

TOWN OF PATTERSON
PLANNING BOARD MEETING
May 1, 2014

AGENDA & MINUTES



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| 1) Liberty Paintball – Sign Application | 1,
17 – 18 | Applicant did not appear. Application tabled until ZBA determination. |
| 2) Fox Run Phase II – Site Plan Continued Review | 1 – 13,
16 – 24 | Discussion of traffic study, EAF, and SEQRA Process. |
| 3) Ice Pond Estates Subdivision – Performance Bond | 13 – 16 | Performance Bond recommendation made to the Town Board. |

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**TOWN OF PATTERSON
PLANNING & ZONING OFFICE**

ZONING BOARD OF APPEALS

Lars Olenius, Chairman
Howard Buzzutto, Vice Chairman
Mary Bodor
Marianne Burdick
Michael Carinha

PLANNING BOARD

Shawn Rogan, Chairman
Thomas E. McNulty, Vice Chairman
Michael Montesano
Ron Taylor
Edward J. Brady Jr.

**Planning Board
May 1, 2014 Meeting Minutes**

Held at the Patterson Town Hall
1142 Route 311
Patterson, NY 12563



Present were: Chairman Shawn Rogan, Board Member Thomas E. McNulty, Board Member Michael Montesano, Board Member Ronald Taylor, Board Member Edward J. Brady Jr., Rich Williams, Town Planner, Ted Kozlowski, Environmental Conservation Inspector, Ronald J. Gainer, Town Engineer, and Michael Liguori of the Town Attorney’s office, Hogan & Rossi.

Chairman Rogan called the meeting to order.

There were approximately 15 members of the audience

The meeting was called to order at 7:00 p.m.

Michelle Lailer was the Secretary and transcribed the following minutes.

Chairman Rogan led the Salute to the Flag.

1) LIBERTY PAINTBALL – Sign Application

The applicant did not appear.

Chairman Rogan stated okay, good evening everyone, do we have anyone here for Liberty Paintball, I didn’t think so. We’ll maybe table this and see if someone shows up.

2) FOX RUN PHASE II – Site Plan Continued Review

Mr. Robert Marvin of Marvin & Marvin, Mr. Joseph Zarecki of Zarecki Associates and Mr. Michael Hartman of Chazen Associates were present.

Chairman Rogan stated Fox Run Phase II.

Mr. Marvin stated thank you chairman.

Chairman Rogan stated good evening, thank you.

Mr. Marvin stated are you ready for me.

Chairman Rogan stated yes, come on up please, absolutely.

Mr. Marvin stated good.

Chairman Rogan stated how are you this evening.

Mr. Marvin stated I'm good thank you.

Chairman Rogan stated great, do you have copies of the memos that were.

Mr. Marvin stated I received them this afternoon after 4, so really we hadn't had a chance to read them, obviously they require some more detailed responses...

Chairman Rogan stated sure.

Mr. Marvin stated which we will provide, our traffic consultant, Michael Hartman is here and he will be the one that will respond to those memoranda but what I thought I would do tonight is I know you have the traffic study, I assume you've had an opportunity to read it but he will be glad to summarize his methodology and findings and also his anticipate, anticipate the way he intends to respond to the two memoranda, one from your Town Planner and the other one from your Town Engineer. So, Mr. Hartman has been involved in, he works for Chazen Companies right now, he's been involved in doing traffic engineering and traffic studies for over 30 years, I'll let him tell you a little bit about his background but with that said, I'll turn it over to him and let...

Chairman Rogan stated wonderful.

Mr. Marvin stated him you know, summarize what he did.

Chairman Rogan stated thank you.

Mr. Hartman stated good evening, as Bob said my name is Mike Hartman, I've been with Chazen as their senior transportation engineer for 10 years, prior to that I worked with New York State DOT in their Poughkeepsie office for 33 years, 15 of those were in charge of the traffic signal program for the 7 counties that make up the region that Poughkeepsie guards, so. The traffic impact study basically it followed accepted national standards and procedures especially those set for by the Institute of Transportation Engineers or ITE, okay, ITE also provides us with trip generation data, in other words the type of land use you might have, the size of that and they give you trip rates that are going to be generated from that land use and these are based on past studies and, like this one, you know, they might go out and instead of using ITE rates, they might go out and use a similar land use somewhere and count the cars, that's how they base their trip rates. I know that one of the concerns has been the fact that the ITE trip rates for the land use of senior adult housing might not reflect what something that senior adult housing has evolved to at this point, working longer, having kids later et cetera but the rates were that ITE gives for that is senior adult housing are, is defined at independent living developments, including retirement communities, age-restricted housing and active adult communities, so some of the studies that have been done have been studies at that, at the type of facility that's going to be built, that's proposed. What we did we took, we looked at four intersections which John Collins had looked at previously, we, the number of units had changed so the trips had changed, we used ITE land use senior adult housing detached, they also have a land use senior adult housing attached, meaning more than one unit per building. Now since we have 14 buildings of 4 to 6

units, somebody could make a case for using either one, we used the one that gave us the higher trips rates which is the detached, basically with that it would normally mean that each unit would be separate, that's not the case here but they're all not attached so you know and the rates for example that we used in the morning for the total number of cars generated would be 44, if we had used the attached land use it would have been 16 and in the evening total number of cars are 38, if we used the attached land use, it would have been 21. So we used the more conservative, more conservative of the two land uses and the trip generation rates, we distributed those trips, obviously all of them are going to come down to Bullet Hole Road, we distributed them, we distributed them to the Fair Street intersection and the to the two intersections to the, what is that east.

Rich Williams stated east.

Mr. Hartman stated thanks, the roads are so curvy I got lost. Then what we do is we, we add those rates, those trips generated to the existing traffic and to any traffic that would, that would be added to this system between now and the build year and we used, we used level of service analysis and the level of service is based on the delays that each vehicle experiences at a particular intersection, all these intersections are unsignalized, for exactly level of service A which is what everybody strives for is 0 to 10 second delay, B is 10 to 15 second delay, C is 15 to 25 second delay for unsignalized intersections. When you look at signalized intersections the timeframes are different, so. In the existing and in the build all the intersections with the exception of one movement at the Fair Street/Bullet Hole Road operated at level of service A or B, now for unsignalized intersections you can't say that that intersection operates at that level because with unsignalized intersections the critical movements are looked at. So for example at Bullet Hole, at Fox Run it would be left turns into the development, the left turns out and the right turns out, they don't look at the through traffic because there's nothing stopping them, okay. So it's the turns from the side road and any left turns into the side yard are the critical movements. As I said one of the movements on the Fair Street/Bullet Hole Road intersection was a level of service C, which is still a very acceptable level of service and to look at and try to ease some of the concerns relative to the ITE rates, we doubled the number of trips generated by the development, so we doubled the ITE rates, we applied those volumes to the Bullet Hole Road at Fair Street intersection because that presented the worst level of service, even though it was a C, it was the worst one that came up and even with doubling the rates, the level of service there remained at C, the delay increased I think 7 or 8 seconds, so you can that and that's a factor of a couple of things, one the volumes that we got in the field for Bullet Hole Road are certainly not excessive, they're not very, there's not a lot traffic there during the peak hours, I don't think any movement has anywhere close to a hundred cars, so that's one reason, the other reason is the project even with doubling all the ITE rates, does not introduce a vary erroneous volume to the roadway system, so you've got two things working that doesn't that makes the project rather benign as far as impacts to the roadway system go, one is the light traffic existing on Bullet Hole and the other is that, I won't say minimal but it certainly isn't a lot of traffic being introduced by the project even when we double the rates. So all the levels of service at the four intersections were either A through B or A and B except for the one at Bullet Hole which one movement was a C, doubling the volumes introduced by the project retains those levels of service and the delays probably increased between one and as I said 7 or 8 seconds at Bullet Hole and Fair Street. So there was minimal increased in delay, the levels of service remained the same, I don't, are there any questions, I think that's, I didn't want to you know, go through this piece by piece because you've had it, are there any general questions or anything because as Bob said, I plan to answer the Town Planner and the Town Engineer's comments individually.

Chairman Rogan stated sure.

Mr. Hartman stated you know, through memo.

Board Member McNulty stated you stated the ITE rates are based on studies, are the studies generated throughout the nation...

Mr. Hartman stated yes.

Board Member McNulty stated or are they, around the country...

Mr. Hartman stated yes.

Board Member McNulty stated a question we came up with is road conditions, the geometry of the road, even yourself, it's a windy, old back horse trail...

Mr. Hartman stated yup.

Board Member McNulty stated and how does that play into effect with studies based, maybe a study of active adult communities in Florida that have a four lane road in front, how do we make a judgment verse an old back road and a more engineered roadway.

Mr. Hartman stated the rates themselves, yeah, the rates themselves would not, would not be impacted by the type of roadway you're talking about. The rates are just what that proposed land use is going to generate...

Board Member McNulty stated so the, I understand that.

Mr. Hartman stated the analysis that's done can be influenced by road geometry.

Board Member McNulty stated and how does this report take that into effect, into account.

Mr. Hartman stated I'll be honest with you, I would have to go back into the actual printouts of the analysis to see if we had for example a 5% grade as opposed to a flat roadway, horizontal curvature is going to be, is a very difficult thing to put into it.

Board Member McNulty stated and there's no road markings, we don't, it's an old road, so there's no lines, there's no curbs...

Mr. Hartman stated yup.

Board Member McNulty stated there's no, there's no side, off ramps, not off ramps but sides of the roads, it's a narrow road so...

Mr. Hartman stated right, right there's no shoulders, it's just the roadway itself, it's unmarked.

Board Member McNulty stated a concern of ours is how do these studies and this reports, how does that all factor in to really give a concise report.

Mr. Hartman stated well to be honest with you, probably a thing that was not done in this study or the previous ones was a review of accident data, that would give us an indication of what the road geometry is doing currently, okay. I don't think anybody can look into the future and say well you're adding 50 trips to this roadway, it's had 4 accidents in the last 3 years at this intersection that means you're going to get 6 in the next 3 years...

Board Member McNulty stated yeah.

Mr. Hartman stated I mean you just, you can't do it that way, you know it's, you would look at the road, the accident history, review it and say okay this is a problem, what's the problem with this intersection.

Chairman Rogan stated yeah.

Mr. Hartman stated for example could it be, could it be mitigated by the installation of a stop sign, could it be mitigated by narrowing down the access point, could it be mitigated by putting a left turn lane in which isn't going to happen on Bullet Hole Road.

Chairman Rogan stated and I think all the things you're mentioning all relate to intersection controls and...

Mr. Hartman stated yes.

Chairman Rogan stated and I think the concerns that have been outlined within the two memos and the concerns that the Board has expressed more relate to road geometry and difficulties that exist, you know whether it's a no build scenario, they exist today...

Mr. Hartman stated right.

Chairman Rogan stated I travel that road daily and I've never been on an accident on the road but I've had close calls almost on a weekly basis where someone's driving, taking up their lane plus half of yours and even a school bus recently was so far over that pushed my wife off into the ditch line where we had to tow her back out on Ice Pond Road but these roads are...

Mr. Hartman stated yes they are.

Chairman Rogan stated people don't respect because they're not painted...

Mr. Hartman stated they're definitely rural roads.

Chairman Rogan stated not that you've caused this but the concern the Board has is certainly how to extrapolate out the impacts that will be generated by this build scenario, taking into account the, you know as you said the driving habits and the age class and just trying to make it the safest of possible outcomes.

Mr. Hartman stated no, I understand that.

Board Member McNulty stated another thing the Board has talked about too and I know we discussed it, I don't know what came about but future developments in the area, you know for long range planning, I don't think there's anything really active right now, right.

Mr. Hartman stated no, we contacted the Town and we got two developments that are in the approval pipeline, I think one was for a 27 residential unit and one was for 2 or 3...

Board Member McNulty stated on Ice Pond.

Rich Williams stated 24 and 7.

Mr. Hartman stated 24 and 7, okay, so that's you know, that's pretty minimal.

Chairman Rogan stated and please understand that when we are talking about difficulties with the road conditions, the Board is not suggesting that one application has to take care of all the problems of the world...

Mr. Hartman stated right.

Chairman Rogan stated we're just trying to identify so that we can clearly...

Mr. Hartman stated okay.

Chairman Rogan stated understand what the impacts are and maybe identify potential solutions that the Town could take a look at just in terms of make, taking a real hard look at this and making sure that we understand.

Mr. Hartman stated yeah well I mean that aspect, the road geometry and conditions et cetera was brought up by both of the...

Chairman Rogan stated correct.

Mr. Hartman stated both of the comment letters and we'll certainly be addressing that.

Board Member Taylor stated what would the ITE rate be if this were not an adult community, just a regular residential community.

Mr. Hartman stated well if it was a residential community, let's...

Board Member Taylor stated yes.

Mr. Hartman stated well for example the existing buildings that are there now are condo units, they show a higher trip generation rate than an adult community would show.

Board Member Taylor stated and what would that rate be, do you know.

Mr. Hartman stated well I'll give you an example. I might have to grow some to do this...

Mr. Liguori stated there are some pins if you want them.

Board Member McNulty stated we need a shorter board.

Mr. Hartman stated okay. What this shows, this is Fox Run at Bullet Hole Road and all these circles have volumes in them and they all pertain to the same intersection, these are the existing volumes that we counted in the morning, AM, PM, 37 out to the right, 11 out to left, 8 in and 1 in front the right. This, now these volumes are a result of the existing condominium units that are there, that's the only thing that's up there, it's a dead end road, okay, there are 204 units, if we took the ITE rates for condominiums this is what we would have expected to see, 58 coming out instead of 37, 17 coming out instead of 11, 14 going instead of 8 and the one making a right, so it's, this is considerably more than what we show now, this, these are the trips that would be added straight by the ITE rates for the 80 units, it would be a total of 29 trips out and 15 trips in and this added to this plus a couple of extra trips for, to fill the gap between now and 2017, give

us our build volumes. So if you've got 204, let's say 200 units here, you've got 75 trips going out, that rate would be .37, .4 trips per unit. Here this is the senior adult housing, we've got 80 units, you've got 29 trips coming out, almost about the same, less than .4, it would be 3.8 something like that, okay so there, might be a little bit higher for the condominium units but it's not like it's double the, double the amount or anything like that, if you had 400, 204 residential units, single family housing, you would see a lot more trips based on the ITE rates, you would probably see, instead of 75 you'd probably 150, 160 trips.

Board Member McNulty stated that's based on the existing condominiums.

Mr. Hartman stated this is, this is based on the existing condominiums.

Board Member McNulty stated so if we...

Mr. Hartman stated what would we, what we would expect from the ITE ratings.

Board Member Taylor stated that's your ITE ratings, the existing is the lower one down there.

Mr. Hartman stated the existing is what we counted coming out of Fox Lane, which is considerably less than what we would expect based on the number of unit.

Board Member McNulty stated so something as a Board, what we're looking at is what would, what would those ITE rates before for condominiums if it wasn't an adult community, those added 80 units.

Mr. Hartman stated right, what would these numbers be based on an additional 80 condominiums, it would be slightly higher, like I said here, you've got a rate, you've got 75 trips leaving, you've got 200 units, if you have 100 units it would be 50% leaving, so that's maybe 40, 40%, it would be .4 here, here you've got 29, let's call it 30, you've got 80 units, so 80 into 30, it would be a little bit less than that...

Board Member Taylor stated so it wouldn't, it would...

Mr. Hartman stated so you know off the top of my head I would say this might be 33 and 6.

Board Member Taylor stated so it would be less than what you doubled it...

Mr. Hartman stated oh yes.

Board Member Taylor stated when you doubled the rate.

Mr. Hartman stated yes.

Board Member Taylor stated so you've covered it under the doubling of the rate.

Mr. Hartman stated yes.

Board Member Taylor stated it would have been easier for us if you had just given us that figure to being with instead of doubling the rate...

Mr. Hartman stated okay.

Board Member Taylor stated it would have made more sense to us.

Board Member McNulty stated yeah.

Mr. Hartman stated yeah, I think what I was trying to do was give you the real worst case...

Board Member Taylor stated but we didn't know that.

Mr. Hartman stated okay, okay.

Board Member Taylor stated the fact that you just doubled it gave us no context in which to judge whether that was...

Mr. Hartman stated okay.

Board Member Taylor stated this gives us some context, so it'd be useful if you put that information in for us.

Rich Williams stated and Ron that is something in the memo that I've asked for...

Mr. Hartman stated right, yes, yup.

Rich Williams stated is to give us all the trips rates for the various classes that we've talking about so that you can see the difference incrementally going up.

Board Member Taylor stated right.

Mr. Hartman stated anything else.

Chairman Rogan stated right, anyone else, Ted, anything, you gentlemen.

Mr. Hartman stated we'll have our response to their comments to them very shortly...

Chairman Rogan stated wonderful.

Mr. Hartman stated so the discussion can continue.

Board Member Taylor stated I have something else in general, not on traffic.

Chairman Rogan stated sure, okay.

Board Member Taylor stated where do we stand on this, have they started the application process or are we still in the conceptual phase.

Rich Williams stated we have an application, we haven't started SEQRA yet.

Board Member Taylor stated well that's what I'm wondering, I think maybe it's time to start SEQRA so that we get some, so we can scope this process in a way that makes sense to us, so we can deal with some of these issues.

Rich Williams stated so you're looking for them to submit an Environmental Assessment Form.

Board Member Taylor stated they did.

Rich Williams stated they did.

Board Member Taylor stated September 13, 2013.

Rich Williams stated September 13, 2013, I don't recall.

Board Member Taylor stated that's what it says on here, it's the old form but it was before the new form was due.

Rich Williams stated well we would want a new form, we would want an updated form.

Board Member Taylor stated of course they checked no on all the boxes which I'm not sure we would agree with so I just think we should start the process, it gives us more control, it seems like, the reason behind it is that this has become a long drawn out process which I think is unnecessary, I think we could condense some of these discussions, especially when we've asked you for something and we don't an answer back that's in a form that's useful to us and we've seen this happen in other projects like M&S, where it wasn't our fault but sometimes we get blames for delaying a process when in fact it's somebody else that's doing it and I think if we jumped on M&S right away and said look you've got to sit down with our engineer and deal with these issues right now instead of however many months it went on before that happened that maybe wouldn't have lost them to Rockland County...

Rich Williams stated we can have a side conversation about how that happened.

Board Member Taylor stated but it seems like that if we're going to move this process along, it might be time to do that, to actual start formalizing it.

Board Member McNulty stated yeah, I'm in agreement with that.

Rich Williams stated alright, so you want a new EAF I assume, yeah, you want to give us that.

Mr. Marvin stated if I could just address that.

Board Member McNulty stated sure, come on up.

Mr. Marvin stated I'm racking my own brain to go back through the chronology that we've all been through here, I think that that process that we were going through up to this point was trying to get a, at least informal thumbs up from this Board with the 80 unit lot count before we went heavily into the SEQRA process and that, the issue that was remaining to my recollection as outstanding before this Board felt comfortable with the 80 units was the traffic study, that's why we're trying to get this issue out of the way and you know get as close to a commitment as we can for the 80 units before we really go headlong into a, an expensive process so, I hope we can still keep it that way and we're not adverse to getting the SEQRA process going and completed obviously but I would like to know where we stand before doing that with the proposed 80 units because as we've explained before the economics of a project on this property don't work with a number that's less than that.

Board Member McNulty stated but this is where the SEQRA process helps, that's how we determine or help to determine how many units we're looking to do as part of the process, I mean we can go back and

forth all day discussing piecemeal items but that is part of the process how to determine what we're going to do.

Chairman Rogan stated what are we looking at in terms of your and I apologize, I don't remember your name sir but in terms of getting response to the questions that have been raised in a way that we can resolve these issues and move forward, are we looking at for a couple of weeks or...

Mr. Hartman stated no, our response will be back to, back to us or you probably by a week.

Chairman Rogan stated so we'll have, we'll be in a position to have this traffic study hopefully wrapped up by next meeting, for next meeting at least for review.

Mr. Marvin stated right I would certainly hope to be able to do that, yeah.

Board Member Taylor stated for review...

Chairman Rogan stated of course.

Board Member Taylor stated but I'm not sure we'll have it wrapped up, is the problem.

Chairman Rogan stated sure.

Board Member Taylor stated I mean the problem I see in all this is your statement that this is the one outstanding, I don't think it is the one outstanding, we've talked about other issues and I don't know, tell me whether we can do this, can we go through this phase of the SEQRA evaluating the before we go to an EIS, evaluating it, that will help us determine whether we feel there are certain things that require a full EIS and if that stage then we can answer your question to a certain extent but now we're feeling like we need some guidance and SEQRA provides us the guidance to deal with these issues, can we sequence it like that or do we have to go into a full engineering study to...

Rich Williams stated no, you don't, actually that's purpose of SEQRA early on in the process to give you what information is readily available so that you can make a preliminary evaluation on the project on suitability of the project.

Board Member Taylor stated and they wouldn't have the engineering costs they're talking about at that phase.

Rich Williams stated correct.

Board Member Taylor stated alright, so that's, I would rather we do that.

Rich Williams stated I, you know what they're trying to do is they recognize that there's these hurdles that the Board feels they need to get over that would make a more favorable decision on their part and that's what their seeking to do, they're essentially trying to give us enough information to have an expanded part III EAF which answers all of the Board's questions.

Mr. Marvin stated I think maybe another way to say it is if for instance and I don't, I certainly hope this is not the case but if for instance you felt that this traffic issue was insurmountable and that you know 80 units is going create such a traffic problem that the only way it could be overcome would be very, very substantial roadways and stuff like that then we would want to know that before we got way down the road,

I don't think that's the case here obviously it's up to you guys to make that decision, I'm not pretending to tell you that that is your decision but you know that kind of feedback would be valuable to us at this point.

Board Member Taylor stated I don't, the problem is we can't answer you that, I don't see it as insurmountably but we're getting closer to an answer to that but we're just, it just seems to me if we change the process to an accepted process, we would have had an answer already. You're asking us for something I think we can't give you because we don't have enough data to give you answer and we need more data, that's what I'm trying to say, if we go through this then we will have some data in which we can then answer, preliminarily.

Mr. Marvin stated let me, maybe for, between now and the June meeting maybe what we can do is try to get to you as early as possible our traffic consultants response to the two memos and then we could address this traffic issue at the June meeting and then if that appears to be something that is acceptable to you and again not a binding resolution but then we could move forward.

Chairman Rogan stated we'll start kicking the process off then.

Mr. Marvin stated yeah, does that make sense Chairman.

Chairman Rogan stated that seems reasonable, we'll tie in, we'll all agree to start this process but in the interim getting the updated form you've already provided a lot of information so getting that transferred to the new form, that seems like it's going to fairly straight forward, maybe some of the...

Mr. Zarecki stated yeah, I just, like he said we were trying, we have been working well with the Board...

Chairman Rogan stated sure.

Mr. Zarecki stated before we had a basic concept of 80 units and a lot things of changed just by this type of interaction that we've had, piecemeal...

Chairman Rogan stated sure.

Mr. Zarecki stated whether we take the houses off the ridge, whether we work with Ted and say the wetlands...

Chairman Rogan stated sure.

Mr. Zarecki stated and take it off the ridge and put by there, so we came up with, we're coming up with a plan that would be generally more favorable to the Planning Board...

Chairman Rogan stated yeah.

Mr. Zarecki stated without guarantees...

Chairman Rogan stated sure.

Mr. Zarecki stated we still have to do water, sewer, stormwater, there's a multitude of other things that we have to do but if we start off with a concept plan that's favorable that when we start our engineering design...

Chairman Rogan stated yeah.

Mr. Zarecki stated that a lot of the questions within the SEQRA process can be answered because we have a plan because the SEQRA process would be or the SEQRA forms would be filled out incorrectly or it would have to be revised because we're not even close on the basic layout of the project.

Chairman Rogan stated right.

Mr. Zarecki stated so there was a lot of things that we got accomplished although the process has been a little longer but we knocked off a lot birds off the trees because we have the same thing with the traffic, if there was something substantial that we needed to identify we would know early on, without any guarantees, we never expected guarantees that once the SEQRA process started and we found out the excavation was huge or the rock, whatever may be trees, we never said that, we just said if you like our basic concept, you can kind of agree that 80 units, still have to prove it out in SEQRA but the 80 units is acceptable if we, once we get to that point and we prove everything out, so we tried to do it with visual, there were some basic concerns about the visual, basic concerns about the traffic, I believe there was a couple of wetlands and make sure, once we have the basics then we can really say we feel confident in our own right just knowing the project that we can address them and give you information that would start the SEQRA process in full.

Mr. Marvin stated and I think with those changes that Joe has just discussed, I think we have taken the feedback that this Board has given us and attempted to mitigate the effects that this project would have before we really get deeply into it, remember he did revised taking things off the ridgeline...

Chairman Rogan stated yeah.

Mr. Marvin stated and preserving the wetlands and doing the deep hole tests and whatever it was.

Chairman Rogan stated part of what might be playing into this whole feeling of not being deep enough into the process too is we all have to remind ourselves of where we are in the process because we've kind of been working with each other, it feels like for years because of the different zoning issues...

Mr. Marvin stated right.

Chairman Rogan stated and the different classifications of what would be approved so...

Mr. Marvin stated it took us a while to get through, yeah.

Chairman Rogan stated so it, it's like a, it's an extended scoping session that we're really dealing with right now where we're trying to you know, get a comfort level with what the potential proposal will be, so hopefully we can move forward with a concept of what seems reasonable to propose and then go through the SEQRA process and prove out some of this stuff, so.

Mr. Marvin stated right, I think you said it well, I think we're on the same page there, okay.

Chairman Rogan stated okay.

Mr. Marvin stated so is it, so then next month we'll come back with the, to talk about whatever our traffic consultant is able to respond to the two comments, the two comments letters and then we'll at that time discuss whether to go full-fledged into the SEQRA process with formal designs and all that.

Chairman Rogan stated great that okay with everyone.

Board Member McNulty stated yeah.

Board Member Taylor stated well you're misunderstand what at least I'm asking, what Rich just said we can do, we're not looking for a full engineering, we could go through this without much more than what you have now and then we could give you some responses, if we decide, if the outcome of this is we want an EIS on certain things that's when you're going to have to do some engineering but before then I don't see that you're going to have to do much engineering. I mean the issues are not stormwater management, for example, at least at this point I don't that as an issue, the wetland disappeared, we're still very concerned about visual impacts, we haven't heard from the community, the surrounding community, we have no input on that, you checked that box off as no community opposition, I'm not sure that you can say that we have people storming in here all the time when kind of unexpected. So, those are the issues I think if we got into it then we could discuss these issues, I'm willing to wait until June I just want it on the record that we're delaying the process, we're not drawing it out.

Mr. Marvin stated no, I'm not suggesting that you, I'm not suggesting that you are, there's no complaint from this applicant that that's what's going on here, so I'll put that on the record too, we're I think we've been cooperating and working well together and yes you're right we very soon we should step it up and really get more detail into this, we're ready to do that.

Chairman Rogan stated alright, anything from anyone else. okay, thank you gentlemen, appreciate your time.

Mr. Marvin stated alright, thank you very much.

3) ICE POND ESTATES SUBDIVISION – Performance Bond

The Applicant did not appear.

Chairman Rogan stated alright, so on Ice Pond Estates Subdivision, the performance bond, Rich it said or I'm sorry Ron, it said in the memo that they were in agreement with the numbers.

Mr. Gainer stated correct, yeah we informally provided them with the information before the work session I was advised that they found it acceptable and that's when I formally released it for the Board to review and you can take action on it tonight.

Chairman Rogan stated so shall we make a recommendation that the Town Board sets a performance bond with the associated inspection fees, so that they can, we can get that, make sense.

Mr. Gainer stated that would be the purpose of tonight.

Chairman Rogan stated okay, alright, in the matter of Ice Pond...

Board Member McNulty stated I'll make a...

Chairman Rogan stated you go ahead.

Board Member McNulty stated in the matter of Ice Pond, you said it so well before.

Chairman Rogan stated recommend to the Town Board.

Board Member McNulty stated Ice Pond Estates Subdivision, I make a recommendation to the Town Board for a performance bond amount \$1,964,000 and an associated inspection fee of \$98,200.

Board Member Montesano seconded the motion.

Chairman Rogan asked for all in favor. The motion carried by a vote of 5 to 0.

Chairman Rogan stated okay and Liberty Paintball nobody here for that...

Board Member Taylor stated can I ask a quick question on this one...

Chairman Rogan stated oh sure, I apologize.

Board Member Taylor stated on number 8, that's the total of improvements they're doing on the road, it's offsite improvements.

Mr. Gainer stated correct, that's for Ice Pond Road itself.

Board Member Taylor stated alright, so they're in essential giving us, the Town \$25,000 that you wouldn't normally expect from...

Chairman Rogan stated they're doing the work though, that's what this is saying.

Mr. Gainer stated right, they're performing the work.

Board Member Taylor stated right, I understand that...

Chairman Rogan stated correct, oh okay, I'm sorry.

Board Member Taylor stated that's what I'm saying, I was just trying to...

Chairman Rogan stated so the value of those improvements in essence.

Board Member Taylor stated yes, yeah.

Chairman Rogan stated and that doesn't include, oh okay, cut and fill, so that include labor rates in those.

Mr. Gainer stated absolutely.

Chairman Rogan stated yeah, okay.

Mr. Gainer stated its construction costs.

Board Member Taylor stated I was just curious about that and that's basically all the additional, there's nothing else that wouldn't be required by a project.

Mr. Gainer stated that's right, this is everything that's needed to put that project, based on the current design, in the ground.

Board Member Taylor stated and then we could add what they did for the historic research also to that figure of how much they've put out of pocket, in a sense, to benefit the Town.

Mr. Gainer stated again your ordinance just mandates that they post a performance bond that will assure the completion of all the requirements, that's the purpose of this bond.

Board Member Taylor stated okay.

Mr. Liguori stated are they going to ask that phase that...

Board Member McNulty stated get that microphone out there.

Mr. Liguori stated with the Board or is that just the first phase.

Mr. Gainer stated no, this is the entire project.

Mr. Liguori stated the whole project, okay.

Mr. Gainer stated yup.

Mr. Liguori stated I'm just curious if they had asked, I know we had, it had come up but...

Mr. Gainer stated we had raised the question at the very beginning but they indicated they would not be phasing...

Mr. Liguori stated right, right, okay.

Mr. Gainer stated its construction the phasing limit with the terms of the approval...

Mr. Liguori stated right, right.

Mr. Gainer stated they're going to seek the approval as one project.

Mr. Liguori stated big premium.

Rich Williams stated yeah.

Board Member Montesano stated I got a question...

Chairman Rogan stated sure.

Mr. Liguori stated I hope they can get a bond that big, it's not common these days.

Board Member Montesano stated on Fox Run, this is phase II that we're going through, is there a time schedule on that, are they going to put 80 units immediately or are they going to stretch...

Chairman Rogan stated the completion for the traffic study was build out by 2017, 5 year...

Board Member McNulty stated yeah.

Chairman Rogan stated not even a, a couple of year...

Board Member McNulty stated three years.

Chairman Rogan stated that's what they were using as the build out date, right.

Board Member Taylor stated I don't see any phasing, they don't talk about it.

Board Member Montesano stated no, what I'm wondering is alright, for arguments sake, we approve an 80 unit situation and they don't build it for 10 years like they did the first time that they were involved here. Phase II didn't appear and suddenly it appeared, do we have a cutoff on 80 units in the Town Code at all.

Board Member Taylor stated well we can stop renewing the application approvals.

Rich Williams stated yeah I mean you've got an approved site, if you decide not to continue to approve that site plan then they're out of luck but probably going to get litigated if you tried something like that.

Board Member Montesano stated yeah, well that's what I'm trying to avoid, I'm trying to see what we would have to stand on.

Mr. Liguori stated well what you, you know what...

Rich Williams stated but if it's approved though, I mean you're always going to figure in a 1 and a ½ to 2% growth factor within traffic, any new developments coming in is going to have to assume that that's a built development...

Mr. Liguori stated right, fully built, yeah exactly...

Board Member Montesano stated well.

Mr. Liguori stated and I think you know, you have the authority, my recollection is they can go as far as 10 years as far as phasing if my recollection is...

Rich Williams stated I don't think there's a limit anywhere.

Mr. Liguori stated I seem to...

Board Member Montesano stated well you figure the first time they went through it's been a little over 10 years by about 20 and now we're going into phase II...

Board Member Taylor stated well it's, they've redesigned it...

Board Member Montesano stated yeah, I realize that but what I'm saying is we're going to, if we approve this what is our duration of time, they want to put up 80 units, what if they put up 20 units and now we're going to wait another 5 years before we put up another 20 [units] and then we still can go on with this for another 20 or 30 years to get 80 units.

Rich Williams stated that's probably an appropriate question once we get farther down the road and know actually whether it's going to be approved and whether we've got an actual design that's going to work and what's involved.

Board Member Montesano stated okay well the whole problem here, the only thing I pick up from our counsel, their counsel excuse me, and their engineering, is that they want 80 units, if they get 70 units they may not want to do the project...

Mr. Gainer stated is that right.

Board Member Montesano stated but if we're going to let them have 80 units, I don't want it stretched out over 30 years and this is the problem, I don't know if we have anything in place at the time that would cover that where we could limit them and say look, you want 80 units, okay, we can approve 80 units but we want it done in 10 years, if it's 10 years, if it's over, if it's 10 years and one day, you lose whatever you had before and you come back in and maybe we can approve it.

Rich Williams stated yeah I can think of more than one case where people have tried that and failed.

Board Member Montesano stated that's why...

Mr. Liguori stated I think that the reality of construction in the two thousand and teens is that you either do it or you don't and that's I think really what's going on, 80 is not that much, it just isn't when you're dealing with these types of constructions, I'm watching on in Brookfield right now, on [Route] 7, it's over 100 units and thank god they started a few months ago and they're probably at 80 or 90 [units] right now, so it, it really isn't, when you get your construction financing if you go through the process and you see how expensive it is and how time consuming, you're going to go in for the big bore but what you're going to do before you start is you're going to make sure that you have enough contracts lined up for a certain amount, then you're going to go build the whole thing. You're not going to get 10 contracts and then just go do all your site and just wait, it doesn't work that way, it's too expensive...

Rich Williams stated yeah, the carrying costs will eat you alive.

Mr. Liguori stated they'll eat you alive, you have to for instance sell 30 units and then go build it because the rest will sell when people see it built.

Board Member Montesano stated Fox Run was never a, it sold when it was first put up but it never amounted to anything other than rental units.

Rich Williams stated but it was a different time and a different project, it started off as garden apartments.

Board Member Montesano stated I don't see, I don't see the money increasing as of late to be mortgaging.

Mr. Liguori stated I have to, I'll tell you the money is out there, it may not seem like it but it's there.

Board Member Montesano stated I'll let you know in 5 weeks when I have to start using chopsticks every dinner.

Rich Williams stated alright, Mr. Chairman, we got anything else.

Liberty Paintball Discussion

Chairman Rogan stated yeah, I was going to ask about Liberty Paintball, the sign application, you said they're stuck in Zoning right now, so is there any discussion that anyone has for tonight on that, I mean the size of the sign.

Board Member Taylor stated we can we make recommendations, we made recommendation.

Rich Williams stated you made recommendations...

The Secretary stated you made a recommendation back in January.

Rich Williams stated they have seen your recommendations.

Chairman Rogan stated back, okay.

The Secretary stated and they have seen, it yes.

Chairman Rogan stated alright, so this tabled then until, until they're...

Board Member McNulty stated the ZBA decision.

The Secretary stated until there is some decision made through ZBA.

Chairman Rogan stated did you do an action yet on, at the work session or anything on the minutes.

The Secretary stated you have no minutes.

Board Member McNulty stated yeah, we don't have them yet.

Chairman Rogan stated March 27th and April 3rd, we don't have them yet.

The Secretary stated you don't have them.

Chairman Rogan stated and you put them on the agenda, that's like disappointing now.

The Secretary stated actually, I put out a new agenda but you guys didn't get it, so, sorry.

Board Member McNulty stated I have one question on Fox Run for Mike [Liguori]. I had talked about or asked in the real property law in New York, is there any true definition for age restricted housing, within the law that describes it.

Mr. Liguori stated I think the concept of age restricted comes from Federal law, as opposed to being defined in New York State real property law, I can look to see if there's some other area of law may give definition but my understanding is that, you know...

Rich Williams stated its HUD driven.

Mr. Liguori stated what's that.

Rich Williams stated its HUD driven.

Mr. Liguori stated yeah, it is, it's primarily HUD driven, the only thing I'm not aware of is if New York State adopted something...

Board Member McNulty stated and that's what I curious, if they did.

Mr. Liguori stated similar to HUD, I don't think they have because I don't think they have the jurisdiction to do that because they essentially would be preempting the Feds which they can't do.

Board Member McNulty stated or would it work like, if a condominium complex is built, isn't there a prospectus put together and sent to the Attorney General.

Mr. Liguori stated the offering plan.

Board Member McNulty stated the offering plan, now is that law that guidelines what they're building or how it's governed in the courts if something were to happen, correct.

Mr. Liguori stated the, what the offering plan, the rationale for requiring an offering plan is mainly to identify for prospective purchasers what you're getting involved in by being a required member of a corporation or homeowners' association and it highlights association fees and dues and the bylaws and things of that nature...

Board Member McNulty stated an age restriction.

Mr. Liguori stated it would have age restriction in it but it primarily a device to put everyone on notice that you are buying into an entity that you cannot, you don't have the choice of not being a part of but it wouldn't in the first couple paragraphs this is an age restricted housing project and you know and if you were going to change it from that, you would alert the A.G. and request what's called a no action letter to say, as long as you're not changing the corporation, they're not really going to have a horse in the road, they don't care about whether it's age restricted or not, they only care about what it's going to cost you every month, are the bylaws published, do you do, have you stuck to the corporate mandate that you advertised to everybody before they bought.

Board Member Brady stated well who polices, like if you're in an age restricted community like that and it gets sold after the original...

Mr. Liguori stated the declarant is gone, the offeror, now it, after a certain amount of units were solds it's conveyed, the responsibility's conveyed to the HOA and the HOA is obligated, you know, via mandate to regulate that.

Board Member Brady stated yeah right.

Mr. Liguori stated well no, it functions, you make, you know condos function every day.

Rich Williams stated you've got to remember these people have bought into this community, that's the community they want to live in...

Board Member McNulty stated right.

Mr. Liguori stated that's right.

Rich Williams stated they don't want to let somebody in that doesn't meet their standards.

Board Member Brady stated well would they be part of the existing condominium community there.

Mr. Liguori stated I don't know, that depends on what they, what they submit.

Board Member Brady stated and if they are then it would be up to the whole board for the whole complex, not just the 80 units.

Rich Williams stated they're going to be a separate.

Board Member McNulty stated yeah, they had talked about separate in the beginning.

Mr. Liguori stated I can't imagine they would put them together.

Rich Williams stated they can't, one is age restricted, the other one's not.

Mr. Liguori stated oh, you can mix, I've seen mixed regulations in different area but to me, you don't 80 people to step in and dilute the existing association...

Rich Williams stated right.

Mr. Liguori stated you don't want 80 people, if you're going to have 80 people, if it was 10 I'd say put them in, if it's 80, let them start from scratch so they don't have the history of all your problems.

Board Member Brady stated right.

Board Member McNulty stated which I think they expressed early on in this that they want to be separate.

Mr. Liguori stated yeah they're going to want to keep this separate, I wouldn't want to touch that with a 10' pool, just even if it goes swimmingly every day you just don't want that to affect your marketability of what's new.

Board Member McNulty stated see they talked about sharing the pool though.

Mr. Liguori stated that's easy.

Rich Williams stated well they're going to share a few things, they're going to share the waste water treatment plant, they're going to share the pool, they're going to share the roads...

Board Member Brady stated yeah, they originally talked about sharing the water too.

Board Member McNulty stated so how does that...

Mr. Liguori stated you just do an agreement, a maintenance agreement between the two entities.

Board Member Taylor stated at what point do we bring the HOA in here.

Mr. Liguori stated which one.

Board Member Taylor stated the existing one.

Mr. Liguori stated well they may not have a horse in the race, I mean they...

Board Member Taylor stated well they're sharing the roads, they're sharing the plant...

Rich Williams stated no, they do have a horse in the race, my understanding is they've had conversations with them...

Board Member Taylor stated but we haven't...

Rich Williams stated and we bring them in early on in the process, I think we need to know what we're doing before we bring them in.

Mr. Liguori stated yeah, right.

Rich Williams stated whether it's going to be 40 units or 80 units...

Mr. Liguori stated you don't light a fire.

Rich Williams stated you know what the basic design's going to look like but then we immediately reach out to them and bring them in.

Mr. Liguori stated they're going to get the public hearing notice, anybody within 500'.

Rich Williams stated yep but the Board's direction is that when we get a preliminary application we immediately notify the people over there. My opinion is we haven't gotten to that point...

Mr. Liguori stated right.

Rich Williams stated so we haven't notified anybody over there, soliciting comments.

Mr. Liguori stated right, right and to me, I mean the way I look at this and Ron I get your point, you know, I think your point is hey look you guys could just go do all this stuff and submit a package and we can start SEQRA and roll up our sleeves and do this, right and that's the way I look at it, what they're doing, it makes sense to me, you know there's a rationale that they're following which is we don't want to go spend all that money and do all that stuff if the 5 of you guys look like you're going to say absolutely not, you know they're literally sitting there reading your reactions because that's what I'd be doing, Bob Marvin is sitting there looking at you guys saying how are they reacting to the way the engineer is talking, you know are your arms, are you sitting like this because if you are, you know it's going to be a tough sell but if, the math seems to be consistent with the 80 units and they can prove that out, I think all their doing for last 6 or 7 months is looking for nods and doesn't even mean you shaking your head saying yeah we're going to do it, it's just them reading you guys and then they'll go through the process, people are willing to do it that way because of the cost to get all that stuff done, packaged and submitted in one whole thing.

Board Member Taylor stated it doesn't seem like they're reading us very well because they keep coming back with stuff...

Mr. Liguori stated well maybe not you...

Board Member Taylor stated that we didn't ask for...

Board Member McNulty stated but Ron's point is we can't get through that without more information, I understand what you're saying.

Mr. Liguori stated no but, but see, but, but they left here tonight and they know hey look, you know we're not going to have that tremendous mountain in front of us as far as traffic goes because our counts, you said hey look, we're going to have a hard time unless you give us a traffic study that's non-age restriction, okay, let's say number one that's going to be the first big hurdle, we want you to do that and they said you know what, that makes a lot of sense and we're going to be shoveling you know what against the tide until we do it, so let's go do it, let's go see if we can prove it out and let's talk to you guys while we're doing it, that's really what they're doing.

Board Member McNulty stated one thing I don't think they're getting thought is we brought up geometry of the roads a couple of times, you know they're only saying it's generating x amount more trips but x amount on Bullet Hole Road is a lot of traffic, it's not a lot traffic on a nice state highway, four lane road that's marked and well done but it is a lot of traffic possibly for a small back road and maybe I didn't express that quite so well when I spoke to him but...

Mr. Liguori stated you know the question and then during the process, you know, I would be willing to take that risk even though they know there's geometry issues.

Rich Williams stated and you do understand that when they're talking about vehicle trips, they're talking about the number of vehicle trips in the peak hour of service of the road for the am-pm.

Board Member McNulty stated no, I understand.

Rich Williams stated not the daily number of trips which is more of a concern with geometry.

Mr. Liguori stated right, right.

Board Member McNulty stated well I think the peak would be a concern at the geometry.

Rich Williams stated oh, it absolutely is.

Board Member McNulty stated so.

Mr. Liguori stated well look, there's going to come a point where you guys, both, the two parties are going to reach some consensus as to how much work will need to be done, that's really what it comes down to and you can't balance all of Bullet Hole Road on one project...

Chairman Rogan stated of course not.

Mr. Liguori stated so, so, you'll get there in SEQRA but I think they have enough to say okay, yeah, even if we have to do some Bullet Hole Road improvements we still know that we can come with something that's, look they're telling you what they...

Board Member McNulty stated makes work for them, yeah.

Mr. Liguori stated you know who knows they may walk out 65 [units] and say hey it's still worth it, I don't know, I don't know what the ploy is unless they're just really being that honest with you.

Board Member Montesano stated right now we don't, what happens at the peak, they gave us their version of a peak according to the rules and regulations that they're being governed by.

Chairman Rogan stated well they and also, correct me if I'm wrong but it's extrapolated out from what an actual count taken during peak and then they use these numbers and extrapolate out...

Rich Williams stated they go out and they count the numbers...

Chairman Rogan stated right.

Rich Williams stated and then ITE gives them the typical number of vehicles that are going to be generated during the day and at peak hour and then they take those numbers, those are the ITE numbers and figure out based on the number of units how many vehicles they're going to generate in the am and then add it in and then add it into, you know how many vehicles are going to be using the road in 5 years.

Board Member Brady stated I find it...

Board Member Montesano stated well this is all generalization what I'm saying is what happens at the peak because now we have 80 units, let's get give 2 cars to each unit minimum, alright...

Mr. Liguori stated well look, that's basically saying we're going to take all the ITE studies and throw them out the window, you can't do that.

Board Member Montesano stated I'm not saying throw them out, what I want to know is there another study for this type of...

Mr. Liguori stated no, they'd be using it, these are the studies.

Board Member McNulty stated these are the studies, these are the standards.

Board Member Montesano stated but these are standard and this is the problem with standards, it's an all...

Mr. Liguori stated yeah but they showed you what the actual was.

Board Member Taylor stated but we can't.

Rich Williams stated this is how it all evolves, Institute of Traffic Engineers, ITE, they go out and they survey all of these developments across the United States and they look at all these studies that have been done, you know for all different projects and they see what the vehicle trips are, there are a number of studies, none locally for age qualified that have been done after the age qualified units are in, there's one in, really good one in Delaware, there's one out of Wisconsin, I think there is, there's a number of these studies and ITE gathers all this data up and then using statistical analysis is the easiest way to say in, leadsquares, you know they come up with an average number throughout the United States...

Board Member Montesano stated well [Route] 292 and [Route] 311, is a statistical analysis done by, I won't mention anything other than that but it's a mess, it always ended up and when you had accident after accident after accident that a certain organization refused to even qualify and yet it still, it was all done and

it was a bigger nightmare than it was before this was done, so statistics are wonderful things, I worked with a gentleman who had more statistics every day promoted more people, gave everybody a great kick, and as long as you could show the colors on the piece of paper, his statistics worked.

Rich Williams stated that's enough.

Board Member Brady stated I was really surprised that that you know, a study like this is done based on two hours.

Board Member Montesano stated we didn't shut down yet.

Board Member Brady stated in one day, four hours in one day, I just that just shocks me.

The Secretary stated wait, wait, wait, turn that back on...

Mr. Liguori stated well it wasn't in the summer, you have to read more traffic reports.

The Secretary stated we aren't done.

Chairman Rogan stated oh I didn't know you turned it off.

Rich Williams stated I told him to turn it off.

The Secretary stated we didn't adjourn.

Rich Williams stated because we done.

The Secretary stated but we didn't adjourn.

Rich Williams stated I know but this is dragging out.

Board Member Montesano stated alright, somebody adjourn it so we can talk about it without...

Chairman Rogan stated motion.

Board Member McNulty stated motion to adjourn.

Chairman Rogan asked for all in favor. The motion carried by a vote of 5 to 0.

The meeting adjourned at 7:55 p.m.