

TOWN OF PHILIPSTOWN PLANNING BOARD
Virtually Via Zoom
September 16th, 2021 Minutes

The Planning Board held its regular meeting on Thursday, Sept 16th, 2021.

Present:

Neal Zuckerman (Chair)

Kim Conner

Dennis Gagnon

Peter Lewis

Laura O'Connell

Neal Tomann

Heidi Wendel

Ronald J. Gainer, PE, Town Engineer

Stephen Gaba, Counsel

Absent:

Please note that these minutes were abstracted in summary from the meeting and a taped recording.

Chair Zuckerman opened the meeting at 7:32 pm. Kim Conner led the Pledge of Allegiance.

Roll call was taken by Ms. Rockett.

Approval of Minutes

Chair Zuckerman asked for a motion to approve the July 2021 minutes. Kim Conner made a motion and Laura O'Connell seconded the motion. Chair Zuckerman asked if there were any comments, edits, changes? No? All in favor say aye.

Kim Conner: Aye

Dennis Gagnon: Aye

Peter Lewis: Aye

Laura O'Connell: Aye

Neal Tomann: Aye

Heidi Wendel: Aye

Chair Neal Zuckerman: Aye

Correspondence

1. Return of Escrow Request: Cumming, 1 South Mountain Pass Spur, Garrison, NY. TM#82.-1-52&53

Chair Zuckerman asked Mr. Gaba and Mr. Gainer if either had any commentary on that. Mr. Gaba replied that they do not have any outstanding bills, Mr. Gainer agreed. Chair Zuckerman asked for a motion to return the escrow. Peter Lewis made the motion, Neal Tomann seconded the motion. The vote went as follows:

Kim Conner: Aye

Dennis Gagnon: Aye

Peter Lewis: Aye

Laura O'Connell: Aye

Neal Tomann: Aye

Heidi Wendel: Aye

Chair Neal Zuckerman: Aye

Chair Zuckerman directed Ms. Rockett to return the escrow to William & Laura Cumming.

2. Letter from Badey & Watson: Request for 6- month extension of CRS International Site Plan Approval. Chair Zuckerman stated that they've received a letter from Glenn Watson on behalf of CRS, they've asked for a six-month extension maybe Mr. Gaba could explain the extension of what are they are being asked to extend here.

Mr. Gaba this is site plan approval. The rule under the code is that if you don't file for your building permit within two years after the grant of site plan approval you can apply to the Planning Board for two six-month extensions. The first one is granted for the asking. The second one they have to show good cause for. He added that he's not sure that CRS has been out two years but if that's what the applicant represents.

Chair Zuckerman stated that it's not, the approval is dated January 21st of this calendar year.

Mr. Gaba stated that then we'll have to ask the applicant why they they're looking for an extension here.

Chair Zuckerman asked Mr. Watson if he could just provide a little guidance on what's the request for the extension, please?

Mr. Watson stated that frankly all of the processes are slowed down. They are still working on the DOT permit and still working on the Health Department permit but expect them to come in now. He added that he thinks the initial approval is good for six months.

Mr. Gaba stated that he thought they had two years on-site plan once they got their approval to get a building permit.

Mr. Watson stated that they were unsure when they read the resolution how that approval goes. If you read the first paragraph there was something that we have to apply for in six months, which was a condition.

Chair Zuckerman stated paragraph eight states pursuant to code 175-68, within six months after receiving approval the applicant shall submit multiple copies of the site plan for stamping and signing.

Mr. Watson replied they can't submit that within that period of time and, obviously, that's passed. But they can't submit that within that time because of the reasons he told the Board, this is due to the Health Department because of getting through those two approval processes.

Mr. Gainer stated that the Zoning Code (§175-68A) specifies that the applicant has six months from the date of the approval to present the plan for execution and filing, and that's not been done.

Mr. Gaba stated so it's not a question of the site plan approval expiring because they can't get a building permit, it's a question of not getting the plans signed in the first place. So, then they get two six-month approval extensions. The first one for the asking; the second one for good cause same law.

Chair Zuckerman stated sorry to be a stickler but the six-month mark was July 21st.

Mr. Gaba replied there's two different rules. The first rule is if they don't get their building permit within the 24 months the site plan expires. We're talking about not submitting the site plan for signature. If they don't submit the site plan within the six-months they can still come in within that second six-month period and say granted, it's called Non Pro Tunc. The board has done it before. So, it just means it's backdated to

the original six-month period. They don't get more time in addition to that. So, even if the six months is expired the Board can still give them another six months.

Chair Zuckerman confirmed with Mr. Gaba that this is legally sufficient for the Board to do this if we choose to.

Mr. Gaba replied that the Board has to do this. They get the first one for the asking.

Chair Zuckerman asked for a motion to extend that first six-month extension. Kim Conner made the motion; Laura O'Connell seconded the motion.

The vote went as follows:

Kim Conner: Aye
Dennis Gagnon: Aye
Peter Lewis: Aye
Laura O'Connell: Aye
Neal Tomann: Aye
Heidi Wendel: Aye
Chair Neal Zuckerman: Aye

Opposed, Abstentions? Being none the vote passes.

3. Letter from Badey & Waston: Request for 90-day extension of Magazzino Site Plan Approval.

Mr. Gaba pointed out that it's not 90 days, it's six months. It says 90 in the tagline but in the first paragraph they ask for six months.

Mr. Watson stated that Magazzino is actually a little more complicated, because they have a public water supply and it has to go through the DEC as well as the normal channels, so they're again on the cusp of this thing.

Mr. Gaba asked is this for submitting it for signature or is this we're looking at the two years without a building permit.

Mr. Watson replied that they have the same six-month application for signature, that's the same thing.

Mr. Gaba stated that it's the same thing as CRS.

Kim Conner asked what public water supply do they have?

Mr. Watson stated that there are conditions when a private piece of property, like when you own a restaurant and there's a cafe in there and that water is consumed by the public.

Chair Zuckerman then asked for a motion to provide the six-month extension. Peter Lewis made the motion and Kim Conner seconded the motion. He then asked if there was any further discussion. The vote went as follows:

Kim Conner: Aye
Dennis Gagnon: Aye
Peter Lewis: Aye
Laura O'Connell: Aye
Neal Tomann: Aye

Heidi Wendel: Aye

Chair Neal Zuckerman: Aye

Opposed, Abstentions? Being none the vote passes.

5. Billy Reid Letter

Chair Zuckerman stated that he is going to skip over the Hudson Valley Shakespeare Festival letters because they'll cover that later on. There are two letters that did come in for that project - one from Joe Regele, actually a printout of his publicly issued letter in the PCNR, and we also received a letter from Nat Prentice in support of the event but he'd like to jump to the letter from Billy Reid related to a daycare preschool that's supposedly operating at 75 Oak Hollow. He then stated that he's asked Greg Wunner to take a look at it and the Town Board has been informed of it given a number of Town Code provisions that could be relevant. Any questions or comments on this? Okay. He stated that they'll see if that's anything they have to deal with. Bob Flaherty, you know as it's in front of Town Board, if you've got anything to share that we have to take action on please let the Planning Board know.

Bob Flaherty replied, sure he'll let them know. Greg Wunner is supposed to take a look into this, as indicated.

Chair Zuckerman reminded the Board members if they hear things from neighbors, please feel free to bring them up. The Board provides a useful set of eyes and ears for the town.

Public Hearing

Riverview Industries, 3012 Route 9, Cold Spring, NY 10516 TM#27.20-1-28

Chair Zuckerman asked Ms. Rockett to read the abbreviated versions of the public hearing notice.

Ms. Rockett read the notice: *Riverview Industries, 3012 Route 9, Cold Spring, NY 10516 TM#27.20-1-28. Applicant is seeking major site plan approval for a parking area for commercial truck parking and storage. The applicant owns and operates a commercial truck repair and auto body business on two parcels located across Route 9 and this is an extension of that use. A wetland permit will be required for disturbance in the 100-foot local wetland buffer. A floodplain development permit will be required for the disturbance in the hundred-year floodplain.*

Chair Zuckerman noted that the noticing of the signage was missed last time, by something like a day, so we had to keep the hearing open. He then asked if there were any members of the public who wished to speak on this. There were no requests to speak from the public. He then asked Mr. Watson if he had anything he wanted to say before they close the public hearing.

Mr. Watson stated that there has been no change. They made some progress with DOT in terms of the highway entry permit. They're wrestling with one issue with them but he thinks they'll get through that. Other than that they did post the sign and did provide the photograph and the sign was up there on Monday morning. He added that he would be happy to answer any questions if he's able.

Chair Zuckerman asked for a motion to close the public hearing. Neal Tomann made the motion, Kim Conner seconded the motion. The vote went as follows.

Kim Conner: Aye

Dennis Gagnon: Aye

Peter Lewis: Aye

Laura O'Connell: Aye

Neal Tomann: Aye

Heidi Wendel: Aye

Chair Neal Zuckerman: Aye

Opposed, Abstentions? Being none the vote passes.

Chair Zuckerman then asked Mr. Gaba and Mr. Gainer for next steps with the Riverview application.

Mr. Gaba stated that he thinks they have to close out SEQRA review to the extent of finishing off part 2 of the EAF. Then, after that, if the Board is inclined to direct Mr. Gainer to prepare resolutions for next month that's where they go.

Chair Zuckerman stated that they've discussed the EAF part 2 in various settings and various pieces. He continued that he's open to asking for a motion to accept the EAF part 2 or any thoughts people would like to share. He added that they have had several discussions about the traffic in and out and about the environmental effects. They've gotten word back from Max Garfinkle on the Conservation Board that they're comfortable with the moves that have been made. He then asked if any board members have other questions or comments they'd like to raise related to the property.

Laura O'Connell stated that she had two things. One is that the EAF part 2 wasn't fully filled out and she thought that that was going to happen and then be resubmitted. Then, the second thing is that she doesn't think they ever really addressed the maneuverability of how trucks were going to move from the parking lot side over to the store side of where the trucks were actually going to be worked on. She added that she knows it's not part of the DOT traffic study but thought they had requested some sort of traffic plan whether they were going to propose to have flag men or some sort of proposal on how they were going to manage traffic and move the trucks from one side to the other across Route 9.

Glenn Watson stated that he thinks she's right and they didn't submit that, they'll submit that for October.

Chair Zuckerman confirmed that Ms. O'Connell is asking for two pieces of information. One is the resubmission of the EAF, and asked Mr. Watson if he is suggesting that he can submit also a viewpoint about how the movement will occur between the two areas?

Mr. Watson replied yes.

Heidi Wendel stated that she's already expressed her view that because this site was in violation it would make a lot more sense for the applicant to clean the site up before we pass on it but her understanding is that the Board doesn't have the ability to require that. It seems very counter-intuitive to her but she's just putting that on the record again.

Chair Zuckerman asked Mr. Gaba if he would like to respond to Ms. Wendel.

Mr. Gaba stated that there are a few different issues here. The first issue is if someone has open violations that they can remedy without getting relief from the Planning Board, then the Board can require them to remedy those violations before granting them any approvals. The Board doesn't have to grant approval if there's an open violation, they can say the applicant has to fix that first. However, as he believes is the case here, if there's a violation or something that's not in compliance and they need relief from the Planning Board, they can't fix it until the Planning Board rules on it, so they have to rule on it before they can fix the violation. And the third is something that isn't technically a violation of the code at all. It's just something

that is unsightly or unsafe or whatever. The Board has no authority to require that before, if it's not a violation. It just doesn't enter into it.

Ms. Wendel stated that she understands, when they're going to vote on this and her vote won't have anything to do with the fact that this is a horribly unsightly property. There's nothing to prevent them from trying to improve the appearance of the site that's seems to her patently clear. They could take the publicly minded step of improving the appearance of the site before the Planning Board has to vote on approving it. That just seems community minded.

Mr. Gaba stated to keep in mind that the code specifically says when amended site plan is sought the Board's review was limited to the amendment sought.

Ms. Wendel stated that she understands. It's outside the technical requirements of the plan.

Chair Zuckerman stated that we'll have to push this till October to get the revised EAF-part 2 and for that plan for Ms. O'Connell's comfort and clarity. He then asked if any more questions from the Board. None were offered.

3622 Route 9 LLC, Cold Spring, NY 10516 TM#17.-1-44

Chair Zuckerman asked Ms. Rockett to read the abbreviated version of the public hearing notice.

Ms. Rockett read the notice: *3622 Route 9 LLC, Cold Spring, NY 10516 TM#17.-1-44. Applicants seek site plan approval to remove an existing approximately 2,000 square foot structure and 325 square foot accessory structure and to construct two new buildings 11,620 square feet and 10,500 square feet to house contractor offices and storage.*

Adam Thyberg stated he didn't need to run through the whole history, but really just updates from when we met back in July, and they've simply added a couple of notes to the site plan indicating that the parking in front of building 1 will be strictly for passenger vehicles. Any trucks that may be brought in by potential tenants would be kept behind building 1, and that any machinery that may be associated with any of the tenants would be stored within the designated storage areas, not in the vehicle parking area. There was some commentary or concerns about overnight parking of such vehicles, and he just wanted to clear that up. Otherwise they're in the same place they were back in July.

Chair Zuckerman asked Ms. Rockett if there are any members of the public who would like to speak? Ms. Rockett replied no. Chair Zuckerman waited a few moments to see if anyone wanted to speak. He then asked for a motion to close the public hearing for 3622 Rt. 9. Peter Lewis made the motion, Neal Tomann seconded the motion. Any discussion?

Kim Conner stated that she has two questions. She said that she wanted to make sure this drainage plan is okay with Mr. Gainer.

Mr. Gainer stated that they've resolved all drainage issues.

Ms. Conner stated that her second question was about the control of the trucks entering and exiting the property. There's going to be one driveway for trucks and the other driveways for cars, is that right?

Mr. Thyberg stated that they have not codified that in the plan.

Ms. Conner noted that it was suggested at the last discussion.

Mr. Thyberg replied that certainly the natural flow of the site is going to lend itself to trucks wanting to go through that main driveway that makes the straight shot to the rear of the property and given that the parking in the front which is really what's going to have access to the northerly driveway would naturally be pretty well restricted to passenger grade vehicles they haven't put that into the plan. If that was something that the Board was insistent on, that it needed to be included with a sign or some other way, that's certainly something that they could look at.

Ms. Conner stated that it seems to her that if that's the intention, she doesn't think you can assume that drivers know what they're doing when they're confronted with driveways. They're going to go the closest one, whether it's got trucks in it or not. If that makes sense for safety then she thinks it would probably be a good idea to have a sign.

Mr. Gainer stated that clearly the applicant's intent. If it's something the board wants to make clear, they can always have a sign posted on the northerly drive to make it obvious that it's for passenger vehicles only.

Mr. Thyberg stated that he doesn't think the applicant would have any problem with that. They could certainly include that.

Ms. Conner stated that what she'd like to know if there will be guidelines for the tenants, since often when they're doing this there's an owner, and the owner knows the rules but they're going to have a bunch of tenants in there. It would be good if the owner could provide the tenants with rules about how traffic is to be restricted.

Mr. Thyberg replied that certainly the owner is going to be held to what's set forth in the site plan, and so any lease would be inclusive of the fact that a tenant would have to abide by what is required.

Ms. Conner added that she just wants to make sure the tenants are actually informed of what it is because they can say they're supposed to abide by them but they have to give it to them.

Mr. Thyberg replied, of course that would be included in any lease agreement that might be.

Mr. Gaba asked if they'd be willing to put a provision in their lease agreements say referring them to the traffic restrictions in the site plan?

Mr. Thyberg stated that he'd have to run it by the applicant but doesn't see why that would be a problem. Obviously, they need to abide by the site plan.

Mr. Gaba asked if Mr. Thyberg could get back to the board on that it'd be easy enough to add a note to the site plan.

Ms. Conner noted that in the zoning it talks about trees that are that are over eight inches at breast height being cut. There are 16 trees on this site that are being cut. Under the applicant's plan there are 93 new evergreens coming in, if she counted correctly. Perhaps that mitigates but she just wanted everybody to be aware that the board is agreeing to a great deal of cutting of large trees and that's just a comment.

Mr. Thyberg replied that is certainly something that they're sensitive to and they've spoken in the past with regard to the nature of a lot of the trees. They have a lot of Norway maple and the like, more invasive type trees, especially in the southeast part of the property. They've obviously made changes to the site plan that have allowed them to keep some of the white pines and some of the other trees that have been noted, but the proposed planting is a completely native palette of plants that he thinks will serve well ecologically and over time will serve greater ecological services potentially than some of the invasives that are in there now.

Chair Zuckerman stated that he thinks they still have a motion out there to close the public hearing. He then asked for a vote. The vote went as follows:

Kim Conner: Aye

Dennis Gagnon: Aye

Peter Lewis: Aye

Laura O'Connell: Aye

Neal Tomann: Aye

Heidi Wendel: Aye

Chair Neal Zuckerman: Aye

Opposed, Abstentions? Being none the vote passes.

Chair Zuckerman stated that the public hearing is now closed. He then asked if there were any other questions from the board?

Ms. Wendel stated that it's terrific that the applicant decided to change the plan to save those big trees on the south side. She asked how they will make sure that they don't somehow come down anyway. How does one make sure that those big trees on the south side do actually survive the construction?

Mr. Thyberg replied that there will be clearly delineated limits of disturbance for where disturbance can happen on the site, and they'll have those limits visible on site for the contractor so that they're not accidentally hitting a tree.

Mr. Gagnon stated that he had read there was a revised rendering showing the new screening but didn't see it in his package.

Mr. Thyberg stated that was probably submitted back in June and he brought it up on screen to share. The Board had requested that they look for any other opportunities to screen it from the frontage and again, the plantings need room to grow into themselves so they can't plant every square foot along the frontage to start, but they did find room to add some additional evergreen trees.

Mr. Gainer stated that it's a matter just to close the public hearing which obviously has been extended previously for the sign issue, and then if the board is so disposed you can seek to have resolutions prepared for the next meeting.

Mr. Gaba agreed with Mr. Gainer and said if the board prepared to take action and close out SEQRA review that can be done for next month.

Chair Zuckerman asked if there are any other comments on the EAF so they can close that SEQRA. He added that the Board should be able to accept the SEQRA EAF part 2 and go ahead and issue a negative declaration when they do the resolutions, so anything else? Any comments to make board members? He asked Mr. Gaba to just walk through what we need to direct Mr. Gainer to do.

Mr. Gaba replied to direct him to have the SEQRA resolution and approval resolution ready for next month.

Chair Zuckerman stated that he does want to build on the individual comments of some of his fellow board members over the last at least a year or so in this corridor of Route 9, which is a not a wide portion of Route 9. After a number of actions that they're doing, either reinforcing what already exists in the case of Riverview or creating a new in CRS or pretty large physical multi-truck activities, they are significant changes in the physical volume of the road. Each individual traffic study done says that Route 9 can accept this. The Board recently sent a letter to the Town Board to say that they are starting to get very concerned about the

capacity of Route 9 to accept this traffic. He added that they would be on shaky ground if they started saying no to things, because these are allowed in our town, And yet, when you take a number of items together the sum total is. Mr. Thyberg's building here, it's not a small building, it's not an insignificant large-sized building at near the entrance to Phillipstown. These are going to start changing the character of Route 9. He noted that Ms. Wendel was very vocal and thoughtfully so when they talked about CRS and traffic. He added that he does not know what degrees of freedom the board has for the next application that comes in front that will invariably ask for a larger and more substantial operation along Route 9, but he for one is getting concerned about these. They're going to change the character of Route 9 even though the spirit of it is, obviously, of the development that's envisioned, but adding it all together one day we'll wake up Rip Van Winkle style and say what in God's name happened to Phillipstown, and that's what worries him.

Kim Conner stated it's not just Route 9. Every reconstructed building or site that's redeveloped we're getting buildings, residential houses that are two or three times as big. If you look at what's coming up tonight off of Route 9d, it's just everything's bigger.

Mr. Gaba stated that regarding the residences he doesn't have anything to say, that's a separate issue. They don't generate nearly as much traffic as the commercial ones do but the Planning Board has brought their concerns to the attention of the Town Board, will talk to the DOT about it if they feel that the uses that are permitted along 9 are generating too much traffic, they have a remedy in that. They can change the zoning to uses which don't lend themselves to so much by way of truck traffic or even vehicle trips. but that's really not a Planning Board issue. They bring the concern to the permitting board and apply the code to the applications as they come along. Other than, to some extent, SEQRA review can look at cumulative impacts, it's really a little beyond the Planning Board's purview.

Peter Lewis just wants to second what Ms. Conner said. Route 9 is the natural corridor topographically and so it's going to be a magnet for commercial development and he also feels that Zoning really needs to have a close look at what what's going on.

Mr. Gaba stated that he's sure they know that the town is redoing its Comprehensive Plan, and after the comp plan is redone he expects there'll be some zoning changes and perhaps this is something the Town Board will look at.

Chair Zuckerman ask that Councilman Flaherty help convey this board's sentiment to the soon-to-be new Town Board, because he thinks this is emerging to be a meaningful problem they're facing.

Mr. Flaherty stated yes, no problem. They're going through the comprehensive plan updating it right now. They had two public hearings so far and, to be quite honest, we really haven't had much public input unfortunately. He added that everyone's concerned about traffic on Route 9. Many years ago, they changed the setbacks from 100 feet to 35 feet. They were doing that to prevent a four-lane highway from coming in on Route 9 through Phillipstown. Everyone's aware of it, so you've got the Town Board's ears no question about it.

Mr. Gaba stated just to jump back to the 3622 Route 9 application. If Mr. Gainer is going to prepare an approval resolution and the applicant is going to submit new plans don't forget Ms. Conner's point about a note on the plan saying that tenants will have to abide by the traffic restrictions in the approved site plan. So, the applicant should include that in their submission and Mr. Gainer might want to have that in his approval resolution.

Chair Zuckerman then asked for a motion to direct Mr. Gainer to provide a negative declaration for SEQRA. Kim Conner made the motion. Peter Lewis seconded the motion. The vote went as follows:

Kim Conner: Aye
 Dennis Gagnon: Aye
 Peter Lewis: Aye
 Laura O'Connell: Aye
 Neal Tomann: Aye
 Heidi Wendel: Aye
 Chair Neal Zuckerman: Aye

Opposed, Abstentions? Being none the vote passes.

He then asked for a motion to direct Mr. Gainer to create the approval resolution. Laura O'Connell made the motion, Neal Tomann seconded the motion. The vote went as follows:

Kim Conner: Aye
 Dennis Gagnon: Aye
 Peter Lewis: Aye
 Laura O'Connell: Aye
 Neal Tomann: Aye
 Heidi Wendel: Aye
 Chair Neal Zuckerman: Aye

Opposed, Abstentions? Being none the vote passes.

Old Business:

Garrison Golf Club PDD/Hudson Valley Shakespeare Festival, 2015 Route 9 Garrison, NY 10524 TM# 60.-1-59.2 & 59.3

Chair Zuckerman stated that the applicant's submission, the EAF part three and the revised and coordinated outline was really helpful. He then asked Mr. Gaba and Mr. Gainer where they are in the process for the Shakespeare Festival.

Mr. Gaba stated that they Board has received the EAF part 3, the Board's consultants have reviewed it. They're prepared to go through it with the Board. If the Board is satisfied with the EAF part 3 they'll be in a position to adopt it and adopt a negative declaration under SEQRA. But there's a lot to cover in there. He would not want to jump the gun as to what their ultimate conclusion might be.

Chair Zuckerman stated that what they're going to start by doing and they're going to try and allocate an hour, and then discuss whether they'll have a dedicated meeting to cover this in more detail. Maybe they will do a separate meeting like they've done a couple of times already to start going through in detail. But the theory tonight was that they would have Aaron Werner and Chris Robbins from AKRF give the Board their viewpoint about the sufficiency of the part 3, and any meaningful things that either are omitted or need to be adjusted before the Board launches into a section-by-section discussion of each of the major areas.

Mr. Hollis stated that he thinks that Mr. Gaba and Mr. Gainer have set the table for what has to happen next, and thinks the idea of a dedicated meeting maybe even before the October meeting just to go through the comments that AKRF and Mr. Gainer have put together. Most of them are ministerial in their view, and they don't have any dispute with them and the things that require a little more thought and conversation,

both internally by their team and with AKRF and the Planning Board. He thinks that would be the top subject matter for that special meeting, so that they can get through the SEQRA process in a timely fashion. They're here to discuss it after Mr. Werner, Mr. Robbins and Mr. Gainer go through their points, and they have the entire team here to respond to any questions or comments they or the Board may have.

Chair Zuckerman stated that they will have AKRF and Mr. Gainer walk through the substantive comments, he thinks the administrative topics they will hold off on, unless board members think it is not administrative in nature. He asked them to go through their memo, hit the highlights, points of things they saw or didn't see as they believe are needed to help the Board make a determination, because they will be looking at AKRF for an opinion about the impact. They won't have a "completeness" discussion now, but once they have completeness, they'll be looking for a careful opinion actually about the impact as well. That's part of what AKRF has done with the Board's last major engagement with Hudson Highlands Reserve. They'll be asking for that again here. So, they will have a sufficiency or a completeness topic, and then they're going to have an opinion about impact topic. We will be tackling the former tonight.

Aaron Werner from AKRF stated that they have a pretty lengthy comment memo. As indicated, a lot of the stuff was you know administrative or ministerial or editorial in nature. What they've done is taken the highlights of what they think are the most critical items to address right now, so that they can get to a point where they can either concur with what they're concluding or add some more thoughts. But right now, they need more information on the following items and he'll just go through the topic or the chapter title and then he'll include comment numbers and summarize what each one is saying, just so the applicant's aware that these are the ones that they want to make sure they hit on for a revision.

Project summary, section two, comment three. Mr. Werner stated that they just asked for a little bit more detail on the phasing. Especially phase one, which they described as the most known and near-term build-out that they have planned. There seems to be some discrepancy between the website for Shakespeare Festival and what the EAF is saying. One indicates that the existing tent is going to move over to the new site as part of phase one, and then the parking lot will be constructed etc. Another says that a new tent will be started and the old one won't be moved. So, just clarify that and also if it's possible to break down that 2022 to 2024 initial phase one time frame a little bit with, how many months would it take for each thing to get to get completed including the parking lot, the tent. They also mentioned that the traffic signal would happen in that phase two. So, that's what that comment is covering. We're looking for a response on that.

Section three, land use and zoning and layout, comments 4 and 6. Comments 4 and 6 are important ones. Comment 4 talks about the scenic protection overlay on page 10 and 11. They're just asking for some more discussion about how this application complies with each of those standards for the scenic protection overlay. They list them but don't follow each with how the project's complying. They've done that for the other overlays, but they didn't seem to do it for this one.

Page 12 is comment 6, on use and operations. Mr. Werner continued moving on then to comment 6, which was under land use. They were just looking for more clarity about the number of months out of the year that peak operations would be anticipated once this site is fully built out. Since there is a long-term plan that includes an indoor theater and other uses, how does that compare to how many months out of the year it happens at Boscobel currently. Right now, the description seems to indicate that with the full build they're looking at operations from March through December, which would include some holiday programming.

Chair Zuckerman asked Mr. Werner to be more specific on what kind of details he's looking for because he doesn't want a bunch of adjectives thrown in.

Mr. Werner stated that they wanted to know what's happening at Boscobel right now? How many months are we seeing a peak usage of the of the facility there and how is that going to compare with the new operation. The full master plan they have seems to indicate March through December, which is including theatrical season, including weddings venues, events which don't happen at Boscobel right now and it's more of a limited season, so just breaking down the difference and more clarity on that. That's all. He continued that obviously the applicant's traffic study looks at the full build, maximum occupancy a lot of events happening at the same time, which is good and a conservative look but the narrative in this land use section they thought could use a little bit better of an explanation.

Section three, vegetation and wildlife. Chris Robbins from AKRF stated that they had three comments that arose to more than the administrative editorial type. Comment number 15 which is on pages 41 and 42, table 11. He thanked the applicant for updating that. It was really helpful to have the additional information that they had discussed previously. One comment on this - there is a column that provides a description of ecological values and those values are assigned to each of the 12 management units. What they'd like is a description of how the values were assigned to each of the management units, and then a description of each of those particular ecological values. Just a maybe a sentence or two in the in the text or as a footnote to the table, so they can understand better what it is that those, what it is their intents were, for the ecological values.

Section 18, page 46, proposed disturbance. There has been a little bit of discussion about habitat and how this project will mainly fall within the bounds of the golf course itself, but wanted to make sure that if there was any thought on the habitat fragmentation that may occur resulting from this development proposal, that that was captured here and there really isn't anything there. If it's non-existent then let them know. Pretty straightforward, do your experts expect that there's going to be some habitat fragmentation here based on sort of the layout of the development and if so, what would that look like? And if not just please indicate that, that would be the conclusion.

Heidi Wendel stated this might be possibly related to that but also the habitat fragmentation that already exists on the site and a possibility for correcting some of it during the course of the construction. She's wondering if it would be possible for the applicant to include some passageways for wildlife that would go under the roads? As the roads are either rebuilt, redesigned on the site and there's known places that amphibians cross those roads, whether it be possible to have something built for wildlife to pass through so the site isn't fragmented. She stated that it's already fragmented but to correct some of these things that have existed from the past perhaps. That's part of life here basically so perhaps it could actually be fixed as part of the project in a thoughtful way.

Jan Johannessen stated that he can comment on the bridge. He stated that as Ms. Wendel was talking the bridge was what was coming to mind and they had looked at a couple different scenarios there with the new Snake Hill Road driveway. Right now, it is being considered like a span bridge. There was an option at one point to actually fill that area and have retaining walls on either side of the new driveway, which would result in fragmentation in that wetland corridor. So, right now they're proposing a span bridge so wildlife would be able to go underneath the bridge. So that could probably be pointed out a little bit more in the text of the report, and he has a couple of other ideas on your point but it is something they're absolutely cognizant of and has been kind of implemented into the project.

Mr. Robbins stated that they should take credit for all of what they considered and put that in the documents. The design went through a number of iterations and each of those maybe had some

consideration for preservation and enhancement of habitat so whatever they've done would be great to put in the document.

Mr. Johannessen added that where they don't need curbs on driveways, they're not going to curb the road. So that allows things to pass, that type of thing that's all been considered, but probably could be highlighted a little bit more so it's available to you.

Comment 23 from veg and wildlife, page 50. There was some discussion about bog turtle. This just asks whether or not the single area of potential habitat out there is hydrologically connected to other areas that may have potential habitat value for the bog turtle. If that is the case, provide a description of what that connection is and where those other habitats are. Then, with regards to the impacts, discuss how that might be impacted with the development and operation of the project.

Jan Johannessen stated that he thinks that one particular area is so far removed from their development he thinks they'll be able to clarify that, and the folks that did prepare their ecological assessment they're kind of like bog turtle experts. They did go out there and look at that particular wetland and did not have any concerns. He added that they can hit that a little bit harder, but it is an area that is nowhere near the proposed development. It was on the other side of Snake Hill Road. They have to travel like 600 feet in elevation to get to the top of the hill where our development is, and there's absolutely no potential for them to be impacted but they'll address it.

Mr. Robbins said what Mr. Johannessen said is exactly what he was looking for there. A little bit more detail to sort off these locations, obviously on the graphic where it is. He can't really tell very easily without sort of looking carefully what that elevation changes and then, if there is some potential for connectivity out there between habitats, let them know. If not, also let them know that.

Mr. Johannessen stated that the only connectivity would be to wetlands that are going to be preserved in the conservation parcels, so it all drains that way to that particular wetland. So it's all going to be part of the lands to be preserved.

Mr. Robbins stated that he thinks adding that will adequately address the comment.

Wetlands and watercourses, comment 40. Ron Gainer stated that there was a discussion in the expanded EAF that an evaluation has been performed on the dam, and they went in to a brief discussion of what issues there were. However, he thinks they've been looking from the start to see the formal report that would have been generated to evaluate the dam. That should be provided so that it can be reviewed by the project team from the town's side.

Mr. Johannessen stated that he does not think that will be a problem. The report is now prepared.

Comment 41. Mr. Gainer stated that comment 41 gets into the issue of stormwater management for the site. The expanded document makes references in various locations to a stormwater pollution prevention plan that was developed, that's intended to document the adequacy of the stormwater management facilities that are planned to mitigate any stormwater impacts from the overall site development planned. There's a very abbreviated version of the SWPP contained in the expanded EAF. However, the only reference he could really make out was on an overall site plan that identified some generic intended stormwater treatment devices. What he's looking for is for the SWPP be expanded to the extent necessary so that they can better understand the locations and sizing of the facilities that are planned so that they can merely confirm that there are sufficient areas that are available to provide the treatment devices that the applicant intends.

Glenn Watson stated that they spoke about that this afternoon in the office. He spoke with Margaret McManus about that and there is a chart on the plan associated with the report that does provide the match up of the volumes getting to the areas that were designated, and that they think that works but Ms. McManus suggested that there's a form that he's not personally familiar with that basically provides the calculations. They'll fill out those calculations.

Mr. Gainer stated that they can meet offline directly to be sure that this issue gets resolved.

Neal Tomann asked if they can go back to the dam for a second. He stated he was unable to find whether this impoundment is classified with New York State Dams. He added that he thinks that it's important because they need to know whether it's a Class A or B, it's probably an A.

Mr. Watson replied that it's not registered. There's been ongoing discussions with that. He's sure that's in the report and one way or the other, depending on what goes on with it, ultimately it will be registered.

Mr. Gainer stated that should be covered in the evaluation that was performed by their sub-consultant.

Mr. Johannessen stated that the EAF does identify that it's unclassified at the time. It wasn't on the DEC's radar, although it will be and they've even corresponded with the applicant since the SEQRA process started. But there's a process to get a dam classified and it's not a short one.

Mr. Tomann noted that the classification is going to require an engineer's assessment which can be a process in and of itself and takes time.

Mr. Johannessen stated that they've started the process and can provide that information to the Board.

Utilities, comments 43 and 45. Mr. Werner stated that for utilities traffic noise and the human health analyses they have some in-house experts that weighed in on all this. They're not on the call today but they offered to have a phone call or a meeting with the applicant team between now and the next meeting with those folks on to talk through some of these if they want. He just wanted to note that he's not an expert he's just going to explain AKRF's position but first he wanted to go back to utilities specifically the groundwater recharge and water supply. Their group looked at that and are generally okay with the water budget that was provided there just seems to be a concern about pump testing and whether that's planned now or if we can get the assurance that it's going to be happening as part of the Putnam County permitting process because that's really going to help see that this can all work.

In response to Mr. Werner's comments, Mr. Paul Woodell of GeoDesign, Inc, the applicant's consultant, stated that the applicant would certainly comply with any requirements that the Department of Health would have, regarding the future wells and the overall groundwater withdrawal for the proposed action. They will be coordinating more closely with the Department of Health to get their recommendations regarding any testing that will be required of the applicant in the future.

Mr. Werner replied if they want to have a separate meeting with the applicant's consultant who's covering this topic as well as the human phase two, they would be happy to talk through it with the applicant a little bit more.

Traffic. Mr. Werner stated that for the traffic study, this was their first look at the full revision. A lot of comments were addressed previously, but there's about 9 comments in the memo and this is their latest substantive review. Responses are necessary for all of these so that they can adequately draw the conclusions. Again, they're open to setting up a call with AKRF's traffic team. Anthony Russo and Alex Auld

have been looking at this, and John Canning from Kimberly Horn can join and they can walk through them all to get those addressed.

Chair Zuckerman asked if Mr. Werner is going through those?

Mr. Werner replied that he wasn't planning to walk through each one, since he's not really the expert on all those different data points and technical aspects. They have experts that do that, but if the applicant has looked at those and is totally concerned with what they're saying right now we could make a note of that. They're prepared to have a separate discussion.

John Canning stated that they've reviewed the comments. They're not particularly concerned about them but they will discuss them with Mr. Werner and his team and would be happy to answer any specific questions that you may have at an appropriate time.

Chair Zuckerman stated that he has a couple of comments. The volume of traffic on this site is his primary concern. When he read the summary first, and then the detailed report, he did not find a simple conveyance of the following information. He continued that he is looking for the total number of human beings that are going to be on site across all the uses. Not just what's beyond the PDD, but what is total cumulative human beings, how it translates into how many cars and therefore what is the conversion rate they are using? He added that he has stated very clearly that he disagrees with a two point whatever for people per car. His assessment from just googling the subject is that 1.7 people per car is more appropriate. But there is no explanation or explicit citation of the number of people per car, and he would like to see that total volume of people and therefore vehicles tied to that choice. It could be a range. But it has to be the absolute total volume of human beings. and he can't find that in the summary table. He's looking forward to understand the absolute magnitude of impact on this property. He added that he agrees with a lot of the comments that is a great usage of the space. This is not a comment about pro or con, it's about magnitude. He's trying to understand across all the uses, the restaurant, the hotel, the banquet/weddings and indoor and an outdoor and people frolicking in other parts. He wants to know the total volume of traffic.

Mr. Canning stated that they will prepare a supplemental memo just to address that topic so that they can bring all of the important information clearly up front, so that the Board can see it and put two and two together.

Laura O'Connell stated that what's missing is more or less an understanding of what the ultimate programming is for the space, so if they can actually create a schedule and a matrix of the program, a total use across a calendar year. On top of that, understanding total use and the total population and if they overlay that because she thinks it's all directly connected. So, if it's March to October or March to January there's ebbs and flows of traffic and population, and then they can overlay that and then map out the traffic and the total occupancy on the site.

Mr. Canning replied if he can offer the following suggestion, what he'd like to do is pretty much what Ms. O'Connell has asked but they'd like to focus in detail on the busiest period and establish the absolute maximum, and then we can provide a month-by-month schedule as to what we would expect on average and a busiest day to be, and then we can do sort of a sliding scale calculation. He doesn't want to do for every month, even the slower months a detailed calculation of all of the activities, because it's just exhaustive. If they can give an indication of what's on the slower months, but go into the detail on the busier months, it would be more productive from their perspective, if that's okay with the Board.

Ms. O'Connell stated that she would agree with that, except for the fact that if she understands the total use and the total ultimate conceptual plan of how it's going to be used, there are ebbs and flows. The theater may be in high season and then the other areas may not. When the theater season is down and dark, the other seasons are high and up. That's what the Board needs to understand, that overlay, and how those undulating peaks actually all get integrated. She thinks the ebbs and flows are actually going to show that it's going to actually be much more used than what they're thinking about.

Ms. Wendel stated that since the site's going to be built in phases if it gets approved, would it be possible to reassess before the construction has begun for additional uses/phases on the site? So, if it's already overwhelmed after phase one, there could be a reassessment of what additional uses are actually manageable on the site. Is that a possibility or does it only work economically if it's all one package?

Mr. Canning replied that typically what would happen for an application like this would be that they would do an evaluation that's at clear phases. Assess how it's developing, as compared to what was projected and, if everything's fine, then everything's fine. If it seems to be doing more than was expected, then the Board could ask the applicant to identify additional measures that could be implemented to address certain concerns. For example, if there was more traffic than was expected, then the applicant could be asked to identify measures to reduce traffic. It's something that has been done for other big projects where they do an evaluation after phase one and then make modifications if needed. He then added that the event traffic and parking management plan basically requires the applicant to do that anyway. It requires them to constantly monitor what is happening and to make adjustments on both a daily, a weekly and an annual basis to their plan to make sure that it stays in line with what's projected.

Neal Tomann stated that he's been looking for plans for these buildings. That this goes back to Town Law from the state section references you back to local code section 175-65b calling for the application to have plans for the buildings. He added that he's not seeing it in the application and we're getting along in this process and we still don't actually have any plans. So, he guesses this goes back to the question about the completeness of the application. Are there any drawings in our future?

Mr. Johannessen stated that it's their understanding that that level of detail wouldn't be required for a SEQRA process, but may be required for a site plan process when they come back after SEQRA is complete. The EAF scope outline didn't require that level of detail. These buildings have not been designed. They've been conceptualized. They know their bulk and have provided photographs and perspectives of buildings that they anticipate to model them after in the future, but they simply just haven't been designed. There's not an architect on board to draft them.

Mr. Tomann continued that in the code it calls for the application to be complete.

Mr. Johannessen replied that they will have that before signing a site plan but that's not typical, in his experience, of SEQRA review of a project that's going to be phased over 15 years.

Mr. Tomann stated that the codes don't require the Board to see everything that's happening in 15-year intervals. It only requires that they look at five-year intervals. If they could send everything you got that they're going to be doing in the first five years he thinks that would satisfy the board.

Mr. Hollis stated that they're not at the site plan stage, and the SEQRA process is distinct. He added that he will defer to Mr. Gaba.

Mr. Gaba stated that he wants Mr. Tomann to have what it is he thinks he needs in order to process this application. It's important to understand this project requires a zoning change, and they're going to be

going to the Town Board for that. They don't have the zoning in place to do anything as far as getting approvals from this board yet. What the Board is doing at this point is getting through SEQRA review so the Town Board can decide if the applicant is going to get the zoning change they need in order for the project to go forward. Once that's done, they're going to come back to the Planning Board for the site plan and at that point it would be absolutely appropriate for the Board to say they need to see renderings at this point, conceptual drawings.

Mr. Johannessen stated that they've done that.

Mr. Gaba stated that he thinks the application is complete enough to be processed through the SEQRA review. When the application comes for approval to the Planning Board, they'll certainly have the degree of detail that they're looking for. But at this point, he thinks the applicants correct. It would be premature to ask them to design a building before they even know if they're going to be able to apply for site plan approval.

Laura O'Connell stated that, to Mr. Tomann's point, she doesn't think there's anything wrong for the Board to ask the applicant to conceptually create massing drawings. They don't necessarily need to know the full design of anything, but what would be helpful is to see the volumetric element in its plan just so that they understand placement, height, location and adjacencies. She thinks that would just be very helpful be able to conceptualize and understand what the overall plan looks like. Just so that they understand how everything gets integrated and how all of these infrastructure elements are all interconnected. She added that she doesn't think that is outside of what they can ask for.

Mr. Hollis stated that they are working on that for the Town Board amendments. They're working on area, location and bulk standards. There will be no buildings higher than three stories.

Ms. McKinnon stated that they did provide text in our description of the various buildings showing how they are under all of the regulations and the massing heights for the zoning of this area. They've also provided some representative images of the volumes of these buildings in the present images, and if they look the sections that they did as part of the analysis for sight lines, that also shows some of these volumetric studies that Ms. O'Connell is asking about. So, it's a little bit of a triangulation but they do show the volumes that they're proposing and then what the look and feel of each of the various pieces are in the application.

Mr. Johannessen stated that they took it even a step further for the permanent tent. There are models and renderings of the tent and that one is pretty specific because that they know what that's going to be.

Mr. Werner stated that the scope outline asked for descriptions of where the buildings are on the site relative to each other, how tall they are, what they would be looking like and that's what they prefer, those precedent images and they've done that. He stated that AKRF didn't have any comments on how that was written up. A couple of the visual diagrams show the year-round theater in one of the views from one of 1-5. There's a view of what looks like a massing of the year-round theater from between a couple of trees from a distance. They've attempted to show that at this stage. He added that obviously the Board can ask for whatever they want to look at, but for what the scope asks for they thought they provided that and that's the scope that the Board had approved.

Air quality report. Mr. Werner stated that for the air quality report which is really a focus on mobile source air quality related to vehicles, and it's tied to the traffic AKRF had comments on 58, 60, 61, 62 63 and 64 for what they've flagged as ones that they want to follow up. They have an air quality group that is very

technical and reviewed that report that was provided, which was the first time they've seen it. He added that they'd be happy to get on the phone and talk about those. He's not really prepared to walk through the technical aspects tonight. If the Board has specific concerns and wants to relay those now, he'll write them down and can follow up.

Visual and community character, comment 65 (page 79). Mr. Werner stated that the scope called for leaf on and leaf off comparisons for the visual simulations. What they've seen from the submission is that they've provided that for the distant views which are called viewpoints 1-5 which are from far away from trails and scenic roads, etc. and in some of those cases the proposed buildings are shown like the permanent theater building appears to be in one of those as a massing sketch within the photograph which is helpful. He added that they are curious why that wasn't really followed for the closer-in views, like views 6-9, which are all along Route 9 looking into the site. He's driven by it a lot and knows there's a lot of trees along the edge there. So, if the applicant's making the argument that the screening that's there now is going to stay or be enhanced, therefore it doesn't make sense to have a leaf on leaf off view because they're not going to see anything and the sight lines that they did provide are what they prefer to show. He asked that the applicant let them know that definitively, maybe even show the leaf off photo. Right now, there's leaf on photos, they're google photos.

Ms. McKinnon stated that they can add some additional leaf off information to include the existing trees, any new ones that they're planting to provide the screening, that's not a problem.

Mr. Werner stated that's the next comment 66, if they are enhancing that perimeter buffer with additional plantings maybe berms, whatever. It's not clear from the document what they're actually doing. He added that they're saying they're going to do it, but just maybe add bullet points of what they're proposing because if those are built in as part of the project, they're attempting to eliminate any impacts at all. So, that's important to have all those details for the board.

Noise. Mr. Werner stated this is similarly highly technical. It was the first time AKRF had seen the full report. They got it for the first time in the September submission. They did have a productive call with the noise consultant on the applicant's side and their AKRF's noise group just to refine the methodology before it was put into the scope and approved. They're happy to get on the phone again with that group to go through these comments, and that's all seven of them that are under that subheading in the memo.

Community services. Mr. Werner stated that they just had one critical comment there and it's up in the front of the of the analysis, which is basically page 100. This is comment 81. He stated that an introductory statement would be helpful, because right now they show the service providers on a map and list them. Police, fire, EMS that serve the town. It would be helpful to show which one of these providers is actively serving the Boscobel operation for the festival. It seems that based on correspondence in the report they've gotten a lot of feedback from those folks and so far, it seems like they're not concerned. It's just not clear who exactly are the providers that are going to be serving this? Are they the same ones that served Boscobel or is there a new firehouse or department that's going to be different from the Boscobel?

Mr. Johannessen stated they can clarify that.

Human health site assessment. Mr. Werner stated that it was the first time that they've looked at the detailed phase one and phase two investigations for the property which they asked for and the scope called for, due to the site being a golf course with potential for shallow contamination and other things. It's comments 90, 91 and 92. Those are the big initial substantive reviews from their site assessment group on that and he'd be happy to connect Paul and Brian to walk through those.

Mr. Werner stated that was really it. He ran through all of the what they call the critical path comments. They want to be able to see answers to these, to really be in a good position to move forward with a determination on this.

Mr. Hollis replied that the team will certainly put together a response to all 93 comments, highlighting the responses to the points that AKRF has mentioned.

Chair Zuckerman stated that what he'd to do is take another good chunk of time in the next board meeting, whatever the applicant needs, and then based upon where they are we can then schedule a dedicated meeting after that.

Mr. Hollis replied that he thinks if they have two more meetings before November then that would probably enable the Board to set a public meeting after that and that would be keeping with what the applicant has in mind.

Chair Zuckerman stated that this board requires to have a substantive conversation on each section. We need not only the materials, but we also need AKRF to have the time to assess and provide their viewpoint about the impact of each thing. He stated that he needs to rely upon AKRF to have what they need to have to provide those opinions. He stated what he doesn't want to do is have the board have a debate on each topic and AKRF say they're not ready yet to opine about whether there's a significant adverse impact for each area. Until they have what they need, the Board can't do that part of the conversation. He continued that as he said at the beginning of this, they have a completeness or sufficiency question which was addressed today, and the applicant got the feedback and then once they have that done, they can then start going in sequence by section chapter or whatever you want to call it a significant adverse impact or not discussion.

Chair Zuckerman stated that the applicant can meet with AKRF separately to go through whatever things they need. They don't need the board to do that. AKRF needs to then come up with a recommendation by area for us. Because they're the Boards consultants they need them to have what they need and at this point it sounds like they have certain things they still need to be able to write that work that they need to do to give the Board their viewpoint on each area.

Kim Conner stated that it says there are going to be 30 employees for HVSF on site at any given time, that seems a little low to me, given the different activities to be going on. On page 13 it says it's estimating the number of employees that are going to be on site at any given time for HVSF, this isn't for the restaurant or whatever and it says 30 and that includes the artists and it just seems like a low number given the potential traffic.

John Canning stated that his understanding is the number is 60, but 30 of them will be living on site and 30 of them will be driving so that's how he recalls he handled it. So, the people who are living outside they did a calculation for how many parked cars they would have, but they would not be driving during the busy times. And then, for the employees that would be living off site, they had a different calculation for their parking and their driving.

Kim Conner replied if that's the case then if they could make that clear just because that number seems wrong. She then asked about the code. It says that the tent's going to be 30 feet with a 35-foot mast and she asked if 40 feet is the height limit?

Mr. Watson stated he would have to look it up, but thinks masts are exempt from that.

Mr. Gaba said that the height relates to the buildings, but he's not sure if masts are exempt.

Ms. Conner asked if they could just let them know next time.

Chair Zuckerman asked if there were any further comments?

Mr. Gaba stated that they've made good progress. The ball is now in Hudson Valley Shakespeare Festival/Garrison Golf's court. They'll move forward from there. He added that breakout sessions are going to help the Planning Board meetings move forward much more smoothly.

Mr. Gainer stated that he thinks the Board has heard tonight the significant issues that have been identified. It's really just a matter for the applicant to try to advance that to some finality.

Mr. Hollis asked about scheduling a date for an additional meeting.

Chair Zuckerman said he's not sure they'll schedule one right now. He added that they will have a normal October meeting and then we'll schedule one after that to have another meeting in between that and the November meeting.

Hudson Highland Reserve, Route 9 & Horton Road, Cold Spring, NY 10516

Ron Gainer stated that he thinks that the board remembers back in 2019 that the DEIS was accepted, a public hearing was held, comments received from the public and the board were then presented to the applicant. This FEIS has been filed in an effort to respond to all those comments. That's the obligation of the FEIS, to satisfactorily respond to all comments raised. The process at this point is for the Board to determine the adequacy of those responses in this FEIS, and then to move the process forward ultimately leading to the development of a Finding Statement which would conclude the SEQRA process. This will determine whether the project will move forward or not. He added that he and AKRF have been through the FEIS document initially and you have a very lengthy review document, and AKRF can summarize, to the extent they wish, the status that we're at in this process.

Steve Gaba stated that Mr. Gainer touched on where we are procedurally, but not really substantively where they are at the FEIS. In terms of time frames the way that the SEQRA regulations lay out the process, is that within 45 days of closing the public hearing or 60 days after the DEIS is submitted, whichever is later, the FEIS is supposed to be submitted and acted upon. Acted upon may mean that you reject it as being incomplete. That 45-day period can be extended if you don't want to reject it. If it's necessary for more information or if there's problems or changes to the project. That's pretty much where the Board is at this point procedurally. At some point the Board is going to adopt the FEIS. It will address all the comments raised at the public hearing and address them substantively. After that there is a 10-day period for additional public comments, these are not public comments that need to be responded to in the FEIS. It's just additional things for the board to consider if so inclined. Then, within 30 days of accepting the FEIS the Board is required to come up with a finding statement. That time frame can be extended upon consent of the applicant but, other than that, the Board is required to come up with their finding statement. Mr. Gaba continued that the way the finding statement works is that AKRF, Mr. Gainer and himself will help draft a document which makes a determination if all the potential significant adverse environmental impacts have been mitigated to the maximum extent practicable or not. Or if they could be minimized or mitigated if some conditions on the project were imposed and that's going to be when you adopt that at the end of the SEQRA process. That's where we are procedurally, the substantive aspects he defers to Mr. Gainer and AKRF.

Heidi Wendel stated that she wanted to note that she made a public comment as a member of the public at the public hearing and wanted to make it clear for the record that she's keeping an open mind and can fairly and impartially process the application.

Chair Zuckerman stated that the plan tonight is to hear from AKRF, with Mr. Gainer's input, on the completeness of the FEIS. That is not to suggest that the applicant did not provide us a voluminous and very thoughtful amount of data in this document. The purpose is, as stated in the previous application, it is so it is complete, and therefore AKRF and Mr. Gainer can provide the Board their opinion as they deliberate as to where they stand in said findings document. The purpose of tonight is to hear what are the things that are either not clear or omitted, to help AKRF and for that matter this Board make a determination for that finding statement. That would be the purpose of this completeness.

Mr. O'Rourke stated that he is just going to encapsulate what he thought might be that this salient points in terms of the application itself, and then acknowledge the receipt of the comments. He thanked the consultants for that, and noted they will be responding. He continued that he'd like to put this in the framework of where they are, because he knows some of the board members are new. The bottom line is as everyone does know they have 210 acres; they're proposing 25 homes to be located on the 210 acres. As examined in the FEIS, the property owner has modified the proposed development to eliminate the equestrian center. The equestrian center sparked the most controversy and concern, and by its elimination they believe that has mitigated substantially what were many of the issues that were raised previously. In addition to that, there's been a removal of two homes around Ulmer Pond and they've significantly reduced the level in their opinion of the potential adverse environmental impacts occasioned by the elimination mitigation that he just described. Obviously, with that, the site disturbance has decreased by over seven acres. The impervious surface has decreased by over three acres, the total excavation has dropped significantly as has the water demand. That is one of the positive outcomes that comes through the environmental review process as you go through the DEIS into the FEIS process. As far as the comments are concerned, they will be addressing them. They hope to do that in an expeditious fashion and to be back before the Board with their revised FEIS incorporating the comments.

Chair Zuckerman asked Mr. Gaba if they are obliged to walk through the AKRF comments for the public's sake or is it sufficient to have the memos submitted by AKRF and Mr. Gainer and for the applicant to say "yes we got them".

Mr. Gaba replied that it's absolutely sufficient to do that. The Board is entitled to rely on the consultants. The documents are all public record, anybody can review them. The Board doesn't have to go over them orally, but can if they want to. If it's helpful to the Board to have it articulated that these are the findings and they don't want to just read the papers, they're entitled to do that but you don't have to.

Mr. Watson stated that he was just going to suggest that if they had the same invitation from AKRF with regard to the particular items in their memo they could accomplish as much as going through the list.

Chair Zuckerman stated that he thinks his fellow board members did benefit from the discussion of the major things so he'll take a show of hands. Would it be valuable for AKRF to hit the most salient aspects of the FEIS that need to be augmented?

The majority of the board voted in favor of hearing the salient areas.

Chair Zuckerman asked AKRF if they could hit the major issues they'd like the applicant to work on? He thinks that would be helpful for the Board to benefit also for what they should have eyes on.

Chris Robbins stated that their comment letter is set up so that the Planning Board can understand where the project has been and where it's going. Mr. Gaba and Mr. Gainer weighed in on that but there is some detail in this document explaining where we've been and where we're going with regard to the SEQRA process. This document was prepared and submitted to the Board and provided to the applicant's team for their consideration. There are quite a few comments with regard to this project and the FEIS that was submitted. Up front, he thinks the general comment number one on this and the one they think might be most important with regard to the document itself is that the FEIS is the lead agency, this is the Planning Board's document. The Planning Board can request that the applicant's team prepare this document, which they have, but because it is the lead agency's, it has to be written in a tone and in a voice that is the Planning Board's. AKRF's first and probably most important comment with regard to this FEIS is that there are sections in this FEIS that are not written in that voice. It needs to be revised so that when the public reads it, when the Board adopts it, it is in fact a representation of the Planning Board and its take on this project. That is probably the number one most important piece of this. The voice of this document needs to be revised so that's less of a reaction and commentary and more of a response to comments that the Planning Board would normally take.

Kim Conner stated that she really appreciates that, because she was not certain that this was the Board's document but the tone is certainly not the tone that the Board would use. She thought that it was pointed out in lots of different instances a way to make it more of a flat discussion and not an editorial. She really appreciates that AKRF included that.

Chris Robbins stated that as the team goes through the document that AKRF prepared, there are specific comments where they flag this as an issue. But they'd like the applicant's team to go through the entire document with that in mind. AKRF does have areas of specific comments or specific responses where they flag this, but it needs to apply to the entire document. The next most important piece that they've flagged and think needs to be addressed has to do with coordination on Route 9 and the DOT's involvement in this project. If there has been recent coordination with DOT, if there's been discussions with them about curb cuts or how the traffic will be managed on Route 9 the Planning Board needs to be provided that information. So, the summary of those conversations, what the DOT's input has been and how those are going to be addressed by the applicant's team.

Mr. Werner indicated that DOT will not issue their permit until the SEQRA process is done, and since they are an involved agency in this SEQRA review they have to issue their own findings too. They've issued comments in the DEIS, and there is a response, but it just wasn't clear what has been provided to the Planning Board to fill in the gaps. What has been discussed between the Applicant and DOT between the DEIS hearing and now? It's been two years.

Chris Robbins stated that other items they flagged in the in their comments has to do with the provision of a stormwater pollution prevention plan. There is discussion about the plan, but AKRF is looking for a little bit more information on the stormwater management on the project site. Natural resources issues that they flagged that they're looking for additional information for. There are comments on specific flora and fauna. Responses were provided, some they felt were adequate and others that need some specific or more detailed information so those are flagged.

With regard to, in particular, fragmentation and perforation of the forest, there's some confusion as to how these impacts are being defined by the applicant's team. There's the use of "fragmentation" and the use of "perforation". They are different when you look at the definitions. This FEIS needs to be clear as to the definition of both and how this project is going to result in both fragmentation and perforation of forests.

With regard to looking at the development program and the loss of forest habitat those two items need some clarity and they would be looking for the applicant's revision of the FEIS to go into more detail as to what they're thinking with regard to each of those types of forest disturbance.

With regard to wetlands, the Planning Board knows that there were several additional reports that were provided in support of this FEIS and they were in response to comments provided on the FEIS so that information was incredibly helpful. One in particular was a vernal pool report that was done. In AKRF's opinion that did a good job as in documenting the assessment that was done on the project site. The conclusions that were made there raised an issue that had been brought up during the DEIS preparation process and as a comment on the DEIS, and that has to do with the hydrology in a couple areas on the project site. There has been mention of a couple of seeps that are potential wetland areas and they need some clarification on that. The concern here is that the seep areas were not delineated as wetlands. AKRF was told that they were small and not hydrologically connected. This vernal pool report seems to indicate otherwise, so they need clarification on the regulatory aspect of the seeps and whether or not they really are hydrologically connected to the delineated and regulated surface water resources that are on site.

Mr. Robbins stated that those are the key topics that he had flagged obviously there's a lot more in here.

Mr. Gainer noted that they wanted to be sure that all comments raised were clearly responded to in the overall document. They've asked the applicant to annotate all letters contained in the public transcript to identify the individual comments offered, and then provide a reference so each comment can be found in the FEIS text where those responses are given. It would help the board and the public for anybody that wishes to read it and to be assured that their comments have been understood and addressed. That is a significant issue for the applicant to address.

Mr. Werner stated that they did provide that about five days ago. AKRF didn't have a chance to get through it all for this meeting. They did address what was asked for, which is basically going through the written comment letters that came in from the public, plus the transcript of the hearing that happened two years ago. It's all in one record that the Planning Board actually released to the applicant right after the hearing was done and the comment period was closed. They produced this FEIS based on that, but never showed how they picked some of the public comments to respond to. Usually, it's indicated by putting a circle around the comment and saying this is comment 3.2 and it's found on page whatever. They did get that to AKRF and they plan to review that to make sure everything was captured. He added that what they have here is a substantive review of what they did respond to they just didn't get to check the comments off that's all.

Mr. Robbins stated that as they go through the annotated comments, all of the letters that were provided including those letters from AKRF from Mr. Gainer, from Hudson Highlands Land Trust, the letters from public and the and involved interested agencies as well as the transcript and email comments. They will be looking at each one of those and if there are comments that they feel were not addressed that should have been, they'll flag those for the applicant's team and let the Planning Board know.

Chair Zuckerman stated that he forgot to mention that Max Garfinkle of the Conservation Board did send a memo to say that the Conservation Board had a desire to be engaged in the process for both Hudson Valley Shakespeare and Hudson Highlands Reserve, given changes made. He asked that the memo be shared publicly and with both applicant teams. He continued that Mr. Garfinkle suggested possibly asking for a joint meeting. He stated that he thinks that once, for the Hudson Highlands Reserve, there was a working session with the Conservation Board five years ago or so.

Mr. Gaba stated that he does recall the Conservation Board being involved in this project early on when they were still mapping it out as a conservation subdivision. He added that the Planning Board is right at the tail end of SEQRA review, and he can't see any basis for joint meetings with them at this point. Possibly after SEQRA is concluded, or if they want to submit comments during the 10-day post acceptance during the FEIS comment period, but the Planning Board is just not at a point now where they could bring them in. Shakespeare Festival may be a little different since they're still in the DEIS process, looking at the part three. He doesn't see a basis for a joint meeting, but if they want to have a couple of members come to a Planning Board meeting, or a couple Planning Board members go to a Conservation Board meeting, that would be fine. But he just doesn't know that there's a lot to be done with Mr. Garfinkle's request.

Chair Zuckerman asked Mr. Gaba if he wouldn't mind communicating with Mr. Garfinkle in whatever way is most appropriate to share his perspective on how they could be or should be engaged.

Ms. Wendel stated that she would like to be able to compare the proximity to the pond and that type of thing and where each house would be located on the site relative to what it was be where it was before. And another question is what the access would be to the site because there seemed like there were a lot more comments about traffic and the ability of East Mountain Road to handle traffic and emergency vehicles, and there's no traffic section in the AKRF memo. She's confused why there's an alternative access proposed. Does the applicant already know that the Route 9 accesses may not happen? It would really be helpful to have a traffic section of the memo.

Glenn Watson stated that the major reason for the Route 9 entry was the equestrian center and the traffic that would be generated by that, and he believes some of the types of vehicles that would have to come up that were hauling horses up there in and out. It was determined that the use of East Mountain Road would not be a practical use because of the work and the grading and the impact on the local traffic. So, East Mountain Road was never in the original plan. When the equestrian center went away an awful lot of the perceived negative impacts went away with it. One of which was the traffic impact which obviously didn't go away but it was significantly reduced. So, in their discussion they were looking at the amount of work that they'd have to do to build the road up from Route 9. They weren't concerned with the intersection itself but with the impact of the road that would have to be built up from Route 9 there are significant cuts and grading. If they were to use the alternate route, eliminate the route from Route 9 not, because the DOT was against it but because it would be less physical impact on the ground, they could now substitute an entry from East Mountain Road which would have less cut, less fill, better grades. So, they presented that as an alternate and the reason they didn't change that particular thing versus the other changes that they actually did make on the plan was to present both because there's a tipping point in that discussion which the Town Engineer and the Town Highway Superintendent have stated unequivocally that they don't want any traffic off of East Mountain Road or off of Horton Road. At the beginning they talked about Horton Road as an access and that was that was immediately taken off the table. So, what they presented there was an alternate onto East Mountain Road, triggered by the fact that they would have less traffic and smaller and fewer vehicles and wanted to present that as an alternate that the Planning Board and AKRF recognized that and they said there was a choice presented to the Planning board in that memo so that's what that's all about. Mr. Watson showed a sided by side of both plans for comparison and explained the major changes.

Mr. Werner stated that back when this was scoped for the EIS traffic wasn't part of the EIS effort because as part of the EAF which ended in a positive declaration traffic wasn't one of the key items that determined to have a potential for significant adverse impacts. It was handled at the EAF stage with a traffic study that was done. So, traffic is not part of the record for that reason but there's still a DOT permit needed for access on

Route 9 and they're an involved agency for that and they like to look at the traffic study and they did but they still have other comments that need to be addressed to get the permit. Since they're an involved agency on SEQRA It's good to make sure the applicant satisfies those needs so that they can issue positive findings when they have to issue a permit.

Kim Conner stated that she assumes that's because they were planning to use Route 9 but shifting the potential to the East Mountain Road north doesn't that change everything in a way?

Mr. Werner stated that their memo says that would warrant a look because that wasn't part of the plan originally. The past EAF stage was from a Route 9 access, not an East Mountain North access. So a new access point should be studied and we should see what that means for traffic because he doesn't think that's been shown at all.

Ms. Conner stated that also thinks that's going to have a big impact on the public weighing in during the public hearing. She's certain that coming out onto East Mountain Road North is going to be something that the public will not react to in a positive way. On page 46 it says that adding 25 homes is only going to add 26 cars and she finds that hard to believe.

Mr. Werner stated that even with the equestrian center in the project it got through the EAF stage.

Mr. O'Rourke stated that the scope was developed by the Planning Board not by the applicant. Just as the FEIS is the Board's document, the scoping for the DEIS was adopted and vetted by the Planning Board so that was not the applicant's choice, that was the Planning Board's choice.

Ms. Conner stated no, but it's the applicant's choice to change the access.

Mr. O'Rourke stated that they are not changing it. What they're suggesting as part of the review process in light of what they've decided to do, by way of mitigation, by eliminating the equestrian center and the traffic attendant to that and the trucks that transport the horses that was something that they presented to the Planning Board as a mitigation measure and as part of that the Planning Board certainly can take a look at that, should recognize the mitigation measure that it is, and with that it's up to the Planning Board to decide what the access should be.

Chair Zuckerman stated that the purpose of this evening is to provide a sense of is this a complete FEIS, not that the Board agrees with it but is it complete. When AKRF has a chance to have all they need for them to provide their opinions to the Board and for the Board to develop their own opinions, and then the Board can then direct AKRF to write a finding statement which will then state for each of the areas whether they think this is permissible under SEQRA or not which what the Board has to do. He then asked Mr. Gaba to remind the public about where we are in this process and therefore what the role or not role of public comment will be in our determination of SEQRA for Hudson Highlands Reserve.

Mr. Gaba stated that the hearing has been closed. All public hearing comments have been received. The applicant is now endeavoring to respond to all of those public comments. Once the FEIS has been deemed complete by the Board and accepted, there'll be a 10-day comment period where additional comments may be made by the public and considered by the Board. That will not require any further response from the applicants, just to inform the board's attention as to matters which maybe have or haven't been considered and they have a different take on them. That's pretty much the extent of public comment at this time. If there's some special reason that the Board feels they need to have someone comment on something just know that's not part of the SEQRA process. The Board has discretion on rare instances to allow one person

or another to say something, but it's really confined to that 10-day period and the Board shouldn't be accepting comments from the public when the public hearing's been closed.

Mr. Robbins stated that he just wanted to respond to something that Mr. Watson had mentioned earlier and to the applicant's team. AKRF will be available to have calls, whatever is needed to help the applicant through understanding what it is that's been asked and making revisions to the document. As AKRF did with Hudson Valley Shakespeare Festival, they'll be available to consult on the comments and whatever questions might have that resulted from them.

Peter Lewis asked if they will get another version of the FEIS now that the applicant has all of AKRF's comments.

Mr. Watson stated that they've been through AKRF's memo, they recognized the vast majority of the of the comments are valid. They intend to edit the FEIS to incorporate those suggestions and we will produce another version of the FEIS for the Board's final consideration.

Chair Zuckerman stated that they will move the Arnaud application to the first item for the October 21st, 2021 meeting. He then asked for a motion to adjourn. Kim Conner made the motion. Peter Lewis seconded the motion. The vote went as follows:

- Kim Conner: Aye
- Dennis Gagnon: Aye
- Peter Lewis: Aye
- Laura O'Connell: Aye
- Neal Tomann: Aye
- Heidi Wendel: Aye
- Chair Neal Zuckerman: Aye

Opposed, Abstentions? Being none the vote passes.

The meeting was adjourned at 10:01 pm.

Date Approved: 11/18/21

Respectfully submitted by



Cheryl Rockett- Planning Board Secretary