commission would not be reviewing the plans for five months. Mr. Hollister stated that he did not think it was right that the wells were in the middle of the common driveway, and stated that they were mixing apples and oranges. He stated that the comments he just received at 4:00 today could have been addressed months ago.

Chairman Adams asked about the access by fire trucks. He stated that allowing them to back up would assume that there were no cars parked in those driveways. J. Dempsey stated that using common sense regarding a snow bank and a fire truck, that when it snows heavily, that snow bank eventually becomes an ice burg. Atty. Hollister stated that if you have snow removal services doing their job, they would not build the snow up to become ice burgs. Mark Vertucci again explained how the truck drivers could approach the access to the driveways, given different circumstances and situations. On Ames Road he said that the truck wouldn't use the whole area of Ames Road. He warned that the diagrams should not be taken verbatim. He said they could rerun the analysis, and that they would still use the entire road and swing around to make the most efficient use of their time to swing in to the driveway. Staff J. Rabbitt stated that sheet 3, tab b, stated that Mr. Vertucci's testimony tonight was based on drawings such as this. What happens in parking lot #14? This drawing does not work. Mr. Vertucci said that two cars would be parked up against the garage – Mr. Rabbitt stated that there is no garage. Mr. Vertucci presented another diagram showing the vehicles parked in other spots. J. Rabbitt stated that those spots are just 13.5 feet. He stated that with two cars parked in that spot, this scenario does not work. Mr. Vertucci said he could present another diagram where the fire truck driver can make the turn work. He stated he could make eight different diagrams. Staff stated that what he, Staff, is relying on for his review, is a diagram that has been prepared by a professional, and yet does not work.

Atty. Hollister stated that the most important thing to remember is that when the Commission is making their decision, with this type of application, they cannot just say "no". The obligation under 8-30g is if there is a way to acquire a change in the plans to deal with the Commissions concerns, then the Commission needs to make that a condition of approval. It is a legal requirement as a Commission. R. Giroux stated that many of them have not ever had experience with 8-30g, and now the applicant is saying that they must come up with the solutions. Atty. Hollister again reminded the Commission of what their obligation is in regards to the law with 8-30g. R. Giroux stated that they are not the licensed professionals to make those decisions.

Atty Hollister gave an example. He stated that Staff J. Rabbitt sent him a memo today, saying, "the applicant also needs to revise the anti-tracking pad detail to meet State standards". Atty Hollister stated that under 8-30g, the Commission would say, "we will approve this if you give us the proper anti tracking pad detail". Staff J. Rabbitt stated that he hoped all were clear on that, and that Mr. Hollister was correct on that small technical detail in regards to making a revision that still would not impact public health or safety. He also stated, that Staff would not recommend that the Commission deny the application because the anti-tracking pad was not correct; he also said that on August 7th, he asked the applicant to supply a plan that meets DEEP standards, and now it is November. R. Giroux stated that he did not understand how the applicant could ask the Commission to make recommendations; rather, the applicant is paying professionals, who should be meeting the criteria, in order to allow the Commission to get through the process of the application. Atty.

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Hollister reminded the Commission again, that their obligation is not to say "no", but to tell the applicant what they want to see.

Atty. Hollister went over the conditions the applicant would be willing to impose on themselves, as follows:

- #1) To finish the lots according to the site-plan before any individual lot is sold. He stated the Commission would get an as-built plan. Staff J. Rabbitt asked for clarification, stating that they would need to build the infrastructure first.
- #2) Post bond for erosion control & drainage
- #3) Lots 1-15 on Ames Road, driveways, maintenance and utilities will cross lots. A schedule detailing deeds and easements will be completed.
- #4) The applicant will form the Home Owners Association. Everyone on lots 1 -15 will have to agree to sign onto it. After the first year, individual homeowners start to contribute to the funds. At minimum, the fund should bring in \$7700 a year for snow removal and other maintenance.
- #5) Well locations – must be where health codes will require them to be for individual lots. Atty. Hollister made the suggestion of using a vertical flag to make wells more visible.
- #6) School bus pick up locations will be handled by the Board of Education.
- #7) If lot 17 (on Route 169) does not perk in the spring, it will be merged with lot 18.

Chairman Adams asked what the slopes were on the driveways. P. Gardner stated that the proposed grades for driveways between 3 & 5 is about 10%, and 8 & 10 is 16%. R. Adams stated that he thought that 16% slope sounded excess. P. Gardner stated that there was nothing in this town's regulations stating the required grade of slopes. Chairman Adams asked for the parking area on the sloping driveways, to which the answer was that they were all sloping. Staff J. Rabbit stated that in review, some of those slopes were within acceptable parameters, and others were well beyond what were acceptable.

Staff J. Rabbitt stated for clarity, that Atty. Hollister testified that the Home Owners Association, the \$200.00 per plowed event is for the common driveway, not the portion of the driveway associated with the single lots. Atty. Hollister stated that the applicant put in \$2500.00 as initial funding by the developer. Staff stated that under full occupancy, his testimony was that the rate would be closer to \$650.00. He stated that the individual homeowner would be responsible for their own 18 x 18 or 20 x 20 parking spaces, to which Atty. Hollister agreed was correct.

Chairman Adams asked if the applicant is required to have a reserve on the septic area. P. Gardner showed on lot 1 what the primary area was as well as the reserve area on the plan. He then explained how they re-located the entrance approximately 60 feet to the south. Working with John Martucci, he stated they installed a manhole and ran it down to the NW corner to lot 2, through a 14" re-enforced concrete pipe. Access driveways to the driveways to the houses have signs as well as striped no-parking zones as shown on plans as submitted. He stated there are spaces for guest parking; the earlier split rail fence on Ames Road at the access driveway has been removed. A well or two have been relocated. Mark Cohen discussed location of the mailboxes on the south side of Ames Road in front of lot 10. Mark Cohen stated that garbage pick up would be through each individual house by Sterling.

John Martucci, professional engineer, State of CT, of LBM Engineering, Colchester, CT, discussed the drainage at the end of lot 2. He stated he designed the drainage and drainage report, and described the 15"

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pipe across tames Road. He stated the water comes from an area east of the site. He stated they extended the pipe and that it does not carry any water from the sub division itself. He stated he added a plunge pool to dissipate the energy help prevent erosion. He stated he is not changing the volume of the water. It has always flowed there, and now it has been moved down the hill. J. Dempsey stated that you are changing it, that you are putting it within 25 feet of the existing property down hill of it. He stated that it is this Commission's job to make sure that the other landowner does not come back at them and question why they allowed it. J. Martucci stated that the water is already channeled and that there is a relatively small amount of water. L. Alice stated that even in smaller storms, he has seen some incredible amounts of water come off that hill. J. Martucci stated that is the purpose of the plunge pool, to dissipate that energy. Atty. Hollister stated that the letter submitted by Mr. Martucci, a professional engineer, covers the Commission.

Staff J. Rabbitt said that Mr. Martucci stated that the existing end-wall outlets are at the same location that is proposed for the plunge pool. Mr. Martucci stated that that was not his testimony. He said the water from the end wall flows perpendicular to the contours, at the same spot. Staff then stated that the erosion path that leads in a southwesterly direction is the drainage path in the field. The micro topography that exists in that field sends the water in a southwesterly direction. He also stated that Mr. Gardner just testified that he, Staff J. Rabbitt, was correct. It does not go to the plunge pool as Mr. Martucci testified it does. He stated that in the packet is a letter from CLA disagreeing with the location of that storm drainage; reference the town's road ordinance, which the applicant is not exempt from under 8-30g. They get relief from zoning, relief from subdivision, but you have the town road ordinance that deals with when you have this condition, what the applicant has to do to carry that existing drainage in through the property. That water, in his observation in the field, does not head to the northwesterly corner of the property, but heads in a southwesterly direction, somewhere between the outlet and the wetlands located central to this property. P. Gardner stated that he has also walked there, and the disturbance in the leaves down in the direction that J. Rabbitt is talking about. He has seen a path leading south of the culvert. He disagrees the water is coming from the culvert.

M. Vertucci touched on the site lines. He stated, as P. Gardner presented, the driveway was shifted 60 feet. He stated the required site line distances on Ames Road are 467 and 489 feet respectively. He stated that they have equaled or exceeded those site lines from the relocated driveway for faster cars and trucks. As far as access site line for the emergency vehicle access driveways, as he previously presented the site line distances look towards the crest of Ames Road. He stated they are not sufficient for a vehicle coming out of those driveways, but as a percentage these are emergency vehicles. They are for emergency vehicle access driveways used for ingress access only, and under no circumstances will vehicles be exiting from those driveways. They are gated and the site line is not relative. He stated there is not regulation requiring a site line for emergency ingress driveways. That being said, he stated, if there is some kind of obstruction or disaster at the main driveways, and they had to use one or two of these driveways, they would propose police control to direct vehicles to get out of the driveways. If there is an obstruction over a period of days, they would propose a temporary stop sign on Ames road and the temporary driveway. Delivery and garbage trucks being able to safely circulate the site, a single unit truck of 30' or less, the vehicle turning templates they provided are more conservative than these smaller service trucks, so if the larger trucks can safely turn, these smaller service trucks can safely access and circulate around the site.

Chairman Adams questioned the letter from Sterling Superior. He stated the letter said they would back down the common driveway to the main road. He asked how many feet would they have to back up on a 16%

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grade? P. Gardner stated that to the house site from lot 11 is approximately 400 feet from Ames Road. M. Vertucci stated that there is a turn around area further up the common driveway. Staff J. Rabbitt interjected for the record that Chairman Adams was referring to Tab G of the submission dated October 24th, a letter from Sterling Superior Services dated October 1st, 2012, signed by Meg Solace, believed to be a sales representative. The letter stated that the trucks will back out of the drive servicing the homes throughout the common drive. J. Dempsey stated that their concern is the kids in the summer, with garbage trucks backing down the road once a week. M. Cohen stated that when he talked to Sterling Superior, he stated their trucks back down his street every week, over a thousand feet. M. Vertucci stated that the letter from Sterling was dated October 1st and since then they have modified the plans to show a significant turnaround area compared to the previous plan they commented on. L. Alice asked if Sterling had seen the plans, or if they wrote the letter based on a phone call, to which the answer was that they based their letter on a phone call.

P. Gardner then interjected that he and Al Gosselin, town sanitarian, came up with some new well locations in response to a neighbor on Ames Road who had concerns about their location in relation to his existing septic system.

B. Hull, III asked for an explanation of a 16% grade. P. Gardner stated it was a grade much like a handicap ramp. R. Giroux asked P. Gardner to repeat his explanation of the discussion with Al Gosselin over the Mather property. P. Gardner stated that the plans show how the wells will meet the health code. He stated Mr. Gosselin decided that Mr. Mather has the room to make repairs to his septic system in the future. Staff J. Rabbitt stated that there has been no further testimony regarding the implications of the well radius. J. Dempsey stated the Commission should ask Al Gosselin for a letter.

Chairman Adams stated that the plans show cars where the wells are. He asked if the wells were flush to the ground. He also asked why the cars looked like they were parked on the lawn. Atty. Hollister stated it was to show there would be parking for guests on the lawn.

Staff J. Rabbitt asked the traffic engineer, Mark Vertucci, if he reviewed and signed off on this parking plan? The answer was "yes". Staff then asked if he was acceptable to 13.5 foot cars parallel parking in a space 16' in length? M. Vertucci stated they were not following the standards for local roads. Staff asked if the engineer testified that, adding a live wire sticking out 18" into those parking areas, was in his professional opinion, safe? M. Vertucci interjected that he did not testify that a vehicle should park over a well. Again, Staff J. Rabbitt asked M. Vertucci if he had reviewed the plan given him by Peter Gardner and if so, was it his professional opinion that this plan works? M. Vertucci stated that there are areas where cars could park, that these areas are not city parking spaces. To clarify, Staff stated the parking shown on the plan prepared by Peter Gardner does not depict parking locations to the design of any standard, and does not impact the travel way, although in three to four locations cars are parked in the travel way. M. Vertucci stated that he was testifying that with vehicles parked in those locations, there would still be safe access and circulation around the site.

Chairman R. Adams asked for public comment. Jessie Benjamin of 184 Newent Road asked what if septic was leaking on this property – would they be able to get a back hoe in there? P. Gardner stated that if the septic system fails, there would be a reserve on all the sites.

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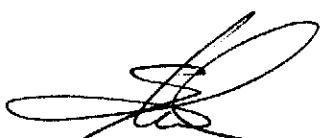
R. Browne asked for clarification of the radius for the fire truck. What happens when there are four fire trucks plus additional vehicles? M. Vertucci stated they could all line up on the common access drive.

Staff J. Rabbitt gave a short explanation of his comments and Mr. Deluca's comments, dated November 7th, 2012. He kept all of his previous comments made back in August, then the response dated September 27, and below that is today's comment dated November 7th. He also mentioned that the applicant stated he would put a flag on the wells. He found the flag system is unacceptable and that it is intended for a hydrant, and is usually protected by a curb or set back. He stated the hydrant does not have live power to it, the well does.

With regard to site line profiles, Staff stated it does not provide adequate site line per Fuss and O'Neill's own admission in their report for required distances. Fuss and O'Neill did sign off on it, but in further review they had to relocate the driveway system because that original location did not meet all the criteria for site line. He stated they testified they had site line profiles for emergency access, however they did not share them this evening. M. Vertucci stated they moved the driveway because of comments made, although they did not necessarily agree with those comments. Staff stated that in regard to storm water management, a letter from CLA states that the town engineer finds the proposed drainage system location unacceptable.

Atty. Hollister asked, when did Staff J. Rabbitt receive the letter from the fire marshal, to which the answer was within five or ten minutes of forwarding it to Atty. Hollister.

This public hearing was continued to a Special Meeting on Tuesday, November 13 at 6:00 P.M.



Elaine Joseph, acting clerk

Approved: _____
Robert D. Adams, Chairman

RECEIVED FOR RECORD AT LISBON
CT ON 11/15/2012 AT 9:15 a.m.
ATTEST. LAURIE TIROCCHI, TOWN CLERK
Majore Wakely asst.