

TOWN OF PATTERSON

PLANNING BOARD MEETING

June 12, 2008

Special Meeting

Agenda & Minutes

Patterson Crossing FEIS Review Meeting

PLANNING DEPARTMENT

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**TOWN OF PATTERSON
PLANNING & ZONING OFFICE**

ZONING BOARD OF APPEALS

Howard Buzzutto, Chairman
Mary Bodor, Vice Chairwoman
Marianne Burdick
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PLANNING BOARD

Shawn Rogan, Chairman
David Pierro, Vice Chairman
Michael Montesano
Maria Di Salvo
Charles Cook

**Planning Board
June 12, 2008 Meeting Minutes
Special Meeting**

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

Present were: Chairman Rogan, Board Member Pierro, Board Member Montesano, Board Member DiSalvo, Board Member Cook, Rich Williams, Town Planner and Anthony Mangone of Santangelo Randazzo & Mangone.

The meeting was called to order at 7:08 p.m.

There were approximately 14 audience members.

Michelle Russo was the secretary and transcribed the following minutes.

Mr. Tim Miller and Mr. Paul Camarda were present to represent the document.

Chairman Rogan lead the salute to the flag.

Chairman Rogan stated thank you everyone, please be seated.

Board Member Pierro stated cell phones off.

Chairman Rogan stated we have cell phones off this evening, everyone, we are on vibrate please. Welcome everyone to special meeting of the Patterson Planning Board to discuss the final environmental impact statement for the Patterson Crossing Retail Center. I would ask Tim [Miller], do you have, are you going to put anything up that you'll need to refer to or do you not anticipate that or will be it be just verbal comments, okay, that's fine. We certainly have enough plans in here if we needed one. I thought that it would make sense to go back to the document that we had sent Tim Miller in terms of our comments that we had issued on the findings statement and make sure that the Board was happy with all the response, can I steal that back from you Dave. Our memo of November 30, 2007, Planning Board's memo and of course there were memos from Mr. Williams and also from Gene Richards that have been addressed and those gentlemen have been correspondence back and forth with the applicants but the Planning Board's comments, a number of them, there were about seventeen of them, some of them very minor and some of them a little more major. As we went through the document the Planning Board's focus was to find out of course, not to re-read what we had already read, what had not been changed but to see if the changes that we had asked for had been made and I think in almost every case I had found the answers that we were

hoping to see with one or two exceptions and Tim one of the issues that we spoke about throughout the process and what we have promoted with this project is obviously the pedestrian access and walk-ability of this site and you guys have done a fine job of making the interior portions of the project more pedestrian friendly, more connected, the intent that the Planning Board was hoping for with this, as with many other project that we are reviewing, is the idea when people get out of their cars they don't have to jump back in their car to go to another store necessarily but that there is connectivity within the site and a promotion of people possibly wanting to walk to the site rather than drive, especially with the today's gas prices, I think that we would all appreciate something like that. And while the sidewalks are shown within the site, we had also discussed sidewalks where the applicant has control, in other words, where his property lies, say along [Route] 311 heading towards the Lake Carmel Community and while we had some discussion both ways about the access road, most of the Board basically felt that people from the Lake Carmel area would potentially walk to the site, especially within a few block radius from that access road area and we haven't concluded or resolved that issue, its not currently shown in the plan, it brushes on the topic but it basically from my reference and correct me if I'm wrong Rich, basically says we looked into it and we are not proposing anything and so I wanted to open that back up for discussion because I don't feel like it was, that it is a closed issue, it hasn't been resolved and certainly I will allow anyone from the Board who wants to speak up, please interject.

Board Member Pierro stated I understand that there may be some concern about residents who live in that area where the access road is, that they don't want a thorough fare going through their quiet neighborhood but it would be poor planning if we didn't allow for sidewalk access, pedestrian access, it may, it very well could become a place where kids will congregate and hang out in the evening hours and we are all concerned about that but I'm hoping that part of the plan is a Sheriff's substation in the front of the site, I'm hoping that the amount of coverage that will be there from a law enforcement perspective will help dissuade that kind activity but I think it is absolutely important that we make it available, especially if that portion of that roadway is still within the Town of Patterson, I think we would be remiss if we didn't go and try to get to an end that is amendable to the residents and to access this site.

Chairman Rogan stated I also recall that one of the comments and I don't know who brought it up, whether it was from the public or from the applicant's representatives but there are no side walks leading to the site, so you are putting a side walk that in essence in our mind would end at a certain point but I think that you have to start somewhere, you have to being with an idea that we are promoting, you know greener use of the land and more walking and you know people getting out and on the site we have a community area.

Board Member DiSalvo stated neighborhood.

Chairman Rogan stated well I think to promote the walk-ability of the site, I think is very important, so please.

Mr. Miller stated can I just clarify, I'm not sure.

Chairman Rogan stated sure but you need to use a microphone, Tim, you need to use a microphone though sir.

Mr. Miller stated oh.

Chairman Rogan stated because we do want to get you on record.

Mr. Miller stated just to bring Paul up to date, the question is about side walks and I'm hearing two things.

Chairman Rogan stated take it right out of the stand, it's a wireless.

Mr. Miller stated maybe I'm not hearing it right, are you interested in sidewalks along Route 311, is that what you are talking about.

Chairman Rogan stated we are interested not only interior to the site, I know you have already shown a lot of that, you are promoting the walk-ability of the interior part of the site but getting to the site, if we can incorporate something along [Route] 311 and also the access road onto Concord [Road], neither of those are currently shown.

Board Member Pierro stated we fully understand that we can promote the idea but can not control what the government does in the Town of Kent because I believe that lower portion of that access roadway is in the Town of Kent and we would have no control over that but we, I believ

that you are going to walk across the line and go in for a sandwich, you are going to shop at Costco, you are going to shop at Lowes, no one is going to take the lumber and put it on their shoulders.

Chairman Rogan stated understandably but you also have a site plan that shows some civic minded type uses, a plaza where people, where the intent I hope is, where people are going to spend some time, so its not just going to Lowes or going to Costco or going to a coffee shop or something, driving up and leaving. I think given the proximity to the park district in Lake Carmel, we are seeing more and more people are taking a bicycle or taking, maybe not now but again with the price of gas someone might say hey let's go, we want to go look at something at Lowes, maybe we aren't going to buy today but we are going to walk up there, three blocks up the road and in fairness Paul, none of what you said was in the document, so we specifically looked at that question and it just basically, it was one or two sentences that dealt with it, so you know, this, your response is the first that we've had since we last spoke about this.

Mr. Camarda stated well we look at the issue and I still don't see the practicality of those sidewalks, I must tell you that we are in a society today that is promoting walking, promoting the use of bicycles and we are doing it, we made the site very, very walk-able, our sidewalks are wider, we really paid attention to that but it is really a site plan issue and we are going to get to site plan in the next phase and we can study that issue a lot closer as part of site plan.

Chairman Rogan stated sure, please Edie.

Mr. Camarda stated but I hear you loud and clear.

Mr. Miller stated and we can certainly incorporate the rational that Paul just consented into the response, I understand that that will be helpful.

Chairman Rogan stated and certainly I don't think that a sidewalk issue is whether they are installed or not, installed is not going to affect the environmental constraints or the impacts you know, associated with this plan. But the Board did express that it is an important issue that we wanted to delve into more at least and discuss.

Mr. Miller stated we can certainly add that.

Chairman Rogan stated okay.

Mr. Camarda stated and we can discuss it in detail pending our site plan review, is that.

Mr. Miller stated I think that it is going to come up during site plan review, right now we are not proposing it but if the Board at some future time during the site plan review feels that it is absolutely necessary, that is something that you know can be conditioned upon. Now the sidewalks along Route 311 are subject to New York State DOT.

Chairman Rogan stated DOT, I understand that.

Mr. Miller stated the sidewalks in Kent are subject to Kent's.

Chairman Rogan stated sure.

Mr. Miller stated so I'm not sure to what extent you can condition these things except ask. The emergency access road is not going to be used by cars so you are going to have an eighteen or twenty foot travel way, in essence is a pedestrian way because traffic can't use it, so the utility of putting the sidewalk next to it, I'm not quite sure.

Chairman Rogan stated does the access road, the proposal for the access road, where its gated, is it pervious around each side of the gate stanchions, you know.

Mr. Miller stated I don't know if we'll take that design.

Chairman Rogan stated okay, because obviously, because the idea of using it as a pedestrian walk way or thoroughfare where somebody has to duck under a gate, for most people its fine but for some it may not be.

Mr. Camarda stated if this Board wants that, then we can design that there is a 3 foot gap, so the gate starts three foot in, so you can't get a car or truck to go through but you can certainly walk through it.

Chairman Rogan stated I understand.

Mr. Camarda stated if that turns out to be the design.

Chairman Rogan stated and again like you said, those are site plan issue, we are more talking about the concept of it and I understand that we can not control the Town of Kent, nor DOT but we can work towards a plan within this Board purview to promote the types of ideals that we heard at meetings with the public and not everyone but some people in the public said that they wanted to promote the walk-ability of this site and I know that some people had difference of opinions but you know, its something that we defiantly want to talk about. Moving on, the issue of hours, and again I am starting off of our list that we had from our November 30, 2007 memo to Tim Miller Associates, hours for jack hammering and rock crushing, they were addressed in the document, a list of state holidays was also included, Dave had brought up, and actually I saw it mentioned more in the findings statement but you had brought for the rock crusher area looking at the idea of a soil or rock berm around the facility or around that area to facilitate noise reduction and I saw that that was also proposed in there so I appreciate that. Worth noting was that a major concern was around that issue, how much are we going to be having blasting and rock crushing and this latest proposal is about a fifty percent reduction in that amount of work.

Mr. Camarda stated yes.

Mr. Miller stated yes the site has been re-graded and re-balanced and it has reduced the amount of cuts.

Chairman Rogan stated okay,

Mr. Camarda stated we also made great strides in getting the site to balance because part of the DEIS comments were get the site to balance so we don't have to remove or bring extra material on to the site, so that site has now been, the grades have been adjusted so that site balances.

Chairman Rogan stated I saw that, it looked like a net of only about twenty-five thousand yards of export off the site.

Mr. Camarda stated believe me, when we get into final site plan details, we can absorb that twenty-five thousand.

Chairman Rogan stated its going to change, sure. A couple of the other issues that, well one was talking about whether or not were going to use salt on the site, it talks about salt tolerant species but also the use of salt around the site and originally it was said that there was going to be no salt used for the maintenance and later on we see that there is potential, its kind of under the codicil of if deemed appropriate by the people maintaining and I'm a little uncomfortable with that, I saw there was a mention of a deed restriction so that it would protect from future, you know new people coming in, say maintenance firm or new tenants and using those items but that was also mentioned in there.

Mr. Camarda stated I think that we are looking at using salt more for public safety, sidewalks and things like that, in specified areas but I would have to check, is that true John, I'm doing my best by memory here.

Chairman Rogan stated so you say public safety, you mean sidewalks or in front of a store.

Mr. Camarda stated exactly.

Chairman Rogan stated no spreading it out on the road where they are plowing.

Mr. Camarda stated exactly, you've got to have a different level of attention to sidewalk areas or ramps coming into to stores where you have wheel chair access.

Chairman Rogan stated let's see, the issue of the coverage, and you Dave and Mike also had brought this up quite a bit, was the issue of coverage for Kent police department and that was adequately changed to reflect that fact, I'm assuming the fact that the Kent police department doesn't have the jurisdiction where, outside the Town of Kent unless it's a, and you can speak better to that Dave.

Board Member Pierro stated if there was a need for assistance by a police officer within the site and it was a sheriff or a Westchester county or a Putnam County Sheriff or a State Police Officer, I would hope that a call for assistance by any police department would be allowed and permitted by Kent police, that would probably be the only time where you would Kent Police Department doing patrols or responding to incidents inside of Patterson Crossing site, if it's a mutual aid request for assistance or coffee and doughnuts, I didn't get this way by not eating them, so that was my life. The other issue is, the basic issue that Shawn alluded to is that Kent Police would not have jurisdiction there, unless they were there for coffee and doughnuts and a felony occurred in their presence.

Mr. Camarda stated there is one building on the site about two thousand square feet that is in the Town of Kent.

Chairman Rogan stated right.

Board Member Pierro stated right the substation.

Board Member DiSalvo stated right.

Mr. Camarda stated well there is a substation attached to, it's a two hundred square foot substation which is attached to a two though square foot building which is totally in the Town of Kent.

Chairman Rogan stated right,

Board Member Pierro stated right, that would be the only place that they would be.

Mr. Camarda stated that would be the only place they would be.

Board Member Pierro stated responsible for, but any calls for assistance, criminal activity, aided cases, fires, that would go to the Sheriffs Department or the State Police. If, I think, Sheriff Smith alluded to the fact that it would be the closest responder, who would be responsible but I think he was and I'm not, I respect Sheriff Smith but his experience in law enforcement is a little bit limited, he's a nice man, he's a gentleman but the first responder is going to be the person who has the jurisdiction. I don't think it really has a major impact on costs associated with the Town of Kent police department, even the fire department, the site is within the Town of Patterson, it would be the Town of Patterson fire department's responsibility, mutual aid is what, is a basic premise that all fire departments in the state rely upon which allows co-jurisdictional or the ability to respond to fires and different municipalities and everyone is covered by workmen's comp and insurances and training and I don't see that the amount of mutual aid calls is really going to be significant to either fire services here at this point.

Chairman Rogan stated okay.

Mr. Camarda stated well if I could add to that, I received a call from your Patterson Fire Department and we met with them and they said Paul, we have the equipment, we have the man power and we are located as close to that site as anyone and we will handle the calls to that site. It doesn't mean that they won't require assistance but they have the equipment to handle that site.

Chairman Rogan stated understood. Many of the other comments in our memo were simply just changing phrasing or clarification of the way things were set and they were changed but I will open it up to the Board, Charlie I know you had some fly specs on the paper, so to speak that you wanted to talk about.

Board Member Cook stated I wanted to ask on the emergency access road that the comment on the low lighting, where you feel it is not necessary and is that, did you discuss that with the emergency responders and are they in agreement with that and are you still comfortable with that, that they are going to come in with some kind of lighting or whatever but you are not going to have like a low lighting along that road that could be activated some how or other.

Mr. Camarda stated no, the only thing I will say about that is that originally we had a much longer emergency access road that was probably four or five hundred feet, this emergency access road is, I would say sixty feet long and relatively straight coming into the site so someone coming in with a fire truck or ambulance with a set of headlights, should be able to see right in there and see the end of the sixty feet, which is about three or four car lengths that the shopping center is right there. I don't believe that we need to overly light it and we will work with them on another site plan issue, if they want it to have something that triggers when someone goes through it, a motion detector mid way, pop a light on, we can certainly look to do that.

Chairman Rogan stated thank you.

Board Member Cook stated do you want me to keep going.

Chairman Rogan stated sure, Paul is yours.

Board Member Cook stated the issue of the fence along the property line between your property and the neighbors.

Mr. Camarda stated yes.

Board Member Cook stated six foot high fence and the rows of plantings, some places it says two rows, some places it says, in the form, some places it says three rows, some places it says two or three rows, is there a way that you can look at to have, obviously the fence, a sound barrier fence plus three rows all the way.

Mr. Camarda stated well we looked at that closely and we appreciate that fact that this Board has read every word in the document, I must tell you, you're taxing my memory here, we did look at that and these are issues we talked about and that is why I can speak to them, we have really gone way over board, when this center is finished you will see landscaping in everyway possible. I will make that statement to you and the proof will be in the pudding in everyway possible, lighting, landscaping and we just thought in some areas that it was over kill because there were some areas where we don't have any stores for a couple of hundred feet, especially as you come down towards Kent, we'll say below that two thousand square foot building, there is about eight hundred feet of running boarder line and we tried to go three rows where we thought it was appropriate, at site plan, if this Board deems any area that we only have two rows, we will commit tonight that we will add a third row.

Chairman Rogan stated and Paul I think what the issue was, was that it was an either or scenario, in fairness, it was either two rows and fence or in some cases you were saying if we put three rows, we are not going to put the fence, is the way I recalled the statement.

Mr. Camarda stated yes.

Chairman Rogan stated so, if there is an area along the site that is heavily wooded, say down on the Kent side and I'm thinking down close to [Route] 311 where a noise barrier is not required and you are going to put three rows of trees, I agree it's a site plan issue but anywhere its backing up immediately to a residence I think this Board feels that we would like to see the noise barrier fence and three rows and because noise and visual, again huge comment and huge concern of this Board, so I would rather see you plant fifty lees trees on the site inside and protect the neighbors and buffer that a little bit better, so let's keep that on the table as a site plan issue and that would be fantastic.

Mr. Camarda stated okay.

Board Member Cook stated the issue of blasting, the Town has a new blasting law.

Rich Williams stated no we do not.

Board Member Cook stated we do not, I withdraw the comment.

Chairman Rogan stated are we working on it.

Board Member Cook stated but if we are going to have a new one that you be aware of it, so that everybody is in sync.

Mr. Camarda stated we have looked at what is being proposed, blasting is something that has gone on for about forty or fifty years.

Chairman Rogan stated can you hold on a second Paul, is it that the microphone is not picking up, you not coming over the microphone.

Mr. Camarda stated I will speak louder.

Chairman Rogan stated maybe there is.

Rich Williams stated its coming over.

Mrs. Edie Keasbey stated I don't and I have my hearing aids on.

Chairman Rogan stated and I believe you Edie, that is why I'm asking, I want to make sure that everybody can hear.

Mrs. Edie Keasbey stated I don't think its coming through the mic, his voice (inaudible).

Chairman Rogan stated and that is why I asked, I want everybody to be able to hear, that is the intent.

Board Member Cook stated Shawn, I want to ask Rich something.

Board Member Montesano stated (inaudible) the old person.

Mr. Camarda stated well, where were we, that's better, Edie.

Mrs. Edie Keasbey stated yes.

Chairman Rogan stated we are going to stop you for one second, we just have one interjection.

Board Member Cook stated is the blasting law still under review.

Rich Williams stated it is still under review, its been proposed, there has been a public hearing, the Town Board has not taken any action.

Board Member Cook stated okay.

Chairman Rogan stated but also know that the more restrictive laws would always apply, we may have a set of laws from one agency and if the Town adopts something more restrictive then that would supersede.

Board Member Cook stated I just want to make sure that the applicant is aware.

Rich Williams stated he discussed it in the FEIS, that there was a proposed blasting law.

Mr. Camarda stated we had followed it and watched it and like the Planner said, we've discussed it in the document.

Chairman Rogan stated okay, next up Charlie.

Board Member Cook stated that is mine for the applicant.

Chairman Rogan stated Maria, put your microphone up, you're soft spoken.

Board Member DiSalvo stated going back to the sidewalks, I'm not really to, I'm not really in favor as much as putting the, [Route] 311, like that and like you said, its over one thousand feet going up to the site and my concern is that we are going to increase impervious service with that addition of more sidewalks there. I am more concerned about the walk-ability of the site we have people that go to, mall walkers, the JV Mall and Danbury Mall, we want to have this as an option for outside, people that want to walk outside and as long as we have a connection there, connectivity with the site, while they shop.

Mr. Camarda stated that is a good point, maybe we can as we look at it during site plan, maybe we can create almost a path in a sense, we will look at that issue.

Chairman Rogan stated Mike.

Board Member Montesano stated I haven't got anything right now because I'm, once the site plan gets done, then I think we can fine tune that.

Chairman Rogan stated that is when we get into the nitty gritty of design.

Board Member Montesano stated and that is when we are going to get into it and my feeling is until I see something, I am not going to, the sidewalks are a great idea, if it can be done, that's fine, if it can't I can understand that because it's a jurisdictional problem and the fact that there aren't too many people I know that go to the mall for the walking that don't drive there first and then walk.

Mr. Camarda stated that's right.

Board Member DiSalvo stated they put their packages in their car and go home.

Board Member Montesano stated yes, so that would mean that I have nothing right now.

Chairman Rogan stated thank you, Dave.

Board Member Pierro stated go on.

Chairman Rogan stated Rich, you are all set at this point, your review is complete, you have everything addressed and we also got an e-mail from Gene on the engineering and everything is set, he has no further comments. So obviously you gentlemen did a pretty good job of addressing his concerns because I know that he will have many and Gene doesn't miss much on his reviews. Between these two gentlemen, they really do a great job for us. The process for everyone's edification, we have been reviewing this document for a long time, we have had a lot of correspondence back and forth, especially from our professionals for the Town, would be to do a motion on the document and then lay out some procedural issues as to where we go from here because I think that is important not only for everyone but for us to be reminded of the process. I like the idea of getting down into the design issues, I have been looking forward to that part of it, this is great but when you really can start working with the plans in a little more detail, I think that is where you really start to sculpt things and get a real sense of what we may end up with.

Mr. Camarda stated we were anxious to do that last fall but unfortunately we have been dotting e's and crossing t's for the last nine months and I'm thankful today that we are getting very close.

Chairman Rogan stated we always tell applicants that if you do your work properly, we will not stand in your way, if you answer all the questions and do what you need to do and usually we find its, that there is a lot of work to be done and nowadays I know there are a lot of agencies involved. And we try to be a Board that does our homework and tries to do that best that we can and be as diligent and try to cover all the bases and I think that we do cover our bases. Does anyone else, Rich, do you have anything else you want to bring up on this.

Rich Williams stated not at this time, no.

Chairman Rogan stated okay, anybody from any.

Board Member Pierro stated on the motion.

Chairman Rogan stated ok the.

Board Member Pierro stated completeness.

Chairman Rogan stated the completeness of the Final Environmental Impact Statement.

Board Member Pierro stated are you okay with that.

Board Member DiSalvo stated yup.

Board Member Pierro stated everybody has had time to review this document adequately.

Chairman Rogan stated I think so.

Board Member Pierro stated okay. In the matter of Patterson Crossing, LLC, I make a motion that the Patterson Planning Board finds the Draft Environmental Impact Statement complete.

Board Member DiSalvo stated final.

Chairman Rogan stated final.

Board Member Pierro stated Final Impact Statement complete, I'm sorry, I apologize, correct that.

Board Member Montesano seconded the motion.

Chairman Rogan stated can I have a roll call vote please.

UPON ROLL CALL VOTE:

Board Member Cook	-	yes
Board Member DiSalvo	-	yes
Board Member Montesano	-	yes
Board Member Pierro	-	yes

Chairman Rogan - yes

Motion carries by a vote of 5 to 0.

Chairman Rogan stated all in favor, motion carries. For the procedural, I thought it would be wise if we took a quick or if we listened for a second to the portion of the SEQRA document that guides this part of the process and this is under 617.11 Decision Making and Finding Requirements, Section A. Prior to the lead agency's decision on an action that has been the subject of a Final EIS, which this has, it shall afford agencies and the public a reasonable time period not less than ten calendar days in which to consider the Final EIS before issuing its written findings statement and the written findings statement is something that we have been working on through out the process to ensure that we capture everything that the Board would want to capture. At this point the draft document is somewhere close to seventy pages. If a project modification or change of circumstances related to the project requires a lead or involved agency to substantively modify its decision findings may be amended and filed in accordance in subdivision 617.12b of this part, in the case of an action involving an applicant, the lead agency's filing of a written findings statement and decision on whether or not to fund or approve an action must be made within thirty calendar days after filing of the Final EIS. In short that means that from today, once this document is for public view on the website and available for pick up, the Board must wait a minimum of ten but a maximum thirty days under SEQRA to make a determination. No involved agency may make a final decision to undertake fund to approve or disapprove an action that has been a subject of a Final EIS until a time period provided in this subdivision has passed and the agency has made a written findings statement. Findings and a decision may be made simultaneously, findings must, number one consider the relevant environmental impacts and conclusions disclosed in the final environmental impact statement, number two weigh and balance relevant environmental impacts with social, economic and other considerations, number three provide a rationale for the agency's decision, number four certify that the requirements of this part have been met and lastly, number five certify that consistent with social, economic and other essential considerations from among the other reasonable alternatives available, the action is on that avoids or minimizes adverse environmental impacts to the maximum extent practicable and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable. So we've made a motion on the document, we have the Draft Findings Statement and I wanted, since we have these gentleman here today to bring up just a couple of questions and issues from that that we can work on, since we are now locked into a time frame. Tim, do you have a copy of the findings statement handy, the draft you don't.

Mr. Camarda stated I have one in the car.

Rich Williams stated we have an extra one.

Chairman Rogan stated we do, actually.

Mr. Camarda stated I can run down to the car if you want.

Chairman Rogan stated no, we've, you guys can share, can't you.

Mr. Camarda stated we can share, Tim and I.

Chairman Rogan stated okay, questions I have and they are not that many but just a few. One page 22 of the document, we are talking about the time frame in which someone who wanted to have a pre-blast

survey done would be given a time frame to respond, they've been, in other words we've reached out to them. They have a certain time frame within the document that has been suggested for getting back to the applicants professional staff to set up that survey, that inspection of their residence. It was proposed to be 14 days and I actually, considering that we are going to be forecasting this, I would like to see that be thirty days, that would be that they would have thirty days notice to schedule and that inspection should occur within those thirty days, not thirty days to set it up but thirty days to, from the date that they have contacted so that they say within this thirty day time frame, this is when you can come to my house to do the inspection, I think that that would be a reasonable amount of time to get that done. Any comments or questions on that.

Board Member DiSalvo stated let me just, so we are doing the inspection for the foundation or the well or both.

Chairman Rogan stated it could be both, it depends on the houses that are impacted.

Board Member DiSalvo stated so they will have a choice.

Board Member Montesano stated we can do both.

Mr. Miller stated I think that there are two issues here, one is how much time someone has to grant access and then the second question is how much time the contractor has to actually carry out the inspection, that is what I'm hearing.

Chairman Rogan stated would it be reasonable that if we contacted Rich Williams who lives there and said and we know that we've contacted him and now its July 1st, that by July 30th he should provide a date that is also within a time frame that says okay, your contractor can come out to my house on a particular date, you're saying then what is the mechanism for the contractors to get there.

Mr. Miller stated he gets thirty days, he gets thirty days to respond.

Chairman Rogan stated okay.

Mr. Miller stated he gets his response in.

Chairman Rogan stated okay.

Mr. Miller stated there still needs to be a time frame for doing the inspection.

Chairman Rogan stated and is the anticipation that that inspection, I mean ultimately I think that the inspection would have to be done before any blasting. So if we allow thirty days, maybe we should set a time frame from the point that inspection should be done.

Mr. Miller stated I would think fifteen days to respond and thirty days to complete the inspection at the very least.

Chairman Rogan stated I'm comfortable with that, in other words, fifteen days just to get back to someone and say.

Rich Williams stated if I could interject.

Chairman Rogan stated sure.

Rich Williams stated we're not sure how many response they are going to get.

Board Member DiSalvo stated right.

Rich Williams stated and if somebody responds positively, the inspection should be done regardless of the time.

Chairman Rogan stated yes but the, if they don't respond within the time frame, I think that the intent here is that if we send a notice out to you and you wait two and half months to respond and blasting has already occurred, you may still get the inspection but its not as valid as an inspection done prior to blasting.

Rich Williams stated yeah but you are not going to get the inspection post blast.

Mr. Miller stated is not valid any more.

Chairman Rogan stated then what was your reasoning.

Rich Williams stated so what I'm saying is you want to set your time frame in which the person being contacted has to respond.

Chairman Rogan stated right.

Board Member DiSalvo stated right.

Rich Williams stated fifteen days, fourteen days, thirty days, whatever it is.

Chairman Rogan stated okay.

Rich Williams stated then if somebody responds positively that I do want the inspection.

Board Member DiSalvo stated right.

Rich Williams stated then that inspection has to occur, it should occur regardless of how long it takes them, if it takes them a week to get all the pre-blast inspections done, that is one them.

Chairman Rogan stated sure.

Rich Williams stated and if it takes them three months, that is still on them.

Chairman Rogan stated I understand.

Rich Williams stated if there is a positive response, that inspection should occur, regardless of the time and the only real issue I think is, the duration in which somebody has.

Chairman Rogan stated to respond.

Rich Williams stated to say I want the inspection or I don't want the inspection.

Chairman Rogan stated no, I agree with that.

Mr. Camarda stated or simply not respond, which is (inaudible).

Chairman Rogan stated well but.

Rich Williams stated yeah if they don't respond within fifteen days or whatever it is.

Chairman Rogan stated they don't necessarily, if you are sending certified.

Board Member DiSalvo stated right.

Chairman Rogan stated it has to be certified then that you know the homeowner and not a child, I think that is a part too, we want to make sure that if you are sending something certified. We take the time, maybe you hand deliver it, instead of certified mail, maybe you hand deliver it and have the owner of the property sign off, we are talking about an area anyway, we are not talking about blast surveys a mile away.

Rich Williams stated correct.

Chairman Rogan stated so.

Mr. Camarda stated I think the best way is certified mail, you can go up to someone's house many times and they can work funny hours or late hours, different, so I think certified mail is the most practical.

Chairman Rogan stated you need to speak up a little bit Paul because you are soft spoken.

Mr. Camarda stated I said, okay, not always but I think the best way is by certified mail, rather than send someone to someone's house because you can go there a half a dozen times and not have someone home and the Board can say how many times did you go, prove it to us, so certified mail is a standard.

Chairman Rogan stated Tim, how many, you must know by now, how many houses are within that potential if everyone said yes how many are we talking about.

Mr. Miller stated (inaudible – not using microphone).

Mr. Camarda stated oh, depending on where we are blasting on the site but you could be talking one hundred homes.

Chairman Rogan stated oh but only a hundred, not a thousand.

Mr. Camarda stated it depends on where we are blasting, are we blasting closer to the line.

Mr. Miller stated you are talking about five hundred feet from the blasting site.

Chairman Rogan stated correct.

Mr. Camarda stated let's take the worse case scenario.

Chairman Rogan stated you'll be blasting right out close to the property.

Mr. Camarda stated within fifty feet, fifty to a hundred feet from the thing we are going four hundred feet in, that that neighborhood, sixty feet, sixty feet, there are about four rows of houses back there.

Chairman Rogan stated yeah.

Mr. Camarda stated you could be talking one hundred and fifty to two hundred homes.

Chairman Rogan stated we'll, I think we'll get back to that issue a little bit but let's let the Board think about that but in essence, let me finish this.

Rich Williams stated we can move on.

Chairman Rogan stated I'm not going to move off the topic, I just meant that particular portion. In essence if we gave a time frame for people to respond, as long as they met that, saying they want a pre-blast survey. What I'm hearing is they can't start the blasting in that area until the pre-blast survey has been done, so in essence the onus is on them and I agree with that, that is fine, then we don't need a time frame, we only need the time frame for response and I totally agree with that.

Mr. Camarda stated but we need a time frame.

Rich Williams stated (inaudible) a suggestion.

Mr. Camarda stated let's say you are comfortable with fifteen days to respond, you would hate to have someone say yes do it, come back here in august three months from now, we have to be able to say, if you are going to respond within fifteen days you should make your home available within a certain amount of time otherwise someone could play the appointment thing with you for a long time.

Board Member DiSalvo stated and hold everybody else up.

Chairman Rogan stated Anthony you want to say something, please use the microphone though and state your name for the record.

Anthony Mangone stated Anthony Mangone here on behalf of the Town Planning Board, I think one of the concerns is with respect to certified mail is that in many instances, people don't respond to certified mail, they don't pick up their certified receipt and I think in that instance it would be to the applicants advantage in the event someone doesn't respond within a certain time period that he actually engage the services of a process server to go and do hand delivery, so this way at the end of the day it is an extra belt and suspenders but it precludes someone from bringing a suit later on that they weren't properly noticed.

Chairman Rogan stated sure.

Unknown Audience Member stated his name.

Chairman Rogan stated Anthony Mangone, he is special council for the Planning Board.

Unknown Audience Member stated thank you.

Mr. Camarda stated that becomes cumbersome, you process serve one or two people, I would hate to.

Chairman Rogan stated what would your response be that somebody doesn't pick the mail up, what do you say, you take that as a negative response.

Mr. Camarda stated we could send everyone a certified letter and a regular letter, so then they would get a regular mail piece that they don't have to go to the post office for. That would be my suggestion.

Chairman Rogan stated I understand it being cumbersome but because this is such an issue, I am more inclined to agree with council that if you do not get a response, you send. My first idea was send somebody to the house, maybe you knock on the door six times but you hire somebody for fifteen dollars an hour to go, to me that is not that biggest we have here, I think we should agree that we need to make sure that people are notified, that we set up a time frame and that we move on to other issues.

Mr. Camarda stated we have a little time to discuss it but I will tell you if you set up a system, that almost promotes it to be a steeple chase sort of thing, well if they don't respond to regular mail, then they don't respond to certified mail, then you send a process server out there, I know if I really didn't want to cooperate, I would respond to the first the second and then we play.

Board Member Pierro stated and then pick a fight with the process server.

Mr. Camarda stated so you could almost set the system up where someone who doesn't want to cooperate says the system is geared to me, the more I don't cooperate the more the hurdles gets higher for the next fellow to have to jump.

Board Member Montesano stated and you can always argue the point that you can use UPS one day if he doesn't want it or DHL or FedEx, something that demands a signature and a person (inaudible), if you send it that way it's a possibility that they are not going to expect it coming that way and (inaudible) won't accept it.

Board Member Pierro stated I agree with Mr. Camarda, the standard.

Board Member Montesano stated sufficient.

Board Member Pierro stated is by mail and if they don't react to a standard mail piece, then send a certified piece.

Chairman Rogan stated well I know with administrative proceedings in Health Department, our administrative law judge always says that we send certified and regular and if the regular doesn't get returned to us that is considered service of legal documents. I do realize that, can we also incorporate just public notice into this, where hey, you are going to blasting in an area, you do public notice like we do for meetings, that is another form, its one time, its another form of insurance that there is, you know.

Mr. Camarda stated I wish we could do that but I assure you that when the first letter goes out in a very densely populated area, where people live within twenty feet of each other that word in that neighborhood within two or three days, did you get your piece of mail. So, it's going to be no secret, if you are living up there, everybody is going to know the mail went out.

Chairman Rogan stated well I really can't imagine that anyone that lives within that area would not want a pre-blast survey, it just doesn't make an sense to not, so I agree and I hope that we don't have any problems with this because this, you know you try to help and then you have people that maybe would try to figure out a way to make it difficult.

Board Member Montesano stated if there is a will, there is a way.

Chairman Rogan stated it doesn't serve the purpose of protecting people, so I agree with that.

Board Member Montesano stated that is why he was in business all that time.

Chairman Rogan stated so that we are clear because we do try to be clear even though sometimes have tangents in one way or another, what does the Board feel is sufficient time from the date someone is notified and respond and set up, let's just first deal with that topic. Currently we have two, basically two weeks, fourteen days.

Board Member Cook stated I would say twenty-one days.

Board Member DiSalvo stated yeah.

Board Member Cook stated I think that people could be away on two weeks vacation which is pretty standard and we don't know when the blasting survey would take place at this point in time and then you know, I think also that if they get a piece of certified mail and they get a piece of regular mail, I don't see sending anybody out.

Chairman Rogan stated okay and the time frame in which that schedule or that appointment to be made, thirty days, in other words somebody gets the mail, they call within twenty-one days and say yes I want the survey, I want your guys to come out and I can do it two weeks from now that falls within a time frame. What does anybody feel about the time frame for that and I will open up to you gentlemen to what you think is adequate as.

Mr. Camarda stated twenty-one and twenty-one, I would say, keep it simple. Twenty-one to schedule, twenty-one to get it noticed and twenty-one to get it scheduled.

Board Member Pierro stated (inaudible).

Chairman Rogan stated that certainly seems reasonable.

Board Member DiSalvo stated I just want to add something about that, the people that do not want it, should they legally notify you that they do not want the survey done.

Mr. Camarda stated some may but some other.

Mr. Miller stated they are going to have the option.

Board Member DiSalvo stated it is just another protection.

Mr. Miller stated the form will say yes or no.

Board Member DiSalvo stated but you want the no's to respond also.

Mr. Miller stated well we can't make them.

Chairman Rogan stated that would be nice.

Mr. Miller stated but you know, when we do well monitoring, many times they don't respond and there is an opportunity for yes or no.

Board Member DiSalvo stated okay.

Mr. Miller stated and sometimes they do respond no.

Chairman Rogan stated pages forty-four.

Rich Williams stated Shawn, if we could just for clarification.

Chairman Rogan stated sure.

Rich Williams stated they said twenty-one days to schedule but do you mean to schedule for the pre-blast inspection or to get it done.

Mr. Camarda stated to get it done.

Chairman Rogan stated we did both, twenty-one on both.

Rich Williams stated no, they said (inaudible) I just wanted to clarify.

Mr. Camarda stated not to rush, they must give us the opportunity to get in within twenty-one days.

Board Member DiSalvo stated (inaudible).

Mr. Camarda stated if we have a hundred homes that all say yes at the same time but may take us physically more time to do it but they must at least give us the opportunity within twenty-one days to do the work.

Chairman Rogan stated alright.

Board Member Pierro stated that's fine.

Chairman Rogan stated that makes sense.

Mr. Camarda stated we may not physically, depending on the response.

Chairman Rogan stated okay.

Mr. Camarda stated be able to get the work done in twenty-one days because we get a hundred people, Tim, Tim, go ahead.

Mr. Miller stated my concern.

Chairman Rogan stated Tim, you need to use a microphone, I know you are louder but.

Mr. Miller stated my concern is that that can be construed as failing if we don't keep the appointment in twenty-one days.

Chairman Rogan stated I agree.

Board Member Montesano stated (inaudible).

Mr. Miller stated let's say one hundred and twenty-five people respond and they all want an inspection, so that twenty-one days and I have to do six inspection a day but there are weekend days there so I have do like ten inspections a day and that is going to be very tricky business to video tape and so forth. I think that it makes sense to have like, thirty or forty days to actually conduct the inspection.

Chairman Rogan stated and Tim if you remember the intent of having the second time frame was so that people wouldn't attempt to stall your work, so in theory if someone said oh I can meet three weeks from now but you guys say hey you know, we've got a hundred to do, can we do it five weeks from now, as long as it gets done, they have responded so you've met, I think we should be able to come up with something like that. The intent was so that it wouldn't stall.

Mr. Miller stated year really sixty days is what would be smart. I mean really, there would should be a good window so they can be done properly, it is going to be video taped and what not.

Chairman Rogan stated I'm comfortable with more time.

Mr. Miller stated that way there is a little bit of flexibility.

Board Member Montesano stated so give him sixty days.

Chairman Rogan stated okay.

Mr. Miller stated you know.

Mr. Camarda stated (inaudible).

Chairman Rogan stated again this is a draft, so come back in the next week or two or couple of weeks with something on that.

Mr. Camarda stated Tim's office will do that (inaudible).

Chairman Rogan stated page forty-four, ladies and gentlemen, this speaks, we spoke about it earlier in this meeting but again to Dave's request about the temporary berm soil stock pile around the area, I just want to make note of that because that is something that Dave was pretty adamant about, the effectiveness and how that would help with noise.

Board Member Pierro stated especially if your engineers feel it would work it is worth effort.

Mr. Camarda stated I think it's a very good idea, great suggestion.

Chairman Rogan stated we spoke about sidewalk issues, I am not going to get back into that and Charlie spoke, it occurs on page forty-five and fifty-six, the tree buffer issue, the fencing and you know in one area it says one thing and in another its another. So we just want to clarify those issues, again we don't have to say that it has to be this, it's a site plan issue I agree but I think in the findings statement it should at least provide that the possibility exists for, in some areas, noise barrier fence, three rows of trees for visual screening, especially like the Concord Road area or those areas where the most screening is necessary.

Mr. Camarda stated I am on record as the applicant that we will look at each area during site plan and we will follow the Board's direction.

Chairman Rogan stated okay, does anyone have any additional questions at this time in reference to the draft findings statement that we have been working, yes, no, no.

Board Member Cook stated hold on. I have one comment here.

Chairman Rogan stated go ahead Charlie.

Board Member Cook stated on page thirty-one, the second paragraph and basically the last sentence, it says over all responsibility for maintaining the stormwater management facilities will in accordance with the state department of environmental conservation, August 2003 stormwater management design manual, be vested with a responsible authority by means of a legal binding and enforceable maintenance agreement. Who is the responsible authority.

Rich Williams stated that has yet to be determined, its going to be the site owner.

Mr. Camarda stated absolutely, yes we would, the normal situation here is that we would set up a maintenance program that would be approved by the New York City DEP and the DEC, they would approve that program and we would be ultimately responsible for carrying it out.

Chairman Rogan stated okay, do you have something you want to add.

Rich Williams stated and just so you know, a lot of the DEC's authority now has been delegated back down to the Town's so we will be having to take a harder look at things and this language is straight out of the manual.

Mr. Camarda stated and the basin for, the way they are designed today, they are not high maintenance situations, there are clean outs on them, we have to do a tremendous amount of everyday maintenance on a shopping center. Stormwater is very important but it is not an everyday thing unless there is a storm.

Board Member Pierro stated anything else.

Chairman Rogan stated anybody have anything else.

Board Member Cook stated no.

Chairman Rogan stated anything Rich, on this particular thing. Mr. Mangone, I know that you haven't had a chance, okay. Motion to adjourn.

Board Member DiSalvo seconded the motion.

Chairman Rogan asks for all in favor:

Board Member Cook	-	aye
Board Member DiSalvo	-	aye
Board Member Montesano	-	aye
Board Member Pierro	-	aye
Chairman Rogan	-	aye

Motion carries by a vote of 5 to 0.

The meeting adjourned at 8:22 p.m.