

**TOWN OF PHILIPSTOWN PLANNING BOARD**  
**Virtually Via Zoom December 16th, 2021**

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

**Present:**

Ms. Conner

Dennis Gagnon

Peter Lewis

Laura O'Connell

Neal Tomann

Heidi Wendel

Ronald J. Gainer, PE, Town Engineer

Stephen Gaba, Counsel

**Absent:** Neal Zuckerman, Chair (who entered the meeting during the discussions of the Sadlon application).

Please note that these minutes were abstracted in summary from the meeting and a taped recording. Vice Chair Conner opened the meeting at 7:30 pm. Peter Lewis led the Pledge of Allegiance. Roll call was taken by Ms. Rockett. Vice Chair Conner noted that Chair Zuckerman will be joining the meeting shortly.

**Approval of Minutes**

Vice Chair Conner asked for a motion for the approval of the October minutes. Peter Lewis made the motion and 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: Absent for approval of minutes

Opposed, Abstentions? Being none the vote passes.

**Sadlon & Wenske Residential Site Plan, 825 Route 9D, Garrison, NY 10524 TM# 71.-1-13.111**

John Sadlon stated that he is the architect and also the applicant for this submission and will be presenting tonight. He noted that he wanted to start by thanking the board for their time and consideration. Their focus is going to be to share a very preliminary, high-level concept for this site. There's a number of unique qualities about the property that they want to highlight. Mr. Sadlon shared his screen and stated that this is a 20-acre parcel that is just west of Route 9D. It's basically the parcel just north of Lawes Lane and south of the town recreation center. It extends from 9D to the river. They purchased this property from OSI. There is a conservation easement on the property which also includes a public access trail easement on the west side of the property. The proposal is for single-family residence, single story, approximately 3600 square feet. There will be a detached garage roughly 900 square feet for the garage, also including a 200 square foot wood shop and also an accessory unit. In addition to

the dwellings there will be a pool with a terrace paver area, and a small cabana/storage barn for the seasonal use of furniture and storage during the winter time. As part of the agreement with OSI, there is a designated building envelope area. The proposed location of all of the buildings complies with the agreement that they have in place with OSI. This is the site plan. What is outlined in red is the extent of the parcel. Just here to the south is Lawe's Lane. The existing residences are indicated in the shading. The upper portion is relatively level in terms of grade and, for all intents and purposes, that's about five acres of the property. There's a very steep drop off of the property, approximately forty to fifty feet, that occurs just west of this blue trapezoid. The trapezoid represents the build area agreement that they have in place with OSI. They refer to this as the building envelope area. Their improvements to the site in terms of the structures that will be located within that trapezoid, and what you see indicated here with a red bubble that's a little bit more detailed focus on where the buildings will be sited. The public access trails through the easement with OSI enter the property at this location, just behind the Fish mansion, and they basically extend along the waterfront to the tail end of the property. They loop back up to the midpoint of the property and the public access trails exit again and go up a roadway towards the recreation center. Again, the point of elevation of the trails here in this location is approximately 40 to 50 feet below the elevation of the site for the structures. Another item of note is "Arnold's Flight". This historic pathway enters the property just off of 9D. It runs along the edge of the property, then across the northern edge and then continues on down to the river. This area of the trail is ungraded and basically wild at this point in time, but it is of note. There's a pond and other water sources just off the upper edge of the property, at an elevation approximately 40 to 50 feet below the proposed building site. In this area just behind the house is the pool area. The dotted line indicates the extent of pavers that they have planned. The setback from 9D will be approximately 400 feet to the house. We do have intention of site improvements, whether that be fencing or other greenery, to be respectful of the scenic overlay and also privacy from the neighboring properties. With the conservation easement that's in place by OSI, they have every intention of honoring the conservation of this land. Their intention is only to remove trees in the primary construction site for the buildings. Outside of that envelope of the construction site with the buildings, there's also obviously the well, the septic and the driveway that would connect to 9D. The driveway access is pending confirmation by the DOT. They have submitted that application to the DOT and are just waiting to hear back. They've also completed the soil testing and completed a tree survey earlier this week. That documentation is just being wrapped up and it will be available for review in a very short while.

Mr. Sadlon shared three photographs to orient the Board to the site. The first photograph is essentially standing at the front entryway to where the house would be located. Here you see a rather sharp edge of the drop off of that 40 to 50 foot drop. You see the mature growth trees and you see here, this is actually at the bottom of the drop-off at the public access trails looking back up. What he wanted to note is that the construction of the house will not be at the edge of this cliff. It will be set back considerably. The sight lines from the trail are being taken into account so as to minimize any sort of viewing of the structures. If we stand in the exact same spot of this photograph, and now we turn to the west, here you see the relatively flat grade of the public access trails that then gradually pop up as you get closer to the river. This is a preliminary conceptual design package, so the details of the house are not yet sorted out. But he wanted to just share with the Board tonight some inspirational references. These are six different residences they are showing. But what they have in common is, first and foremost, single story construction, use of natural materials. Their palette will include wood, steel, stone and glass and what you see in each of these images is that the house is very much integrated within the landscape. It's really their intention to celebrate, enhance and really respect the integrity of the site that's existing, with minimal invasion. The house itself is a three-bedroom home which also includes an open living space, a den/office. These are very preliminary elevations that show the front elevation of the home which is in terms of the massing and the punched openings maintains a high degree of privacy and discretion from the street view. The back side of the house that faces the woods has a significantly more portion of glass to allow the view into the

woods and perhaps more of interest to the Planting Board this is the way that the buildings and the siting of them will be pursued. Here you see the relationship of the primary residence, here is the three-car garage, the wood shop with the tools and the accessory unit in the back with the separate entrance and, of course, here is the pool with pavers and a small cabana.

Jason Snyder of Badey & Watson shared a view of the steep embankment towards the back of the property which Mr. Sadlon was referring to. Here's the well. They're not going down this this slope at all. The pond is back here and the buffer is shown. They're not really even close to that. This is kind of the arrangement of the proposed driveway and the structures and the proposed septic and preliminary well location. He believes the tree survey field work was done today. They should have it mapped soon and at that point could then start to site these improvements to preserve as much vegetation and existing trees. There's a lot of locust trees, so they want to minimize the tree disturbance. Once they have that tree survey done, they'll begin to fine-tune the septic location and location of the house and driveway. One of the goals tonight is to get through the SEQRA process and classifying the project scope, and also to schedule a site visit so they can get a feeling of the site conditions.

Mr. Tomann asked about other wells showing on the map, are any of those going to be recommissioned?

Mr. Snyder stated that those are the active wells for Glenclyffe and the Recreation Center properties, so those are wells that are used for those properties. This was all one property at one point, so those wells are going to continue to be used for other purposes although they're on this property. They are going to have their own new well for the house.

Mr. Tomann asked why that wasn't made part of the other property.

Mr. Snyder said because they needed the 20 acres because it's the institutional conservation zoning district. They will obviously maintain the proper separation distances from the septic system.

Mr. Tomann asked where they see the well going in?

Mr. Snyder pointed to a high spot in between the septic and the road. He added he would imagine that that would be a good spot. They may need to move it around a little bit but that's kind of in the high spot. Depending on where the septic system for the garage goes, if they can squeeze it all in here it might make sense to move it to the north more.

Mr. Tomann asked if that's all in front of the County Board of Health right now?

Mr. Snyder replied, no it's not. The soil testing is complete with the health department. They've witnessed the testing. He wants to make sure that they have the right house location and they have the tree plan so they don't want to go through the other things that they do on other projects. He wants to make sure that they have the tree plan first, and then they can design around that so they don't run into the typical problems. But it's all bank run. They can put a septic anywhere. Here it's not going to be a problem.

Mr. Lewis asked if they are considering in the tree plan keeping trees along the top of that ridge or that bench there, to prevent any type of visual disturbance to the other side of the river or to other buildings that are to the north and south.

Mr. Sadlon stated that they do have intention of maintaining the existing trees on the edge, also being mindful of mitigating erosion given the steep drop-off. Given that this front five acres is considerably set back from the river and that the site, once it drops off, it does continue to ascend to the same 50-foot elevation. There really is no sight line from the river of this section of the property because it's so far set back.

Mr. Lewis then asked isn't this really two houses? An accessory unit doesn't that have to be attached or is it the other way around?

Mr. Sadlon stated that his understanding of the code is that the accessory unit is allowable if the garage itself is detached from the primary residence, and that accessory unit can be no more than one-third of the square footage of the primary residence and no more than 800 square feet. So, they're well within compliance of all those code requirements.

Chair Zuckerman stated that he was the President of the Putnam County Historical Society and one of the few markers that the society put up was for Benedict Arnold's flight. It was historically a disastrous time for the country, but it was and is one of the most important features of the community in many ways. It is also lesser known and under-invested in and, as Mr. Sadlon said, overgrown and frankly not that navigable. Being a historian at heart, he cares deeply for the preservation of history so a site visit will be very important. He knows their driveway is much further south than where the marker is, but is very concerned. That marker looks like it's almost about to fall over as it already, so he just wants to note that he's concerned about any disturbance to what is a pretty monumentally and fundamentally American location. He added that he looks forward to talking to Mr. Sadlon about that on the site visit and giving his thoughts about how to preserve that history.

Mr. Sadlon stated that he appreciates those comments and does agree. That marker is at that lower portion when you come down from the Recreation Center. That marker is still intact. The information is actually part of what got them excited about this property. He added that as an architect he spent the beginning part of his career specialized in historic preservation, and is extremely mindful of conservation both of historic structures but also of properties. He agrees with all the points that Chair Zuckerman just made and will be happy to talk more about it when they do the walkthrough.

Mr. Gainer stated that he thinks the applicant's done a very good job of describing where the property is and the concerns that relate to the proposed development. He's already had preliminary discussions with the applicant's representatives and they are moving forward with creating a tree plan. The site itself is heavily wooded and he thinks the intent would be to try to save as much existing vegetation as possible, given the development constraints. The other significant issue to consider when you accomplish a site walk is just to recognize its visibility from public trails. It's within the Scenic Protection Overlay District. That's a matter that the Board will pick up on as they accomplish the site walk itself. Administratively, there's a few things the Board will want to accomplish tonight. One is to declare the project a "minor" project pursuant to the regulations. And, based on the SEQRA regulations, they can also classify it as a type 2 action which will conclude their environmental review responsibilities. The Board may also wish to move forward with the necessary referrals. It's on Route 9D, so it has to go to County Planning. Lastly, and as has been touched on, they might desire to schedule a site walk at this opportunity.

Mr. Snyder added that they definitely should have the tree plan prepared at the time of the site walk so that'll be helpful.

Vice Chair Conner asked for a motion to declare this a minor project. Mr. Lewis made the motion, Mr. Gagnon seconded the motion. The vote went as follows:

Vice Chair 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.

Vice Chair Conner stated that next is to declare it a type two action under SEQRA. Neal Zuckerman made the motion, Peter Lewis seconded the motion. The vote went as follows:

Vice Chair 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.

Vice Chair Conner stated that the next thing would be a referral to County Planning. Neal Tomann made the motion, Peter Lewis seconded the motion. The vote went as follows:

Vice Chair 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.

Mr. Gainer stated that they may also desire to make a referral to the Conservation Board, given the steep slopes on the property, as well as referral to the NYS DOT, recognizing their permitting responsibility for the driveway access. Lastly would be referral to the Garrison Fire Department if they wish.

Vice Chair Conner then asked for a motion to refer this to the Conservation Board, the NYS Department of Transportation and the Garrison Fire Department. Mr. Gagnon made the motion and Mr. Lewis seconded the motion. The vote went as follows:

Vice Chair 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.

Vice Chair Conner stated that next thing would be to arrange a site walk. Mr. Snyder was asked if he could have the tree survey done by January 9<sup>th</sup>. The Board voted to schedule a site visit for 9:30am on Sunday, January 9<sup>th</sup>, 2022. Chair Zuckerman made the motion, Mr. Lewis seconded the motion. The vote went as follows:

Vice Chair 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 stated that if they have snow in the ground they're not going to go traipsing into the woods.

Vice Chair Conner stated that concludes her responsibilities at this meeting and she's going to hand the meeting back over to Chair Zuckerman.

**Arnaud & Santelises, 5 Juniper Hill Road, Garrison, NY 10524 TM#81.-1-11 (Site Visit 11/7/21)**

Ms. Rockett read the public hearing notice.

*The Planning Board of the Town of Philipstown, New York will hold a public hearing on Thursday, December 16<sup>th</sup>, 2021 starting at 7:30 p.m. via Zoom to consider the following application: Arnaud & Santelises, 5 Juniper Hill Road, Garrison, NY 10524 TM#81.-1-11 Minor Project: Redevelopment of a residential property with a new single-family dwelling to be served by a new septic system and private well. Construction of a detached 2-car garage and swimming pool. Dated at Philipstown, New York, this 18<sup>th</sup> day of November, 2021. Neal Zuckerman, Chair*

Mr. Snyder stated that they are demolishing the existing cottage and building a new single-family residence. They're also decommissioning the existing septic system and well, and building a new one. They're utilizing for the most part the existing gravel driveway off of Juniper Hill Road. They have Board of Health approval on the septic system. The Conservation Board was good with the wetland mitigation plan that they had, with the addition of a deer fence around the proposed shrubs in the area where the cesspit is being abandoned. They were happy with the development with respect to the steep slopes on the site. Since the Board last saw the plan, they've added some improvements to the proposed sewer effluent line. They provided a redundant effluent line so that if anything happens to the primary, they have another one and they'll encase that in K-crete so that they can plant this new screening along the property line, which they've also incorporated into this plan. This should provide buffering to the Garrison Inn property to the south. They did switch the primary and reserve septic system so as to preserve this area which is to the west of this house over here on Route 9. They've buffered the property lines and that's about it.

Chair Zuckerman asked Ms. Rockett if there is anyone from the public here?

Ms. Rockett replied that there are no attendees with their hands up to speak.

After waiting, Chair Zuckerman asked for a motion to close the public hearing. Ms. Conner made the motion, Mr. 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 public hearing was closed.**

**Mr. Gainer stated that they've accomplished all the other typical statutory requirements. They've previously classified it a minor project, and categorized it a type two action, concluding SEQRA. They've conducted the site walk. Now, with the close of the public hearing, the Board might wish to consider whether they want a resolution prepared for the next meeting.**

**Mr. Tomann asked about the sweep of the driveway coming down making that left turn into the property. It looks like you've rectified that on the drawings?**

**Mr. Snyder stated that they have not changed the alignment of the driveway at all. The Conservation Board was happy with the existing culvert there and the way it went over the stream. They haven't received any comments from the fire department with regards to that. To answer the question, "no", they have not done anything with that.**

**Mr. Tomann stated that it's a little tight.**

**Mr. Snyder stated that from what he remembers they were only going to change it if it became an issue with the fire department or the Conservation Board.**

**Ms. Conner asked if they have heard from the fire department?**

**Mr. Tomann asked if we referred this to Garrison?**

**Mr. Snyder replied yes, it was referred to Jim Erickson.**

**Mr. Tomann replied, okay all right so if Mr. Erickson didn't have an issue with it that's fine.**

**Ms. Conner asked Mr. Snyder to repeat what the trees that are being planted on the on the border with the neighbor were being planted in, did he say K-crete or something like?**

**Mr. Snyder replied that the Board had a concern with regard to the proximity of the new plantings to the sewer force main so what they've done is proposed a redundant effluent sewer force main and will encase that trench in low density concrete so that the roots won't interfere with the piping.**

**Ms. Conner stated, okay she just didn't know what that was.**

**Mr. Snyder stated if they have the redundant main, they'll never have to dig up that area again. He knows that was a concern and thinks with this arrangement of redundant force mains and encasing it in K-crete, that area will never have to be dug up again. They'll never have a clearing between the two properties. That was the idea with that.**

**Ms. Conner asked if he can tell her about the trees. What are they?**

**Mr. Snyder replied that they proposed some Norway Spruce so they'll grow fast and will have a good screening from top to bottom. They'll always have the full depth of screening. They have those spaced every 16 feet on center.**

Chair Zuckerman asked for a motion direct Mr. Gainer to prepare the final resolutions. Ms. Conner made the motion, Mr. Gagnon 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.

**Johnson & Rinderman, Mountain Brook Drive, Cold Spring, NY 10516 TM#16.-1-34 & 56 (Site Visit 11/7/21)**

Ms. Rockett read the public hearing notice.

*The Planning Board of the Town of Phillipstown, New York will hold a public hearing on Thursday, December 16<sup>th</sup>, 2021 starting at 7:30 p.m. via Zoom to consider the following application: **Johnson & Rinderman, Mountain Brook Drive, Cold Spring, NY 10516 TM#16.-1-34 & 56** Minor Project: Development of a new single-family dwelling to be served by a new septic system and private well, and related site improvements. Dated at Phillipstown, New York, this 18<sup>th</sup> day of November, 2021. Neal Zuckerman, Chair*

Mr. Snyder stated that they have a single-family residence on a 12.25 acre parcel at the end of Mountain Brook Drive in the Rural Conservation Zoning District. They're proposing a driveway of approximately 1400 linear feet. A septic and well has been approved by the Putnam County Department of Health. Much of the proposed driveway is in the wetland buffer, which we are in front of the Conservation Board for. They have some mitigation work to do with regard to that. For the house, site they have this north wing and south wing, connected by the elevated lap pool. They have Board of Health approval on the septic system and well. Going back to the property frontage, they do have a small detached garage, which is under the 1000 square foot threshold for zoning. They have about two acres of disturbance, so they'll be filing a Storm Water Pollution Prevention Plan with the state for a general construction permit. That's where they're at now.

Chair Zuckerman opened the public hearing for comments.

Mr. Sadler asked: *When is the proposed start of project?*

Mr. Snyder replied that as soon as they get all the permits. They want to get started as soon as possible because they've got the bat habitat restriction for the tree cutting starting April 1<sup>st</sup>. Ideally, they would get this started around the beginning of March. They need to get the Conservation Board wetland permit for this. He's hoping to get that at the next meeting. But, other than that, it needs to get going soon. He would say that in March they would get started with the rough cut of the driveway and the tree clearing.

Mr. Dwyer stated: *It's pretty close to the reservoir. I assume there's been that's been looked at, right?*

Mr. Snyder replied that the driveway is in the buffer. The proposal is to use the existing traveled way that leads up to the reservoir, so they're using an existing corridor to access the house site.

Mr. Dwyer replied: *I walk that area a lot. That's why I've met Mr. Johnson too, so I know the site. I just wanted to make sure someone had really looked at if there was going to be anything, you know.*



Mr. Snyder replied yes, they do have a wetland mitigation plan proposed. That's Susan Janchill's mitigation plan, so they are proposing a wetland mitigation plan for this development near the pond. That is being looked at by the Conservation Board as they speak.

Chair Zuckerman asked Mr. Gainer to address the nature of the proximity of the pond to this development and how it fits.

Mr. Gainer stated that first it should be recognized that the pond is no longer being used as a public water supply resource, and that the Conservation Board is thoroughly involved in the project and processing an application with them. The Conservation Board has issued comments to the Planning Board and they've identified to the applicants the mitigation that they want to see on the latest site plans. The vegetation plan is currently under review as well, so they're looking at all those issues.

Chair Zuckerman asked for any other members of the public who would like to speak. There were none. He then asked for a motion to close the public hearing. Ms. Conner made the motion, Ms. 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. The public hearing was closed.

Mr. Gainer stated that the Board did receive additional public comment from John Hammer. He was unable to attend tonight, but has transmitted an email letter to the Board, and so just wanted to acknowledge for the record that his comments have been received and are being considered by the Board. Once the public hearing is closed, all the other prior statutory issues have been addressed. At this point, with the close of the hearing the Board may wish to consider the drafting of a resolution for the next meeting.

Chair Zuckerman asked what about the open Conservation Board assessment? Is that something they need to await?

Mr. Gainer stated that that requirement could be a condition of approval. They've already issued comments to both the Board and the applicant. It's expected that once those will get resolved that permit will be forthcoming.

Chair Zuckerman asked if they have that in writing for Mr. Garfinkle that will be forthcoming?

Mr. Gainer replied, no, his letter does not make that statement. He's just saying that the Conservation Board comments have already been transmitted to the applicant, so they're now in the applicant's hands to address.

Chair Zuckerman stated that they typically wait for those things to be resolved before approving things and so, while mindful of speed, he also wants to be mindful that one of our fellow Boards is still in process.

Mr. Gaba stated that he would suggest that the thing to do is to direct Mr. Gainer to prepare it for next month and if you haven't heard from the CB then you just don't adopt it, but to have it ready to go will help the applicant and help the board move it along if they're in a position to do that.

Chair Zuckerman stated he'd like not to adjudicate what another Board is going to tell them, so let them tell us what they think because for them to vote on this next month we have to have affirmative approval from the Conservation Board that things have been addressed. So, that's going to be the stipulation that we have an affirmative in writing. He then asked for a motion to direct Mr. Gainer to prepare final resolutions. Kim Conner made the motion, Neil Tomann seconded the motion. He added that they will not vote on it next month unless they have the approval from the Conservation Board. 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.

**Polhemus Property Management LLC Commercial Site Plan, 12 Manitou Station Road, Garrison, NY 10524 TM#89.-1-8.-1**

Mr. Watson stated that they're putting a 1,000 square foot garage over in the northwest corner of this property. The Property is between Route 9D and the Hudson River. It's got frontage also on Manitou Station Road. The Polhemus contracting business has been on this site for a long time. There is really no other activity except for this proposed garage, which is just north of the stable that's down in this location. It's just over a thousand square feet. It's commercially zoned property. Ms. Conner had asked a question with regard to possible visual impacts from people walking the trails on the property to the north, the Manitou Point Preserve. They submitted a letter report and map and a couple of photographs to show that the garage won't really impact it. Mr. Watson shared his screen to illustrate photographs. You will see it probably a little bit but it's nestled between the view of the barn and the residential structure here. They're both in the field of view so and there's a couple of trees in the way that are blocking one of the views so any impact will be absolutely minimal and from several hundred feet away. With that he'd be pleased to have the Board act on the resolution. He also shared pictures of the view from Manitou Point trail.

Ms. Conner stated that she wanted to thank Mr. Watson for going out and doing that.

Chair Zuckerman asked for a motion to approve the resolutions Mr. Gainer had prepared. Ms. Conner made the motion, Mr. Gagnon 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.

**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 he doesn't know how much this was communicated in town. He just wants to be very clear - he thinks this is a really important project and doesn't think there's anyone on this Board who doesn't think this is good for the community and yet there are people that have different views with this project, and as with every single project, most people have a viewpoint and usually that viewpoint is tied to one's proximity to the property. The best way for a community like ours to move forward with something like this is with decorum and friendliness and politeness and knowing that we're all going to be living close to each other, no matter what happens. He added that he's referring to a particular incident that happened a couple weeks ago and he doesn't want to see that kind of behavior in our community from anyone. Everyone is trying to do their best in serving the community. The applicants are doing their best to put forward a good project for the community and for their organization, and we all have the best of intentions. Anyone who's participating in this process, whether as a Board member or whether as a member of the public, should abide by those rules of decorum. There are lines that should not be crossed and he thinks there was a line crossed recently. He added that we have to all be mindful we're all here building a community together, so he says those opaque comments and effort to just make sure we stay on the right side of right. The second thing is let's just remind folks we did many hours over the last two meetings going through in detail the parts of part three of the environmental impact statement. There was one detailed discussion tied to traffic. We had this discussion about understanding the peak volume of traffic, using one whole day, a busy day and seeing the way the traffic would mount based upon the different programming. Mr. Canning has given an hour-by-hour view of that. That's what we're doing here for the members of the public.

John Canning stated that the Board did request that they provide the specifics of how the population of the site would change across the hours of the busiest Saturday, and how that would translate into vehicular trips similar to what they had provided for the ebb and flow across the entire year. They provided two sets of graphs. They wanted to be consistent with the majority of the materials that they've provided. The first set of graphs basically shows traffic projections, first Saturday with afternoon events and with evening events. That would be the indoor theater, the outdoor theater, weddings, the restaurant, the hotel, pretty much everything. Then recently, at the suggestion of the Board's traffic consultant, HVSF committed to not having Saturday matinee indoor performances if there was a wedding event. The second set of graphs that he'll go through basically will show you that, and it will demonstrate what the benefit of that is. With that the graph that he has up is the 95th percentile, so it's pretty much the busiest Saturday that they would see at the facility and the population, the number of people on the site at the various times of the day. Looking at the graph, you can see that the top number is somewhere between 1,000 and 1,200 people. It's a little north of 1100, which is what they had presented in the graphs previously for the monthly peaks. In the early morning hours there's very few people there. They have broken it down in this graph. He's tried to keep the colors consistent, and the tables are provided so that they could dig into them and see what the actual numbers were and where everybody was going. The blue is basically HVSF. The really dark blue is the HVSF staff that reside on site. There's about 30 of those. The slightly less dark blue is HVSF non-resident staff. There's also about 30 of those. They come on when there's a performance and they do what they need to do, and after a performance then they go home. The sky blue is the number of people that will attend a tent performance. Maximum attendance is 530. Everybody else is maxing out at 521 out of 530, and for the indoor tent they have 218 out of 225 capacity. The blue there is the tent, which is quite big for a matinee and then quite big again for an evening performance. The light blue is the indoor theater. It would be in addition to the tent and that's a lesser number obviously, and then in red is the banquet facilities. They've shown two weddings here. There'll never be two weddings at the same time, but there could be a wedding in the morning and a wedding or a wedding in the afternoon, and rather than sending you a whole other set of graphs, we just put them on the same graph. For the wedding, they show the staff in the dark red and then they show attendees in the lighter red. 200 attendees for a wedding. Then they have the restaurant, both the staff and the

diners. The staff are in the light yellow and the diners are in beige. Then, to round it out, they have hotel staff. There's only three or four of them. You can hardly see it there in the darker green, and the hotel guests which are in the lighter green. If you sum them all up you can see how between 11 am and 1 pm you get a large influx of people into the site. From 1:00 pm through let's say 3:00, 3:30 pm you're at a fairly stable population. From 3:00 to 4:30 pm you have a large departure from the site. From 5:00 to 7:00 pm you have the second wave for an evening performance. There is a separation between the afternoon between the bulk of them, which is important and good. There is a steady number across from 7:00 to 9:00 pm. Then after 9:00 pm, pretty much everybody departs the site in the evening. That's the population and how it varies with the time of day. The tables indicate how many of each various uses will stay on the site. For example, some of HVSF spectators will also go to the restaurant, some of them may stay at the hotel, some of the banquet people may stay at the hotel, so that's indicated. Some of the wedding attendees are traveling by bus, and we also have a small number of people traveling to and from HVSF by the shuttle that would be to The Garrison. They applied all of these factors which are in the table to the number of people that were in the graph, and what it translates to into vehicular trips. He added that he lumped all of the trips together in and out. You can see in the 12:00 to 1:00 pm period that's when they get a lot of people arriving for the afternoon activities and it maxes out at 250, at least over 200. Then they have a lull in the middle of the day for the afternoon activities. Then you get an increase in the late afternoon up to about 350 as people are departing from the afternoon activities and then that drops a bit but they have more activity again in the 6:00 to 7:00 pm hours, people start to arrive for the evening activities. There is a lull in the middle of the evening as the evening activities go on, and then they have the greatest amount in in the late evening because when the show is over everybody goes home. So that's 360 or so cars. And just to show the difference between with and without a matinee event in the indoor theater. This is with the matinee event in the indoor theater, here's the matinee event and if they take it out you can see it's gone here and the afternoon traffic has gone down, so that means less traffic coming in. In the early afternoon hour less traffic going out in the late afternoon hour. What that does from a traffic perspective, this is the traffic projections that they had for both the HVSF and for the tent and the indoor theater, and he would like to point out on this graph rather than giving two colors for each use he just lumped HVSF all together as blue. The banquet altogether is red, the restaurant all together is yellow and the hotel trips all together as green. So, this is with an afternoon wedding and with an afternoon indoor theater matinee. So if they take the matinee out of it, the number of trips goes down fairly considerably, not as dramatically as with the number of people but it still goes down fairly considerably in the early afternoon and the late afternoon, and it was the late afternoon period that was identified by AKRF as an area of concern at the intersection of Route 9D with Snake Hill Road. That is the best way he could present visually the relationship between time and the number of people in the number of vehicles, and then they did provide all of the backup material that they could go through it. He'd be happy to answer any questions that the Board might have.

Mr. Lewis asked were the number of cars were determined by how many people in each car. Are we at two or four at this point?

Mr. Canning replied that it varied but the most important ones were HVSF guests. So, they were 2.1 per car, the banquets were 2.5 per car. 100 of the 200 wedding guests came by bus, which was in three buses, and they counted that as 6 trips in and 6 trips out at the start. This was information that was provided by Mr. Alleman from The Garrison. That's typically what they expect and they rarely have a 200-person wedding. The staff for the staff for HVSF were 1.5 per car. There were 30 off-site staff and then the remainder of the staff and they did include staff for the band, for valets, for the hotel and for the restaurant, they were at 1.2 per car.

Mr. Lewis stated that at this particular time they're not considering the public use of the land which is going to be opened to be a factor in this? What happens if it becomes a really popular place to go? Should they be figured into these calculations as well?

Mr. Canning stated that his understanding is that the intent of the application is to make the land and the facilities available to the public as much as possible. But when they have these maximum event days certainly the pavilion is not going to be made available for the public, and while there may be some people that come in and out and walk through the gardens it's likely to be a minimal amount.

Ms. Wendel asked if they did a graph that just shows the outdoor tent.

Mr. Canning stated that he doesn't have a specific graph for that but what he can do is two things that hopefully will help her understand. In this graph the sky blue is the tent and the light blue is the indoor theater. So if you take the indoor theater out and if you look at the left side of the graph, that's what it would look like without the indoor theater. So, from a traffic perspective if you look on the left side you can see where the blue here is, he's going to say that's 275 and here it's 185. If he takes out the theater on that side 185 goes down to close to 100 and 275 goes under 200. That's what it would do and it would do the same thing on the right side.

Ms. O'Connell stated that she just has a general question. Do they have a sense of what the percentage increase is to this maximum traffic assessment, to what the maximum was when the golf course was at full operations?

Mr. Canning stated that he certainly could get that information, but he would say it would be wrong of him to say that it's not more than what the golf course was.

Chair Zuckerman stated that when he went to the table, the reason why there's such an imbalance between the thousand plus people and the number of cars is this bus assumption. He asked for more clarity about the history of there being buses that 45 percent of the guests take. He added he was surprised to learn that 100 of 219 people are taking a bus to weddings.

Ms. Ajello stated that she's been with The Garrison since 2004, working all along with Mr. Alleman. She stated that when she went through the weddings for 2021 on Friday evenings they averaged 80 percent of the weddings, whether they were 200 or 100, that hired busing. Most of the buses accommodate 47 people. This Saturday the wedding had three buses, that's 141 people out of the 180 attending this weekend that came by bus. It's a big trend because the hotel is not on the property. It becomes a destination and a wedding weekend experience. Many stay and drive to the hotel, and they all get on the bus at the same time, they arrive at the same time, enjoy the event and depart at the same time. A lot of them have after-parties at the hotels and the brides want to make sure that everybody is leaving at the same time. Fridays and Saturdays are about 80 to 90 percent now busing, Sundays are not usually busing because people want to get to work on Monday and do not stay over the hotels on Sunday.

Chair Zuckerman stated that what he heard her say is that the operative reason is that there's no hotel because they're going from their hotel here. But, there's going to be a hotel so when there is a hotel, and he's not asking her to predict because he doesn't know what's going to happen either, but you heard her comment. It's helpful and it's dependent on people going from a hotel together to here and then back to the hotel.

Laney McKinnon stated that at the last meeting they discussed what the new Snake Hill Road entrance would look like so they wanted to give some present images of this. She first wanted to share these images of an existing span bridge on the Garrison Golf Course so they have kept this language in mind as they've developed the span bridge for that they're proposing for the new entry. She then shared some precedent images that they've gathered showing the span bridge. A span bridge means that it allows for the bridge to cross over the wetland

without touching that wetland area, so it's better for the environment and this is a great way to be able to protect that area. Then, along with the help of Mr. Watson and his team, they've created a conceptual section through the bridge showing how it would come off. This is Snake Hill Road on the right-hand side you can see coming across this is the span here you can see the embankment, the bridge coming across, they've shown where the delineated wetland is so they are not touching the delineated wetland and then again, the other embankment on the left-hand side of this image. They feel these are in character with the golf course in the surrounding areas and provide great benefit to the wetland because they do not have to touch that delineated wetland.

Mr. Johannessen stated that in previous versions, to be conservative in the preliminary evaluations of the bridge they had identified some potential impact to the wetland proper. But, after studying it more and presenting these images, they're comfortable that they can build this bridge without any impact to the wetland itself. In their next iteration of the EAF the Board is going to see that they're going to go to a zero impact to the wetland proper and that the buffer impact is going to be reduced. So, they're happy to say with the span bridge that they're able to span this this watercourse without any impact to the wetland proper itself.

Mr. Tomann asked if the Board would want to stop by and take a look at it?

Chair Zuckerman stated he does think there's a material change to the plan and thinks the public would benefit from a conversation and this Board from visualizing the space, because it is a significant physical structure being proposed. So, he'd like to suggest this Board go take a look on January 9<sup>th</sup> as well.

Mr. Lewis stated that he thinks it's a great idea to go back for a quick visit. It'll give them a sense of the topography that goes off west of the stream that comes out underneath the current bridge and it'd be really nice to really have a sense of the lay of the land.

Mr. Johannessen stated that he just wanted to mention that they had a similar walk with the Conservation Board last week and they walked them around all the property, but paid specific attention to the areas where there's wetland and buffer disturbance. This was obviously a focal point, and they really got pretty good reviews and reception from the Conservation Board on the span bridge just because of what it is, a span bridge with limited fragmentation.

Chair Zuckerman replied that's a good point. He added that he thinks they're there not just for the wetlands. That's obviously what the Conservation Board looks at. The Planning Board is also there for evaluating community character, access to Snake Hill Road. He then asked for a motion to schedule the site visit for that one portion of this proposed bridge off of Snake Hill Road. Mr. Lewis made the motion, Mr. Gagnon 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 stated let's do this one at 10:30 am. He added it would be helpful if they could stake the corners at least so we just have visual representation the bridge itself.

Chair Zuckerman then stated that the last order of business is the long-awaited public hearing for this conversation. It's a good milestone and making progress. This group of volunteers has been very generous with their time to their community and continue to be generous by trying to dual track this project as much as possible given the magnitude. He stated he would like to propose to dedicate Thursday, January 27<sup>th</sup> to doing a public hearing for this topic and ask that we do it in person somewhere that is an appropriate accommodation venue for what he thinks will be a well-attended public hearing.

Ms. Conner asked if before they do that should they ask Mr. Gaba if there are any restrictions from the Governor?

Mr. Gaba replied that the current restrictions only last through January 15<sup>th</sup>. Whether they'll be extended or not it's a whole another matter, but if they want to schedule it for the 27<sup>th</sup> and then you either need to bump it or change if they have to go virtual because they haven't been lifted the restriction. But they could still do it, just everybody needs to be masked right now. It's not like they can't have it. He stated that he would go ahead and schedule it and anticipate that there won't be further restrictions and they can go forward and if, God forbid, there are more restrictions they could bump the date into February and go virtual or whatever.

Chair Zuckerman then asked for a motion to schedule the public hearing for January 27<sup>th</sup> at 7:30pm. 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.

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

Chair Zuckerman stated that the plan tonight is to give the applicant some very clear direction on the FEIS. He thanked Mr. O'Rourke and Mr. Gross for working with AKRF. He stated that they will let AKRF make some opening remarks about where they are with this thing. He knows Mr. Gaba has taken some comments, made the edits they've requested and then it's time for the Board members to give some comments about what they're seeing in the FEIS, any changes they require and frankly some guidance from them about the project and where they stand. So, he'll let AKRF make any comments they'd like to make about where we are with the FEIS based on their professional viewpoint, and then we're going to go to each board member one by one to get any specific comments, any edits or changes on the FEIS and then get their views individually about the project.

Aaron Werner of AKRF stated just to give a just a step back for how they got to tonight, at the November meeting AKRF offered some comments to the applicant with also some guidance about how to improve the voice of the document. They followed up after that with a meeting with the applicants and the applicant's attorney where they discussed the approach to get these issues resolved. They gave some example language of how to improve voice throughout. The applicant went ahead with that, made some revisions and submitted it again on December 2<sup>nd</sup>. The December 16<sup>th</sup> memo that was sent out today included some additional of what AKRF is calling the final comments to get the voice issues resolved, because they didn't think that all of them were addressed in the manner that was acceptable to so the Board. You will see a lot of the comments in that memo are just "*here's the language we would like you to insert*". AKRF communicated with the applicant's consultant yesterday and today on the edits, and they've actually resubmitted a redline version to AKRF about an hour before the meeting. So,

they are going to take a look at that to make sure that everything's been addressed and, as their memo states, if those are addressed, they have no objection to the Planning Board moving to accept the document. The next step in the process would be accepting it. A notice of completion would be issued and then they work on a finding statement within 30 days of the filing of the FEIS notice of completion.

Mr. Gaba stated that AKRF has a number of comments and his understanding, based on what Mr. Werner said, is that if the revisions that they propose are incorporated into the existing draft of the FEIS, then the FEIS will be in a condition where this Board could accept it. It's not currently in that condition, but what the Board could do is accept it subject to the incorporation of the AKRF comments into the draft FEIS. Once that happens and that document is filed, that's when the 30-day time frame to adopt your finding statement would start to run. He added that he's not sure that even if they do that, depending on when they file it, obviously assuming the applicant is willing to make those changes that the Planning Board would still be in a position at its next meeting to be within the 30-day window for adoption of the finding statement. The Board may need to ask, if they go this route and adopt the finding statement subject to incorporation of AKRF's comments, for an extension of the 30-day time frame to the next Planning Board meeting.

Chair Zuckerman stated that's assuming the Board has no edits themselves tonight.

Mr. Gaba stated, yes of course. In the event that there were additional edits those would have to be incorporated as well.

Mr. Werner stated that, to add to what Mr. Gaba said, the 30-day clock would begin once a clean hard copy and digital copy is sent to the town for review at the Town Hall by any of the public, and it's posted to the Town's website and that notice of completion with instructions for the involved agencies and interested agencies to review it is sent out. That's when the 30-day clock would begin on the findings. So, that could happen a few days from now once we review the edits and accept them or anything that comes out tonight from the Board. If we tell them, yes this is good go ahead and go to print and then that comes in to the Town and it's ready to be distributed, that's when the 30-day clock starts. Just want to make that clear.

Chair Zuckerman asked Mr. Gaba to just describe for the Board the linkages, if at all, between accepting the FEIS and what the finding statement would then provide or state.

Mr. Gaba stated, okay. Working on that backwards, the finding statement makes the determination as to whether all of the identified potential significant adverse environmental impacts, and they're listed in the EIS, have been mitigated to the maximum extent practicable. It doesn't mean "possible", it isn't a wish list. It means they take a look at the significant potential significant adverse environmental impacts that the Board has identified and say what's reasonable given the proposed development of this property to mitigate these identified impacts. Now the EIS and particularly the FEIS spells out what is proposed in these mitigation measures in regard to each of those potential identified impacts. So, when the Board reads through the FEIS, if they come to a potential significant impact and the EIS says we propose these measures and these measures adequately address that concern and this Board adopts the FEIS, that says that the Board will not then be in a position to adopt a finding statement that says, no, that potential significant adverse environmental impact wasn't adequately addressed and they have to do X, Y and Z in addition to this. The Board is bound by the FEIS. It is this Board's document, so they're going to want to look carefully at what the content of that is because it's going to shape the finding statement that the Board adopts.

Ms. Conner stated so if we say tonight, take whatever AKRF has presented and it's all fixed, then there's nothing else we can do, is that right?



Mr. Gaba stated that what he said is that the finding statement must be based on what's in the FEIS. Once that FEIS is done, once the final changes and everything are incorporated, the Board must look at that carefully because that's what's going to determine what's in their finding statement. The finding statement is going to say there was this potential adverse impact on this one, and this one, and this one and they proposed to mitigate it with this, and this, and this, and this and if the Board can, based on what's in the FEIS, say well yeah but it's not enough well, that's fine. The Board could do that. But if what's in the FEIS indicates the facts in it and the logic and it indicates that is enough, it would be arbitrary and capricious of the Board to say, well no it's not, because this is the document that the Board is going to base their findings on. The FEIS isn't the finding statement, but is the basis for the finding statement. So, they have to read through and to some extent interpret, to the extent they can reasonably be used as interpretation of the facts and the arguments that are in there. But whatever their finding statement is it must have a basis in the FEIS and the DEIS.

Ms. Conner asked if he can just run them through how they craft this finding statement?

Mr. Gaba stated that they're pretty much formulaic. They have a description of the project and can take the language in the EIS that gives a pretty good description. They'll use that as a description and then say they've identified the following potential significant adverse environmental impacts and list them down and then say in regard to this they propose to do that, in regard to this they say nothing needs to be done, in regard to this they're supposed to do that and the Board will state whether it's adequate or not. If the Board states that it's adequate and then the FEIS doesn't show that it's adequate, they've got a problem. If the Board wants to state that it's inadequate but the FEIS shows that it is adequate again they have a problem. The Board needs to ground their findings on what's in the EIS. That's the document that they're basing their determination on.

Mr. O'Rourke stated that it's a very good question that's being asked about how do you craft this, but as Mr. Gaba mentioned, logic is a very important component and equally important is reasonableness. There's lots of case law that talks about the rule of reason when you're dealing with the State Environmental Quality Review Act and the actions and things that occur in accordance with SEQRA and a framework is you have a DEIS, there was a proposed action that was put forth. That proposed action did have a bunch of things. It had an equestrian center, it had certain open space, it had certain locations for improvements and disturbances. Then, what happens through that environmental review process and it happened here, there is an evolution of a plan and it should be responsive to the comments that have been raised. From the sponsor's perspective, the elimination of the equestrian center was a big deal and from an environmental impact perspective it was a very big deal because of all the attendant issues related to having an equestrian center.

Chair Zuckerman stated that Mr. Gaba was talking about how to do a finding statement related to the FEIS, Mr. O'Rourke, you now getting into the merits of all the things they've changed. Can they just focus on the question if they would want to amplify something Mr. Gaba was asked was already answered?

Mr. O'Rourke replied that he didn't mean to digress but what he's talking about is logic and reason is a very important component and it's absolutely right, they have to look at the facts, at the circumstances and see what's happened and that's all he's saying. There cannot be a disconnect in terms of the evolutionary process that they've just gone through.

Chair Zuckerman then asked the board if they have any further questions for Mr. Gaba process-wise in the linkage between acceptance of this document and writing of the finding statement?

Mr. Werner stated that back to Ms. Conner's question, AKRF is assuming they would take the first crack at drafting that finding statement for the Board to review. It wasn't something that they were going to have the Board write. It's something that's in the voice of the Board. It's the lead agency's document. There'll be a lot of

phrasing such as the Planning Board finds this, the Planning Board finds that and it's all tied to the FEIS conclusions and to a lot of extent the DEIS too, which outlines the original project and a lot of the mitigation which some of it is gone because the equestrian center is gone. But a lot of the mitigation that they're proposed by design in the project, as well as what they're doing required by code like the SWPPP and other things for mitigation, are still proposed. He added that he just wanted to make that clear that they would draft that for the Board if you want them to.

Chair Zuckerman stated that he's going to now turn to the Board members to answer two questions. One, do they have any specific items in the FEIS that they would like to see changed, knowing that it is not possible for the Board to balance that against what AKRF have suggested. So, any specific edits? And, secondly, to give any indications at one level above of how they are feeling about the project relative to their SEQRA findings earlier on.

Ms. Wendel stated that she takes the applicant's point that some changes were made to the project. In her opinion, they are not adequate to mitigate the problems that were pointed out about the project. She thinks there should be fewer houses, the houses should be pulled back from the pond more, that the wildlife corridors should be clearer and she thinks some of the concerns that were raised about the vegetation of wildlife have not been sufficiently mitigated. She still feels like there's concerns about the water resources on the site that doesn't feel like have been answered, whether or not there are seeps, how water is moving on the site. She stated that she doesn't feel like she knows exactly what's happening with the amphibious life on the site other than the pond and that issue has not really been mitigated sufficiently. She knows that the applicant has said that the site will maintain a rural feel in terms of the landscaping, but she doesn't think there's been mitigation of the concern that's was raised with respect to the site that it's going to be lawns and houses without consideration of the rural character of the area. She's not sure what's happening in terms of the road access and thinks that's still a big open item and traffic. She's not saying that that was a DEIS issue but feels like that issue still is a big unknown about the project that creates uncertainty. She added that she's not saying there isn't going to be a development here but feels like the concerns that have been raised have not have not been mitigated to the extent that's practicable and the pulling back a little bit of some of the houses from the pond is just not sufficient to mitigate those concerns. Her concerns do not have to do with the editing and the style of the of the language. She knows that the FEIS is supposed to be their document, so she very much appreciates the consultants work in trying in hone the language and making sure that the language of the FEIS would be the language of the Planning Board. To some degree, she would point to areas where AKRF in its write-up has said this issue was only partially addressed. Many of the items that she would point out have been raised by commenters, including the Hudson Highlands Land Trust and others, just don't think that they've been mitigated to the extent practicable.

Mr. Tomann stated that he thinks that they are very close. He does hear some of the other Board members concerns about the density around the pond. If the pond is a clock, he's talking about the houses at eleven o'clock and three o'clock. He thinks if they could either pull back or eliminate one of those lots, he thinks they'd be a whole lot closer too.

Ms. O'Connell agrees that the density of the houses are still slightly too dense, but it's well within reason. She is a little concerned because she did read the memo that came from AKRF and wanted to echo Ms. Wendel's concern. She thinks that they're all saying the statement is almost there but it's not a hundred percent there, and it's not reading as that. She added that she's just going to go on good faith and assume that the applicant is going to take AKRF's comments into consideration and adjust the language as such, but she doesn't know if she would be able to blindly vote and agree and say that that's the case until they see the document.

Chair Zuckerman stated that it sounds like Ms. O'Connell is saying she's not comfortable approving accepting this document this evening.

Ms. O'Connell stated that there's just a little too much in the AKRF memo that doesn't make her feel comfortable to start the timer, so to speak.

Chair Zuckerman asked if there is a specific environmental impact they could actually further mitigate that she would actually be recommending to them as a thing, and that would make her feel they've done the maximum extent practicable? Is there anything she'd recommend?

Ms. O'Connell replied, no. She would just echo what Mr. Tomann said. He pointed out the two locations and she agrees with that. She's just more concerned about the memo itself and the just the language overall.

Mr. Lewis stated that the only real practical thing that he felt was a long discussion about the wildlife corridor and he doesn't think that really ever found a good common ground answer. There was a narrower one and there was the guy who was talking about how wildlife moved through an environment, and he tended to think that the person tended to kind of win the day, and he didn't think that the wildlife corridor was really sufficient for his comfort at this point. He referred to page 136, 135 in the new big binder that they received. The comment was coming from Klemens, most of them that seem to be fairly pungent and observant. The rest of my comments are pretty much just how he felt about it when reading. At the beginning on page 94 about lighting and so forth and it was kind of bounced back to the housing, the HOA, and he doesn't have a lot of faith in HOA's sticking to the rules of the game. He felt uncomfortable with the reliance on the HOA. He continued that he doesn't think that the document itself had much of a forward-looking feel. We're going to be in encountering a profound environmental change in the next couple of decades and this is going to be a different landscape in a couple of decades. He thinks that is something that needs to be at least thought about or brought into the picture. What's going to happen to the particular trees. These are all dying because of a particular bug or a particular temperature or something like that. It felt that there wasn't really a sense of there's going to be a tomorrow and what's this going to look like tomorrow and what's that pond going to look like tomorrow, because most of the ponds around here they get built up around and eutrophy fairly quickly. But there have been a lot of good responses to the AKRF questions about that. He continued, if we want this document to be in our voice and to be our document there are a couple things here that certainly aren't his voice. On page 121, Comment 3B.56, there's a comment that says that it will not widen the suburban land use type beyond what exists immediately to the south and north of the project site. Frankly, Route 9 to the north and south of the project site is not something he aspires to nor does he feel it's something that we want to stake our community character on. Adding another subdivision can't be excused or given a right simply because somebody else does something else across the street. His final comment is it felt very combative. This is a conservation subdivision and something that should actually be embraced and not felt like here's a question to something that you've done. It doesn't feel positive, doesn't feel good, doesn't feel like it's a project that somebody really wants to see done right and a certain amount of defensiveness and so on in the language he'd like to see changed.

Mr. Werner stated that they did make some updates to that based on AKRF's comments recently. The Board hasn't seen this yet but it just came back.

Mr. Gaba stated that Mr. Lewis' comments are certainly well taken as far as that goes, but he thinks many of them are just kind of general, how he feels about the project and not trying to give some direction on that they need to be incorporated to the FEIS, for example. He added that he's not criticizing Mr. Lewis in anyway. A subjective feel that an HOA may not live up to its obligations is all well and good, but it's not really the kind of thing they can hang their hat on in an EIS. If they've proposed it and they have a binding agreement for the HOA to do whatever it says it's going to do and it's enforceable, he thinks they have to take that at face value.

Mr. Lewis replied, yes, he thought the number of things that he said you couldn't add on at all. He just thought if this is going to be the Board's document, he just wanted to kind of air out the atmosphere, that's all.

Mr. Werner stated that paragraph for Comment 3B.56 about widening the suburban land use type beyond what exists immediately to south and north of the site, they didn't have them update any of that. He thinks what they were trying to say there, and he doesn't want to speak for the writer, but he thinks saying that introducing residential use east of Route 9 isn't going to be much different from what else is east of Route 9. There's residential to the north and to the south in a similar suburban setting, and that's pretty much what that was trying to say. If the Board would prefer, they soften that by saying "the project sponsor believes", so that it's in their words, and if the Board is acknowledging what they believe with this project, that's something they can do.

Chair Zuckerman stated that he wanted to make one editorial remark, which is he did appreciate whether that was from AKRF or the sponsor themselves, the notion "this says", "the sponsor etc., etc.", the project sponsor actually that's very helpful language because so much of this is the sponsor's opinion or the sponsor's actions no matter whether it says it's the board's document or not. He thinks that inclusion of that subject is very helpful.

Mr. Gagnon stated that he believes at this time the adjustments that were made based on concerns that the community had, that the Board had, that the applicant has really made reasonable adjustments to their plan. He'd like to see the changes to be made based on the comments AKRF because there are the partially addressed items. So, he's taking it that once this red lined document is distributed, they can read that and have a little bit more comfort with it. But, at this point in time, he truly believes that the applicant has made the adjustments that he feels are very reasonable.

Ms. Conner stated that she agrees with Ms. O'Connell that this is the third iteration for editing the tone or voice and she thinks it's the fifth AKRF memo. So, she'd really like to see all of that clarified before she would vote to approve or accept this. She continued that she wants to say something about the whole issue of suburban. This is supposed to be a conservation subdivision which is supposed to be different from a suburban layout, so if they're comparing it to suburban that's a little jarring if we're saying that it's no worse than suburban. One of the complaints about this particular layout has been that the houses aren't particularly clustered, that they are one acre lots and that's more like a suburban development than a true conservation subdivision cluster development. She's still trying to understand how the entry road fits into all of this and would like to ask Mr. Gaba about that, because she seems to remember there was an issue where they needed to have approval from the Town Board to change the zoning for a particular part of the land in order to get the density that they were looking for or to meet town road standards, and she doesn't know where that fits into their assessment here.

Mr. Gaba stated that he can't speak to the roadway. He can tell her that earlier on, and he thinks it's still part of this, they wanted a certain density and so they wanted to change an industrial small portion of the land that's actually going to be open space to residential. They may have gotten rid of that because they don't need it for the number of lots, or it might still be part of the project. He's just not sure where we are on the proposal to have a zoning change in regard to density at this point. The roadway he didn't think was an issue anymore, maybe Mr. Gainer and AKRF could speak more of that. But that's where we stand on the zoning.

Ms. Conner asked Mr. Gainer when he did his calculations for how many houses they're allowed to have, it didn't have anything to do with whether or not there was going to be an equestrian center, correct? The equestrian center was just sort of laid on top of the existing density calculation?

Mr. Gainer replied that's correct.

Ms. Conner stated so removing the equestrian center doesn't change that density calculation. She'd like to know if, in order to get the appropriate density calculation, that zoning change has to happen?

Mr. Gainer replied, yes it does. The original calculations that were done, and by now they're some years old. There's a small bit of the project along Route 9 that's in a commercial/industrial zone. He can't recall the specific zoning designation. They're proposing that that land be absorbed into the residential zoning district, and they're basing that acreage in order to justify two additional lots for the project. So, when they did the original counts, we were saying that if the zoning amendment was approved by the Town Board they would wind up with 24 lots. If it was not authorized, they would be limited to 22 lots. The lot count is still in question. They're working with the applicant's consultant to get the appropriate plan information so we can verify lot count. The applicant still believes it's a 25-lot count that's permitted, and that will be resolved. It's addressed in this FEIS by saying that this will be the subject of further review that'll happen subsequent to the completion of the environmental review.

Ms. Conner asked if that's possible because it seems like if they accept the FEIS they don't get to change anything.

Mr. Gaba stated that the SEQRA review is being based upon the presumption that they will get the zoning change. If they don't get the zoning change the more intense SEQRA review will still cover the lesser amount of lots. So, what's going to happen is they're going to go through SEQRA then and make a determination based on those lots. Then, once SEQRA is complete, they would go to the Town Board to petition for the zoning change. If they get the zoning change, they go ahead with the proposed development under the SEQRA review that took place for the highest number of lots. If they don't get the zoning change then, of course, the larger SEQRA review would also cover the lesser number of lots.

Mr. Gainer stated that the permitted density is going to be based on what's allowed in the zoning ordinance for conservation subdivisions. It's going to come back to that formula.

Ms. Conner asked so what does that mean? So how many is that?

Mr. Gainer stated that there's a discrepancy between the applicant's calculations and his own. That'll be finalized pretty quickly but it still has not been resolved. So, it's either 24 or 25 lots if they get the zoning, and it'll be 22 or 23 lots if the Town Board does not approve the change. But he'll have that tied down pretty shortly.

Ms. Conner asked what about the road?

Mr. Gainer stated that for the entrance road they're carrying a maximum grade of 12 percent. Internally all the project roads have been upgraded and no longer need any variances from the Town Board. So, they've addressed that concern.

Ms. Conner asked if the DOT doesn't give permission for this road to happen, then that's that you know.

Mr. Gainer replied, right, the whole concept of the project is predicated on Route 9 access. If they don't obtain a DOT permit, the project as envisioned can't move forward.

Ms. Conner asked, our approval doesn't affect DOT approval, like DOT isn't going to assume that because we approved something they should approve something?

Mr. Gainer replied, no. Any action the Board takes in advance of having receipt of that DOT approval would be conditioned upon that receipt, so the plans would not be signed until all approvals and all other conditions are satisfied.

Ms. Conner stated that she, too, has a concern about the number of houses around the pond and thinks there should be at least one fewer. If they end up with 24 houses as opposed to 25 houses perhaps one of the houses

around the pond could be that lesser house for protecting the wildlife corridor. She added that she really doesn't feel comfortable approving anything she hasn't read when it comes to tone.

Chair Zuckerman stated that's a very consistent set of voices from the Board. He stated that he has eight comments about the FEIS. The cover sheet, we clearly have a disconnect between the number of houses on this little property. Mr. Gainer has said it's 24. A couple of years ago we were sitting over in the library we said it was 24. The applicant has written on the first page "approval of a 25-lot subdivision". He stated that he would ask them to strike the words "25" and "lot". If they want to write approval of a conservation subdivision that's fine but it is clear that they are not in agreement on how many lots they may have. He would like that stricken. That's one. Page 15. There are several phrases in here that he doesn't like and he will describe them. Paragraph number three under what says response 2.2 the last word in the paragraph, *access to the pond will remain unencumbered*. He doesn't know if that's true it's unencumbered. Unencumbered means there's no encumbrances. There are a bunch of houses on that are going to ring the pond. Yes, they took some away, but at least 180 degrees of the pond have houses that are between the road and the pond. That is an encumbrance. In his opinion this is not unencumbered access to the pond. Next paragraph in the fifth line it says *the location of the proposed homes also has no significant impact on east-west ecological connectivity with Ulmar pond*. He doesn't know if it has no significant impact. He doesn't know if that's true. He thinks there is impact. He doesn't know if it's significant but he thinks he'd strike that sentence.

Mr. Gross replied that they have changed that wording to read the *project sponsor maintains that the modified layout would have no significant impact on east west ecological connectivity with Ulmar pond*. So, they've taken ownership of that opinion.

Chair Zuckerman stated, okay. Next, they write *this connection is preserved in its entirety with the preservation...* he would strike that clause, that is gratuitous. He doesn't think they need that and he certainly doesn't want that written if it's supposed to be his voice. Next page 17. He doesn't like the tone of this whole paragraph response 2.24. Mr. Gainer has been serving this town for decades and he's been the voice of this Board for a long time. That Mr. Gainer's asserted to be wrong. He's not saying he's infallible, we're all fallible. But he thinks it is unclear that it's actually true that he overstated the areas of the wetlands. Mr. Gainer has not told him he's done that. He's asked him a number of times. He thinks they're getting a little accusatory in the tone here and he personally doesn't love that language. He thinks it's important though, for AKRF, this paragraph to have a sentence, say, start with Ron Gainer the Town Engineer has identified through a series of calculations that this project is due 24 houses. However, the project sponsors did their own, and they came up with 25 and that's an objective assessment. If he was Ulysses and was spending all this money, he would want write it the same exact way he did, but since it's the Board's document he would like to write in a more balanced way, because it makes it sound like Mr. Gainer did something wrong and he doesn't know if that's been asserted yet, certainly not proven to him.

Mr. Gross stated that he just wants to clarify on that response 2.24 he's seeing a sentence that says both consultants, meaning both Mr. Gainer and the applicant's consultants, overstated the area of wetlands within the OSO district. Mr. Watson could speak to that, but he thinks he found an error that both made. That was what the comment was we all made the same mistake.

Mr. Watson stated that he did write that response. It wasn't intended to be accusatory. It was intended to point out that we both made a mistake. We both overstated the wetlands. He doesn't mind changing it if they want to make it softer. But he thinks the position is that we have a difference in the way we approached the calculation and we think that was that was to their detriment.

Mr. Gainer stated again, as he touched on earlier, he acknowledges what their position is. These calculations go back some years and they've always been willing to revisit the calculation. He thinks it is what the intent of this text should state. Once they once we get through the SEQRA process, they'll go through this issue one last time and then will come to some clear determination.

Chair Zuckerman stated that he's ok entertaining it as long as it begins with a sentence and says *Ron Gainer or the town engineer developed an assessment that says there's 24 houses*. We're avoiding that entirely, we need to assert that there's a difference of opinion at the calculation.

Chair Zuckerman continued with his comments. Page 21. The applicant's response to Mr. Gainer's point about lot size, which has been mentioned by every Board member tonight, all but one maybe. The applicant mentioned in here a lot about you basically have said "quote" in this response 2.3, you're quoting the code *conservation subdivisions may include a variety of lot size ranging from large farm to estate lots or state laws to small hamlet size lots*. Then the sentence after it says *the project sponsor decided that incorporating large farm will be contrary*. They address why they don't want the large lots, but don't address why they don't want the "small hamlet size lots" which of course they could do. They could have a cul-de-sac that is four townhouses put together, which would be more in keeping with this notion. They've chosen not to go that route and he thinks it's important to acknowledge that. Meaning a sentence would be incorporated that the project sponsor said to incorporate large or farm or state lots would be contrary to this concept of clustering, and probably something like "...and the project sponsors have chosen not to consider small hamlet size lots". That's factual, and they can't have it both ways. They can't say they're not going to do one thing in the code, but they don't want to talk to the other thing the code suggests. So, that would be a comment he'd like to add there.

Chair Zuckerman continued. On page 45, the second paragraph of 2.85, the paragraph that starts with *The DOT applies significant...* So, in one sentence it says *ultimately the project sponsor is confident blah blah blah*. Why are they including a perspective opinion? He thinks that is an unnecessary and again, a gratuitous remark. That they are confident is not a point of fact. That is a point of unnecessary conjecture and he doesn't think it's appropriate for a document like this. He would strike the whole sentence. Page 47, similar point that he just made. This is response 2.88, the sixth row quote *this statement suggests that NYS DOT will grant access...* He read the statement and he doesn't at all interpret that this statement suggests they'll grant access. All they said was coordination will be necessary between the department the project sponsor. Of course, it'll be necessary. Coordination is the core of having one agency touch another. He would strike that whole sentence. Page 97 again, in its entirety. This is response 3B.25. This is about two thirds the way down that paragraph. It starts with *in fact the design developed in 2014 involves guidance from the creek wetlands - Ulmar pond...* in its entirety. He would get rid of the "in its entirety". He doesn't think that's actually exactly true. Then again, they use the same phrase again on the next page.

Mr. Gross stated that's a factual statement.

Chair Zuckerman stated that the whole point they're making is that this Board keeps telling the applicant that having the houses in that area does impede possibly the corridor, and they've mitigated it.

Mr. Gross replied, he's talking about corridor, well then that's a little difference of opinion but they do absolutely preserve the entire creek wetlands, and Ulmar Pond in its entirety. There's no question about that. He added that he guesses it's how the Board wanted to define the width of the corridor.

Chair Zuckerman stated that he's asking they strike "in its entirety" from that paragraph. And two paragraphs tend to use the exact same language "in its entirety". Those are his comments specific on the FEIS.

As far as the project he thinks he's alluded these points before and all my fellow board members have made them. The southern portion of the pond still has one too many houses on it for purposes of preserving the corridor through the lower end of the pond and across going from east to west. Other Board members have mentioned the houses at 11 o'clock and 3 o'clock. To me, actually the one that's most challenging is the nine o'clock house, the one that's to the furthest due west. The second one is as they brought up the point around uniformity. The applicant intentionally did not look at the other modes that the conservation subdivision talks about, or at least the hamlet. They did not look at the farm sized ones nor did they look at the hamlet sized ones. He thinks that does lead to a situation where they do have a uniformity, and that is not necessarily in keeping with the conservation subdivision. He's not suggesting they need to make a bunch of townhouses now, but he thinks there is clearly a sentiment from this Board over and over again that the uniformity is not in keeping with the conservation subdivision. That said, the Board has given them a lot of commentary and there's edits to be made and he's pretty sure that no Board member here is going to, or maybe one, but he doesn't think he could even get a motion in a second to vote on the acceptance tonight. They've heard some commentary from the Board about what he would consider to be minor changes that need to be done. Changes to get this Board feeling more comfortable about the plan. He'd like to suggest you take the edits that AKRF has made, get a clean copy. This Board has clearly read the document and clearly communicated how they feel about the SEQRA situation and that's enough input for them to get back together in January, to get to an acceptance of the FEIS. That's my view at this point. He's happy to poll the Board members about whether they're willing to accept the document this evening.

Mr. O'Rourke stated that is not necessary to do that. This was a very productive discussion. No one likes to take a lot of criticism, but nevertheless it was constructive and there are things that they can work on together. They got comments yesterday afternoon at four o'clock, and Mr. Gross worked into the night trying to respond as quickly as possible. What I would like to have, we got it from the Board, you've polled them and we got their comments, we have now turned around more comments that AKRF has had, instead of waiting...

Chair Zuckerman stated that the reality is that it's not done enough where it needs to get done, and he's not blaming. This is where we are and this is the craziness of this process where the applicant authors a document that's for the Board. That's the crazy part.

Mr. O'Rourke stated that he just wants to stop the endless comments, once and for all.

Chair Zuckerman said that, from his understanding, he previously directed that AKRF and you get in a room and figure this out. And, AKRF came back and said that there were still 300 of those comments not made. AKRF is itemizing the things that they haven't done. And, as Ms. Conner and Ms. O'Connell both articulately said, they don't want to make a judgment on this thing until AKRF says it's all done. So, given what that said, plus the fact that the Board has not seen it even though Mr. Gross worked on it. He will implore AKRF to give them the remarks as soon as you return it.

Mr. Gross stated that they've already made the changes from the memo that they received today. He was working with AKRF yesterday. He's confused by the comment about there are hundreds of comments, because they have responded to every single comment that we have gotten.

Chair Zuckerman stated that Mr. O'Rourke just said he'd like to have more advanced notice of the comments. So, he doesn't know what to do with that except to say that we will see you at the next board meeting. You have the comments from AKRF, you have the comments from the Board. If you get it to us at the appropriate time the Board will have the chance to weigh in and accept this document. It also gives the applicant time to think about,



from a project perspective, intent on some of the things the Board has said about what they could do to find the project more satisfying from an environmental perspective.

Mr. Werner stated that they got a redline word document at 6:30 pm tonight that responds to their memo from today. There're additional comments that the Board has tonight. I think that what the Board would want to look at is a similar "track change" word file. That would have helped the Board tremendously. It helped AKRF a lot in expediting their review the last time around, so that's what he would recommend, that they take the comments from tonight, add it to what we already got, and send it back so the Board can review it.

Chair Zuckerman then asked for a motion to adjourn. Kim Conner made the motion; Dennis Gagnon seconded the motion.

The vote went as follows:

Ms. Conner: Aye

Dennis Gagnon: Aye

Peter Lewis: Aye

Laura O'Connell: Aye

Neal Tomann: Aye

Heldi Wendel: Aye

Chair Neal Zuckerman: Aye

Opposed, Abstentions? Being none the vote passes.

The meeting was adjourned at 10:16 pm.

Date Approved: 2/17/22



Respectfully submitted by  
Cheryl Rockett- Planning Board Secretary