

Philipstown Planning Board
Meeting Minutes
October 16, 2014



The Philipstown Planning Board held its regularly monthly meeting on Thursday, October 16, 2014 at the Butterfield Library, 10 Morris Avenue, Cold Spring, New York. The meeting was opened at 7:30 p.m. by the Chairman.

Present: Anthony Merante, Chairman
Kim Conner
Mary Ellen Finger
Joseph Giachinta
David Hardy
Neal Zuckerman
Adam Rodd, Counsel (for Steve Gaba)
Ron Gainer, Town Engineer
Absent: Pat Sexton

Approval of Minutes
- July 22, 2014

Ms. Conner made a motion to approve the minutes. Mr. Hardy seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Pat Sexton	-	Absent
Neal Zuckerman	-	In favor

Old Business/New Business

RDR Equities, LLC – Site plan application – 1510 Route 9, Garrison: Letter dated August 8, 2014 regarding withdrawal of application and return of escrow

Ms. Conner made a motion to return the escrow funds. Mr. Zuckerman seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Pat Sexton	-	Absent
Neal Zuckerman	-	In favor

Hudson Highlands Reserve – Conservation subdivision – East Mountain Road North and Horton Road, Cold Spring: Letter re: withdrawal of application and request for return of escrow funds

Mr. Giachinta made a motion to return the escrow funds. Mr. Zuckerman seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Pat Sexton	-	Absent
Neal Zuckerman	-	In favor

Gex – Realignment of property line – 24 Hummingbird Lane, Garrison: Request for extension

Mr. Luke Hilpert stated that the last formal request they made to the Board for an extension was on April 10, 2014.

Mr. Merante said that he would take responsibility for the miscommunication/oversight, and the fact that the applicant was not placed on the July 24th Planning Board agenda. He said that at this point, they were just over six days with regard to the extension, so he and the Board agreed to grant the extension to Ms.

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Gex, rather than have her re-apply.

Mr. Zuckerman made a motion to grant the extension. Mr. Giachinta seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Pat Sexton	-	Absent
Neal Zuckerman	-	In favor

Public Hearing

ESP – Subdivision/site plan application – 3330 Route 9, Cold Spring: Discussion

Mr. Giachinta recused himself and left the table.

Mr. Watson said that as was stated, the application before the Board is for approval of a site plan and an approval of a two-lot subdivision. He said that there is a third application pending before the Town Board that's for a zoning change, and they are fully cognizant that the Planning Board does not have the ability to approve this application before them unless they have the zoning change. Mr. Watson said that the Kehrs own three pieces of property, which were bought separately. He said that a few years ago, they bought seven acres (one of the pieces) in the hopes of rectifying some of their coverage problems, which as it happens, was not really available to them and is not available to them now under the current zoning law. Mr. Watson said that if this is approved, the first thing that will happen is that the Kehrs will merge the three properties so they're under a single deed. At that point, the entire piece of property would be zoned for commercial property. He said that, in itself, raises a concern that was discussed at length. Mr. Watson said that they would then subdivide the back property leaving a 4+ acre parcel to the northeast portion of the property and a 7+ acre parcel on which the enterprise is located. The seven acres represents the minimum with a very miniscule buffer. Mr. Watson said that he thought it was the sixty percent coverage of what's available for development plus that land that's not available for development, so of the seven acres, the operational area of the project will have sixty percent coverage. Mr. Watson said that the first safeguard that's built into the plan is that with the site plan being built on the larger of the two lots – when the site plan is put into effect, they will have maximized the extent of any development. He said that they've the area (what will be the commercial lot) will be restricted with a conservation easement, which is perpetual and can't be changed by a zoning change. Mr. Watson said that the only thing that would be allowed would be if there was ever a need for a septic system, replacement from the septic system is already currently on the property – it would be allowed to be in the upper portion of the property about twenty feet vertically above Clove Creek and a couple hundred feet away from it – outside the Clove Creek buffer, outside of the flood plain. He said that the remainder of the property would also be subject to a conservation easement that would restrict it to developing one lot. So they'd have a two-lot subdivision – one building lot and one commercial lot. Mr. Watson said that the entire property would be zoned commercial and the reason for that is that if they were to leave the residential portion of property in its current zone, they wouldn't have a conforming lot. He said that they've proposed an additional zoning setback – it would be fifty feet or so, where there would be no building permitted. Mr. Watson said that there would be one residential structure, a conservation easement, and the zoning law would prevent any further development. He said that it would not be subdividable – it would be limited to a single family dwelling, it would be kept well up on the property out of the flood zone, wetlands buffer and out of the creek. Mr. Watson said that there is a new building that would be built along the frontage, quite close to the road and would be a storage building. He said that it will provide some visual protection for passersby. Mr. Watson said that a fence would delineate the extent of the allowable used area. He said that internally, it would function much the same as in the past, except that the new building is intended to store much of the materials that are stored outside. The little cottage, currently a rental unit, will also be storage. Mr. Watson said that within the yard, they'll have some freedom in terms of where the storage will be, screening along the south, natural screening along the east, new screening along the north and all the violations would be encroached. He said that the sign will be moved to a legal location and all of that in

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sum will bring the project together. There is an on-site drainage that functions very well. Mr. Watson said that he met with the Town Board about a month ago, and thought the sentiment of the Board was that they were toward approving it and one member of the Board particularly vocal against it, and two that were particularly vocal for it.

Mr. Gainer asked if the Town Board had started down that process.

Mr. Watson said that they have it in front of them, but it has not been introduced. He said that he believed the Town Board wanted to see where the application was going with regard to the Planning Board (finishing the SEQRA process). After a brief discussion, Mr. Watson stated that he believed it was still in the Code that once the zoning change is introduced, the Town Board has an obligation to refer the matter for Planning Board comment. He suggested to the Planning Board that if they come to a positive conclusion, perhaps they could include the positive recommendation in the Resolution or with a parallel Resolution and just be done with it, so it doesn't have to go back.

Mr. Gainer said that the Board previously made referrals, and the County has responded with comments that he thought for the most part has been or will be addressed on the final plans. He said that the applicant has some technical issues to resolve on both the site plan as well as the subdivision plat, but they can easily be resolved.

Mr. Merante opened the hearing up to the public.

Mr. Dave Merandy said that he was the vocal opponent to this from the Town Board. He said that he had concerns and one was the precedent this was setting to be running two applications concurrently, although he understood from the applicant's perspective, it was a good thing. But if indeed the Town Board decides not to approve this, all of the work and time spent on this was being wasted unless it could be used in the future somehow. Mr. Merandy said that the second concern was...he was not sure of the intent of the coverage law, but by restricting the rear properties and putting all these restrictions on it, you're left basically with the same in the front as they have right now. He said that when all is said and done, they're left with pretty much the same as they had with the same amount of coverage, but it's now o.k. because they have the acreage in the back.

Mr. Joe Diebboll, adjoining owner, said that he had written a sort of history of what he had seen occurred at the Kehr's. He read the letter aloud (copy to be submitted by Mr. Diebboll for file at Town Hall). Mr. Diebboll also stated that he had a copy of a letter to Anthony Merante from Barbara Burosa, Planning for Putnam County Department of Planning, dated July 9, 2013. He read the letter aloud (copy to be submitted by Mr. Diebboll for file at Town Hall). Mr. Diebboll asked if by merging the deeds, it gives access of the front lot (current existing commercial lot) to take advantage of the right-of-ways that exist.

Mr. Watson said that merging the deeds to form a single piece of property...but simultaneously, they're planning to subdivide into two lots so there would be no access to the commercial lot. He said that there would be no right-of-way to get to Stephanie Lane. Mr. Watson said that he knew that theoretically, they couldn't use Stephanie Lane to get back up into the front even if you merged it.

Mr. Diebboll asked if when they made the two-lot subdivision, it would happen at the same time.

Mr. Watson said that it is all going to have to happen...they'll have to sign a paper for the conservation easement, a deed for the merger, a deed for the lots One and Two into separate ownerships. He said that they will all happen at the same closing. Mr. Watson said that they would have no issue whatsoever with righting it to the conservation easement and the deed for the lots....that no right-of-way will be granted to connect the commercial lot (the ESP lot that's going to be commercial) to Stephanie Lane. Mr. Watson said that the conservation easement is going to cover the entire back piece of property. There will be one set of restrictions on the part that's going to be attached to ESP's yard, and a slightly different set of restrictions to the residential property that could be developed residential - the main difference being that

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one (pointed out on plan) will not be able to be built on except for the septic system. Mr. Watson said that he would volunteer to put into the conservation easement that there shall be no driveway or other connection between the commercially developed lot into Stephanie Lane. He said that they will put it in the deed. Mr. Watson said that if that is a serious concern, and he appreciated that it could be, they will put it in the conservation easement.

Mr. Diebboll asked why it was difficult for the area (4-acre) portion to be made residential and the other part HC.

Mr. Watson said that the residential zone that's available is a five acre zone.

Mr. Diebboll said that there was an existing driveway which was drawn on Mr. Watson's previous plan and the one he referred to with what he said earlier about his using a driveway the first fifteen years he lived there and it still exists. He said that he put a lot of money into the driveway and wondered why it is not being used in this situation instead of using his newly constructed driveway. Mr. Diebboll asked why the driveway had to pass on to his property.

Mr. Watson said that when they laid it out, they tried to do it to minimize the amount of grading and disturbance. If they went to a particular area (pointed out on plan), they would have to cut through land that would be quite a bit more disturbance.

Mr. Diebboll said that there is nothing he had to cut through and he's already cutting through it anyway though if there was anything to cut through.

Mr. Watson said that there was more grading up there if he recalled correctly.

Mr. Diebboll said that they would have more to cut through if they came through his place, because his driveway is below the grade of the old driveway and they would have to cut through his buffer of well established trees and open up his lot to the back lot, which defeats the purpose of the buffer that is supposedly being created and it is an easier, more direct route using the existing driveway. He said that they can't tell him they're cutting through anything there – he knows the land better than anyone, having lived there for twenty-five years.

Mr. Watson said that they would take a look at it and seemed a little silly to have two parallel driveways, but if Mr. Diebboll preferred that, they can do that.

Mr. Merante asked how many other residences are off of Stephanie Lane.

Mr. Watson said that he believed two residences.

Mr. Diebboll said that he was not certain there was a right-of-way for the situation anyway.

Mr. Watson said that he is certain there is a right-of-way.

Mr. Diebboll asked Mr. Watson to point it out on the map.

Mr. Watson did so. He said that actually, Mr. Diebboll's outbuilding is built within the right-of-way.

Mr. Diebboll asked if it was a problem having something built on a right-of-way if, in fact, it is a right-of-way.

Mr. Watson said that it could be. He said that the right-of-way burdens Mr. Diebboll's property. Mr. Watson referred to the map and said from the line to Route 9 is burdened by a right-of-way. He said that the right of way benefits this property (pointed out).

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Ms. Lisa Diebboll introduced herself and read aloud from a letter (copy to be forwarded for file at Town Hall).

Ms. Lori Ann Merrigan, 16 Stephanie Lane, introduced herself and asked how long the applicant had before he had to remove everything. She said that the applicant puts things there and does what he wants. Ms. Merrigan asked how they could be guaranteed that he's not going to just do what he's doing now and said that he'd been taken to court and told of the violations. She said that she spoke with Mr. Watson, who said there would be a tree line there to block everything and she asked when that would get started.

Mr. Watson said that he was not sure. He said that if it is approved, they have a year to fulfill the conditions of the approval. Mr. Watson said then you have a period of time to do the work. He said that a building permit may not be issued until all the conditions are met. Mr. Watson said that doesn't mean that the planting is put in.

Ms. Merrigan asked how many years it would take where all of a sudden it's all his.

Mr. Watson said that it is not just a period of time - there is a ten year thing of adverse possessions.

Ms. Merrigan said that then she's wants him off very soon.

Mr. Watson said that this was not the forum for that.

Ms. Merrigan asked if a third house was put on Stephanie Lane, what would have to be done to the entranceway of Stephanie Lane and said she thought they were told it had to be widened off of Route 9.

Mr. Watson said that the rules say that before a building permit may be issued to a lot that relies on a private road, it has to be brought up to the private road standards.

Ms. Merrigan asked who would be responsible for the cost of that.

Mr. Watson said that the applicant did not have any immediate plans to build as far as he knew, but if he wanted a building permit, he has the right to build. He said that with regard to maintenance, typically with the old ones, there is no maintenance agreement.

Ms. Merrigan said that there is a road maintenance agreement for Stephanie Lane.

Ms. Watson asked who the parties were.

Ms. Merrigan said right now it was her, her husband and Mr. & Mrs. Diebboll.

Mr. Watson said that Ms. Merrigan could not make someone sign the agreement. He said that in the past, the Planning Board has looked to owners wanting approval to get a maintenance agreement established. Mr. Watson said that he wouldn't be surprised if they imposed a similar thing which required him to sign on to the maintenance agreement as a property owner as a condition of the approval.

Mr. Andy Chmar introduced himself and stated that he and his wife own the property on the southeast portion of the property. He said that his question was with regard to conservation easements. Mr. Chmar said that he's become familiar with the document and learned two things with regard to the easement. He said that you have to make sure that the easement is iron-clad and easements have changed even in the last ten years so that his organization's conservation easement averages probably twenty-five pages in terms of rights, restrictions, terms that are conditioned for both the grantor and grantee. Mr. Chmar asked the Board if Mr. Gaba had the expertise in conservation easements to the level that's needed these days for the very reasons that are cited that a deep pocketed land owner who chooses to ignore zoning would just as easily

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ignore a conservation easement or find a way of violating that easement.

Mr. Rodd said that he would run it by Mr. Gaba but to the extent of the conditional approval, the property would be burdened by a conservation easement. He said that those easements are there to be enforced. Mr. Rodd said that if the Planning Board chooses to go forward the language will be in there.

Mr. Chmar said that his comment to the Board was to make sure it had adequate, complete and expert counsel in the development of that conservation easement. He explained that he was not saying they all were not experts, but to make sure that the attorneys who draft the conservation easements...he said that he'd be happy to provide a lot of names of very qualified attorneys if they don't feel they have had the experience in developing State of the Art 2014/2015 conservation easements. Mr. Chmar said that the second point he wanted to make was that enforcement is critical to any conservation easement. He said that means at least annual monitoring, vigilance on the part of neighbors to ensure the easement is being adhered to by the grantor or the successive owners. Mr. Chmar said that it goes to the point about enforcement of the zoning and the difficulties that have occurred with that regard. He asked Mr. Rodd if in a normal conservation easement situation held by a non-profit land trust or similar organization, if there is a violation, there is an escalating set of procedures that are undertaken to remedy that situation - first being a letter, but eventually may have to go to court, which he presumed would be a civil action and asked if he was correct.

Mr. Rodd said he thought so, yes.

Mr. Chmar asked if the Town held a conservation easement just as it holds the zoning it would be a civil action or a different type of action that they take when they go to court with an owner who's violating zoning, and if it would be similar or identical if the Town went to court with regard to a conservation easement violation to them going to court concerning a zoning violation.

Mr. Rodd said that this County could take whatever appropriate action including an equitable remedy, which would be a request to the court to order them to take a specific action or stop performing a specific action ultimately under the penalty of contempt – if they don't do it, they can be held in contempt and the court can impose whatever fines they seem appropriate.

Mr. Chmar said that it would be essentially be a similar action as a zoning violation but a different legal document is protecting the property. He said that in this case, if it is zoned commercial, you have to have some other remedy to ensure that no further commercial activities occur on that property. But in the end, the enforcement would be executed in a similar manner.

Mr. Rodd said that if he understood Mr. Chmar's question, you could theoretically have a zoning violation which could be brought if they're using the property not complying with zoning, you can bring an action to enforce that. He said that if the issue is that there is a violation of the terms of the conservation easement, the holder of the easement can go to court and seek equitable remedies.

Mr. Chmar said that as a neighbor, as somebody that might be impacted if suddenly a commercial activity spills down over it, that his expectation – and this is as much to the Town Board, because the Planning Board will be done when it approves the site plan – if it approves it, and the easement is executed, then it's incumbent upon the Town and its resources, Code Enforcement Officer, to enforce that conservation easement just as the Code Enforcement Officer is enforcing the zoning of the Town and then the Town will then take the necessary remedies available at its disposal – litigation, etc., to enforce this conservation easement as vigorously as it would the zoning. Mr. Chmar said that he guessed as a neighbor, that's what he would expect the Town to do.

Mr. Merante asked if the Board was ready to vote, and said that he had a lot of questions on some of the things that were brought up by the public.

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Ms. Conner made a motion to close the public hearing. Mr. Zuckerman seconded the motion. The public hearing was closed. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Joseph Giachinta	-	Recused
Dave Hardy	-	In favor
Pat Sexton	-	Absent
Neal Zuckerman	-	In favor

Mr. Gainer said that as he had said earlier, there are various technical things that the applicant's representatives have to address on both the site plan and subdivision, and as Mr. Merante stated, significant issues still to be verified that came out of the public hearing process.

Mr. Merante said that one of the things he thought about was that they're still going to have a lot that will look like it looks today. He said that he sees stuff that is well within the setback off of the centerline of Route 9.

Mr. Watson said that that setback was significantly reduced when the zoning law was passed.

Mr. Merante asked if it was now fifty feet.

Mr. Watson said thirty-five feet.

Mr. Merante said that often, when he goes by this site, there is stuff placed outside the fence and parking outside the fence within less than a stone's throw from the centerline of Route 9. He said that he did not see a change in the site they're concerned with by adding a conservation easement behind it and all the other things they've discussed tonight about Stephanie Lane, the house back there, etc. Mr. Merante said that it has been out of conformity for years and until their hand was forced, they want to expand the business and put the large shed out front. He said that he really thought this was kind of a jury rig request in front of the Board.

Mr. Watson said that he wished to respond to Mr. Merante's comments with regard to what is and what is not a threat. He said that was not part of his presentation. Mr. Watson said that Mr. Zuckerman asked what was going to happen if they don't get their approval. He said that everything they talked about tonight has to happen if they're going to have an opportunity to bring this thing into conformity. Mr. Watson said that if any one of those things fail, the answer would have been the same. He said that they (applicants) have told him this has a ten year life. Mr. Watson said that if their business continues to expand, they'll be able to operate here for ten years. He said that if they can't bring it into conformity, they're not going to be in a position to come back every three months and pay another five or eight thousand dollar fine. Mr. Watson said that it was not part of his presentation – it was an honest response to a question.

Mr. Merante said that one of the issues he had from listening to the neighbors was that the applicant seemed to put the burden of enforcement and vigilance on the neighbors and asked why.

Mr. Watson said that human nature is that people will do whatever they can get away with.

Mr. Merante said that he disagreed.

Ms. Conner said that she agreed with Mr. Merandy regarding the two-track process because she thought it forces everyone's hand...if the Planning Board approves it, then the Town Board is going to feel compelled to do so. She said that it seemed the Town Board should be the first line here of deciding how they treat their zoning. Ms. Conner asked if Mr. Watson knew what the zoning was for the back piece before the new zoning came into effect.

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Mr. Watson said that he thought it was probably R-80- two-acre residential, but did not know for certain.

Ms. Conner said that it troubles her to start pushing the commercial buffer back.

Mr. Watson said that the other side of the coin is that the Town Board will benefit from the Planning Board's comments and criticisms of the plan.

Mr. Rodd said that the Board could close the public hearing or if it felt that it needed more information, one suggestion would be to vote to keep the public hearing open.

Several Board members said they already closed it.

Mr. Gainer said that it would be appropriate to have the applicant back for one meeting at least with some further answers before the Board considers action.

Ms. Finger said that she would like to see the document regarding the right-of-way.

Mr. Watson said that he would talk to his client about that. He said that he was not in a position to agree to give up deeded rights a person had, but was in a position to say, "o.k., they can work around with this driveway". Mr. Watson said that they would be willing to waive any time constraints until the January meeting in order to wrap this up.

Mr. Rodd suggested that if the Board wanted additional information, etc, that the Board make a motion to rescind the closure and open the public hearing.

Ms. Conner made the motion to rescind the closure. Mr. Hardy seconded the motion. The public hearing was re-opened and will be continued at the next meeting.

Mr. Giachinta joined the table again.

Regular Meeting

201 Old Stone Road – Site plan application – 201 Old Stone Road, Garrison: Submission of revised EAF Part 2

Mr. Watson said that they submitted a revised EAF. There will several changes in it. He said that they were primarily responding to comments from Mr. Gainer that were issued after they made the initial application. Mr. Watson said that they were there to ask the Board to consider adopting Part 2 of the EAF and also, there was a question with regard to whether it could issue a special use permit or whether they needed variances for construction on a 20% slope. He said that Mr. Gaba sent him a copy of his memo in response to that and he hoped the Board would discuss that so that they have some direction.

Mr. Gainer said that the Board recognizes the Part 2 EAF has recently been filed by the applicant and is something the Board should formally adopt. He said that he had been through it and has had discussions with the applicant. Mr. Gainer said that the issues that he flagged are issues of concern that warrant further review. He went over the Part 2 EAF with the Board. (copy on file at Town Hall)

Mr. Zuckerman made a motion to adopt the Part 2 EAF. Ms. Conner seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Joseph Giachinta	-	In favor
Dave Hardy	-	In favor
Pat Sexton	-	Absent

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Neal Zuckerman - In favor

Mr. Merante said that you can build on slopes in excess of 20% if you can show (did not finish sentence).

Mr. Gainer said that you have to present a finding that less than 20% might cause a greater disturbance. He said that the goal of the ordinance is to minimize disturbance of steep slopes.

Mr. Watson said that if they were to take the house (pointed out on plan) and put it on the ridge line, where it is the only place they have land less steep than 20%, the impact would be much greater.

Mr. Gainer suggested the Board put on record that the Board's in agreement with the attorney's assessment – that the proposal would be permitted to disturbed slopes in excess of 20% percent on the basis that the Board finds it creates less disturbance than complies with the code provision.

Ms. Finger made a motion that the proposed construction can be made by way of a special permit under the conditions of 17536-B7. Mr. Giachinta seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Joseph Giachinta	-	In favor
Dave Hardy	-	In favor
Pat Sexton	-	Absent
Neal Zuckerman	-	In favor

Mr. Watson said that they will submit a letter/application for the special permit.

Horton Road, LLC (Hudson Highlands Reserve) – Conservation subdivision – East Mountain Road North, Horton Road and Route 9, Cold Spring: New application

Mr. Ulysses Liceaga introduced himself, and stated that this was the same piece of land they spoke about when they submitted an application back in January 2014. He said that they were advised to withdraw that application because since then they acquired a fourth piece of land. Mr. Liceaga said that this is the same piece of land that the Lyons family had applied and gotten a permit for a soil mine a couple of years ago. He said that back in January, they expressed their desire to get a conservation subdivision, which would be the first one pursued in Philipstown. He said that what's changed since is that they acquired a fourth piece of land, which gave them rights to develop around the pond (pointed out on plan). Mr. Liceaga said that they believe by acquiring the piece of property, it mad the whole project rounder and in a way, less intrusive onto Horton Road. He said that in the last presentation, a member of the public/neighbor of Horton Road expressed a concern about traffic. So what they are proposing is to have the main access through Route 9. They are proposing a subdivision of twenty-eight lots with an equestrian center with twenty-five horses, an indoor rink for horses, and it would be a mix of a riding academy and a horse farm. He said that they have had meetings with the DEC and DEP. Their intent is to build homes that will be platinum certified – extremely environmentally efficient.

Mr. Gainer said that the Board had a technical memorandum from his office that outlines the view of the project and more specifically, the applicable conservation regulations that apply. He said that it is very similar to the original project that the Board saw nine months ago. Mr. Gainer said that the major change is that they bought another parcel that picks up the southern part of the lake, so the plan's been modified slightly and has allowed for a few more lots (now twenty-eight lots). He said that the variety of environmental constraints mapping that's mandated by our ordinance has been filed with the application and is really a subject for review by the Planning Board. Mr. Gainer said that the intent of the conservation subdivision is to identify property of significance that's worthy of protection. He said that it could be steep slopes, watercourses, etc. Mr. Gainer said that much of that data is now shown on the constraints mapping that they have provided. He said that in his view, the Board's goal at this point is to now see if a site visit could be scheduled to better get a hands-on view of these areas of significance that it may deem worthy of

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protection.

Mr. Merante said that it is a 155-acre parcel.

Mr. Gainer said some major bearings to the tract have to be provided so the Board knows where they are. He said that the Board wants to be able to understand where the roads come out on existing roadway systems, generally locating where the center line is with some stationing so the Board knows where it is on the property. Mr. Gainer said also, the Board wants to make sure in understanding the points of access that they're not creating areas that become major thoroughfares and really want to drive access out to Route 9 so that you don't burden the existing residents on those streets. He said that the applicant tried to respect it by making curvilinear roadways and minimizing the desirability of going out the side streets.

Mr. Merante asked the applicant if it was going to be a natural tendency to come down and exit through Horton Road or go out the new/middle road they're going to create.

Mr. Liceaga said that they had thought about it. He said that they have discussed the possibility of having a controlled gate that will close access to service vehicles – any kind of deliveries. He said that it would almost be like an emergency exit. Mr. Liceaga said that they were trying to encourage the use of Route 9, which he personally thought made much more sense than using Horton Road. He said that they had a meeting with an official from the DOT and he said that if they didn't have to open up a new road onto Route 9, it would be desirable. But they really want to get this access onto the development because of the vehicles they will need for servicing the equestrian center – trailers with horses (usually the size of tractor trailers) and transportation of feed and manure, etc., so they really want to have that road being the main road and Horton Road and East Mountain Road North being almost an emergency alternate route.

Mr. Gainer said that he did not know if the Board would ultimately support that layout or not. He said that his immediate view of the access toward Horton Road, is that you only need one and you'd probably make it more curvilinear the longer path just to prevent an easy shot to the project and they could easily accommodate their desired lot count. Mr. Gainer said that all those things will be worked out later, but the Board wants to respect impacts to the neighboring properties.

Mr. Zuckerman asked where the Equestrian Center was on the plan.

Mr. Liceaga pointed it out on the plan.

Mr. Hardy asked if then it would be a use that would be for the people who live there as well as others.

Mr. Liceaga said right.

Ms. Conner asked if it was possible for the Board to have copies of all the different easements, which have development restrictions.

Mr. Watson said o.k.

Ms. Finger said that she saw a great deal of fragmentation of ecosystems and knew the conservation subdivision was supposed to help preserve not only open space, but ecosystems. She asked the applicant to confirm that each of the lots were about one and a half acres. Ms. Finger asked if it was true that with common sewage disposal services, you can have lots a half acre in size to encourage cluster housing and prevent this complete fragmentation.

Mr. Liceaga said that they have asked Badey & Watson to take a look at all the ordinances and the ones they found call for 1.2 acres.

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Mr. Watson said that there's a sense that this market is not going to want quarter acre lots, but at the same time they will be developing building envelopes within the lots, so portions of each of the lots will be subject to conservation easement. He said that if you read through the code, you'll see that the actual land does not have to be held by a conservation entity. Mr. Watson said that the area set aside for conservation can be part of the individual lots. He said that essentially they're going to have a one and a half acre lot and maybe a half acre of unrestricted building area. The rest of it would be restricted.

Ms. Conner asked if they would be 3500 square foot houses on an acre and a half.

Mr. Liceaga said yes.

Ms. Finger said that she was more concerned about the layout of the lots and the pond that may have served as the resource of wild life in that area.

Mr. Gainer suggested the Board address these issues after having visited the site.

Mr. Watson said that they have identified the steep slopes and constrained lands and will put the road system on a colored map, which each Board member can walk in the field with. He said that there is no coming in from Route 9 without going through some steep slopes – it just can't happen. Mr. Watson said the Route 9 entrance is necessary and it will help prevent the thoroughfare the Board is concerned about. He said that there will be a common sewage system, which he pointed out on the map.

Ms. Conner pointed out a typo on page 9 – “the wetlands are currently 36.42 acres but after the project is completed, they'll be 6.27 acres.”

Mr. Gainer said that in his technical review, he identified a variety of issues on the EAF as well as technical, and that's clearly one they need to correct.

Mr. Watson said that they will fix it.

The Board decided to schedule a site visit for Sunday, November 9, 2014 at 9:30 a.m.

Mr. Zuckerman made a motion that the Board declare this a major subdivision and site plan and as an Unlisted Action. Ms. Conner seconded the motion. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Pat Sexton	-	Absent
Neal Zuckerman	-	In favor

Adjourn

Mr. Zuckerman made a motion to adjourn the meeting. Mr. Giachinta seconded the motion. The meeting ended at 9:20 p.m. The vote was as follows:

Anthony Merante	-	In favor
Kim Conner	-	In favor
Mary Ellen Finger	-	In favor
Joseph Giachinta	-	In favor
David Hardy	-	In favor
Pat Sexton	-	Absent
Neal Zuckerman	-	In favor

Respectfully submitted,

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Ann M. Gallagher

Note: These minutes were prepared for the Philipstown Planning Board and are subject to review, comment, emendation and approval thereupon.

Approved: _____