



**COPAKE PLANNING BOARD**  
**NOVEMBER 5, 2011**  
**MINUTES**

**Approved**  
**December 1, 2011**

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**Please note that all referenced attachments, comprising 3 pages, are on file with the Copake Town Clerk and in the Planning Board office. An annotated listing of those attachments appears at the end of this document.**

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A regular meeting of the Copake Planning Board was called to order by Marcia Becker, Chair at 9:30am Saturday, November 5, 2011 inasmuch as the regularly scheduled meeting had to be rescheduled due to the lack of a quorum.. Also present were Chris Grant, Gray Davis, George Filipovits and Steve Savarese. Skip Pilch and Jon Urban were excused. Lisa DeConti was present to record the minutes.

**ZONING BOARD OF APPEALS – Referrals**

**1. ZBA REFERRAL – STEPHEN SANBORN – Route 7 [West Copake] – (2011-26)**

Stephen Sandborn appeared before the Board in response to a referral from the Zoning Board of Appeals pertaining to a Stop Work order that had been put on his house. Ms. Becker made note of the fact that this project should have been referred to the Planning Board as Mr. Sandborn's project is a modification of a non-conforming structure. Mr. Sandborn stated that he is modifying an existing deck which is not a non-conforming structure. Ms. Becker explained that his house is a non-conforming structure which is being modified and should not have been given a permit without a Site Plan Review.

Ms. Becker pointed out that the Site Map needed to be reviewed as it appears that Mr. Sandborn's other structures are also within the one-hundred foot (100') set-back from the water. Ms. Becker made note of the fact that the water body on Mr. Sandborn's property is part of the Snyder Pond wetland and asked if he had any permits from the DEC. Mr. Sandborn advised her that once he found out that he was required to have a permit he contacted them and is waiting for a response.

Ms. Becker made note of the fact that this is a complicated issue even though the property is located in the BR Zone and is a legal lot. Ms. Becker referred to the Town regulation which stated that *'open decks that are attached to a residence are exempt from the one-hundred and fifty foot (150') set-back provided that all other requirements can be met and provided that such porch or deck shall never be enclosed.'*

Mr. Grant questioned the time-line of Mr. Sandborn's project. Mr. Sandborn explained that in late July/early August they applied for and were issued a permit to put a roof on and enclose their

existing deck. On that basis construction was started. After the complaint was filed, Mr. Sandborn went back to the Building Inspectors. At the Zoning Board Chair, Jeff Nayer's suggestion the Building Inspectors told him that he can put the roof on the existing deck but cannot enclose it until he obtains a variance. On that basis Mr. Sandborn continued the roof work and variance process. Mr. Grant noted that the non-conformity is being increased and that is the reason for Mr. Sandborn needed to go to the ZBA.

Ms. Becker advised Mr. Sandborn that the Town Code does allow him to enclose the porch. Mr. Grant questioned what the DEC involvement is and Ms. Becker advised him that the structures are all within the one-hundred foot (100') set-back from a classified wetland. Mr. Sandborn explained that he went to the ZBA after the interaction of the Building Inspectors specifically to get a variance to allow the enclosure of the deck and they said he also needs to get a DEC permit because he is within the one-hundred foot (100') set-back of the DEC wetlands.

Mr. Grant questioned why this is not solely a ZBA decision. Ms. Becker explained that the modification of a non-conforming structure gets referred to the Planning Board for a Site Plan Review, and the ZBA also refers every application to the Board for review. Ms. Becker pointed out that it is the Board's responsibility to follow the Town Code and the Code does not allow the deck to be enclosed. Mr. Grant noted that the ZBA has the authority to grant relief so the Board should let them make their decision. Ms. Becker questioned whether the Board should cite the Code and not make a decision until the application is returned to the Board for Site Plan Review with ZBA approval and if not it would be a straight denial of the application.

Ms. Becker advised that the Town Code allows an open deck within one-hundred feet of a water body. Mr. Sandborn made note of the fact that the Building Inspectors said he would be allowed to construct a roof over the deck. Ms. Becker acknowledged that this could be taken up with the Town Attorney for clarification as her understanding is that this is not the case. A discussion ensued as to the definition of a porch versus a deck and whether a porch can be open and have a roof as well. Mr. Davis said he always assumed that a porch is a covered structure and a deck is an open structure. The Board agreed with that assumption.

The Board will write a letter to the ZBA outlining their discussion citing the Code and the Board's interpretation of a Porch versus a Deck. Ms. Becker questioned whether the Board should recommend remediation of the site inasmuch as there are so many code violations, and contemplated whether they should talk about more screening and protection to the wetland. It was noted that this would have to be considered by the DEC before the Board could make any recommendations regarding this as the DEC may make their own recommendations. Ms. Becker noted that the main objective is to protect the water.

## **2. SITE PLAN REVIEW REFERRAL – JOSEPH SIMEONE – Lakeshore Drive [Taconic Shores] – (2011-22)**

Ms. Becker advised the Board that Mr. Simeone owns two lots in Taconic Shores which are not joined as yet but a deed showing that he owns both of them has been provided along with a subdivision map. Ms. Becker noted that the lot size is approximately twenty-four thousand (24,000) square feet but is still considered an undersized lot in the 'R-2' Zoning District.

Mr. Simeone addressed the Board explaining that he presently has a house on two lots that he would like to place an addition on. Mr. Simeone noted that he went to the ZBA because his lot is undersized and his present house is seventy-one feet (71') from the shoreline. He made note of the fact that his addition will be three feet (3') less than the present seventy-one feet (71') from Robinson Pond. Mr. Simeone advised the Board that he has received a permit from the DEC and has also applied for a new Septic System from the Department of Health.

Mr. Simeone advised the Board that he needs to place his driveway on the left side of his house and is asking for his driveway to be ten feet (10') from the property line instead of the required twenty feet (20'). Mr. Simeone explained that the Board of Health wanted the driveway moved because of the Septic Tank. Mr. Simeone did make note of the fact that everything has been submitted to the Board of Health and a permit will be issued as soon as the person in charge returns.

Mr. Simeone acknowledged that he presently has a five hundred (500) gallon steel Septic Tank and will be upgrading to a twelve hundred and fifty (1,250) gallon pre-cast system in which Ms. Becker noted coordinates to a four (4) bedroom house.

Ms. Becker acknowledged the variance requests from the ZBA, a thirty foot (30') set-back variance from the one-hundred foot (100') set-back requirement from the lake and the ten foot (10') set-back variance for the driveway.

It was explained that the front corner of the existing house encroaches on the thirty-foot (30') set-back but the new addition will not encroach. Ms. Becker acknowledged the DEC permit but pointed out that the DEC permit is based on different footage than the narrative as the narrative refers to habitable space and the DEC refers to the footprint. Ms. Becker noted that although the addition is large on it is still within the required coverage.

Ms. Becker was bothered by the removal of the trees from the property which provide a canopy for the area and questioned whether there was a way to request this be mediated in some way. Mr. Simeone explained that everything will remain natural with the exception of the trees that needed to be removed.

On a motion made by Mr. Savarese and seconded by Mr. Davis the Board voted unanimously to approve the Site Plan of Joseph Simeone for 154 Lakeshore Drive subject to the variances being granted by the ZBA and receipt of the Department of Health permit for the septic system from plans dated May 23, 2011 and stamped by Michael Simeone Architect PLLC, Brooklyn , NY.

### **3. SITE PLAN REFERRAL – STUART TROYETSKY – Golf Course Road [Copake Lake] – (2011-25)**

Linda Chernewsky appeared before the Board representing Stuart Troyetsky. Ms. Becker advised the Board that this is a modification of a non-conforming structure on Golf Course Road on Copake Lake. Ms. Becker noted that there are variance applications before the ZBA for a side-yard, and rear yard set-back as well as a set-back from the lake.

Ms. Becker questioned the size of the Lot. Ms. Chernewsky acknowledged the size to be ten-thousand seven hundred and fifteen (10,715) square feet. Ms. Becker advised that this lot is connected to a community septic and the number of bedrooms is not being increased and the lot coverage is 17% in the R-2 zone which requires no more than 25%.

Mr. Grant believed there was no justification to the side yard variance request and objected to the addition as he felt this was a self created hardship with no justification. Mr. Grant felt the Planning Board could not support this addition as the set-back lines were deliberately being built into requiring complete relief from the side yard set-back requirement. Ms. Becker advised him that this was a ZBA decision.

Ms. Chernewsky explained that the addition would be eighteen feet (18') by twenty feet (20') with a total of three hundred and sixty (360) square feet without the stairs and deck with a total square footage of two thousand and twenty three (2,023) square feet.

Ms. Becker also noted that there is a DEC wetland regulation issue to be considered as the structure is on a part of the lake where there are wetlands. Ms. Chernewsky advised her that she applied to the DEC for a permit.

Mr. Grant brought up the fact that in reference to the variances granted by the ZBA in 2006, the owners did not comply with the stipulations as there was supposed to be a berm built in front of the basement. Ms. Becker was not sure this was fact. Ms. Chernewsky advised him that the requirements stipulated that they bring the grade up around the sides of the house to the door which was done and the big concern was that if the grade was brought up it would kill the trees which they were told needed to remain.

Mr. Grant referred to the record which read *'Height is limited to twenty-five feet (25') from top of foundation. The cellar door may be kept but should be narrow with knee wall flaring out from the door and grade raised along the rear basement wall from knee wall level to greater height at the corners of the house. Trees between the house and lake should be retained.'* Mr. Grant insisted that the intent was to put in a berm. Mr. Davis believed the intent was for the grade to be raised but felt it would impact the tree and one would be stepping up. Ms. Chernewsky believed the interpretation was taken differently by the parties involved. Mr. Grant made note of the fact that this request was to minimize the visual impact due to the fact that there are not supposed to be any three story houses on an undersized lot. Mr. Davis explained that this request could not be accomplished as they were asking for the tree to remain and a berm could not be built without impacting the tree.

Ms. Becker pointed out that the whole addition was in the side-yard set-back. Ms. Chernewsky advised that the intent was to keep everything away from the lake and there was no other place to put the addition. Mr. Grant believed this request should be a complete no. Ms. Becker clarified that from the Planning Board's perspective this is a complete Site Plan missing the DEC permit to build and the ZBA variances. This application would be tabled until the next meeting.

The Site Plan was reviewed. Ms. Becker noted that there would be no bedroom increase in the three (3) bedroom structure. Mr. Davis consulted with Ms. Chernewsky as to ways to reduce the footprint and the impact of the addition and made suggestions that might work. Mr. Grant did not see any feasible solution that would work.

It was decided that the Board would make a recommendation to the ZBA stating that the whole addition is in the side-yard set-back. Ms. Becker advised Ms. Chernewsky that if the DEC denies the permit then the application is no longer active. Ms. Chernewsky questioned whether anyone has ever been granted a side yard set-back. Ms. Becker advised her that they have been granted but very rarely for relief from the entire set-back requirement.

#### **4. SITE PLAN REVIEW REFERRAL – BOB & LINDA LEVITT – Old Cove Road [Copake Lake] – (2010-15)**

Jeff Gardina appeared before the Board to report on the Bob & Linda Levitt application. Ms. Becker reminded the Board that Bob & Linda Levitt appeared before the Board in September of 2010 and never completed their project with the Board. Ms. Becker made note of the fact that the application filed earlier was a very incomplete application and advised Mr. Gardina that a new application needed to be submitted. She also advised him that a letter from the applicants giving him permission to represent them was needed.

Ms. Becker informed the Board that the Levitt property is an undersized lot in the 'R' Zone with their house in the wetlands. Ms. Becker pointed out that there is only a one-thousand gallon septic tank on the property and the Board previously requested that the rooms be specifically reconfigured or identified on the plans as to which are bedrooms and which are not.

Mr. Gardina explained that the proposed one-story garage is placed away from the wetlands and the proposed addition will be two-stories. Mr. Gardina continued to explain that the roof will be removed from the existing garage to make two-stories and the footprint will not be changed. Ms. Becker acknowledged that a DEC permit will not be needed.

Mr. Davis questioned how many bedrooms were in the existing house. Mr. Gardina informed him that there were presently two (2) bedrooms and with the proposed addition the structure will have a total of four (4) bedrooms. Ms. Becker advised Mr. Gardina that new plans will also be needed as the plans the Board is referring to were done by the previous architect. Ms. Becker noted that the present one-thousand gallon septic tank is not the correct size for the number of bedrooms proposed and needs to be upgraded to a twelve hundred and fifty (1,250) gallon tank. Mr. Gardina remarked that he was under the impression that this matter had been rectified but Ms. Becker informed him that this was where the Board left off when the applicant first appeared.

Ms. Becker made note of the fact that the applicant appeared before the ZBA with the prior application for side-yard and front-yard variances and was again given to the ZBA this past week to have the ZBA stamp updated inasmuch as the variances didn't change. Mr. Filipovits questioned whether the structure was always a four (4) bedroom structure. He was advised that the structure was and will remain a four (4) bedroom structure. Mr. Grant made note of the fact that a larger septic tank is needed with a four (4) bedroom structure. Mr. Filipovits questioned whether the Board could make the applicant change the septic tank inasmuch as the structure will remain a four (4) bedroom structure with the proposed changes. Mr. Grant informed him that the reason a Site Plan is done is to bring things up to code.

Mr. Gardina will return with the proper documentation.

## **PUBLIC HEARING**

None

## **SUBDIVISION/SITE PLAN**

### **2011-23      SITE PLAN REVIEW – STEPHEN LATZMAN – Jefferson Road [Copake Lake]**

Stephen Lantzman and his wife appeared before the Planning Board. Ms. Becker informed the Board that this is a modification of a non-conforming structure on a fifteen thousand (15,000) square foot non-conforming lot at the Presidents Estates on Copake Lake. Ms. Becker quoted the applicable regulation which stated that *‘Where a single family dwelling exists on a non-conforming lot a second story may be permitted over the same footprint provided such addition does not exceed the height limitations in the density control schedule of this chapter for non-conforming lots.’* She advised the Board that Mr. & Mrs. Lantzman are proposing to add a second story over the existing first floor footprint. Ms. Becker made note of the fact that there are no variances needed.

Ms. Becker acknowledged the fact that no bedrooms will be added and noted that the Lantzman residence is tied into the Presidents Estates Waste Water Treatment System and they will proceed at their own risk as the system is not fully operational at this point.

Ms. Becker quoted another regulation which stated that *‘the maximum building height of structures on a non-conforming lot shall be measured from the existing grade at its lowest point.’* After discussion it was decided that the Lantzman’s proposed addition is approximately six inches (6”) higher than the regulation stipulated. Mr. Davis suggested raising the grade six inches (6”) to mitigate the situation.

Ms. Becker brought up the fact that some of the Builders have asked that the parking situation at the Presidents Estates be mentioned to applicants. Mr. Lantzman informed her that there is room for approximately four to five (4-5) cars to park off the road.

Mr. Grant pointed out that the rear set-back is non-conforming and will be increasing the non-conformity by the height. It was decided that the previously quoted regulation stating that a second story can be built nullifies the other and is grandfathered.

On a motion made by Mr. Savarese and seconded by Mr. Filipovits the Board voted unanimously to approve the Site Plan for the Lantzman residence on Jefferson Drive from the Site Map dated October 27, 2011 from a Map by Fahey Design Build subject to the fact that the Waste Water Treatment System is not up and running and the Lantzmans will be proceeding at their own risk.

Ms. Becker made note of the fact that the application fee had been received and will now be processed. Ms. Becker stamped the maps so the Lantzmans can proceed with their project. Two more sets of the plans are needed by the Planning Board for stamping.

Miguel Sostre appeared before the Board representing Mark Frank for a new house on a recently subdivided lot on Island Drive at Copake Lake. Mr. Sostre informed the Board that all the set-backs are being conformed to and the habitable square footage on the first floor is two-thousand four-hundred and ninety four (2,494) along with accompanying terrace, steps, garages and walkways at the back. Mr. Sostre continued to explain that the basement will be a full, walk-out basement while the second floor is under the gambrel roof and is basically the master suite and miscellaneous open space. Mr. Sostre reported that the total impervious plus living space on the ground floor is four-thousand, three-hundred and sixteen (4,316) square feet with the habitable square footage at approximately seven thousand (7,000). Mr. Sostre admitted to the Board that this amount does seem large but inasmuch as there is a gambrel roof, there is space above it.

Mr. Sostre noted that the structure is a one and a half story (1½) dwelling one-hundred feet (100') from the road. Mr. Sostre explained that there is a proposed slope from the front of the house to the back grade. Mr. Grant questioned this as he was familiar with the lot which he noted was pretty flat. Mr. Sostre pointed out that the grade was being raised at the front for parking and explained how that was being done.

Mr. Davis questioned whether there would be trees removed from the side of the structure. Mr. Sostre explained that he wanted to create as much screening as possible so as not to have large houses visible to each other. Mr. Grant questioned which trees would be removed. Mr. Sostre pointed out the six pine trees at the back that are marked for removal. Ms. Becker expressed concern that trees were being removed back towards the lake. Mr. Sostre explained that a lot of the trees were overgrown and not maintained and he would be keeping the larger, nicer oak and maple trees. Mr. Grant questioned why the pines needed to be removed. Mr. Sostre explained they might get compromised with the grading of the property and noted that they are not the best looking trees in the area.

Mr. Grant questioned where the grade was being changed and what the change would be. Mr. Sostre explained that a flat area was being created at the back. Mr. Grant expressed the Board's concern when the grade of a property is being changed near the lake. Mr. Sostre pointed out that the larger trees would remain to protect the buffer and discretion was being used to keep the nicer greenery so as to open up the view of the lake and help the remaining trees grow better. Mr. Davis also expressed concern as the property grade is a fairly gradual grade. Mr. Sostre explained that the purpose is to get the water to slowly shed and not pond in the back.

Ms. Becker asked the Board whether more detail would be needed as the proposed grading is within the one-hundred foot (100') set-back at the lake and may require an Army Corp of Engineer or DEC permit. Mr. Sostre asked for clarification of where the topography could be changed. Ms. Becker explained that development, which is *any kind of man-made change*, cannot be done within one-hundred feet (100') of the lake and more clarification would be needed for what is being proposed.

Mr. Sostre explained that he is just planning on changing the contour of the lawn, planting and re-seeding and was not sure how much more detail he could provide.

Mr. Davis brought up the fact of exterior lighting as he noticed a fair amount of exterior lighting on the plans and informed Mr. Sostre of the Town Code that stated the lighting has to be shielded.

Ms. Becker asked how many bedrooms were being proposed. Mr. Sostre advised her that there would be six (6) bedrooms. Mr. Grant questioned what the situation was with the driveway. Mr. Sostre explained that his client wanted a circular driveway. Mr. Grant made note of the fact that the property seemed steep in that area. Mr. Sostre informed him that grading was being planned for that area to make access a little easier. Mr. Davis questioned why there needed to be two driveway entrances. Ms. Becker advised him that there was nothing in the code preventing this. Mr. Grant again mentioned the steepness of the driveway and expressed concern about too much grading being done. Ms. Becker suggested the "S" entrance to the property.

Ms. Becker asked if the Board had any concerns that the proposed structure would read as a three (3) story dwelling from the lake. Mr. Grant advised her that this was allowed on a conforming lot. Ms. Becker provided Mr. Sostre with the SPDES Permit information as the Board has been asking verification that the increase in usage can be handled by the existing system.

Mr. Grant made note of the fact that DEC approval would be needed for the grading to the lake. Ms. Becker pointed out that it may be Army Corp of Engineer approval that is needed for any soil that is being disturbed within fifty feet (50') of Copake Lake. It was noted that Mr. Sostre would need to provide more information on the grading to the lake, the lighting, the removal of trees and the grading for the driveway. Ms. Becker also requested that the Construction Notes include the silt fencing and the installation planned for protection of the lake.

On a motion made by Mr. Savarese and seconded by Mr. Filipovits the Board voted unanimously to accept the Site Map prepared by Miguel Sostre, dated October 28, 2011 for the Mark Frank Residence at Copake Lake as a Preliminary Sketch.

#### **2011-4            SITE PLAN REVIEW – CAMPHILL VILLAGE – Camphill Road**

Ms. Becker informed the Board that she believed a decision could be made on the Camphill Village Master Plan at this point. Ms. Becker advised the Board that Camphill Village was granted all the variances requested by the Zoning Board of Appeals and were also granted a Special Use Permit for a Care Facility in the "R" Zone.

Ms. Becker noted that the Highway Superintendent is conceptually approving the Side Walk and would like to take a look at the Final Plan for the Construction. Ms. Becker advised that the Fire Department has a similar request and would like access to the dry hydrants as well as access to the Fire Ponds which they would like to have open at all times. Ms. Becker made note of the fact that Site Plan Approval had been granted by the Columbia County Planning Board.

Ms. Becker acknowledged that this application is complete and Camphill Village will shortly begin to prepare their individual building projects and site plan reviews, starting with the Road Circle and Administration Building.

On a motion made by Mr. Davis and seconded by Mr. Savarese the Board voted unanimously to approve the Major Site Plan for Camphill Village, Copake, New York, from a set of plans prepared by Sloan Architects, dated June 22, 2011.

## **MINUTES**

Ms. Becker asked if there were any changes to the Minutes of October 6, 2011. No changes or corrections were needed. On a motion made by Mr. Savarese and seconded by Mr. Filipovits the Board voted unanimously to accept the minutes of the October 6<sup>th</sup> meeting.

## **ADMINISTRATIVE**

**CATAMOUNT RESORT HOTEL MEETING:** Ms. Becker asked if anyone wished to talk about the Catamount Resort Hotel meeting. Mr. Davis liked what was presented and felt it would be nice to see some new development at this site which he believes will be an asset to the Community. Ms. Becker noted that they are planning to go forward with this project at this time. Mr. Davis made note of the fact that they are planning to put in one-hundred (100) units in one (1) or two (2) buildings which will be somewhat of a Time Share with some retail, a restaurant and a spa.

**DOMINICK SINISI:** Ms. Becker advised the Board that she wrote a letter to Mr. Sinisi and told him that he would not be allowed to have a second apartment as it is a violation of the Zoning Code.

**MARINER TOWER RESOLUTION:** Ms. Becker acknowledged that the Mariner Tower Formal Resolution to approve the site plan is in the file if anyone wished to review it.

**HILL-OVER HEALTHY AND FRESH:** Ms. Becker advised the Board that the Farm Stand at Hill-Over Healthy and Fresh Farm was granted a Variance for a third sign by the ZBA.

**TERMS:** Ms. Becker informed the Board that Mr. Pilch's term ends this December and she has not been able to reach him by phone or e-mail so there will be a vacancy on the Planning Board. Ms. Becker was not sure whether the new Town Board will revert the Planning Board back to five (5) members in the event a second vacancy is created if Mr. Filipovits wins a seat on the Town Board. Mr. Davis suggested Jack Schultz who showed a previous interest in being a Planning Board member. Ms. Becker made note of the fact that Mr. Schultz has become acting chair of the Zoning Review Committee and is also the Data Collector for the Assessor.

**KENNETH FREED:** Mr. Grant questioned the status of Mr. Freed's project inasmuch as it has been shut down by the Building Inspectors. Mr. Davis clarified that Mr. Freed was constructing a shed that turned out to be a two (2) story structure. Ms. Becker noted that Mr. Freed had to return to the ZBA and will have to return to the Planning Board as well as he violated his Building Permit. Mr. Grant brought up the fact that there were to be assurances that no other bedrooms would be added due to the size of the septic system on the lake.

**TRAINING:** Mr. Savarese informed the Board that there will be *Planning for Agriculture Training* on November 12, 2011 at Columbia Green Community College from 9 am to 12 noon. Mr. Savarese and Ms. Becker plan on attending.

## **CARRY OVER**

The following matters were carried over to the next meeting:

- 2010-2**            **SITE PLAN REVIEW CONSULTATION – AMERISTOP – Route 23**
- 2008-21**        **MAJOR SUBDIVISION – MICHAEL B. & BARBARA S. BRAUNSTEIN – Off Golf Course Road**
- 2011-18**        **SITE PLAN REVIEW – DOMINICK SINISI – Lakeview Road [Copake Lake]**

## **ADJOURNMENT**

There being no further business, on a motion made by Mr. Filipovits and seconded by Mr. Davis, the Board voted unanimously to adjourn the meeting. The meeting was adjourned at 11:45 a.m.

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Marcia Becker, Chair

**Please note that all referenced attachments, comprising 3 pages, are on file with the Copake Town Clerk and in the Planning Board office. The referenced attachments are filed in the individual project files. An annotated listing follows:**

## **ADMINISTRATION**

### **CAMP HILL VILLAGE**

October 19, 2011      Stalker to Becker (3)