

TOWN OF PHILIPSTOWN PLANNING BOARD
Regular Meeting
Phillipstown Town Hall, 238 Main St., Cold Spring, NY 10516
May 19th, 2022

The Planning Board held their regular monthly meeting on Thursday, May 19th, 2022.

Present:

Neal Zuckerman (Chair)
Kim Conner
Dennis Gagnon
Neal Tomann
Heidi Wendel
Ronald J. Galner, PE, Town Engineer
Adam Rodd (Town Counsel)

Absent:

Peter Lewis
Laura O'Connell
Stephen Gaba (Town Counsel)

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

Ms. Rockett took the roll call.

Chair Zuckerman asked for a motion to approve the minutes for April 21st.

Ms. Conner stated that she just had one correction where she is referred to as Mr. instead of Ms.

Chair Zuckerman then asked for a motion to approve the minutes. Neal Tomann made the motion; Kim Conner seconded the motion. The vote went as follows:

Chair Zuckerman:	Aye
Kim Conner:	Aye
Dennis Gagnon:	Aye
Neal Tomann:	Aye
Heidi Wendel:	Aye

Opposed, Abstentions? Being none the motion passes.

Correspondence

Riverview Industries - Request for 6-month extension of Site Plan Approval

Mr. Watson stated that they're coming up on needing a renewal because they're still waiting on the state to issue the permit.

Chair Zuckerman asked if there were any comments.

Ms. Conner noted that she doesn't think they have any choice, she thinks it's statutory.

Adam Rodd stated that under the statute they can grant the extension for one year.

Chair Zuckerman then asked for a motion to approve the extension. Kim Conner made the motion; Neal Tomann seconded the motion. The vote went as follows:

- Chair Zuckerman: Aye
- Kim Conner: Aye
- Dennis Gagnon: Aye
- Neal Tomann: Aye
- Heidi Wendel: Aye

New Business – Discussion

Kingsley Tree & Landscaping, Old Albany Post Rd., Cold Spring NY 10516 TM#17.-1-72.2

Jason Snyder with Badey & Watson stated that the Kingsley’s are proposing a two-story mixed-use structure on Old Albany Post Road North at the end of Mountain Brook Drive. They are proposing a four-bay garage on the ground floor and two, two-bedroom apartments on the second floor. It requires septic and well service approval from the health department which they had approval for a five-bedroom residence on this lot which is 750 gallons a day and this proposal is 500 gallons a day so, two-thirds the required capacity. Once they have floor plans, they'll get that into the health department and get that approval going. This is in the commercial industrial mixed use. This is basically for their vehicles for their businesses, they're both in the tree business. There's going to be no outside storage. There's nothing going on related to their businesses on-site and then the second floor is two, two-bedroom apartments. They intend to each inhabit an apartment. They lined up the entrance with Mountain Brook Drive, they have a parking area. They do have the buffer from Clove Creek. He added that he thinks they can get everything done without disturbing the buffer. They got the proposed septic system in roughly the same location that the five-bedroom septic was proposed for the house as well as in the same general location. They have three parking spaces proposed for the two apartments and four for the garage and the businesses. They have some screening proposed along the road. The house is pretty far away this should be heavily wooded in here as a buffer from this house, this is actually the garage, the house is way up here and the Countryside Motel is down here. There's plenty of sight distance.

Mr. Gainer stated that the applicants have reasonably described the overall commercial proposal. It's a 3,200 square foot building that they're proposing two story. Commercial garages on the first floor, apartments on the second. There's no planned outside storage or construction activities to be occurring on site exterior to the building. Because a mixed-use dwelling is proposed they require both special permit and site plan approval. Initially the board typically likes to classify the project since it's a mixed-use building in excess of 3,000 square feet. Per code it represents a major project and should be classified as such tonight. With respect to SEQRA it's an unlisted action. So, as the board understands they have the option of doing a coordinated or uncoordinated review. On the whole it's a fairly minor project but the board will likely wish to make a site inspection just to verify any kind of environmental issues. As described Clove Creek operates in the rear of the track closer to Route 9 and that's actually a DEC classified wetlands wp-17 so that would be a significant for the board. There's are few referrals that are required since it's adjacent to Route 9. They need a 239 GML referral and as described the Department of Health is also involved for the proposed well and septic system. Relative to other

referrals not required but typically accomplished you may wish to refer it to the Conservation Board given the proximity of the Clove Creek and wetlands and also another referral to North Highlands Engine Company. Those are a few things the board can do tonight. One is, classify the project as major, authorize the secretary to accomplish initial referrals and then determine if they wish to conduct a site inspection of the property.

Ms. Conner stated that on the Environmental Assessment Form on page three it says, *what parks serve the project site*, and it says, *Philipstown community center depot theater and Philipstown town park*. She just wants to know why depot theater is a park?

Mr. Snyder stated he can take that off.

Ms. Conner stated that on page seven of the EAF it says, *will the proposed action for commercial or industrial projects only generate newer additional demand for energy? Yes, estimate annual electricity demand 15,000 kilowatt hours*. She asked what would constitute a threshold for that kind of thing, like how many kilowatt hours would be excessive that they would care about?

Mr. Gainer replied they would recognize that it's essentially no more than a few apartments and some construction equipment. It's not going to be materially different than a residential structure. He added that he can look into that. It's also possible that AKRF may have that answer as well but they can provide that to the board at a future meeting.

Ms. Conner stated that's going to be something in the future they're going to start caring about in a big way.

Chair Zuckerman asked who owned this property before and what were the approvals?

Mr. Snyder stated that it was owned for a long time by Donna Thompson. There was this old existing house here and they subdivided out and that's what they have now it was proposed as a residence in the subdivision. Then subsequent to that they got Board of Health approval for a five-bedroom residence at this location.

Chair Zuckerman stated so, the extent of the approvals was County Health for septic, there's no site plan?

Mr. Snyder stated, no site plan, no building permits were ever issued, no driveway permits, it was just the Board of Health approval.

Chair Zuckerman asked Mr. Gainer is he could compare and contrast the five-bedroom house and its role or its use in the spot versus this current proposal. Is this a greater and more extensive use of the spot than a five-bedroom house?

Mr. Gainer stated that he doesn't think it'd be materially different at all. He doesn't think the structure itself would be any significant change. He suspects the residential property may seek to have more yard that might intrude in the wetlands proper. This is really a commercial business and apartments for the owners.

Chair Zuckerman then asked Mr. Gainer to walk the board through a bit more of the special permit. That term obviously makes one think it's not normal hence the word special so which means it should be granted with some reasons as opposed to just by matter of course.

Mr. Gainer stated that the code specifically identifies mixed-use buildings in excess of 3000 square feet requiring a special permit. It warrants further scrutiny, there are specific criteria that are applied as they go through this process and understand the considerations that apply to a special permit. His expectation is that that would be addressed further once the board conducts a site visit and can walk through those specific special permit criteria. He added that in the memorandum he's identified the section of the code that relates to special permit criteria so they'll have that available at the site visit and can discuss that further then.

Chair Zuckerman then asked for a motion to classify this is a major project.

Kim Conner made the motion; Heidi Wendel seconded the motion. The vote went as follows:

Chair Zuckerman:	Aye
Kim Conner:	Aye
Dennis Gagnon:	Aye
Neal Tomann:	Aye
Heidi Wendel:	Aye

Opposed, Abstentions? Being none the motion passes.

Mr. Gainer stated that they should decide if they're going to do a coordinated or uncoordinated review. Coordinated would involve circulation to other involved agencies, specifically the Department of Health. They'll be making a generic referral just so they're aware of the application but on many minor projects they often just do uncoordinated reviews.

Chair Zuckerman stated the he'd prefer to stick with their uncoordinated process.

Chair Zuckerman then asked for a motion to do an uncoordinated review. Ms. Conner made the motion; Mr. Gagnon seconded the motion. The vote went as follows:

Chair Zuckerman:	Aye
Kim Conner:	Aye
Dennis Gagnon:	Aye
Neal Tomann:	Aye
Heidi Wendel:	Aye

Opposed, Abstentions? Being none the motion passes.

Chair Zuckerman asked Mr. Gainer is he could explain what the 239 GML stands for.

Mr. Gainer stated that the 239 GML is the General Municipal Law in New York state submitted to and reviewed by the County Planning Department. There's a whole list of things that warrant referral to the county and one of those criteria is being within 500 feet of a state road. It's very likely they'll have no comments.

Chair Zuckerman then asked for a motion for a referral to the Dept. of Planning for a GML referral. Ms. Conner made the motion; Mr. Tomann seconded the motion. The vote went as follows:

Chair Zuckerman:	Aye
Kim Conner:	Aye

Dennis Gagnon: Aye
Neal Tomann: Aye
Heidi Wendel: Aye

Opposed, Abstentions? Being none the motion passes.

He then asked for a motion for a referral to the Department of Health. Ms. Conner made the motion; Mr. Gagnon seconded the motion. The vote went as follows:

Chair Zuckerman: Aye
Kim Conner: Aye
Dennis Gagnon: Aye
Neal Tomann: Aye
Heidi Wendel: Aye

Opposed, Abstentions? Being none the motion passes.

Chair Zuckerman then asked if everyone was okay with June 5th site inspection. The site visit was set for Sunday, June 5th at 9:30 am.

Old Business – Discussion

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

Vice Chair Conner stated that last month Jolie Hunt and William Potter came back to revise their site improvement and to get an amended site plan approval because they enlarged their decks that they were going to put in by a third. What the board has in front of them are a resolution to adopt a negative declaration under SEQRA and a resolution to approve the amended site. She then asked if any board members had any questions. Being none, she asked for a motion to adopt the negative declaration under SEQRA.

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

Chair Zuckerman: Abstain
Kim Conner: Aye
Dennis Gagnon: Aye
Neal Tomann: Aye
Heidi Wendel: Aye

Opposed, Abstentions? One abstention. The motion passes.

Chair Zuckerman confirmed with counsel that from a quorum perspective they've got four of the seven voting. Counsel confirmed that is correct.

Vice Chair Conner then asked for a motion for approval of the amended site plan. Mr. Gagnon made the motion; Mr. Tomann seconded the motion. The vote went as follows:

Chair Zuckerman: Abstain
Kim Conner: Aye

Dennis Gagnon: Aye
Neal Tomann: Aye
Heidi Wendel: Aye

Opposed, Abstentions? One abstention. The motion passes.

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

Chair Zuckerman stated that the purpose of tonight's conversation is to discuss the findings statement. Last month the board voted to accept the Final Environmental Impact Statement (FEIS) related to the Hudson Highlands Reserve and tonight they're going to discuss the findings statement which is derivative of that FEIS. They're going to get into an editing conversation tied to two versions of the document that's been sent. One that was sent with their typical materials which is posted to the town website and the second is a red line version he believes is additions from the applicant that the board got less than 24 hours ago. He added that he did not look at the additional version but some members did so they're going to give feedback on both documents because that's the problem when you have version control. That's why we ask things to be submitted by a deadline but several board members did have a chance to look at the second version. He stated that he's just going to make a couple of points about this project because it's been before them for a long time. As he's said many times the Planning Board's job is to balance community rights with property rights and that's a difficult task and it was required within the confines of the state law and the local zoning code. They started evaluating Hudson Highlands Reserve on October 14, 2014. They've had a number of board members both leave the board and pass away during their time on this board. It's been seven and a half years and during this time himself included they made several things clear to the applicant about environmental concerns. The first was the volume of manure, vehicles and the general busyness from the horse farm. The second was the number of the homes themselves, the third was the surrounding of the pond and the fourth is the layout which to some extent disturbed the flow of animals potentially and the general layout. Since that time, the board did make a positive declaration in 2018 and the applicant came back and took out the farm, took down the number of homes to 24, removed many of the houses from around the pond and tightened up the layout. He would say then the positive declaration and the Planning Board process worked. It helped create a plan and the incentives to the applicant to revise the plan in keeping with what the community voiced and what the board felt appropriate. There are several concerns the public has still raised even in the past few days. They've received a number of letters during that 10-day comment period and he wants to acknowledge these letters. He wants to acknowledge that the group of letter writers were organized, many of them were from a similar template with the same points and that is a point that tells him the folks felt the need to coordinate, that they were frustrated and the board understands that. That means that they had a common viewpoint and they had four comments. One was that the conserving land couldn't be built on in any case, even if it was not conserved. Their point was that the houses were in a uniform nature, that they were all the same dimensions and the same layout, they were concerned about access on to Route 9 and that Route 9 is a very busy road which the board has mentioned that many times and a couple of them are going to go before the Town Board on June 2nd to talk about. And the last thing that's been mentioned multiple times is there's no holder of the conservation easement at this point. That may have changed since last submitted but that was the point. He continued that he wanted to address these four briefly. Conserving land; as best as Steve Gaba has advised them, the code allows for land to be conserved that is not necessarily perfect

land. In fact, the code on page 73 states very clearly that it is 75% value meaning if you have an acre of one of land that's perfectly good an acre that is perfectly steep slopes, it's complete cliff it's still counted 75%. Whoever wrote the code which is this town's government felt that that kind of land counted and we have to live within the code. The zoning code does not require the applicant to create a variety of home sizes and styles, clustering is encouraged but not required. Therefore, again they are living within the code. Access to and from Route 9. It's a state road and there's nothing they have the power to restrict access to Route 9. This plan is predicated on access to and only to Route 9 and with state DOT approval. There is no plan if there's no access to Route 9. There's no access north or south on the property that will be allowed in this plan. Finally, he sees nothing and the legal counsel can advise otherwise that the holder of the easement that there's not one yet is a restriction to a SEQRA determination which is what they're doing. The last thing he'd say is one of the letter writers who was a personal friend over the many years Madeleine McGinley who had a major accident on Route 9 right at Horton Road a few years ago she was rear-ended by a semi-trailer. She wrote in one of her letters; *"this points to a weakness in the code itself"*. He added that they are not above the law, they're applying the zoning code. They're not a machine so they have opinions, judgments. It is a partially subjective process but only partial. So, they have a weakness in the code, he agrees with Ms. McGinley and they're going to talk about that in front of the Town Board about Route 9 but there are many other topics and maybe the Town Board wants to bring up the notion of what land counts towards conserving but he thinks they are doing their appropriate best within advice from legal counsel and again balancing the needs of the community with the needs of property owners to try and make a determination. So, that is where they're at. Now what they're going to do is go through individual comments to the findings statement. The purpose of this is to provide edits to the finding statement that was all already accepted the FEIS so this is basically a distillation of the FEIS.

Mr. Gagnon stated that he was focusing in on the edited version. He just wanted to clarify that this is the board's document. On page 8, last paragraph, third bullet. Why the deletion of the console consultation of the North Highlands Fire Department review regarding the installation of the suction hydrant was deleted. There must be some type of reason or question?

Ms. Wendel stated that this really highlights what she suggested today, they need more time, there's many versions. This is a major project; they need more time to consider.

Chair Zuckerman stated yes that's fair. Each board member has reviewed a version and he thinks it's perfectly fine to share comments that they have now to allow their advisors to take those comments. They're not going to make any vote this evening, they have three different versions apparently but he thinks they might as well share what feedback they do have.

Ms. Wendel stated that she thinks they should have a special meeting on this project.

Chair Zuckerman stated that he doesn't know if they need a special meeting, they can certainly do it at the next meeting and cover the revisions. He added that at the two-week mark the final version is of that date and it is not to be changed because it's not possible for this board who are volunteers to be editing documents on the fly like that. What he'd like to suggest is everyone give their comments now, AKRF will have until June 2nd at five o'clock and then that gets sent to the board with all the materials and then they'll review it again at the next meeting without any more interim iterations between June 2nd. AKRF will take notes and then they'll have a solidified version that they can then review again next time.

Mr. Gagnon stated again, page eight, last paragraph, third bullet. The edited version deleted a comment regarding the consultation with the North Highlands Fire Department for the review regarding the installation of a suction hydrant he's assuming at the pond. He's not quite sure why that was removed. it's a safety issue.

Mr. Werner stated that originally that was an addition by Ron Gainer after he looked at the 5/11 draft. His understanding was that was something that he thought was going to be required. It turns out that since that time the applicant was proposing to sprinkler all the homes and it sounded like the applicant had communicated with the fire department about that and got some conditional okay that that was enough and there's concern that if there is an installation of a suction hydrogen at the pond the disturbance is going to be required to put that in. It's going to disturb the conservation easement area, they're going to put a road in, they're going to have to pave it, have to bring fire trucks down to the pond it's pretty significant. So, the sprinkling of the homes seems to be the answer but again when the board goes to site plan review, they're going to look at it then and can opine at that point if they want to see that.

Mr. Gagnon asked why was it put in there in last week's submission?

Mr. Gainer stated that the goal of preparing the finding statement is to pick up the significant commitments of the applicant or the understanding of what mitigation has been offered. In the original DEIS that original statement that you're reading was contained therein. So, it's understood that there was once a question about whether a suction hydrogen should be provided. They were not aware of any letters that came back from the North Highlands Fire Engine Company. That statement was inserted in the initial draft, Mr. Gainer provided that to AKRF for their insertion. Since that time through discussions with the applicant there was some understanding that possibly they had reviewed this issue with the fire company and that might have been resolved. In any event a referral needs to be made during the site plan subdivision review. So, in lieu of all that text it got reduced to just acknowledging there will be another referral to the fire department. They'll have another ability to raise any concerns they have and this board will then take those under advisement. So, it's still in there.

Mr. Gagnon stated that he took it that the applicant removed that completely for their behalf.

Mr. Gainer stated that they had raised a concern over it but again from his perspective they don't want to give up the idea that there's going to be another referral to the fire department, whatever comes out of that the board will understand.

AKRF and Mr. Gainer both communicated with the applicant about this.

Mr. Gagnon continued, page 11, third paragraph referencing lot number 20. Again, he's taking it that this was an edited by the applicant.

Mr. Werner stated that he made a mistake in the text and describing the existing structures in the vicinity of lot 20 specifically and the applicant corrected him. So, the information is correct there now.

Mr. Gagnon stated that the question was why the removal of the word historic figuring that would give leeway to some changes down the road so it was a concern.

Mr. Werner stated, no it still says historic early 19th century barn, it's just they're two different buildings. He had them originally as one.

Ms. Conner stated that it says it says historic early one 19th century barn. Is it a 19th century barn or an 18th century barn?

Mr. Werner stated that his understanding is 19th, 18th was in there and he struck it.

Ms. Conner stated that her version says 198th.

Mr. Gagnon continued, page 17, fourth paragraph, why the insertion of the words, *all of which* in describing medium and high conservation value. Why was that put in and his question is who put that in? Then lower in the same paragraph adding, *having low conservation value*? These edits only seem to be adding a direct narrative for the applicant's benefit.

Mr. Werner stated that it's just clarifying the conservation analysis findings that were done in 2016. Basically 78% of the site which is going to have the conservation easement was determined to have medium to high value for conservation at that time. That's just clarifying *all of which*.

Chair Zuckerman stated that he thinks what Mr. Gagnon is saying is that it seems like it's superfluous language and so they don't need to have it because it didn't add anything.

Mr. Gagnon stated that it made him question why it was put in as if it was setting up for something and again, he was taking it that it was the applicants.

Mr. Werner stated they could strike it.

Mr. Gagnon continued, page 19, second to last paragraph. Why the deletion of the word *removal* and replace with *closure*? This is regarding the gate where it showed removal of the gate or roadway and replaced with closure and that seems to indicate that removal being completely gone closure being closed that could be reopened at a later date.

Mr. Werner stated that he thinks that just means that the driveway will be closed off and allowed to just regrow as part of the conservation area.

Mr. Gagnon asked why the change?

Mr. Werner replied, the applicant recommended it.

Chair Zuckerman stated that as Mr. Gagnon said the beginning this is the board's document so even if the applicant chose the term because clearly they mean to therefore if something is closed it retains the option to be open and Mr. Gagnon is saying no it should stay as removable. So, Mr. Gagnon is a co-author of this document, if he votes for it, he's saying politely please turn it back to what it was before.

Mr. Werner stated if they want it back to removal, they can change it back.

Mr. Gross stated that very simply because they had proposed the preservation of the historic road with the stone walls and everything and when it talked about removing part of the historic road which is what that part is then they're not preserving the historic road and it says that it would be graded and planted and all of that. They're talking about an absolutely permanent closure but leaving the what constitutes the historic road in place.

Mr. Gagnon replied the way it describes is the driveway, the roadway so he's looking at that completely different than Mr. Gross is. A driveway is a small section of an entry as far as he's concerned.

Mr. Gross stated that happens to be what was being used as a one-lane driveway was a one-lane early 19th century road. They didn't want to propose the removing of a cultural resource that's what it comes down to.

Chair Zuckerman stated that he thinks Mr. Gagnon is suggesting returning the word removal.

Mr. Gagnon stated that he has one more item. Page 20, second paragraph. Why the adding of the verbiage *proposed development*? This is pertaining to the views from Fahnestock to the site and it says, *the proposed development portions of this site*. He added that he doesn't understand why that was added.

Mr. Gross replied that he did that one too. The reason is that from Fahnestock you can actually see what is the edge of the property but you will not be able to see any of the development. You can see part of the property that comes out to East Mountain Road South but you won't see any changes whatsoever. So, it's for accuracy.

Mr. Gagnon stated that the wording proposed meaning that what's proposed now could be changed to something later on. He's just wondering again why that was changed that's all.

Mr. Gross stated that he could have put the developed portion of the property but that made it sound like what's currently developed so he put what's the proposed developed portion of the property. It was just for accuracy because of the fact that if they're talking about the entire property there's an area that's going to be completely preserved that is visible from portions of Fahnestock.

Chair Zuckerman asked if Mr. Gagnon was okay with that change?

Mr. Gagnon replied yes, he's okay with it.

Chair Zuckerman stated that it was inaccurate before because you could see parts of the project site from Fahnestock. He then asked Mr. Gross if he has any more edits to please send them to Mr. Werner so they can be listed separately because he thinks what they're noticing is it's causing a lot of confusion as to why and therefore there's all these questions about the purpose of the changes and it's not a productive debate.

Ms. Conner stated that she's on page four, second paragraph in the bottom, *primary access to the proposed project would be from a new non-gated access road that will be constructed from Route 9*, and then in this paragraph there's reference to an unpaved dirt road and then to the historic road and much of the historic road and she would just like some consistency like either an unpaved dirt road or a historic road but not both because it seems like the unpaved they took out historic under next unpaved dirt road but then it's a historic road later. It seems like it's two different roads. On page five, the paragraph under the bullet points this is just copy editing. It says, *between the lot lines of residential properties in the hundred-foot buffer are it should be is critical to the protection of the pond*. The next paragraph at the bottom it says *the proposed project would also require an aquifer overlay special permit along with site plan approval and conservation subdivision approval from the Phillipstown Planning Board*. This is a question for Mr. Gainer. Who grants the aquifer overlay special permit is that the Town Board?

Mr. Gainer replied that he'd need to investigate it.

Ms. Conner stated that it says, *along with site plan approval and conservation subdivision approval*, she added that she's looked through the code and doesn't see anything specific that says conservation subdivision approval like this is what conservation subdivision approval consists of separate from site plan approval. If there is part of the code that the board should know about.

Mr. Gainer replied that's about the reference to conservation subdivision is merely that that's what's proposed by the project. The operative term is they're giving subdivision approval for the subdivision of the lots.

Ms. Conner asked so there's no special section of the code that says conservation subdivision approval?

Mr. Gainer replied, no.

Mr. Werner stated that instead of conservation subdivision they could just say subdivision approval.

Ms. Conner stated that it seems to her like that might be better but she defers to her colleagues and to Mr. Gainer. Page seven there's a box at the top and underneath the box there's a paragraph that starts out, *as noted in the FEIS following approval of plans and all of the requested permits through the town the project sponsor envisions that construction of the proposed project would be phased in the following manner*. Then there's a new sentence, *however this conceptual phasing is subject to refinement as the project proceeds through the site plan review process*. She finds that awkward. Usually when it's the following manner whatever follows and not extra sentences that change that side.

Chair Zuckerman stated that sentence was clearly added so they should just strike the sentence.

Mr. Werner stated that he can fix the following matter part.

Ms. Conner stated that the next thing she has is on the same page at the bottom it says, *according to the project sponsor all 22 new homes will be approximately 2500 to 3000 square feet*. She added that they've talked about this all along how big are these houses going to be and what she wants to know is, is it 2500 to 3000 footprint or 2500 to 3000 square feet total structure? She continued when people apply for a permit to build something what the Building Inspector is interested in is the footprint. For example, when new houses come before the board they come before the board because they have a footprint of over 3000 square feet not because the total size of the house is 3000 square feet.

Mr. Werner replied that further down it says that anything with a footprint larger than 3000 would be subject to site plan review by the Planning Board. The 2500 to 3000 was out of the FEIS.

Chair Zuckerman stated that the footprint was added by somebody.

Mr. Werner stated that was added by the applicant to clarify.

Chair Zuckerman stated that there's is a big difference between a 2500 square foot house and two floors of 2500 which is a 5000 square foot house. He added that they're going to need the applicant and it sounds like Mr. O'Rourke is not ready to speak about that because Chair Zuckerman's always been in the impression there's a 2500 to 3000 square foot house which is a lot smaller than a 5000 square foot house plus a garage, plus a finished basement.

Ms. Conner continued, page 9, the third paragraph down. It looks like the in the middle of the paragraph it says the final SWPP will address treatment of the water quality volume infiltration the required runoff

reduction volume and attenuation of any peak volume flow rates for the 110 and 100-year storm events and the one has been removed and she'd like to know why.

Mr. Werner stated that the applicant struck that one in their edits.

Mr. Watson stated that it's his understanding that the one-year storm doesn't need to be attenuated.

Mr. Gainer stated that he thinks they'll just leave it in and understand what we need to do for site plan review.

Ms. Conner stated in the last paragraph on this same page it says a final SWPP must be approved by the town as part of subdivision and site plan approval. Is that the Town Board or is that the Planning Board?

Mr. Gainer stated that typically those SWPPs are reviewed by his office depending on the project size they're also reviewed by DEC.

Ms. Conner asked so Mr. Gainer as the Town Engineer represents the town?

Mr. Gainer stated in that particular instance yes and very likely there's a higher level of authority at the DEC as well.

Ms. Conner continued to page 11, bullet points. The second one says that this is referring to what the HOA can do and at the second bullet point it says, *restricting the amount of development that can occur on a lot* and she'd like to know what that means, like what kind of development can occur on a lot other than these houses?

Mr. Werner stated it's the amount of disturbance that can occur.

Mr. Gainer stated that they're limited to a small size yard of a lawn, they're limited in the extent of tree clearing that's permitted within individual lots. This is a generic statement but it's covered elsewhere in terms of more specifics might be in the by-laws he can't recall.

Ms. Conner state that in her head development means a building.

Mr. Werner stated that they could change it to disturbance.

Mr. Gainer stated that there's also prohibition on outside pools things of that sort.

Chair Zuckerman stated that he thinks what Ms. Conner is saying is she'd like to be enumerated about what can and can't be done on these lots as opposed to a statement that is vague enough to basically defer authority to the HOA. Can they just make this more specific about what is not allowed versus what is allowed at the property the individual homes?

Mr. Gross stated that Mr. Liceaga who's watching this on YouTube stated that the 2500 or 3000 refers to the house not the footprint.

Ms. Conner stated that she went back to the DEIS and read through the HOA rules and it talks about how the HOA can approve additions and decking and a patio and stuff like that but the way that it's written in the HOA document it seems as though the town's Building Inspector or Planning makes those decisions isn't going to be consulted. So, that doesn't make any sense. If somebody wants to add a deck to their house, they would have to go to the Building Inspector, correct?

Mr. Gainer stated that in this instance they would have to get a review by the HOA and unless that is obtained, they will not be able to file for a building permit.

Ms. Conner stated so, the HOA has to approve it first and then they file for the building permit but it doesn't eliminate it's where the town has no say that's what she's trying to find out. If the size of the house is only going to be 2500 - 3000 square feet, if you have a 3000 square foot house and they want to put a deck on it then they can't do it, right if the limit is 3000? Is there going to be over time or are we frozen.

Mr. Gross stated that's the total of both floors, not the footprint the 2500 or 3000.

Ms. Conner stated let's say they build a house that's 3000 square feet and then want to add a deck. Would that be allowed to add to the house or are they just frozen at that size?

Mr. Gainer replied the number that's contained in the EIS documents just refers to the project sponsors expectation that's the house size. The town has no limitation.

Ms. Conner stated the Building Inspector would make that determination then.

Mr. Gainer replied that it just goes back to the issue of square foot and footprint and it would kick into the town's regulations in terms of what applies but there's no limit from the town as to what size that house can be.

Ms. Conner replied so if they're saying these houses are going to be 2500 to 3000 square feet that isn't necessarily correct unless they specify that specifically in the HOA documents.

Mr. Gainer replied it's not it's not going to be picked up by this board unless they identify it as a condition.

Ms. Conner replied that she thinks that might be something the board wants to think about.

Chair Zuckerman stated that's a very good point.

Ms. Conner continued that the only other thing for tonight which isn't exactly part of this document but is part of the submissions that they got for tonight is there's a letter from the Hudson Highlands Land Trust in which a suggestion is made that some of the lots that around the pond be moved to an area that was previously disturbed and it doesn't have to happen tonight but she'd like to hear from the applicant if they did since they did have houses there before why they wouldn't want to take that suggestion to have houses there again and open the wildlife corridor a little further. She doesn't want an answer right now but that is a question that they'll probably ask next time.

Ms. Wendel stated that she objects to various parts of this document that seemed much more reflective of the applicant's views than hopefully the boards. On page four it's not her view the statement that 78% of the project site would be preserved as permanent open space. She thinks the board should make it clear that in their view that's the least developable portion of the site and because the way this is worded it makes it sound like this is a great conservation subdivision and that's not her personal view. She doesn't think it complies with the conservation subdivision rules for our town at least not in intent. She knows that the board's counsel has said that he thinks it complies but she disagrees. On page five, similarly the portion that says, *according to the project sponsor the protected land to be part of the conservation easement will provide the following functions*, she does not think it protects important

habitat and wildlife corridors, she totally disagrees with all those bullets. They are not reflective of her views at any rate, any of them. It does not preserve and protect Ulmar Pond, it does not protect the buffer, does not provide a block of undisturbed contiguous forest, it does not preserve any areas that are historic or culturally important for the town. She disagrees with all that language and would reconstruct it and she hasn't had the time. The board just got this and she hasn't had the time to suggest edits for review and comment. She would prefer to receive remarks from their consultants more than a few days or a week before they have to opine on them, that would be really courteous of them. She would ask for more time.

Chair Zuckerman replied that he would just restate again what the plan is. They have received a document on May 11th, most board members have looked at those comments and have comments to provide. They're going to have a revised version; it will be in the board's packets by June 2nd for pickup it will not change again.

Mr. Werner asked if he's supposed to get a revised version on June 2nd when will he have Ms. Wendel's comments?

Chair Zuckerman stated at the meeting last month there was a four to two vote to accept the FEIS. When it comes to voting for the finding state which they have to vote on. He asked Mr. Rodd if he would assume that those who voted against the accepting the FEIS would also vote against the finding statement?

Mr. Rodd replied well it is an assumption.

Chair Zuckerman replied that he's just saying that if one voted against the accepting the FEIS chances are one would not be supportive of the language and the finding statement because the findings statement is derivative from the FEIS. He thinks it's perfectly appropriate for Ms. Wendel to register comments about what language change she'd like to see in the finding statement if she would be looking to vote in favor of the of the finding statement. If she is opposed to the finding statement because it's derivative of the FEIS, he suspects they will not be able to make language changes amenable to her to get her comfortable with finding statement. They can and absolutely will give her and the whole board a clean version on June 2nd and it will stay solid and unchanged they'll meet again on June 16th and then they will provide more comments. But he thinks she should be mindful that again as Mr. Werner has said a few times he took the FEIS and boiled down to this memo. So, if one was opposed accepting the FEIS chances are one would be opposed to what's in this.

Mr. Werner stated that in his defense from last month on April 21st the board voted to accept, he had two and a half weeks to write this on eight years of materials.

Chair Zuckerman replied that there's no reason to apologize, the board always get stuff around two-week mark so they're more concerned about the edits in between that came in today.

Ms. Wendel stated that she's not criticizing, she was just saying she would prefer a little more time and she knows her edits may not be accepted because she was one of only two people that voted against the project in its current form. She voted against the project in its current form not against the project as a whole. The project sponsor did slightly reduce the scale of the proposed project she doesn't think the board should not make this so pro applicant. It appears that from this language that the project sponsor was extremely responsive to the public comments and she does not agree with that. On page

15 there's language that 30.4 acres would be lawn and landscaping. that actually was a surprise to her because she thought the vast majority of the developed area of the site would be maintained as forest. So, there would be houses in the midst like what you see on East Mountain Road to some degree. She would prefer if that would clarify as to how many acres of the site will be houses, how many acres will be maintained like house dropped into a forested landscape and how many acres of lawn and lands in quote landscaping which she doesn't know if that reflects native plants or not. She hasn't had an opportunity given the time they have to propose specific edits but these are her comments.

Mr. Werner stated that he thinks the reason the documents didn't include acreage of houses is because they're just they're not all designed. This is all out of the FEIS summary was 30.4 acres would be lawn and landscaping based on the restrictions that are going to be allowed per lot to allow lawns and landscaping, so they did some calculations to get that number. He thinks it might be difficult to quantify houses at this stage.

Mr. Gross stated that they are saying 7.7 acres would be impervious so that does include the buildings and the 30.4 acres. Basically, they took the extent of the area of disturbance and made the worst-case assumption that could be converted to lawn and landscaping. That does not mean that all those trees will need to be taken down but if they projected what the maximum area of disturbance is and drew that line around it and calculated the area within it that's what it works out to. The project sponsor is committed to preserving every tree that he can as part of his architectural vision.

Mr. Werner stated that it includes structures and roads and anything else that's impervious.

Ms. Wendel stated that she's going to submit edits to the document but not today.

Chair Zuckerman stated that they will wait for a final version, Mr. Werner's going to lock whatever he's got by June 2nd and that's what they're going to look at on June 16th. He continued, page five, first paragraph the top sentence starts, *at this time the project sponsor has not designated the easement holder but...*, he would like a sentence inserted about what if nobody is found to accept this easement. He's guessing that they will not get site plan approval if they don't have it. He'd like a sentence inserted about what if they do not have someone to accept this easement. Secondly, bottom of page five, second from the bottom paragraph the paragraph starts, *in order to facilitate the proposed project...* the sentence that ends, *since this parcel would remain commercial would not be part of the HOA that would manage the proposed subdivision*. He would like a sentence inserted about what if the zoning change is not granted. He would like clarity about what will change about this project if the zoning change is not granted by the Town Board. Does that mean the number of houses are fewer? What is put in if that's not accepted. He thinks that's an important statement to have. Similarly, he'd like that to be carried over to the table that's on page seven. There's a table that has a column called net change. He'd like something that defines the lots that would be in this if the zoning change is not granted. Again, because this assumes that the zoning change is granted and there's no mention of that and in the wisdom of the Town Board, they may not grant the zoning change. He stated that he would accept a footnote. He continued on page 11. There's a couple of places and he thinks he understands the reasoning. This is a paragraph called, *as depicted on the FEIS plan, the closest proposed home to Ulmar Pond is approximately 171 feet from its edge*. At times they talk about the 171 feet from the pond, other times they talk about the 140-foot buffer. He believes the buffer is from the house.

Mr. Werner stated that the buffer the 140 feet is the from the pond edge to the lot lines around the pond. The 171 is from the pond edge to the closest house.

Chair Zuckerman stated that he thinks they just need to much more crisp and when they're using it because he thinks they use them if not interchangeably in ways that are confusing the public. And there's a number of place where those numbers are cited. Page 13, in the last paragraph on the first section starts, *due to the distance between Clove Creek and the proposed projects limit of disturbance...* It ends with *in addition the project sponsors committed to monitor Clove Creek while construction is in progress.* He would like some clarity about how this monitoring will be communicated to the town, how often by whom and to whom will they be communicating this monitoring.

Mr. Werner stated that the short answer is as part of site plan approval they can have conditions specifying that protocol.

Chair Zuckerman stated then it's fine to insert a sentence that says, *during site plan approval the planner will define the who, the what, the when, the where and the why.* In the second to last paragraph on page 13 paragraph starts, *the proposed project's entrance road must traverse the 100-year flood plain, floodplain permit will be sought for the development of the entrance,* he would like a sentence that explains what if the permit is not granted and who is the grantor of said permit. Page 14, third paragraph starts with, *some residential activity such as lawn and maintenance and pest control... pesticide and herbicide use will be strictly regulated by the HOA, regulated or prohibited?*

Mr. Werner stated that he added a new sentence or two to the edited version to clarify this so and this is all from the bylaws. Pesticide and herbicide use will be strictly regulated by the HOA. Then it says according to the draft of the bylaws and general rules and regulations of the HOA contained in the DEIS the use of pesticides and herbicides will be prohibited unless the holder of the conservation easement otherwise expressly consents prior to use and unless such use is legal and in accordance with all applicable laws, rules and regulations and the manufacturer's directions.

Chairman Zuckerman stated there's another place where his zoning point comes into effect about if they don't get the zoning change, bottom of 17 starts with, *to facilitate the proposed project the project sponsor seeks approval from the Philipstown Town Board to change the zoning...* He'd like to insert there again how many houses would the applicant be allowed if the zoning law change isn't approved, he wants that clarified. That is basically the footnote Mr. Werner is going to put in table.

Ms. Conner stated that she wanted to say one more thing. The board has been really clear about the fact that they are not going to entertain any kind of access to this development from East Mountain Road North or from Horton Road. She just wants to restate that if the DOT says no, she thinks for her that's the end and she's just putting it out there.

Mr. Werner stated that is certainly a risk the applicants aware of.

Mr. Watson stated well other than the emergency access.

Ms. Conner stated that she meant for regular access. It's been represented to the board that that will not happen as regular access and what she doesn't want to see happen is that at the end of the day they can't get access from Route 9 and so now the board has to grant them relief onto East Mountain Road North.

Chairman Zuckerman stated well said thank you for that clarification. So, redline word version June 2nd that will give the board two weeks to give comments at the June 16th meeting.

Garrison Golf Club PDD/Hudson Valley Shakespeare Festival, 2015 Route 9 Garrison, NY 10524
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Chair Zuckerman stated that they originally slated for tonight that they would do three things. The first of which was to have Steve Gaba walk them through the SEQRA assessment process, positive and negative so they understand those criteria. Mr. Gaba is not here tonight and counsel is not prepared for that conversation. So, they're going to hold that off until next month. The second thing they're going to do is have the applicant and their team walk the board through a few areas that he thinks require some further explanation. They've done many months-worth of research and they've answered many questions from the public sessions. If they get done with that, they will then start going by board member about how they're feeling about the project. He doesn't know if they're going to get there after tonight a plan to vote on June about SEQRA it may not happen until July if we can't get the enough time for this board to discuss. But the plan as he's stated for several months was discussion tonight, vote in June but they didn't have enough detail last month for the applicants to share all their facts so they're going to get that on the table, then this board's got talk then they've got to vote. So, if that takes to July it takes to July. As several board members have said this is a very, very large and important project and deserves its time.

Mr. Hollis stated that what they have here behind him is an illustration of the current plan. Their May 5th submission really was in response to the question this board raised during the April 21st meeting which built upon their 62 responses for that April 21st meeting. The two slides which they will keep up sort of ever present are the side by side of the initial plan and the reduced plan and behind him is the reduced plan with the legend removed but with captions as to what the different items are and that'll be a point of reference. Mr. Johannessen is going to walk through the essential points we think we need to make tonight and the call upon any of their consultants specifically to address questions or points within that topic.

Chair Zuckerman stated that there are five areas he personally thinks they need to go into some detail. One is the water consumption that was a topic raised with great detail, the second is the bridge and the alternatives to the bridge there were the number of discussions about alternatives, thirdly noise, fourth light and the fifth sighting of the tent. His colleagues may have other ones they want you to go deeper on but those are the five he thinks are ones that deserve some air time.

Mr. Hollis stated that when they talked about the bridge, they also talked about the alternative. People recommended they consider alternatives up from Snake Hill Road or Philipse Brook. They have boards for all of that and the boards are illustrative and support the May 5th submission. What the boards will show in pictures is what they've written for the board in the May 5th submission.

Mr. Johannessen stated a lot of the materials, the boards that they're going to see tonight are not new information they're just larger in larger format. Some things are being highlighted, nothing new. The first image was just highlighting where the removals are a reduced scope of work. So, the footprints of the former hotel and indoor theater are dashed in red. This plan hasn't changed in any other way other just to highlight where those removals took place.

Ms. Conner stated that she thought the parking lot was reconfigured too.

Mr. Johannessen replied, great point, the parking lot has been reconfigured. The parking lot and the driveway has been moved completely out of the wetland buffer. The number of parking spaces in that lot is the same but it got slid up the hill and further out of the buffer. That is reflected not in red but is reflected on the side-by-side comparison that they should have in their packet. They can see how the parking lot and the driveway slid out of the buffer which was a comment by the Conservation Board and the Planning Board. Moving on to the water demand, they provided this this graphic off to the right this bar graph and the left- hand side is a water demand comparison between the 2005 PDD the as of right plan, the existing condition as it stands with the golf course in operation as of last year and then the proposed action. The proposed action is then further broken down into the existing condition with Hudson Valley Shakespeare in operation without the golf course use, that's that darker green. Then the phase one plan with the tent theater going in. Then finally the lighter blue up top, the full build out. Just comparing those numbers, he thought this graphic would be helpful. The as of right plan 15,320 gallons per day. The existing condition with the golf club in operation 9,820 gallons per day. The proposed action at full build out 13,353 gallons per day. The large takeaway here is when you compare the proposed action to the existing condition there is a 17.8% less than the existing condition when you compare the as of right plan to the full build out, we are 12.8% less. He added that he thinks he messed that up.

Chair Zuckerman stated that they can read it, he doesn't have to read it them. He then stated that what he doesn't understand about this graph, the left-hand side is demand, he's got demand. It's clear the demand is lower than they had permission and it's more than what it is now but it's not as much as it was approved in the year 2005. That's the demand. He's trying to understand because frankly it's more relevant. Given that we're in the middle of a real financial crisis in America the concept of supply and demand is actually relevant on everyone's brains these days. He's trying to understand the supply side not the demand side. He's stared at this graph and doesn't understand what's on here.

Paul Woodell of Geodesign stated that the right-hand side of this graph is a depiction of essentially the water balance. The water balance is a comparison of the demand that is the withdrawal of potable groundwater from the ground in comparison to the recharge of the groundwater aquifer. The town's zoning code provides a method to calculate the recharge of the groundwater basin. It's based upon the aerial distribution of various soil types and it actually provides a formula right in the zoning code to calculate the recharge to the groundwater basin. That is the amount of water basin from precipitation and snowmelt that goes into the bedrock and provides a source for withdrawal by private potable wells, by public wells, etc. The tall dark blue column is a graphical representation of what 199,000 gallons per day looks like. That is the recharge not only for the site but for the contributing upland basin which is to the east of Route 9. So, the basin that gathers groundwater that is potential for withdrawal is not just the site obviously, it's based on topography and that's how that's defined. If they compare that to the little rectangle on the far right that number 13,353 is the calculated demand under the proposed condition. Back to the zoning ordinance there's a requirement in the ordinance that when you do this water balance comparison, recharge versus demand you have to take the calculated demand to multiply by six. That factor is a safety factor that is built into the ordinance such that there's enough available groundwater to dilute nitrogen loading from septic effluent. The assumption is that all water that they take out of the ground goes back into the ground of septic effluent. It's a simplified assumption. But now they've got nitrogen loading they want to dilute that to below the state groundwater quality standard

for nitrogen in fact that six times multiplier is designed to bring the nitrogen loading down to 50% of the state standard. That's the center column the brownish column, that is the green column on the far right their demand times six. And the idea here is to simply represent these numbers in a graphical sense. The takeaway here is their demand 13353 which by the way is full build out phase one and phase two and it is a worst-case scenario demand. That's all the uses of potable water on the property being used at the same time worst case scenario multiplied by six is that center column. Just illustratively it's significantly less than the recharge potential of the basement.

Chairman Zuckerman stated that he had two questions. One, how did he get the 200,000 number and secondly which he thinks is harder is this conceptual challenge that the residents had, let's just assume it's the ones in the immediate vicinity the Phillipse Brook Road and right across on Coleman. It's not like the 200,000 gallons is only for what's happening in this property, there's no barrier there's no borders underneath the ground. So, a bunch of different homes are sharing the 200,000 gallons and there's lots of little houses almost surrounding with the exception to the west this property. The public is saying they're worried and they gave a couple of examples of where someone said they ran out of water or well went dry who knows what's true but that's what was said they're all saying they're all sharing this 200,000 and the applicant may be using 80,000 of it using their analysis here that only leaves 120,000 for the rest and they're all worried, that's what they're saying. He's trying to understand the validity of that because obviously that's one of the things that was often said so can he help this board understand whether this 200,000 is enough not only for the 80,000 of the property but for the other people who've got to share this.

Mr. Woodell stated that the first point that he'll make is that they have to be careful that the 80,000 number, the center column is a number that's prescribed by the zoning code. The actual consumption is 13,000 gallons per day and so the right way to look at this graph is to compare the little green rectangle on the right to the big blue rectangle.

Chair Zuckerman asked Mr. Woodell if he could give the board some guidance about how to think about the load for everybody else since that seems like a concern that the neighbors have.

Mr. Woodell stated that there is an increase in projected consumption compared to the existing condition a total of 13,000. That difference between the existing condition and the projected condition is about 3,500 gallons per day. To put that into perspective this is the way he likes to think about that. It seems like a big number. 3,500 gallons per day is about 2.4 gallons per minute. 2.4 gallons per minute is about half of what an average faucet or spigot discharges. If you turn on a garden hose that's five or six gallons a day. They're about half of that, that's the additional demand compared to the existing condition. He's presuming right now that the existing condition is kind of status quo. There are no complaints about wells currently under the existing conditions.

Chair Zuckerman stated that with all due respect they did hear at least two people come and say in the last couple of years they had a couple wells run dry which is which is why the board is asking these questions about where the 200,000 came from and then related he'll have to advise them what analyses would one do let's say they wanted complete certainty without any shred that the neighbor wouldn't run out of water what analytical activity would one do to learn that?

Mr. Woodell stated that he's not sure that that's possible. He then stated that he wanted to go back to the first question, the 199,000. That comes from the zoning ordinance, that number is a calculation

based on a prescribed methodology for determining the recharge of a groundwater basin and it goes back to an older document that was prepared for the town by Chazin which was a much larger groundwater study that looked at the town in 2005. Some language from that document was pulled out and put into the zoning ordinance when the aquifer overlay was designed so that's where that 199 comes from. There is an increase in demand, he believes that the increase is not insubstantial but it is a small percentage of the current usage. They're increasing by roughly 36 percent at full build out. That is a worst-case scenario and the applicant is aware of the potential for there to be impact to off-site wells and they're willing to mitigate if a circumstance arises that can be proven to be a result of additional usage there are mitigation strategies to deal with that. He doesn't think it's going to be an issue. There's a couple of reasons. First of which is there's two new wells that are proposed one of which is for the single-family home. That well is farther north compared to the irrigation wells that were the issue back in 1999 when a pumping test was run and some of the neighboring off-site wells were impacted. This new single-family residence well is farther north, a greater distance and significantly lower in demand than the irrigation wells. These irrigation wells will run at he thinks 50, 60, 70 gallons per minute for 72 hours straight, that's a tremendous amount of water. None of these new wells are proposed to be operated under that kind of a load. The second new well that's proposed is somewhat interior to the Hudson Valley Shakespeare Festival property as a whole, significantly farther north and somewhat farther west from Route 9 compared to existing wells. We have to remember that there are existing wells on the property they're being pumped all the time and yes there's anecdotal conversation that maybe some wells are impacted. There's a lot of variables that can that can kind of degrade the performance of a well they can degrade naturally over time many of these homes are older and therefore their well systems are older, they're shallow their pumps may not be performing at the same level. Well screens can clog up over time with bacterial loading and things of that nature so there are a lot of variables that can impact a well. He doesn't believe the additional demand that's proposed here is enough to tax the 199,000 gallons per day of available recharge.

Mr. Gagnon asked regarding the surrounding areas is there a way to calculate let's pick a half mile radius around the center of the site the number of houses, the projected use water use per house times that compared to the 200,000 gallons available.

Mr. Woodell replied that the projected use of those homes has already been deducted from that 199. He would have to look at his calculations but what they did was estimated the number of houses primarily in the upland recharge basin to the east. It was somewhere in the order of 65 houses or so correct within that basin. it's discussed in the water balance discussion. They estimated the number of homes, estimated the number of bedrooms calculated the consumption of all those homes and subtracted it from the total basin calculation to get the 199.

Mr. Gagnon asked what is the number of homes the area that that's related to can he give them an idea is it a half mile a quarter mile within the affected homes?

Mr. Woodell stated that he doesn't want to use the word affected. The basin itself is maybe a half a mile to the east that's kind of where the topography climbs and then levels off and that's going to define the groundwater divide. That distance he thinks is roughly a half a mile to the east of Route 9 and to the east of the site.

Mr. Gagnon stated he's not going to say a radius because it's not a radius or site count the number of houses correct anticipated usage per household.

Mr. Woodell replied, correct multiply all those together. He added that he wished he could give him the number but he can tell him that it's not included in that 199.

Chair Zuckerman stated that Mr. Gagnon is asking about demand and Mr. Woodell is stating supply and he's saying there's plenty of supply. He added that his challenge is the supply is a derived number from a 2005 study.

Mr. Woodell stated that all the existing house demand has been taken out of the picture so that's available.

Chair Zuckerman stated that the 200,000 is not demand, the 200 000 is supply.

Mr. Woodell stated that the available supply for Hudson Valley Shakespeare Festival 199,000 has accounted for the use of all the other houses in the basin already.

Mr. Gagnon asked if that be delineated?

Mr. Woodell stated yes, it's going to be another column so the total basin recharge is even bigger than 199,000 and then they can show the demand of the existing houses in the basin as a little piece on the top.

Ms. Conner stated that she has just sort of a practical question. So, this Chazin and study, she was on the stormwater board when they did that study and the discussions and stuff like that. One of the things they said to us at the time was that we were lucky to be in the northeast because there's so much rain. So, it's a 2005 study so that's 17 years ago. How often should a town revisit that information. Is that old information?

Mr. Woodell stated that his experience with studies like that is they are in part based upon historic weather data and so a given study can't predict precipitation in the future for example so it utilizes data that exists already. He would want to read it in more detail and see whether there's any discussion in in that 2005 study of climate change or things like that. He's sure it was a recognizable sort of circumstance even back in 2005 whether or not that's really built into the zoning code he doesn't know. But, suffice it to say that perhaps every 20, 25, 30 years something along those lines. With a new study assuming that the assumptions are correct in the old study they're just going to use slightly more up-to-date data so, it'll be 10 years newer weather data for example.

Ms. Conner replied if for example it turned out in in a 10-year period there was less water coming in then that would be a concern but if they had more then potentially it would be less of a concern but recharge then it runs off.

Mr. Woodell stated that looking at these numbers even graphically there's a substantial difference between supply and demand. Here the supply significantly outweighs demand and he doesn't know that a new study is going to really change the height of that that blue bar significantly, it could change certainly but he doesn't know that it's going to be substantial.

Ms. Wendel asked if houses are located on an incline from the bulk of the water table that's at the proposed site the water could not be as high at that level, right? In other words it just seems logical that it could be that the reason they heard that wells were running dry to the east of the proposed site is

because if they're higher in elevation their well could run dry even if there is enough water at a lower incline from that site.

Mr. Woodell stated that he thinks what they have to bear in mind is that a given well at a given location creates a cone of depression that surrounds it while it's pumping. The water table surrounding the well becomes depressed and it actually makes a cone shape and that's what drives water towards the well to be extracted by the pump. That cone of depression is not going to extend from the Hudson Valley Shakespeare Festival across Route 9 and up the hill. They have to think of the basin on the east side of Route 9 as a sort of a recharge zone to available groundwater. But that groundwater moves and it moves downhill topographically, it moves from east to west generally. That basin is providing water to the wells at the Hudson Valley Shakespeare Festival property but the idea of whether or not those wells are going to cause a general overall decline in the elevation of the water table on the east side of Route 9 that's probably not likely. Also, bear in mind that generally speaking domestic wells in this area are probably 200, 300 maybe even 400 feet deep. They might intersect a water table that the static elevation is at 30 feet below grade, 50 feet below grade. There's generally in a good well 150, 250 feet of storage in the well casing. They would have to depress the water table over a hundred feet to approach a condition where the pump is in jeopardy of being exposed to depressing the water table and that's just not likely from these wells.

Mr. Johannessen stated that the board has seen the upper images those are in the document. The bottom image the section is new and it's been further developed and refined as requested by the board. They engaged Tectonic Engineering to assist in a more defined plan. They were asked to determine how many columns or support posts would be involved. They didn't have the answer to that before, they do now. Some statistics on the bridge; the plan shows 126-foot-long span bridge, 24 feet wide, with abutments on either ends and four support columns, two on either side of the bridge and the footprint of those support columns would be three by three. He added that he knows when they were in the field somebody asked are there going to be no support columns, 20 support columns what's the size? They were asked how tall is the bridge? How high will the span be over the brook, over the ground as there's a little bit of a valley there? The maximum elevation would be 26 feet at the abutment to the left, 22 feet at the water course and then 20 feet as you approach Snake Hill Road. The next slide has the images.

Chair Zuckerman stated that what he's missing is a version of this where he wants to see what this looks like from the stream when you're standing here in the street looking at the bridge. Part of the board's charge is to understand when they're driving here when they're one of these cars what is the visual effect of this whole thing and he can't tell from the drawings what it looks like when he's driving by here of what this thing looks like when he's looking straight at it. Whatever it looks like they should see what it looks like. His second related question is he cannot tell how big these things are what are what is there as you're driving on this road southwest, you're coming off of Route 9 down past this family that lives right here what is the size of these abutments? Is it two individual things? Is it one massive thing and what are the dimensions of that thing?

Mr. Johannessen stated that it's 20 feet tall, 36 feet long.

Chair Zuckerman stated that what he's trying to get is when he's driving by, he wants to know what this looks like. Is it one huge thing that's 25 feet long and 26 feet wide? When he's driving by, he's seeing in three dimensions, there's a thing it's either two posts or it's one huge block.

Ms. McKinnon stated that they have a column on either side the road is going over a stone abutment that is below so is he asking what it looks like underneath the bridge?

Chair Zuckerman stated you're going to see it, this huge thing. He wants to see how big that thing is three-dimensional for when he's driving by, he wants to see what's underneath.

Ms. McKinnon stated it'll have plantings so he won't see a large portion of it because that's part of the strategy of the plantings.

Chair Zuckerman stated that he'd like to see a picture of what this thing looks like.

Ms. McKinnon stated it will be determined by code for the heights for the railing first of all. She believes it's approximately four and a half feet, three and a half feet, it's like an entry column on a driveway.

Mr. Johannessen stated just to reiterate there's no wetland disturbance associated with the bridge, the wetland buffer disturbance results from the four columns and the abutments. There's no lighting on the bridge and this span bridge was designed specifically to lessen the impact on the wetland and the wetland buffer and reduce fragmentation.

Mr. Tomann asked if they have information on the decking.

Ms. McKinnon stated that they are currently looking at possibly a wood structure, they're still understanding what the parameters are for the span but looking to recreate a rural character through that road.

Mr. Tomann stated that he means the decking, the actual surface of what they're driving on.

Ms. McKinnon replied that they're looking at possibly a wood surface that's one of the ones they're studying and it'll be rated for fire trucks.

Mr. Tomann stated that when they have permeable decking they've got salt, snow, mud, things dropping into the wetlands, have they thought about that? He's trying to wrap his head around the idea that they're not going through this wetlands buffer, they're not disturbing anything. Almost the entire structure is in the wetland buffer and it's elevated. It's elevated but they've got a considerable amount of disturbance there so now they're introducing cars and trucks that are leaking things. What kind of feedback are you getting from New York State Dams? In the past they had talked about the condition of the dam and during the public hearing there were some people were raising concerns about building this structure roughly 100 feet downstream from a defective dam. He doesn't see how this is going to get built that close downstream from a defective dam.

Mark Lukasik of Tectonic Engineering stated they were retained by the owner of the dam and the dam owner has an obligation to manage that dam. The dam was previously unlisted by the state, it was essentially registered for lack of a better term with the state over the past year. The dam was inspected an inspection plan was developed for the dam; an emergency action plan was developed for the dam. The dam was found to have a conduit at the base which was no longer in its original configuration and so the recommendation by his office was that the water level upstream of the dam should be managed manually on a temporary basis until the dam could be modified, repaired whichever course was selected to go forward. It is a time-consuming process and it's one that is and should be a thoughtful process as to how they are going to move forward with it. The key point here is that the dam exists, there's an

obligation to take care of it, to manage it, maintain it and that obligation exists with the dam's owner whether this project is here or not. So, that process has proceeded with DEC, the DEC has visited the dam, the DEC has understood their recommendation to reduce the water level in the water body upstream. The DEC has concurred with that. They've come up with a management plan it is prepared to be implemented it has been accepted by the state. There is technically no approval process for it, it's more of a non-jurisdictional process but one that is complete and that water level is able to be managed as soon as the owners are ready to proceed with that plan. They're in the process of obtaining the contractor to do that. As for the future of the dam what will happen to it which way will it go that is not known at this point, it's not decided but it's in process to figure out what is the right thing to do at this location. The water management plan when it's in effect it's essentially a plan that will remain in place and in a routine operation for it to keep that water level about four feet lower than it is today and that is in active management and one that is watched and planned for and accounted for.

Mr. Tomann asked for his estimation on how many gallons it is holding or how many acre feet is the dam. Is the impoundment?

Mr. Lukasik stated that the volume of it is less important than really the relative elevation behind it because as the depth of the water increases the pressure increases. So, the thing that in the temporary condition that needs to be monitored is really that is the level. The volume for it is somewhat irrelevant. There is a decent portion of the water body that is held below the toe of the dam a word used to define that is undrainable, it's a reserve undrainable that depth below. Were the damn not to be there would still be a puddle of water.

Mr. Tomann asked if they have thought about returning it to wetlands.

Mr. Lukasik stated it's certainly a possibility. It's one of the options.

Mr. Tomann asked what kind of volume are they looking at and what would it do to this new dam. It just doesn't make any sense to him to build something this close to something that defective. What if they have another Sandy or another Irene, what are we looking at?

Mr. Lukasik stated that the purpose of maintaining a lower level of it is to bring the factors of safety that would otherwise be there into very large numbers the relationship of the water level behind the dam to the stresses that would be imparted on that dam are proportional. By taking off half the water upstream of that dam the comparative level of stresses that they're removing are dramatically different so that the risk level is dramatically dropping as well. That is why the recommendation that they put out to the state was rapidly accepted by the state as being a prudent and an appropriate value to select.

Mr. Tomann asked when are they talking about building a bridge on best case scenario?

Mr. Johannessen stated it's in phase one, 2024.

Mr. Tomann asked Mr. Lukasik where does that go into his plans for the dam and lowering the water or doing whatever they're going to do?

Mr. Lukasik stated that the management plan is set to be implemented this spring. So, the idea is to get that in place now and again it is a prudent move irrespective of Hudson Valley Shakespeare. It is something that has to happen for the owner of the dam and that responsibility not the application.

Mr. Tomann asked who are we saying is the owner of the dam now? Are we're saying is it Mr. Davis or is it Shakespeare? Who's the owner of the dam?

Mr. Lukasik replied Garrison Properties.

Chair Zuckerman asked if they can talk about the alternatives. A number of people have asked why there can't be a route down the first hole towards the straightaway of Snake Hill Road instead of creating a bridge here. Can they just talk about what the technical deficiencies are of that approach?

Mr. Johannessen stated that they studied two locations, they actually studied several more than that but are going to present to two different alternatives. They did look at other options to get to the site from Snake Hill Road and they quickly dismissed them and then went through the exercise over the last month to illustrate to why they dismissed them. This plan here is an access road from the existing maintenance yard on Snake Hill Road where the aqueduct runs. Badey and Watson looked at three different options in this general location and this is the best option. This option shows both a grading plan with and without retaining walls. All the little black lines that are so close together those are two-foot contour lines each they kind of blend together into a general black mass but those are contour lines. Then they'll see if they chose to install retaining walls, they could cut back on some of that disturbance by installing the walls. The takeaway is without the walls this would create an additional 5.6 acres of disturbance, with the walls that gets them to about 5.2 acres of disturbance. It's a massive cut up a hill which at its worst is a 17-foot-deep cut and then there's sections of fill that are over 13 feet deep. This is on a regulated steep slope it would trigger another wetland permit because of the watercourse along Snake Hill Road and they would have to go over the aqueduct which is not incredibly deep and would probably be a very difficult exercise. Not to mention the tree removal this is a portion of the site that is relatively undisturbed it's forested they don't have a tree survey but they've all seen this area.

Chair Zuckerman asked about a statement about the aqueduct that it would be very difficult. Is that because of permitting from the City of New York?

Mr. Watson stated that there certainly have to be some work on the existing entry there is a right of way so there is a right to cross there and that's in the original deed from when the city acquired the property. There is a traveled way there but it would have to be brought up to grade. There are two conditions of structure with the aqueduct it's either in a tunnel or it's what's called cut and cover or it's transitioning between one and the other. Cut and cover basically they built the tunnel on the ground and then they covered it and that's what they have here. If he recalls correctly, it's maybe three or four feet down to the actual top of the tunnel so they anticipate that anything that would have to be done to bring that up to the condition where a significant amount of traffic would have to go over it, they would have to do a lot of work to protect the aqueduct. The point that was made by the comments that came from the public was that the sight distances be would be better. They studied three routes up the hill and when they decided which of the two entries into the maintenance area were, they would use they picked the southern one because that's higher in elevation so that gives them less grade to travel up the hill, less grade to overcome simply because there's several feet of drop between those two elevations on the entry points and they graded a 10% road. They can't just go 10% flat, they have to make transitions, have to flatten it out. The 10% came from the New York State Fire Codes recommendation for a fire truck. They can get a waiver; they could make this a little bit better with 12% he doesn't want to leave that unsaid but it wouldn't get very much better. The three colored lines on this map those

though the two that are don't have the grading have 50-foot cuts. They projected a route that would get them through the steep slopes with a minimum amount of cut using a 10% grade and turning radii that worked for the fire trucks and that's what they have. Mr. Johannessen mentioned the amount of disturbance which they posted on here 5.6 acres without retaining walls. If they put retaining walls in a couple of areas, they could reduce that down to 5.2 acres. There was another suggestion that came to go out onto Phillipse Brook road and essentially, they have the same condition, they have an 18% road going down there. The occasional person that knows how to drive that road can negotiate it but they don't want an exiting theater crowd to negotiate that road trying to get out of there and so they basically applied the same principles and they have 4.9 acres of disturbance. If they use retaining walls they get a bigger reduction, they can get it down to 3.2 in this particular scenario. Same basic criteria. The rest of the new roads proposed the steepest grade is 6.5% so just so they get that in comparison of what we designed. This road is partly on the aqueduct and frankly it's not supposed to be there so if they were to reconstruct it, they would have to bring it out onto Phillipse Brook Road a little east of the aqueduct. Then they'd have the question of well what's the adequacy of Phillipse Brook road and as much as he's willing to debate this, he doesn't think he's willing to debate the idea of paving Phillipse Brook Road. All in all, they think they've pretty much demonstrated that any access from the straight away on Snake Hill Road or from Phillipse Brook road is really out of the question as far as they're concerned.

Mr. Gagnon asked if there's any way that this can be configured to use utilize that existing driveway.

Mr. Watson replied that would present a greater problem because the grade goes downhill and if you look at the topo, he'll see the grade goes downhill, that increases the net change of grade from the bottom to the top. That means the road gets longer, it's just a simple division.

Mr. Gagnon stated but it seems as if almost it could be a shorter path.

Mr. Watson replied that it's not going to be a shorter path. What's driving the length of the road is the vertical change and so if they drop the beginning of the road and leave the end where it ends, they'll have more grade to overcome and longer roads on a flat plane it looks good they don't have many of those.

Chair Zuckerman stated that he'd like them to give the board a viewpoint, not right now but they have basically the comparison of two heterogeneous things. One is the creation of a bridge which they can debate whether there's factual elements about it there are structures that will be put in a wetland buffer, it will have visual implications for the area versus this which has significant disturbance and etc. He'd like to ask them to come back to help the board to think about how to compare two heterogeneous things because they are different with the same purpose or at least similar purposes but it's not easy at least for them to assess the opinions.

Mr. Gagnon asked on the area where the existing dam is, what could be done to accommodate the exit at that location?

Mr. Watson stated that they looked at that and they could rebuild the dam and the dam would have to be built with a wider top because it's only good for one-way traffic now. The more critical point John Canning could tell them is that the sight distance available for somebody exiting or entering particularly from or towards Route 9 is too short to make it safe.

Mr. Johannessen stated that this shows the sight distance at the proposed driveway at Snake Hill Road it is specifically located to maximize sight distance and the sight distance that they have far exceeds both the minimum requirement by the county and the preferred requirement and those numbers are on this graphic. They have 520 feet looking right onto Snake Hill Road and 400 feet looking left and they can see it's here on the map they identified the minimum requirement and the preferred requirement those are county standards. This is a in an ideal location to maximize sight distance where the existing driveway going over the dam is not.

Chair Zuckerman stated that he'd like to turn to the siting of the tent that's something that got in a significant amount of air time both in written and in verbal commentary. He'd like to hear their arguments and discussion points on that please. When they went through the EAF part 3 in detail they did not talk about that at length but the public had a very strong reaction to it so he thinks it'd be worth hearing their thoughts.

Ms. McKinnon stated that there are several ways that they evaluated options for tent and a lot of them have to do with the code regulations in the town. They looked at and they considered a couple options along this area closest to Route 9. Those would be highly visible and not meet the requirements for visibility from the road when they would do a view shed analysis so those were taken off the table as they were not going to meet anything to do with the EAF requirements for view shed from public roads. They also looked at a few locations over here where there's a septic system, they cannot build on the septic system and they looked at a few options along this zone and again similar to the road is steep slopes. It didn't leave a lot of options for where to actually look at siting the tent that met a lot of the EAF regulations and the code regulations. With that in mind and as they've shown before they looked at the tent location very specifically in terms of the view shed analysis and locations that they all decided together for both the western side of the river and from the points along the property line from public spaces. With those they're doing a quite a bit of additional planting on site to help with that view shed analysis so that the tent is actually not visible and that was their charge right is to make it a not visible from public areas. So, they've talked a lot and looked at their overlay buffers, we have talked many times with the board about additional planting and areas that do not have planting at the moment in the form of trees and so they looked at their studies these are from around their site which they should be very familiar to the board by now. This one is actually physically modeled so she knows they're going to tell her that they can't see the tent but that is the point, it's in there she promises. It's way back here. So, showing here that this is not visible quickly but they've looked at all of these this is along Snake Hill Road this probably feels fairly familiar to them, this is their pond on site again modeled in the background the manager's quarters is here, the proposed rehearsal barn and the tent at the top again with this is showing the proposed planting that would happen and the existing planting in a winter view not very impactful from their public road that they talked about. This will be very familiar they just looked at this as the existing bridge site. Again, here's the new road in the background kind of dashed in for a bit of orientation, the proposed rehearsal barn and again the tent at the top, again winter view. What they're trying to show here and what she's talked about a little bit is that they are looking at locations from various perspectives and trying to identify the one that has the least impact when anyone is driving to the site or past the site or from across the river. They've modeled the tent in all of these views so that they can show that this is the best location not to see it.

Ms. Conner stated that she thinks one of the problems that the public has is that the public and doesn't necessarily understand what the ridgeline rules are and it's her understanding that the ridgeline rules

are that if it's on a protected ridge they're not supposed to build anything. This is not a protected ridge. Then the next question is whether or not they can see things from public spaces and she just thinks that there's been a lot of confusion and she's not sure how they could explain to the public what the actual rules are about siting because she thinks that people think that because it's a ridge, they can't put anything there but it's really about what they can see from there, so it's not actually looking out. She added that as a board she feels like that's probably something if they could figure out a way to communicate that because that that seemed to be the major confusion.

Ms. Wendel stated that regardless of what the rules are on a ridgeline view and she appreciates the effort to reduce the view of the tent but she feels like given how the public feels if the tent is perched on that particular view and perhaps putting it there actually does comply with the town code but in order to make it more amenable to the town she thinks that particular spot is troublesome to many and it may not matter as much if it is visible from some other location if it just isn't in that particular location that's kind of like an iconic view. That's just a thought.

Mr. Davis stated that he just wanted to just say one comment on perspective because obviously they're going to comply with all of the regulations and they're going to be bound by what this group says but one consideration that he thinks really has to be in the mind is they want Shakespeare to succeed in this site. Things like having the Inn and having a second stage they were part of their future vision right they weren't part of what it needs to succeed. The view from the tent is their brand. Shakespeare in every review in every newspaper talks about that brand. They can put this tent in the woods, they can put it somewhere else and Shakespeare will fail. This is part of their public promise too. He was supportive of them even though he didn't love it compromising on the this, eliminating the second stage and the Inn because those weren't essential to their promise but this is. There are a lot of iconic moments on this landscape many of which are protected and for people to enjoy. This particular location of the tent is the one that checks all of the boxes in terms of regulation, noise, sight lines, but it is also necessary for them to succeed so he just wanted to give that perspective about why he's been an advocate for them to say this really matters as much as he loves this site with all my heart it really matters that Shakespeare succeeds and that they are able to offer their public who's moving from one iconic site to another something of that experience.

Mr. Hollis stated that to answer Miss Connor's quandary or provide a solution. The Storm King doctrine is really simple. It's what you see looking into the property, not what you see looking out from the property, it's that simple.

Chair Zuckerman stated that he did ask in the conversation for one of their partner organizations to come speak for a couple minutes because in the commentary from Mr. Hollis' office there was a citation of what was said by the Conservation Board and he just wants Mr. Andy Galler to come up here and just give us a little sense of what was discussed because he thinks it's important given that they were quoted as saying certain things. He wants to make sure they're all clear on what Gallery the process has been with the Conservation Board and he' going to let Mr. Galler just take the mic for a couple minutes just clarify exactly what's been said and what's been done related the applicant and the Conservation Board.

Andy Galler stated that they had a site visit in January and most of the members were there and they looked at both where the tent would be sited and the bridge and the parking areas and the Conservation Board is very thankful that all the parking areas have been moved out of the wetland buffers. He made the comment when he looked at this, not the Conservation Board this is Andy and he

said yes, that type of bridge could be built and probably built with minimal impact to the wetland buffer and the stream itself both during construction and afterwards. But he added which was not in the document why would they want to build such an expensive and visually invasive structure. Since that time a few members of his board as well as their environmental officer have also pointed out which Neal Tomann pointed out was the comment of non-point source pollution. What's going to come off that bridge? Something he never thought about. They'd like to have the applicant come back with the revised plans because they do have which he doesn't want to get into now but they do have a couple other issues in terms of meadow restoration plan and the SWPP.

Mr. Tomann stated that he wasn't looking for this but in the New York State Fire Code every 10 years revises so we're working with the 2020 revision of the New York State Fire Code and when they make an addition or they make a revision to the code they mark it with a dark black line next to the new piece of code or the amendment. So, on section 3105 of the 2020 Fire Code in New York State and under that section 3105.4 which says; *the use period for a temporary special event structure erected in accordance with ANSI e121 which is the engineering part of it shall not be erected for a period of more than six consecutive weeks*, so maybe if they can take a look at that code provision.

Mr. Hollis stated the tent is permanent, well it's not a temporary facility. Mr. Goldsmith just happens to be here; he's the tensile engineer and he can speak to it.

Mr. Goldsmith, Senior Principal at FTL Design Engineering Studio stated that they design these types of structures all over the United States. He's designed these tensile structures for over 40 years and would just say what they mentioned ANSI's temporary structures, this is not a temporary structure. This is a permanent building. If any of them have been to Denver airport since 1995, you walk in to that space, it's a terminal but it is a tensile structure. This is not like the existing tent that's up at Boscobel which is a temporary tent, that's seasonal it goes up and down different type of material different type of loading this tent is going to be designed for 120 mile an hour wind loads that's what's required there that's basically a hurricane force winds plus their safety factors on top of that. They've done tent structures in Orlando at Disney World that's gone through 130 mile an hour basic wind speed that's gone through two hurricanes without a problem. These structures are really not temporary structures, they're permanent buildings. In western culture we always think of lightweight structures as something that aren't really strong but the reality is these structures are incredibly strong and we just have to design them, they have to have the right foundations, the right engineering. As far as fire code goes, they're non-combustible. The material they're going to use it's a glass fabric it's coated with Teflon, it lasts 45-50 years something like that so it's a permanent structure. The oldest one was set up in 1974 at Laverne College in California it's still there. It was tested about five or six years ago ninety percent of its strength

Mr. Tomann asked so it's accepted in other situations as a permanent structure all year round?

Mr. Goldsmith stated it'll take full snow load; it'll take full wind load. It won't be any different than if it was a copper roof except it'll be translucent and it's part of the iconic quality of the Hudson Valley Shakespeare Festival.

Mr. Tomann asked so the engineering is completely different than what they're using now?

Mr. Goldsmith replied the engineer is different what we're using now when they designed the present structure 20 years ago whenever that was it was because it was going to be only up Boscobel only

wanted it up for that season, they designed it more like they would design a circus tent. It's a different type of approach a different type of structure different type of fabric, etc. This is going to be a permanent structure and it's going to be up for the test of time.

Mr. Tomann stated so that six consecutive weeks would only apply to a tent like the one that they use now.

Mr. Goldsmith replied, correct.

Chair Zuckerman stated that now they will do light and noise, just some more detail on what they did.

Ms. McKinnon stated that she wanted to highlight again their lighting strategy for the site lighting. As they've talked about before site lighting such as path lighting will be dark sky compliant and that is because it is friendly to the environment, it is the right thing to do and it will provide low level of lighting for paths. This lighting will be used only when needed during performances so it's not on all night, it is there to allow people to leave the tent and come to their cars then once everybody's gone it's turned off. This is showing four different instances of how that lighting works, during a performance, at intermission, departure where they can see a little bit brighter light on the path system and at the parking lot and then post departure or on a non-performance night it's dark. At the parking lot they'll be required to meet code lighting. They anticipate that being very similar to existing lighting that's already on site for parking. It is going to be very respectful again on the same system that when it is not needed it is not in use it is off. In this example here of path lighting this is a bollard light with a down light so they can see a person here not particularly tall it's really only lighting the surface that they're walking on. And then a concept model of the proposed tent only used while it is in being used for performance and off otherwise.

Chair Zuckerman stated that the question for him the departure photograph while very helpful in showing the walkway does not show the lights of the cars as they're leaving. He thinks it'd be very helpful because it's not depicted, he's trying to see the lights of the cars that stream out.

Ms. McKinnon stated that they did not print those in large format but the board does have those in the document. There's a section to show how many cars are stacked this is coordinated with their traffic engineer of how many cars will be stacked.

Chair Zuckerman asked Ms. McKinnon to remind him, they're having traffic that departs both directly to Route 9 as well as through the Snake Hill Road, the new exit, right? He added that they had a very tearful husband and wife stand here and tell the applicant and the board that the lights that are going to come from that bridge are going to go into their little house that sits above it is that correct?

Ms. McKinnon stated that they did a section based on that specifically to show that the location of the house is quite significantly above the roadway and the way lights work they have the trajectory that they're provide the board that page number.

Bob Flaherty (inaudible, off mic)

Ms. McKinnon stated that they haven't determined that exactly yet the particular fixtures.

Ms. Conner asked so there's no lighting on the bridge at all, not even like reflectors to show where it is? The headlights of the cars are enough to be able to see where the bridge is, it's not necessary?

Mr. Gagnon asked if that bridge would be utilized for pedestrians?

Ms. McKinnon stated there are no sidewalks along there so they are not really not on that road as a pedestrian.

Mr. Johannessen stated that these three images are in the noise study blown up for the board tonight but he wanted them to focus just on the yellow area with the sharp yellow line. That is the 40-decibel reading which they're required to meet at the property line. The white line on this image is the property line. In the top left corner this is the typical average performance at night and they can see that they're completely compliant. That yellow line is nowhere near the property line. This is 95% of the performances, not musicals just your typical Hudson Valley Shakespeare performance. Where they ran into an issue was when they analyzed a musical performance and there's only been one musical performance in the last 35 years in the entire history of the Shakespeare Festival that occurred. When they analyzed the musical performance at night there was an exceedance at the property line. If they follow that white or yellow contour they see where it touches that zigzags white property line and they hatched the areas where the exceedance occurred over the property line that is what they're talking about, that's receptor 3A.

Chair Zuckerman asked which house this is? so which one is this house that's at the that you're depicting on this chart that is this house that is most directly affected before mitigation, whose home is that?

(inaudible response)

Mr. Johannessen stated that just for everybody to understand that this is a very unique circumstance at night, musical performance doesn't happen often but they analyzed it for a worst-case scenario. Then on the right-hand side bottom right they studied a few different types of mitigation items. With only one of those mitigation items in place whether it be relocating the back of house structure, putting a different material on the tent or a berm they can eliminate and be code compliant. The third image is a model with the musical performance at night with mitigation in place and then shows code compliancy.

Chair Zuckerman asked if for the layman at point 3 whether it's the no mitigation play or it was a musical with mitigation can you just help them with this yellowish color. He doesn't know how to interpret a 38 to 40 decibel sound. As the note from AKRF states the noise levels were quietest at night so this is 10 or 11 o'clock at night where people of a certain age may go to bed and this musical is occurring. He's just trying to understand even at the 3 in the light the green and yellow color of the this point for these colors can he just give them a sense of what that volume is?

Mr. Soler stated that the code has two different levels, so 50 decibels during daytime and that's until 8 pm and then starting at 8 pm it drops a level to 40 decibels. 40 decibels it's very, very quiet for outdoors. It's people talking normal level without microphones, that's 60 decibels. Whispering will be would be like 40 decibels something very quiet. He visited the site many, many times and the only location that he measured levels at night below 40 decibels was in this area around location 3. Everywhere else it's 40 to 50 decibels using the ambient sound. The ambient sound the ambience house yes just you hear the cars, the boats, motorcycles when you measure that. Everywhere else it's clearly above 40 decibels. The only location that that's why they study location three, this is the only location that it gets really, really quiet.

Chair Zuckerman asked Mr. Soler how does he know what the sound of the musical will be?

Mr. Soler stated that in 2019 he visited Boscobel and measured during performances so that's based on that. Based on those measurements that's how they did this study.

Chair Zuckerman asked if he could advise them because he actually is equally interested in the car noise when they're done. What do they think about the cars leaving, the engines idling and the occasional guy who honks his horn? Can he give some advice on those decibel levels?

Mr. Soler stated that obviously the honking has a lot of mid and high frequencies that are very audible. Typically, the car idling is a lot of low frequency noise that the air is less sensitive to it and then it depends on the velocity of the car if the car is moving very fast there is a lot of friction on the pavement and that generates more noise as well. It's a combination of several things.

Ms. Conner asked if tires are louder than engines?

Mr. Soler replied that when they study roads it depends on the pavement, you can have a pavement that absorbs sound that it's very porous but the typical pavement that we have in this area is very noisy and actually when you listen to cars driving on Route 9 crossing that bridge further north you can hear clearly when they drive through that cement. It's very, very loud and that's basically the tires against the asphalt.

Mr. Hollis asked when they're at a point when the board wants them to do the revisions to the EAF part three and submit it to the board what format would that look like number one. How would they want that to be presented for final evaluation? Secondly, because of the topic that the Chair had here today he thinks they've been really good about getting things in two weeks before because the team works really hard at that but to get the EAF printed is hard. He spoke with Mr. Werner about a little bit and they have the capacity to get it in two weeks before the meeting electronically which is how it's posted on the website anyway. If that that can work, they won't lose time because they don't have a printed copy in.

Chair Zuckerman asked Mr. Gainer for his view on that.

Mr. Gainer stated that posting to the website would be very significant, the hard copies are really for the board to review so they can be guided by that.

Mr. Werner stated that they had a couple of recommendations in there that they think just for the benefit of the public and when they ultimately get to a decision, they have to have the part three up to date. The last one they've seen is October or September, it's on the old plan. The board will want to see the new plan incorporated into that document and the public to be able to digest it because they've complained about it being too piecemeal and not easy to follow. He continued that they recommended that they update the record, the question is, is a digital format, okay?

Chair Zuckerman stated that he doesn't have a problem with being a digital. He then asked if anyone has a problem with the digital format?

Mr. Werner stated that the other question on another factor is the traffic study which is particularly voluminous and had a lot of different pieces over time. They've been in communication with John Canning about that about how he can get that into a better record that is understandable and flows, is the board okay with AKRF working with him to get that updated?

Chair Zuckerman stated yes, he thinks it's fine. What they've described as a board is he thinks the public will benefit by more additional transparency. He doesn't want to speak for his colleagues and different people may have different opinions but they've had a lot of good and hearty conversation and they're at a place as they've said in June they would come back and maybe have their debate as a board of discussion about where they are at this point. So, he thinks it is fine if they want to in parallel produce or revise part three. His guess is they have all the pieces in front of them to start having a conversation about where they stand on the subject of positive versus negative SEQRA declaration. They've stated that has been the plan for many months and unless someone on this board has a as an impediment to that path, he thinks they can still go forward with that discussion. He can't guarantee they're going to call a vote in June since they were supposed to tonight have a discussion as well as the presentation in fact. That's not the applicant's fault but he wants to make sure this board has the appropriate time to discuss its perspectives on it and he'll call an audible in the next meeting about whether they're ready to vote on the SEQRA declaration at that point.

Chair Zuckerman stated that he doesn't think they need any more presentation in June, they're going to have a discussion, he's going to go around this table and they'll say what are their thoughts, where they are on things. They'll have that conversation and then if people ready to vote they'll take a vote. That's the expectation he's shared that for several months now straight.

Chair Zuckerman then asked for a motion to adjourn. Neal Tomann made the motion; Kim Conner seconded the motion. The vote went as follows:

Kim Conner: Aye
Dennis Gagnon: Aye
Neal Tomann: Aye
Heidi Wendel: Aye

Opposed, Abstentions? The motion passes.

The meeting was adjourned at 10:36 pm.

Date Approved: 7/21/22

Respectfully submitted by


Cheryl Rockett- Planning Board Secretary