

TOWN OF PHILIPSTOWN PLANNING BOARD
Regular Meeting
Philipstown Town Hall, 238 Main St., Cold Spring, NY 10516
and Virtually Via Zoom
April 21st, 2022

The Planning Board held their regular monthly meeting on Thursday, April 21st, 2022.

Present:

Kim Conner
Dennis Gagnon
Peter Lewis
Laura O'Connell
Neal Tomann
Heidi Wendel
Ronald J. Gainer, PE, Town Engineer
Stephen Gaba, Esq.

Absent:

Neal Zuckerman (Chair)

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

Vice Chair Conner opened the meeting and led the pledge of allegiance.

Ms. Rockett took the roll call.

Vice Chair Conner stated that they will start with the approval of the minutes. For the March 6th Sadlon/Wenske site visit minutes, does anybody have any comments? Would anybody like to make a motion to approve the minutes?

Neal Tomann 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

Opposed, Abstentions? Being none the motion passes.

She then asked if there were any corrections, additions for the February 17th meeting minutes? Being none, she asked for a motion to approve those minutes.

Neal Tomann 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

Opposed, Abstentions? Being none the motion passes.

Vice Chair Conner then asked if there were any corrections, additions for the March 17th meeting minutes? Being none, she asked for a motion to approve those minutes.

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

Opposed, Abstentions? Being none the motion passes.

Correspondence

Vice Chair Conner stated that the Board is in receipt of some correspondence from neighbors at 28-30 Hudson River Lane that is not on the agenda tonight in terms of a project that we're going to discuss, so she would imagine what they do with this is discuss it once it's back on the agenda.

Mr. Gaba replied that's right. This is on the Wildrick site plan application and they're not on the agenda this evening. He added that he doesn't believe they've even had a public hearing on that. The Board should just note for the record that it's received, and when Wildrick comes back on the agenda it'll be a matter that's in the record.

Old Business

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

Vice Chair Conner stated that this is Sadlon & Wenske, 825 Route 9D Garrison which is a minor project. A development of a new single-family dwelling, accessory building and an in-ground swimming pool to be served by a new septic system and water well and related site improvements.

Mr. Gainer stated that resolutions were prepared at the Board's direction. They have the resolution before them tonight. The Board has addressed all necessary procedural matters. They've conducted a public hearing and made all referrals. They're now at a point to adopt the resolution before them. It's in a very standard form that the Board utilizes and identifies the specific conditions of approval applicable to the project, being payment of outstanding fees and receipt of written approval from the New York State Department of Transportation for the highway access.

Mr. Gaba stated that the Board directed these approvals be prepared last meeting. They're ready to be voted on.

Vice Chair Conner asked if anyone on the Board has any comments? She then stated she thinks they're ready to approve the resolutions. She then asked for a motion to approve the resolution.

Mr. Gagnon 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

Opposed, Abstentions? Being none the motion passes.

Cedar Hill Landscaping- Depaolis, 18 East Mtn. Rd. North, Cold Spring, NY 10516 TM#17.-1-42

Vice Chair Conner stated it's a major project. The applicant proposes to construct a new 48' by 80' garage/barn on the property to house equipment for a landscape company. Site improvements will include an extension of the driveway, employee parking and material bins. The use of the existing single-family home will continue and existing apartment of the garage will be utilized for office of the landscaping company. She asked Mr. Gainer if he had any comments.

Mr. Gainer stated no. The Board has addressed all necessary procedural actions pursuant to code. They've also made necessary referrals. Since it's a commercial project, there's actually two resolutions before the Board tonight for consideration. The first one that should be considered is the resolution adopting a negative SEQRA declaration that's before them.

Vice Chair Conner asked if anyone on the Board has any comments. She then asked for someone to make a motion to make a negative SEQRA declaration.

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 Opposed, Abstentions? Being none the motion passes.

Vice Chair Conner then asked if the Board had any comments on the site plan resolution? She then asked for a motion to approve the resolution.

Mr. Gagnon 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

Opposed, Abstentions? Being none the motion passes.

New Business

Hunt-Potter, 201 Moog Road, Garrison, NY 10524 TM#49.-3-7

Vice Chair Tomann stated that this is an amendment to a site plan that the Board approved in 2019.

Mr. Gainer replied that's correct. When he applicant originally came before the Board they proposed significant improvements on the property, including a pool, spa area, a patio deck in the area of the pool, and a 10-foot-high retaining wall to create the level pad for all those improvements that he just described. There was significant site clearing that was performed or proposed at the time and they also performed significant screening, buffer landscaping along the southerly property line. After that approval, they completed all the site work which encompassed some six tenths of an acre of

disturbance. They also at the time again received approval for some renovation of the decks that existed along the rear of the property. Those deck improvements, to his knowledge were never done. In the intervening period now that the other improvements and the significant site disturbance has been completed, the applicant has decided to expand those decks to some degree from that originally proposed. He thinks the extent of improvements is to increase the decks that were originally approved by about a third.

Vice Chair Tomann asked if there is any additional disturbance that goes along with the expansion of square footage?

Mr. Gainer replied no, the expansion of these decks is within an area that was to be disturbed by the original approval.

Vice Chair Tomann asked if the footings and everything are going to be in the same place?

Mr. Gainer replied right, within the area that was to be disturbed.

Vice Chair Tomann stated so, it sounds like the Board has two options here. They can have the Board discuss that either there's no significant change and vote to approve the amended site plan here, or they can have their discussion and if they decide that there is significant change, they can do another site visit.

Heid Wendel stated that she would like to have a site visit because she joined the Board after this visit was made so it's hard for her to picture.

Mr. Lewis stated he would like to do a site visit too because the configuration of the deck as it's now been reconfigured, he would like to be able to see who sees what in the neighborhood and if there's anything that becomes a problem there.

Mr. Gagnon stated based on the information provided, he doesn't feel he needs an additional site visit. He recalls the site pretty clearly and the expansion isn't really of any great magnitude.

Ms. O'Connell stated that she'd like to go on a site visit but, based upon what Mr. Gainer is saying, it sounds like it's not going to be too impactful but she just wants to confirm.

Ms. Conner stated that she could go either way. She asked what is the footprint for the house and how much this adds to the overall footprint?

There were technical issues with the audio/zoom feed for the meeting and the applicant could not answer.

Vice Chair Conner asked Ms. Rockett if she could put in the chat that they are having technical issues. She then stated that it sounds like they have enough Board members who would like a site visit.

Mr. Gaba stated that they need one more. He added they will need to decide if they require a public hearing or not, depending on whether there's a significant change in the site plan. If there isn't then they are in a position to direct Mr. Gainer to prepare approval resolutions. If there is a change in the site plan then they have to hold a public hearing.

Neal Tomann asked if they had to vote to have a public hearing.

Mr. Gainer replied, only if there is significant or substantial change to the original site plan. He added that could be a motion either way.

Mr. Gaba stated the Board has to make a determination if the proposed change is a substantial change to the approved site plan or not. Somebody should either make a motion that it is or that it's not then they can have a second and then vote on it.

Vice Chair Tomann asked for a motion that this is not a substantial change to the existing site plan.

Vice Chair 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

Opposed, Abstentions? Being none the motion passes.

Vice Chair Tomann stated now they have to make a motion to have Mr. Gainer prepare a resolution to approve the amendment to the site plan.

Vice Chair 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

Opposed, Abstentions? Being none the motion passes.

Returning Business

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

Mr. Gaba stated that the Final Environmental Impact Statement (FEIS) has been reviewed by AKRF and Mr. Gainer and the applicant for the last few months, and they can speak to the changes and their position as to whether all of the comments that were made at the public hearing have been adequately answered. Assuming that the Board finds that all of the issues raised at the public hearing have been adequately answered, it would vote to accept the FEIS. Once the FEIS is accepted, a notice is filed with the state and they have to wait 10 days from the filing of the notice of the acceptance of the completed FEIS for public comment. Once those 10 days are up, then the Board's consultants will prepare a draft finding statement for the Board to consider at its next meeting. If the Board is satisfied with the draft finding statement prepared by its consultants, it will adopt the finding statement and then the SEQRA process will be completed and the Board will proceed to consideration of the substantive request for a conservation subdivision.

Aaron Werner from AKRF stated that back in the December meeting they expressed their additional comments at that time on issues of voice in the document, tone, some other outstanding substantive issues that they asked the applicant to address. The Board members also had some comments that they wanted incorporated into the document at that time. So, the applicant went ahead and did that. They then submitted in early March a redlined word file of the FEIS which included addressing all the

comments from AKRF and the Board. They've reviewed that, they've offered some final notes in that document which he provided to Ms. Rockett that she shared with everybody else. AKRF's last, what they're calling their final notes and that are highlighted so the Board can see what they offered in addition to what the applicant already has in there as track changes. In AKRF's opinion at this point they feel that the FEIS is acceptable. Obviously, they wanted the Board to take a look at it since the March meeting to see if the comments the Board had were addressed and also the applicant made some changes to the plan that he thinks they want to present those. But, at this point, their position is that the document can be adopted if the Board agrees to it and then they would move ahead with posting a "Notice of Completion" which has to go to all the involved agencies with a copy of the document. There's a notice that gets posted to the DEC's Environmental Notice Bulletin (ENB) web site that has to appear and then there's the 10-day period that Mr. Gaba mentioned. Then, if they get the go-ahead from the Board, AKRF will draft a finding statement for the Board's consideration.

Mr. Gainer stated that AKRF and his office have been working currently on the review of all the EIS documents throughout the entire process, and so he concurs with their findings.

Vice Chair Conner stated at this point it would be appropriate to ask the applicant to speak.

Richard O'Rourke from law firm of Keane & Beane stated that he is representing the applicant and the owner who is here this evening, Ulises Liceaga who is a resident here in the Town of Phillipstown. He added that he's listened carefully to what Mr. Gaba said, as well as Mr. Werner, and they properly outlined what the lawful and legal procedures are that must be followed. They now have reached the point of time when the Board had over eight weeks to review the last document that was submitted and which they now know has been responsive to the comments that have been raised by the Board's consultant. He stated they would respectfully request that the Board follow the procedure and proceed.

Vice Chair Conner then asked if anyone on the Board has any comments.

Ms. Wendel stated that in her opinion after a hard look at the FEIS, she doesn't feel that it reflects her views of the project. In particular she finds very persuasive the comments of the Conservation Board. She knows they discussed this the last time this project came up, but she does not think the FEIS reflects adequate consideration of wildlife corridors, adequate protection for the pond. She doesn't think it takes into account sufficiently the comments that were made about concerns about the project's failure to take into account the intentions behind the conservation subdivision local law and, in addition, the Conservation Board has raised concerns that she doesn't think have been addressed including regarding the stormwater pollution prevention plan and concerns about the homeowners association and how the Planning Board could ensure that the project will actually reflect some of what is contained in the FEIS which, without protections to ensure that the homeowners association would actually make sure that the properties contain the provisions that have been expressed currently in the FEIS. She feels that they have no assurance that those provisions will actually go into place. Most importantly, however, are the wildlife corridors, the habitat fragmentation and the concerns about protecting the pond and the wetlands. Therefore, she thinks they need to have further changes before she could vote to accept the document. If she may make one reference to the document, it specifically says that there is an agreed upon total number of homes and she does not believe that they had an agreed upon total number of homes. They discussed that topic but she does not think that it's the case that there's an agreed upon number of homes between the applicant and the Planning Board.

Vice Chair Conner stated as she understands it between the last time that they talked about these things one home has been removed.

Mr. O'Rourke replied yes, that is correct.

Vice Chair Conner stated and the other thing that they requested was to remove more homes from around the pond so she understands that one has been moved from that part, is that correct?

Mr. O'Rourke stated that they can certainly can go through the plans here. What they've done is widened the wildlife corridor by removing one home and then widening the area that was identified as the wildlife corridor. Insofar as the intention of a conservation subdivision, he would make it clear that the conservation subdivision that was reviewed over the last eight years, all of the homes and sites have been removed from the property that was classified by the Board's consultants and the Board as having conservation value. There is not one single home that's in any of the conservation area properties that were so classified, including the ones that had very low conservation value. Insofar as the intention of a conservation subdivision, he'll defer to Mr. Gaba but the intention of the legislation cannot override the clear provisions of the law and while respectfully they may say that's the intention what the law provides for it and there's adequate case law to suggest and to say that it's what the literal provisions are. From their position they comply. He added they're setting aside almost 80 percent of the land to be conserved in perpetuity and have removed the disturbance for the homes from any of the property that was classified as having conservation value. So, that's their position.

Mr. Gainer stated that the conservation subdivision regulations do permit the utilization of a formula based on site constraints for the overall project to establish lot count. That formula that they reviewed identified the lot count as 24 units were permitted. There was some discussion that goes back to an extended period that the applicant felt an additional number of lots was permitted. The applicant has now agreed to prosecute a 24-lot subdivision, so that's what's represented on the latest FEIS. So, he thinks the lot count now proposed is permitted by code and it's confirmed by the applicant as to the intent of this project to conform.

Mr. Lewis stated that he does want to stick to the Code as much as possible. He doesn't want to just be talking about his own preferences, but the HOA disturbs him because it's an all-volunteer group who tend to diminish their interest over time in his experience and although there will be a Board and a volunteer group of people in the HOA, he would like to see a full-time administrator who can't look the other way, can look at the problems that may be in the HOA plan of what they would like to do. It's not legal. He just thinks that oversight is a great thing to have and that would be for the HOA. He's sad that there is no public access, it gives him a feeling of a gated community and he's not too happy about that. He added that he wishes there were some way to control public access so that it didn't do some damage to the land, but there really is no way to do that. But in the Code, and he's talking about character now, it says; *"preserving important natural attributes of the land"*. He tends to think the pond is pretty much one of the most important attributes of that particular piece of conservation subdivision and *"most conservation value should be protected"*, 175.73. Again, these are things about character but they're in the Code and they're something that they should talk about. He thinks that the clustering of homes around the pond and then trickling up the water complex could be a serious problem for the water situation and around there and that then they spread out up to where the equestrian center was going to be so there are the houses up there. He doesn't know what type of impact that they're going to have on that slope that they're going to be at the foot of. He'd like to know if they need to send out another group of people to say this is not a wildlife corridor, this is not going to interrupt the natural functioning of this particular space. He knows this is somebody's opinion but already subject to the possibility of fragmentation and wildlife corridors and so forth and that is all he has to say.

Mr. Gagnon stated that he's going to reach out to their professional consultants on this matter - really three questions. Does this plan as presented now meet the true consideration for a conservation subdivision? Does the proposed project scope as defined now meet all the town's code requirements? Is there anything in this project now proposed that doesn't comply with town codes or even the comprehensive plan?

Mr. Gaba stated that there's no question about that it meets all the requirements of the conservation subdivision set forth in the town code. There's some talk does it meet the intention behind the conservation subdivision provisions of the town code? The clearest manifestation of the intent of the Town Board is the language that it used when it drafted the code. If it says that they don't have to vary the size of lots, it means the Town Board did not intend them to have to vary the size of the lots. If it did it would have said so in the code. He added that he understands the sentiment of persons who've raised those comments, whether it's from the public or otherwise, but the fact of the matter is - if it meets the code as a matter of law, it meets the intent of the town code. The Comprehensive Plan is something that they should always keep in mind in terms of the approvals that they grant, but the comprehensive plan is not law. The comprehensive plan does not override the terms set forth in the town zoning code and this plan meets the town zoning code.

Vice Chair Tomann stated that his comments were much along the side of Mr. Gagnon's, so he's happy with the questions and answers that they've gotten so far.

Vice Chair Conner stated that as she sees it, they've asked the applicant to change the tone, they asked them to remove the house, they've asked them to move houses that would at least make a change to what is around the pond. She thinks that they've met the criteria for the Board to approve the FEIS, so she's prepared to do that.

Ms. O'Connell stated that she is a little slightly concerned just on my perspective of the amount of work regarding the construction and the amount of work that's going to happen around the area so just to say that she knows that part of the FEIS there was in the large document inclusive of a construction mobilization plan and understanding of the phasing, there is some concern that if they are to continue and do all of that construction work it will affect the local area and the disturbance will be major. That's just a personal opinion so and it has nothing to do with what they're voting on and approving so that's just her opinion.

Vice Chair Conner asked Mr. Gaba procedurally where are they?

Mr. Gaba stated that the next step unless the Board wishes to discuss it further or hear from the applicants some more would be for someone to make a motion to adopt the FEIS and then there would be a second and a vote on it.

Vice Chair Conner asked if anyone is prepared to make a motion to adopt the FEIS?

Mr. Gagnon made the motion; Vice Chair Tomann seconded the motion. The vote went as follows:

Kim Conner: Aye

Dennis Gagnon: Aye

Peter Lewis: Opposed

Laura O'Connell: Aye

Neal Tomann: Aye

Heidi Wendel: Opposed

Opposed, Abstentions? The motion passes.

Mr. Gaba stated that the next step would be to direct the consultants to prepare the finding statement.

Mr. Werner stated that before that the FEIS next has to be finalized, cleaned up in a final form submitted to the town and it has to be distributed with the notice of completion to all the involved agencies that got the draft EIS. So, that's the next step on the applicant's side. They have a Notice of Completion drafted. He'll talk with Mr. Gaba about that when the document comes in and it's ready to be distributed, and they'll talk with Ms. Rockett about getting that out. The ENB notice which is required by the state has to appear, but their deadline for it being published is always on Wednesday at 6 p.m. So they can't submit that until next Wednesday and it'll appear the following Wednesday in the ENB. Once the document is distributed that's when that 10-day clock starts. Following that they can start preparing it, or they can tell AKRF tonight that they want them to start preparing it and they can have it ready for the next meeting for the Board to review.

Mr. Gaba stated that whether they start preparing it immediately or whether the Board has them wait, there's that 10-day comment period and the Board will have to take into consideration any written comments that it receives before it acts on the finding statement. They'll get a draft and review it, look at those comments before any action is taken. He added that in his opinion it doesn't really matter whether they start right away or wait because it's just a draft document but whatever they are more comfortable with is fine with him.

Mr. Werner stated they can definitely start drafting the finding statement and can have it in advance to the next meeting for the Board to review. Just a reminder on the finding statement; there's two kinds of finding statements. There's a positive finding statement which means that the Board is ready to approve this project because all the impacts identified are being mitigated to the maximum extent practicable. If the Board adopts a negative finding statement, meaning that they don't want to approve this project, they have to provide a reason why. But it sounds like from what he's seeing with the vote it seems like they're moving forward with the way the FEIS is presented, the way the plan is presented, so he just wanted to make that clear that there's two kinds of findings.

Mr. Gagnon asked Mr. Gaba with the approval of this project it was all predicated with access off Route 9. If the DOT for whatever reason puts the kibosh on that where does the Board stand?

Mr. Gaba replied that the applicant would have to come back with amended plans because they won't be able to access the project from the spot shown on their plans. It would still be this approval process. They'll come in with revised plans.

Vice Chair Conner asked Mr. Gaba how difficult is it to incorporate changes?

Mr. Gaba replied that it makes no difference. They can incorporate any changes the Boards wants. They're going to discuss the draft document at the next meeting. He would have them start now.

Vice Chair Tomann asked what kind of finding statement.

Mr. Gaba replied the finding statement they're going to prepare, he would imagine anyway, is going to reflect what's in the EIS and in the FEIS and if the Board disagrees with their take on that they'll say, wait I don't agree with this or change that and then they'll revise the finding statement prepared for the next month's meeting, but they have to start somewhere.

Vice Chair Conner asked for a motion to direct Mr. Werner start working on the draft of the finding statement.

Mr. Gagnon 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: Opposed

Opposed, Abstentions? The motion passes.

Mr. O'Rourke stated that they will coordinate with Mr. Werner and Mr. Gaba in terms of whether you need hard copies or flash drives in terms of the circulation to various agencies.

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

Vice Chair Tomann stated this leads us to the Garrison Golf Club PDD/Hudson Valley Shakespeare Festival project, major site plan and three lot subdivision, modifications to the Garrison Golf Course PDD to permit relocation of the Hudson Valley Shakespeare Festival to the site, new theaters, outdoor pavilion and housing for artists and visitors. Existing banquet restaurant facility to remain. Expected action item: Public hearing was closed on March 17th, Board to discuss April 7th letter just received from the applicant's consultant reducing the overall scope of the project. He added that the Board got the applicant's amendments and they have a folder of equal size with letters from the public. They did get all of this last week; they're still looking at them. He then asked Mr. Hollis if he would care to tell the Board a little bit about the changes that they've made to the application.

P. Dan Hollis of Hollis, Laidlaw and Simon, Attorneys for Hudson Valley Shakespeare and The Garrison stated that Mr. Tomann made an accurate representation of what's happened since the last meeting. What they have done is provided a procedural fact sheet that AKRF was provided as well as Mr. Gainer and Mr. Gaba on April the 7th that outlines the scope of the changes that were made. He just wanted to cover a couple of procedural aspects. They also received after the last meeting 13 pages of questions that were categorized by topic that was somewhat similar to the outline of the EAF part three. By April 14th, with the permission of Chairman Zuckerman, they made a further submission to the Board, about 54 pages, which included those questions and their responses to each of the questions. He can say with 100% certainty that there's nothing in the questions that's different than any question that have been posed by AKRF to their part 3 submission, or any of the questions posed by the Board, and they answered them all. With that in mind he respectfully submits that based upon their EAF submission, their responses to the AKRF questions and comments with regard to the part 3 submission and their response is there too. The fact sheet that outlines the changes to the project, the reduction in scope; the reduction in scope is important to remember was the results from comments by the Board and by the public to the scope of the project and they listened and they responded accordingly. He added that he thinks that at the May meeting, procedurally, hopefully Mr. Zuckerman will be with us so they'll have a full Board, he thinks they can have a meaningful discussion of those questions and answers and any other aspect of the part 3, so that at the end of that meeting the Board will be in a position to direct their consultants to prepare a declaration to vote on at the June meeting with regard to a SEQRA determination. He will now turn it over to Mr. Johannessen to walk through his April 7th letter to the

Board, outlining in detail what the changes were in the reduction in the scope of the project and entertain any questions the Board has with regard to that reduction and that April 7th submission. And if they want to go further to discuss any of the applicant's responses to the 13 pages of questions, they're glad to do that as well. For the Board and for those that might be in the audience of interest that is part of the submission a side-by-side comparison of the previous submission and the reduced project.

Mr. Johannessen stated, as Mr. Hollis mentioned, they put together what they're calling a fact sheet. It's a letter from the project team from his office. The fact sheet is just an identification of the reduction in project scope and how the reduction in scope has reduced significantly the impacts of the project. They tried to categorize them into some of the major topics that have been of the Board's most concern. The two significant changes in scope include the removal of the 20-room hotel and the indoor theater. In the 2005 PDD approval, there was a 40-room hotel approved as part of that project. They had reduced it into 20 rooms, and now it's entirely out of the project scope. The indoor theater was a one-story 14,000 square foot building, 38 feet in height, 225 seats and it would have expanded the performance season by three additional months; April, May and December. Going through just the topics of interest. The total number of structures has always been of concern to the Board and the total number of seats. So, these are two of the larger buildings that were proposed as part of the project and they're now eliminated. Total square footage reduction 29,600 square feet, that's a 39% reduction of floor area. The applicant has also reduced the number of seats associated with the tent theater from 530 to 500 seats. So, what they're talking about here is a total reduction of 255 seats, 20 rooms and 40 overnight guests. The maximum occupancy of the site has always been a concern of the Board. They had identified in the part 3 EAF with the prior proposal that the theoretical maximum, very conservative number, would have been 1124 persons on the site theoretical maximum. With the reduction of the two buildings, the new theoretical maximum is 853 persons. That's a 24% reduction or 271 persons. Obviously, they had indicated that the performance season is now reduced because of the removal of the indoor theater, and they provided a side-by-side comparison of the performance calendar. This is a figure that they've seen before in the EAF and they can see clearly what's being eliminated. Attached to their memorandum was a technical memo from Kimley Horn dated April 6. That memo really just went through and identified the improvements to the level of service at the various intersections studied and also indicated that all of the previously proposed traffic mitigation items are still part of the proposal, the things that they think are important and that they feel that the Board thinks are important. The traffic light, the turning lanes on Route 9, the striping at the intersection of Snake Hill and Route 9 are all still part of the proposal. With the reduction in the number of people on the site at any given point comes a reduction in parking demand and the amount of parking that needed to serve the project, and those numbers are they had proposed 462 parking spaces the new parking count is 381 parking spaces. That's a reduction of 17.5%. They're going to keep the 130 parking spaces that exist on Snake Hill Road that are proximate to the maintenance facility as overflow, although they don't really think that they'll see much action. With the reduction of parking comes a reduction in the size of the parking, and one of the great benefits of the reduced scope in the project environmentally is their ability to remove in its entirety the proposed parking lot and driveway from the wetland buffer. So, they're able to reduce the number of parking spaces and push that parking lot entirely out of the wetland buffer along with the access road. When they walked the property with the Conservation Board, that was really one of their main sticking points, not so much the bridge but the driveway. They asked at the time if they could move this out of the buffer, and at the time they really couldn't because they needed those parking spaces to serve the project and that of course has changed. That entire parking area is going to be pervious parking, it's not

going to be paved. It's going to be gravel or some other permeable surface. The numbers on the water demand also get reduced. The water demand under the prior proposal was 16,453 gallons per day. The previously proposed hotel had a value of 2,200 gallons per day, the theater 900 gallons per day. So, that was a reduction of 3,100 gallons per day or 19%. Their new demand for the entire project including the new residence for Mr. Davis is 13,353 gallons per day, 750 of which correlate with the residence of Mr. Davis. So, associated with the Hudson Valley Shakespeare Festival water demand is 12,603 gallons per day. Obviously, there's still an increase from what they're proposing at 12,603 per day to what is occurring now 9,820 gallons per day. That's an increase of 28%. If you look back at the 2005 PDD approval they're actually less than what was approved at that point by about 2,717 gallons per day when comparing their new proposal to the 2005 PDD, much of which did not get constructed. That is the numbers. He thought that that would be at least a good overview so they can see how significant the changes are and what they mean from a SEQRA standpoint.

Ms. Wendel stated that she certainly appreciates the fact that the project has been reduced in size, but she still thinks there needs to be more development on soil contamination issues, the water issues, very concerning issues about the water table that was raised by residents. The noise issues that were raised, particularly impacts when there's weddings and shows going on. Whether the noise impacts are going to be more severe on residents than has been than is currently reflected in the application. Some of the testimony that they've heard at the public hearing does not seem consistent with the materials that the applicant has presented with respect to noise in particular, also water. She would think that needs more development those two issues in particular. She also thinks the traffic issues still are very concerning. She thinks the testimony by many residents that raises very significant issues about traffic that require further exploration. The soil contamination issues have hardly been developed at all. Certainly, the applicant has flagged those issues, the applicant has basically said they're not certain how they're going to deal with it. She thinks more sampling is needed with respect to the soil contamination and more information about how that issue will be handled, whether there could be impacts on water quality. She's concerned about the location of the tent based on the scenic values of the site. A lot of issues in her opinion were raised at the public hearing that still are of concern, even with the reduced size of the project. She does think that there needs to be more fact development.

Vice Chair Tomann stated that what they're going to try and do next month is try and get feedback from the Board, which is why he started with the pile of papers from the applicant and the pile from the public. What they're trying to do between now and next month and then come back to the table with hopefully some more concise looks at what they're talking about here. He added they have a lot of reading to do between now and next month.

Mr. Hollis stated that he just wanted to respond to Ms. Wendel's point that their responses to the questions. The only professional report other than in the record is the Michalski report, and Mr. Woodell, who's here to answer any questions tonight if that became necessary, has responded to that in addition to their 54 pages of answers to the 13 pages of questions. So, there are responses to all the points that she made reference to, they have been addressed in the questions. Even if they're not satisfied with the answers in the EAF part three, they're further developed in the responses to the questions.

Mr. Lewis stated that the only concern he has, besides the concerns Ms. Wendel raised which as Mr. Hollis said will be procedurally addressed as they go down the line to DEIS, FEIS, and all the others. His only question is the traffic light at Snake Hill and Travis Corner and Route 9. Is that before the DOT?

Mr. Hollis stated yes, the warrant has been submitted but he added that he doesn't think they're talking about a DEIS and FEIS at the moment, though.

Mr. Gagnon stated that some of his main concerns are; one is the location of the performance tent, not necessarily regarding the view of that but, when they had their first walkthrough, it was an incredibly windy day and he is very concerned with the structural integrity of that tent. He knows some engineer is going to be putting a stamp on that there. He knows they're putting a little bit of a berm for a buffer behind the tent on the southwest side. He guesses it would be considered, but it is a tremendous exposure to that wind, just his own observation. He's concerned with public safety with that. The other concern he has is the departing traffic off of Snake Hill Road, either be it with the new bridge or the existing location as people are departing the venue, going down Snake Hill to 9D. When they're going to be making that left hand turn on to 9D going south, he can see an incredible backup of traffic and a problem. That's going to need some either direct control regarding a police officer or something in order to have traffic moving freely. There's a stop sign but once people start heading out and they have 100 or so cars backed up, that's one of my observations that he's seen myself down there. The other one is leaving the venue with the existing entryway driveway onto Route 9 when they have people trying to make a left-hand turn going north on Route 9. If that new traffic light is at the corner there's going to be a backup of vehicles stopping people from making that left-hand turn and he could see someone being very courteous letting somebody pass they're going to wave them on and as they're waving them on there's going to be a car coming north on Route 9 that they're not going to see. Just a consideration of potential problems down that way. The other one is really water consumption and the possible effect on the other local wells in the community that's been voiced many times with the public hearings.

Mr. Hollis stated that if he can just talk about the water so he doesn't forget it. In 2005 there was an EIS. The applicants submitted to that voluntarily and in that analysis under the EIS there was a water budget determined and they have been at lower than that.

Mr. Gagnon replied that he understands that, they're reading this, they're all numbers, right? When it comes to actual daily use, weather conditions, everything else, it can be changed and it's a concern that something might develop. He stated he didn't know if there'd be any type of contingency plan associated with that. The other item, since the venue has been reduced in size and scope, is there a way to reconsider rebuilding or putting a new bridge at the location of the existing bridge so they're not dealing with a new exiting location that seems to be affecting a lot of people's opinions, that being a problem.

Ms. O'Connell stated that one of the things that she would recommend is, going back to that lovely walk through where they enjoyed the rain and the cold wind, there was a mention and she thinks Chair Zuckerman alluded to it at the walk through. They understand the location, they understand for those that can visually imagine what kind of span bridge they're looking at. Just as a recommendation she does think that there is some benefit for the Board to understand the mass bulking that's going to be needed. They're going to need something from the Snake Hill Road in order for it to be footed in order for that span bridge to work, and she thinks it would just be helpful for them to even just look at what that mass looks like. It doesn't have to be fully designed, but just to understand what the impact to the retaining wall and then how it spans across and how it meets the other side she thinks will be very helpful for them to visualize the impact of that.

Mr. Hollis stated that they have a little bit of that in the in the in the submission and they'll deal with the water budget and with that in May.

Vice Chair Conner stated she was going to say exactly what Ms. O'Connell said, that it would be nice to have a drawing that gave them a feeling of what the mass is because when they were on site people keep saying that it is going to be really big, it's 20 feet, it's 27 feet whatever. So, additionally it would be helpful to have perhaps drawings of exactly where the parking is going to be and how it's going to be different.

Mr. Hollis asked how she would like that beyond the site plan?

Vice Chair Conner stated that the applicant's version is much larger than the Board's and it would just be nice to have a piece of paper that's a reasonable size to just show the absence of the building and what's going to be there instead and the absence of the parking then also the hotel. On the drawing they have here that it looks like there's some paths where there was nothing before, and so it'd be interesting just to see what that intention is. She added that she assumes they're going to talk about this but when they talk about mitigation of the chemicals on the greens, she would like some guidance from counsel on what they're permitted to request because that is going to be a concern, that's something people brought. There's been a lot of discussion of the view where the tent is and it's been her impression that the tent will basically be visible only from Route 9 but a lot of the public seems to think that it's going to be visible from everywhere in Garrison, so if there's a way to convey that.

Mr. Hollis stated that Ms. McKinnon's drawings show additional screening to soften the impact of the view from Route 9 to the tent location. There's additional screening planned as submitted.

Vice Chair Conner stated that sometimes they get photographs that are hard to interpret, so if there were a way to sort of really convey what that really looks like so the public has a better sense, that would be helpful.

Mr. Hollis stated that there are only three greens that are being disturbed in the plans so it's not every green that is going to be dug up and soil turned over. Every member of their team has heard and they can make section drawings to present to the Board in person in May to help the Board analyze and maybe more detail microscopically what it is they're talking about, not from higher elevation - 15,000 feet.

Ms. O'Connell stated that when they're looking at it from the viewshed, she's going to assume that the colorization that they're going to use for the material is going to be very similar to the approach of the design, meaning they don't want to go with a light color tent to then ultimately go through the design to then have a bright pink one. She added because the light and the color of the material will also change based upon how the foliage and all of that intermingles. Even if it is close to whatever ultimately the color or texture needs to be, that would be very helpful.

Mr. Hollis replied yes, they've done that viewshed analysis from various locations off-site. The point is that there's no guarantee of a person's ability to view from the tent out and what the SEQRA determination, the impact is, what the view is from outside in, so they've addressed that. They'll have that more specific for the Board in May as well.

Vice Chair Tomann stated that he has a list of the questions, areas of the project where he doesn't think they have enough in the way of drawings and he knows they've brought this up with the site visits. They've had it with the housing, with the individual cabins, which is a pretty good example and then they had spoken about the dam and the condition of the dam and there's been a more than a couple times where they were, or the response from the applicant team has been, that's not part of SEQRA, that's for the site plan approval. With SEQRA he would rather they know more than less because what

he doesn't want to do is get past the SEQRA and they get to the color of the tent, or they get to why are there 17 individual cabins instead of a dormitory, and they get into those questions and then have the team respond with, that should have been brought up in SEQRA and that ship is sailed. When they're hearing that they want to see more drawings, we need to see more drawings. They don't need to bring it up now, let's air it out so anything they can give the Board, information on the bridge, the dam, the parking. He added that he knows he's just repeating what his fellow Board members have been saying, but he thinks that's an important thing for the applicant to bring next time.

Mr. Hollis stated they'll have a discussion about the dam, they're in correspondence and communication with the DEC on that to repair.

Vice Chair Tomann stated even if they just tell them that, come tell the Board where the DOT review is with the light, he thinks that's a better strategy.

Mr. Hollis stated that the artist lodging is not part of the phase one site plan so it is part of SEQRA, but it's not part of the site plan.

Vice Chair Conner stated that she has a little housekeeping to do. She wanted to wait until they had come to the end of the public hearing process and to see if there were any other questions. They received a letter, she thinks it was in January, from Joe Regele and she believes he put an ad in the newspaper requesting that she recuse herself from this project because she and her husband have made donations to the Shakespeare Festival in the past. She stated that some organizations will put your name on a list of people who donated at that level, these people donated at that level. In the particular year that he's referring to, it looks like they donated about ten thousand dollars. She'd like to say what that \$10,000 was for. In any given year, they typically give about \$5,000 to the Shakespeare Festival. They give money to other organizations to. They pay for the fireworks in Cold Spring as a donation every year. They usually go to the gala for any number of organizations. In that particular year they took a table at the gala. Sometimes they take one, sometimes friends take one, she continued. Then, to round it off, her husband got into a bidding war with one of his law partners and came home with a \$3,600 case of wine. So, that's a little personal and sort of the story of her life. But she takes her job on this Board very seriously. She has been on this Board since 2009. She continued that she believes she approaches every project with integrity. She thinks most applicants that have come and had her ask them questions have found that she is serious and asks very serious questions. So, she doesn't think that it's necessary for her to recuse herself, because she thinks she can be as balanced as she is with any project with this particular organization, be fair and impartial.

Vice Chair Toman then asked for a motion to adjourn. Vice Chair 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

Opposed, Abstentions? The motion passes.

The meeting was adjourned at 8:56 pm.

Date Approved: 5/19/22

Respectfully submitted by

A handwritten signature in black ink, appearing to read "Cheryl Rockett", with a horizontal line extending from the end of the signature.

Cheryl Rockett- Planning Board Secretary