

**TOWN OF PATTERSON**  
**PLANNING BOARD MEETING**  
**July 29, 2010 Work Session**

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**PLANNING & ZONING OFFICE**

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Shawn Rogan, Chairman  
Charles Cook, Vice Chairman  
Michael Montesano  
Thomas E. McNulty  
Ron Taylor

**Planning Board**  
**July 29, 2010 Work Session Meeting Minutes**

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

**APPROVED**

Present were: Chairman Shawn Rogan, Board Member Charles Cook, Board Member Michael Montesano, Board Member Thomas E. McNulty Board Member Ron Taylor, Rich Williams, Town Planner and Ted Kozlowski, Town of Patterson Environmental Conservation Inspector.

The meeting began at 7:33 p.m.

Michelle K. Russo was the Secretary and transcribed the following minutes.

**8) OTHER BUSINESS**

**f. Resignation, Maria DiSalvo**

Chairman Rogan stated 2 quick things for the record, I just want to, I said it last meeting and I will say it again when we have our meeting next week but I want to thank Maria DiSalvo for her years of service to the Town of Patterson and being an asset to the Planning Board. I want to welcome Ron Taylor, our newest member to the Planning Board and I hope that everybody will help Ron out if he has any questions.

Board Member McNulty stated welcome Ron.

Board Member Taylor stated thank you.

Board Member Cook stated good to see you Ron.

**6) PATTERSON AUTO BODY SITE PLAN – Discussion**

Mr. Jim Byron was present.

Chairman Rogan stated I see we have Mr. Byron here for Patterson Auto Body. It's number 6 on the agenda but in fairness to him, if no one else minds, I'd like to move that up to number 1 for tonight's purposes and see what's cooking with Mr. Byron, what do you have?

Mr. Byron stated well, can I lay this out.

Chairman Rogan stated sure.

Mr. Byron stated good evening everybody.

Rich Williams stated I have 4 copies.

Board Member McNulty stated good evening.

Chairman Rogan stated good evening.

Mr. Byron stated and there are 4 copies with Rich...

Chairman Rogan stated you can lay right of the top of it.

Mr. Byron stated we, we went back to the engineer, this is purely the existing approval is this line right in here and this line right in here. The problem we were having is coming in this bay, we are going to secure a 26,000 GBW lift here and then we are going to need, we would like to do a 10,000 GBW lift here. In order to accomplish this, my son and I and my brother, we were weighing things out, we need to move this wall approximately 3 feet. We are not trying to increase size of store or anything like that, all we are doing is we are giving up this wall this way and we are bumping it out this way. The architect went to 5 feet on the plan, it's I guess it's incremental in the building process, he went to 5 feet, we really just needed 3 and then the aesthetics on outside of the building, remain the same. We lose a window on this floor here, we lose a window here but and these windows in here become wider.

Board Member McNulty stated this is the wall that's bumping out, this one.

Mr. Byron stated yes, yup.

Chairman Rogan stated Jim, does it do anything to your drive aisle or access around your gas pumps or anything like that, and it's fine you still have plenty of room there.

Mr. Byron stated no, nothing, it doesn't impact that at all.

Chairman Rogan stated okay, you're not losing any parking spaces or anything.

Mr. Byron stated no.

Chairman Rogan stated okay.

Board Member Taylor stated where are the pumps.

Mr. Byron stated the pumps are in front.

Chairman Rogan stated out probably well...

Mr. Byron stated well actually right here, that's where the gas office door, technically that's exactly where the gas office door is now...

Chairman Rogan stated okay.

Mr. Byron stated with the bump, none of that changes.

Chairman Rogan stated okay.

Mr. Byron stated its just an extension which the Board already approved to here and we are asking to bring that out an additional 5 feet and we are actually bringing this wall in to accommodate a second lift.

Chairman Rogan stated got it.

Board Member Cook stated here and here.

Mr. Byron stated yup.

Chairman Rogan stated Rich, do you see any issues or any concerns that you have at this point.

Rich Williams stated no, I did take a look at it earlier. Let me preface my remarks by saying that it is somewhat difficult to follow the overall plans because we don't have really a fully comprehensive site plan or one that meets typical engineering scales, having said that, it does not appear to be any impact to the site.

Chairman Rogan stated okay, anybody on the Board have any comments or concerns.

Board Member McNulty stated are these existing walls now.

Mr. Byron stated this one is.

Board Member McNulty stated this is all new.

Mr. Byron stated this is an existing wall.

Board Member McNulty stated and this is existing, so this is going to remain as is.

Mr. Byron stated no, this is an existing wall, this wall does not exist right now, the wall in the shop is somewhere, the wall right now is somewhere in here. This is actually a hang over, if I'm saying that right.

Chairman Rogan stated you're not seeing a plan that's showing existing and proposed overlaid.

Board Member McNulty stated like this is a new wall and he's got to see how he's delineated it, this...

Chairman Rogan stated 2 different shape (inaudible).

Board Member McNulty stated these are existing walls.

Mr. Byron stated proposed fire...

Board Member McNulty stated okay, so that's a new wall.

Chairman Rogan stated okay.

Board Member McNulty stated all right.

Board Member Cook stated Rich, procedurally what do we have to do.

Rich Williams stated procedurally I would recommend you accept the changes subject to the submission of an as-built just prior to the issuance of a C.O.

Board Member McNulty stated this falls under this category of later in our agenda about policy change about changes...

Chairman Rogan stated yup.

Rich Williams stated yes.

Chairman Rogan stated what we've, remember we've spoken many times, Mr. Reilly being one of the reasons we spoke of this in the past of please come back to us when you see the change and we'll work with you. We'll do what we can rather than finding out when we go to, when the Building Inspector does the as-built and finds out in the end that we had this so I appreciate...

Mr. Byron stated which we did discuss.

Chairman Rogan stated so I appreciate you coming in before us, you know.

Mr. Byron stated and there are 4 signed copies.

Chairman Rogan stated great.

Mr. Byron stated what I'm looking for would be a go ahead to authorize the engineer to prepare the final plan for the builder. He has already spec'd the job out with the existing plan but we haven't ordered materials, other than what have you.

Chairman Rogan stated okay, anybody, any other questions, comments. I make a motion in the matter of Patterson Auto Body that the Planning Board accept the changes proposed at tonight's meeting to extend out the wall five feet to the south, as shown on the plans given to the Planning Board subject to the submission of an as-built prior to final C of O.

Board Member Montesano seconded the motion.

Chairman Rogan asks for all in favor:

Board Member Taylor	-	aye
Board Member McNulty	-	aye
Board Member Montesano	-	aye
Board Member Cook	-	aye
Chairman Rogan	-	aye

The motion carried by a vote of 5 to 0.

Board Member Cook stated wait a second.

Board Member Montesano stated hold it and...

Chairman Rogan stated and they are moving this one in too.

Board Member Montesano stated and move the, in.

Chairman Rogan stated that is why I referenced the plan, so that we are really referencing the set of plans so that we are really referencing the set of plans that we got tonight.

Mr. Byron stated we are not trying to increase the size very much just...

Chairman Rogan stated great, okay thank you.

Rich Williams stated so Jim tomorrow I'll draft a quick short memo to the Building Inspector saying we've reviewed the plans and approved the additional 5 feet and send you a copy...

Mr. Byron stated he'll get the original, the one that we will pull a permit on showing all this, all right.

Chairman Rogan stated thank you Mr. Byron.

Mr. Byron stated thank you.

Chairman Rogan stated have a nice evening.

Mr. Byron stated thank you.

Chairman Rogan stated obviously you don't need to come back next Thursday, all set, have a nice summer.

Mr. Byron stated thank you, bye-bye.

#### **1) LEA ROME AMENDED SITE PLAN – Public Hearing**

Chairman Rogan stated okay we have Lea Rome amended site plan, if the Board remembers we did a site walk, Ron I'm sorry you weren't on that site walk, that is of Commerce Drive. If you would like to go take a look at it we can probably arrange something with Rich, if we just reach out to them first of course and let them know that you'd like to, that's an easy swing by, it's a commercial building with a somewhat of an equipment yard that they expanded a little bit beyond what they were initially approved.

Board Member Taylor stated these are the same guys that dropped the stones over the side of the hill.

Board Member Montesano stated yes.

Chairman Rogan stated that would be the one, so when we went out there, we delineated an area where we felt comfortable that if they put up a fence so we would limit further disturbance, keep things contained within the site, that's pretty much a summation of it, right.

Rich Williams stated yes.

Chairman Rogan stated that's pretty basic, so we are going to have a public hearing on it.

Rich Williams stated you're just approving a storage yard behind the building that wasn't previously there.

Chairman Rogan stated so um, if you want between now and next Thursday catch up with Rich.

Board Member Taylor stated yea but, do you think it's necessary or can I just excuse myself from this one.

Chairman Rogan stated I think that's absolutely fine, yea, I'm just making sure you have that option.

Rich Williams stated Ron, would you like me to call Steve or not.

Board Member Taylor stated no, I don't think so.

Board Member McNulty stated the only thing I noticed on this Shawn...

Chairman Rogan stated yes.

Board Member Taylor stated (inaudible – too many speaking).

Board Member McNulty stated is there was a trailer there, that was pushed back up against the edge of the zone...

Chairman Rogan stated yea, that was supposed to be pulled forward.

Board Member McNulty stated there is no note indicating, I saw the fence going behind it, so I don't know if they just...

Rich Williams stated can they show the location of the trailers.

Chairman Rogan stated are they indicating by the plan that the trailer is staying exactly where it is currently located.

Board Member McNulty stated well it looks like it's pulled forward but there is no note as of such and they show the fence behind it so we'll just look for...

Chairman Rogan stated you know what, look at the grading on, the grading shows that it's pulled forward, remember the grading, the back edge of that trailer was way down.

Board Member McNulty stated it actually spanned...

Rich Williams stated if that grading is correct.

Chairman Rogan stated right, so if that grading is correct that trailer has been pulled forward about 8 feet maybe, 7 or 8 feet because otherwise that fence would go right across, you see that ravine that's shown on the...

Board Member McNulty stated well my point is, just that if they come in on Thursday for the meeting, we point that out that and make the suggestion if we want him to go look at it before they actually put the fence in...

Rich Williams stated let them mark it out just before they put the fence in, I'll go out and make sure its in the place that the Planning Board wanted it.

Chairman Rogan stated great.

Board Member Montesano stated now does, number 10 says vehicles are to be on parking area only, would that cover those trailer bodies.

Rich Williams stated they wouldn't be vehicles they would be considered storage containers.

Chairman Rogan stated so stake...

Board Member McNulty stated I think they are right on the ground, right, they don't have wheels on them. Also, it says 11, required fill, there is no fill being brought in, is there, out there.

## 2) **WIRELESS EDGE AT QUAIL RIDGE – Continued Discussion**

Chairman Rogan stated okay, item number 2, Wireless Edge at Quail Ridge; at this point we have a resolution for this meeting. Anybody have any conversation or comment they want to make at this point or can we move on...

Board Member Montesano stated move it on.

Chairman Rogan stated what's going on with Watchtower Rich...

Ted Kozlowski stated I got a question Rich, on Wireless Edge, I see they have a wetlands application, did they pay a fee.

Rich Williams stated yea.

Ted Kozlowski stated do you know what that is because I like to keep track of these things and it's not on the plan.

Rich Williams stated I'll have to get that for you, I don't...

Board Member McNulty stated I do have one question on Wireless Edge with regard to your letter.

Ted Kozlowski stated yea.

Board Member McNulty stated you wrote that they didn't delineate one of the wetlands correctly...

Ted Kozlowski stated I did...

Board Member McNulty stated but the latest plan they submitted just shows the same one.

Ted Kozlowski stated right because I went out there and delineated with (inaudible)...

Board Member McNulty stated so the plan is accurate.

Ted Kozlowski stated it's accurate.

Board Member McNulty stated oh okay.

### 3) WATCHTOWER EDUCATION CENTER DEIS – Set Public Hearing

Chairman Rogan stated okay the Watchtower DEIS, that's the DEIS, that's the public hearing on the DEIS that we have spent the last 6 or so month reviewing, okay. So at this point, I know Ron had some comments that related to some clarification on some of the historical issues. Rich, please help us to make sure we don't have too much cross over between say, asking Ron questions about Historical Society instead of Planning Board because I know sometimes it's difficult to keep that separate. So I don't want to ask Ron too many questions relevant to the Historical Society's review when he's here as a Planning Board Member you know, I want to make sure we don't get too much, it would be like asking me Health Department questions and stuff. There's a fine line and I want to make sure that we, it's going to take some time but, maybe everybody can help me out on that, that we don't, you know...

Board Member McNulty stated kick you under the table.

Chairman Rogan stated yea.

Rich Williams stated well I mean...

Board Member Montesano stated well he's going to be sitting next to you, kick him hard.

Rich Williams stated I understand what you're saying but it was beneficial to the Planning Board to have somebody as a liaison to the Historical Society, Ron are you still going to perform that function...

Board Member Taylor stated official notice will be signed by somebody else, Judy is going to be signing the letters that are coming in.

Rich Williams stated all right, fair enough, all right, we will proceed accordingly.

Chairman Rogan stated okay, so what we will want to do is see through this process that the comments that were raised by the Historical Society have been, that we get response from them as to how happy they are with the way that Watchtower may have modified their DEIS.

Board Member Taylor stated did Watchtower submit modifications for those pages.

Rich Williams stated yes they did.

Board Member Taylor stated but they didn't bother to send a copy on to the Historical Society.

Rich Williams stated yea, they typically don't, generally the way we left it off was it was going to be reviewed by myself and the Town Engineer which we did do and they did respond to your comments.

Board Member Taylor stated they did commit themselves to sending a copy of the revised part on.

Rich Williams stated but they didn't tell me that so I didn't know.

Board Member Taylor stated well you didn't need to know, they should have just sent it on.

Chairman Rogan stated yea.

Rich Williams stated I mean I certainly have them here and I can e-mail them to you tomorrow.

Board Member Taylor stated can you do that and I'll get them over to Judy and have her look at it.

Board Member McNulty stated I have a question about Watchtower, on these notes by Maser, Rich, there was a section on number 50 on page 3 about lighting, is there any standard of lighting efficiency that we can ask them to look into...

Chairman Rogan stated lighting efficiency...

Board Member McNulty stated it looks like they basically state that they are going to use existing lighting that they've already used in the past. Is there anything energy conscience we can recommend that they look at or does that make a big deal to change all this.

Rich Williams stated I mean there are energy efficiency standards within Leads and Golden Globes, Green Globes, I'm sorry and we certainly can ask them to look at that.

Board Member McNulty stated that's all I'm asking, to see if they are maybe updating to more current technology than what they used in the past.

Rich Williams stated I just want to jump in here and be clear, essentially they've given us a document which we've reviewed a couple of times now and raised additional issues on it and essentially they've addressed all of those comments subject to you know possibly a few from the Historical Society. The next step in the process is finding that complete is having a public hearing but now everybody getting that document so they can take another look at it and start addressing things like your comment Tommy about the lighting, good standards but we need to do more for energy efficiency.

Board Member McNulty stated and that can be done after a public hearing.

Rich Williams stated as part of the review of the DEIS because all we've done right is deemed it reasonably answered all the areas that we identified in the scope of work that they were supposed to look at and it is the same with the Historical material, you know we can still comment on it and they are still going to have to respond to it, in the next document which is the FEIS.

Board Member McNulty stated so we have time to comment on all of these comments yet.

Rich Williams stated yes.

Board Member McNulty stated okay because I had, number 52 about the education center, Maser put in there about the Planning Board to confirm if it is or it isn't, I guess that would be a legal question, no.

Rich Williams stated and then once we get the FEIS done and complete and everybody is happy with that, then we start actually designing the site.

Board Member McNulty stated I won't bog us down with these questions just yet.

Chairman Rogan stated when we, um, I'm sorry I'm reading your memo Rich about the procedural steps with this DEIS and the Planning Board has not deemed the DEIS complete yet, correct, procedurally.

Rich Williams stated technically you deemed it complete subject to them addressing the comments to the satisfaction of the Town Planner and the Town Engineer. We've now come back to you, with memos, both of us saying it's complete.

Board Member McNulty stated okay.

Chairman Rogan stated um...

Rich Williams stated and just to be clear, in between there, Ron Taylor got involved on behalf of the Historical Society and raised issues that we were not that familiar with.

Chairman Rogan stated um, so it's at a point where the Planning Board should feel comfortable with releasing that document to the general, to those that would be interested in reviewing it.

Rich Williams stated the general public, other involved interested agencies.

Chairman Rogan stated and my comment would be that I think we should ask for or require much more than 30 days review time because it is such a hefty document. Understanding that each agency is going to have a particular area of interest but I think there ought to be more like 60 days minimum. I mean this approaches the level of Patterson Crossing project with the volume of information that has been prepared.

Rich Williams stated so you would be looking, well let me ask you this, are you comfortable with having a public hearing on the second.

Chairman Rogan stated well...

Rich Williams stated and then having a written comment period that ends say October 2<sup>nd</sup>.

Chairman Rogan stated well that seems reasonable, that gives, that seems reasonable, that gives 2 months of written comment. That is mainly what I'm looking for, I'm not as concerned, I just want to make sure people have ample time to read through that if they so choose.

Rich Williams stated I would rather have written comments anyway.

Chairman Rogan stated yea, people tend to express themselves better in writing anyway than up at a microphone.

Board Member Taylor stated and this is all going to be posted on the website.

Rich Williams stated yes.

Board Member Taylor stated and when will have happen.

Rich Williams stated soon.

Board Member Taylor stated by August 2<sup>nd</sup>.

Rich Williams stated absolutely, well August 2<sup>nd</sup>...

Board Member Taylor stated isn't that what you were saying or, you said the second...

Rich Williams stated no, no...

Board Member Taylor stated when is the public review.

Board Member McNulty stated September.

Rich Williams stated let's talk a little bit about process here, if you were to set a public hearing for tonight, we would have enough time to advertise it, get it out there and meet the requirements to have the public hearing on September 2<sup>nd</sup>...

Board Member Taylor stated oh September 2<sup>nd</sup>, okay.

Chairman Rogan stated right.

Rich Williams stated September 2<sup>nd</sup> and then we would, you know you'd have the public hearing and then you would go another 30 days, everybody would have to have their written comments in by October 2<sup>nd</sup>.

Chairman Rogan stated so from next weeks meeting we can set a public hearing for the meeting in September, we can also then make sure the document is uploaded to the website so people have full access so we'll have 1 month of access to it, prior to the public hearing, 2 months access to it in terms of putting comments in writing, right, that seems pretty reasonable.

Board Member Cook stated and it goes on the website, is it also your response to it and Maser's response to it.

Rich Williams stated no.

Board Member Cook stated just the document.

Rich Williams stated just the document.

Chairman Rogan stated just the document.

Board Member McNulty stated are these responses at all in the document or they are all generated from the document.

Rich Williams stated those are all questions that Maser raised concerning the document and their response and Maser's response for most of them are, they are going to be, they mutually agreed they are going to be addressed during the site plan review.

Board Member McNulty stated so there has been no site plan physically issued yet.

Rich Williams stated there is a conceptual site plan, yes, you want a copy before you leave.

Board Member McNulty stated sure, no, no, I'll take it. I'll wait to get one I can use, I'll wait for an actual site plan.

Rich Williams stated pull one out for Tommy, is that the most recent or is it in the box.

Board Member Taylor stated when is the site plan period been, in terms of all this.

Rich Williams stated your review of the site plan doesn't actually start, I mean we are reviewing the conceptual site plan but your review really doesn't start until a Findings Statement is made, after the end of the Environmental Impact Statement process, it culminates with the Planning Board adopting a Findings Statement.

Board Member Taylor stated and is there a time limit on that review.

Rich Williams stated on the site plan, it is but it is usually not adhered to because it's you know, by law, it's short.

Board Member Taylor stated but if they are postponing everything to that period...

Rich Williams stated they are not actually postponing, they mutually agreed to address these during site plan review because they are really relevant site plan issues, not pertaining to the Environmental Impact that may be occurring on the site...

Board Member Taylor stated okay.

Rich Williams stated for example, depth of pavement.

Board Member Taylor stated okay but not huge issues that...

Rich Williams stated no.

Board Member Montesano stated you want to give him the books.

Rich Williams stated Mike, everybody is going to get another one of those and everybody is going to get another roll.

Board Member McNulty stated this is going to go in my collection with my other plans on my desk.

Chairman Rogan stated it's rolled pretty tight right now, you know they talk about rolling newspapers for fire logs...

Board Member Montesano stated I'll tell you what, you can use that to put a building up actually.

Chairman Rogan stated okay, so then this coming meeting we'll have a conversation with I'm sure, Mr. Eldred et al...

Rich Williams stated maybe I wasn't clear, if you set the public hearing tonight we've got enough time to get it in, if you don't then I've got to recalculate everything and we may not...

Chairman Rogan stated in other words...

Board Member Montesano stated make a motion to set a public hear...

Chairman Rogan stated wait a minute, hold on a second. You said if you set the public hearing for tonight for a week from now...

Rich Williams stated no.

Chairman Rogan stated no, so in other words you're saying we can set the public hearing now and they don't have to come in next week.

Rich Williams stated what I'm saying is, by the time we get it into the paper, I still need another 14, 15 days before you can have the public hearing, so you've got that...

Chairman Rogan stated I understand, so it would be better if we did that tonight.

Rich Williams stated if I wait another week, if I did the math right, we have to have a special meeting after September 2<sup>nd</sup> or it goes to October.

Board Member Montesano stated all right.

Chairman Rogan stated I'm sorry Mike, go ahead.

Board Member Montesano stated no, I make a motion we have a public hearing on Watchtower for September 2<sup>nd</sup>.

Board Member McNulty seconded the motion.

Chairman Rogan asks for all in favor:

Board Member Taylor	-	aye
Board Member McNulty	-	aye
Board Member Montesano	-	aye
Board Member Cook	-	aye
Chairman Rogan	-	aye

The motion carried by a vote of 5 to 0.

Chairman Rogan stated okay.

Rich Williams stated and if you could set the, unless you want to do it at the, no, you've got to do it now.

Board Member Montesano stated we have to do it now.

Rich Williams stated the written comment period for...

Chairman Rogan stated to be one month beyond that, the October meeting.

Board Member Montesano stated we'll have it until, I know what October's date is but the October meeting.

Chairman Rogan stated Michelle, what's the October meeting date please.

The Secretary stated the October meeting date is the 7<sup>th</sup>.

Chairman Rogan stated the 7<sup>th</sup>.

Board Member Montesano stated by October 7<sup>th</sup>.

Chairman Rogan seconded the motion.

Chairman Rogan asks for all in favor:

Board Member Taylor	-	aye
Board Member McNulty	-	aye
Board Member Montesano	-	aye
Board Member Cook	-	aye
Chairman Rogan	-	aye

The motion carried by a vote of 5 to 0.

Chairman Rogan stated okay, so there.

Rich Williams stated all right.

Chairman Rogan stated all right, they are off the agenda in essence, so is Mr. Byron. Okay, Schoen Site Plan...

#### 4) **SCHOEN SITE PLAN – Opinion of Attorney**

Chairman Rogan stated Schoen site plan, opinion of the Attorney, Schoen.

The Secretary stated Greenlands.

Chairman Rogan stated oh, thank you.

Rich Williams stated this is a question of the applicant wants to come in and have just 1 space a dog grooming facility and the question came up, could the Planning Board approve just a dog grooming facility

and going back to, you know, the prior application, this came up and I had the same opinion that you can approve a personal service or retail use for that one area but you can't start picking the personal service use or retail type of use that's going to go in there.

Chairman Rogan stated can we, I think we've said this round and round but can we approve that one space and limit it to the square footage that currently exists.

Rich Williams stated yes.

Chairman Rogan stated okay, so in other words we can say you can have one retail space or personal service space which would in essence be 10% of building, right, 1 tenth of the building.

Board Member Cook stated where is the legal opinion on this?

Chairman Rogan stated I don't know I'm waiting Charles; I'm just asking, pertinent question.

Rich Williams stated it's sitting with Carl Lodes, who has all the information and I've talked to him about and he's going to be coming next Thursday.

Chairman Rogan stated so I guess we can call this up next Thursday.

Board Member McNulty stated so we'll discuss it then.

Board Member Montesano stated certain law.

Chairman Rogan stated but for background Ron, you remember the...

Board Member Taylor stated yea, I think you set it as a square foot and not a percentage...

Chairman Rogan stated yea.

Board Member Taylor stated so that because there are different ways of calculating percentages, if it's done inside or outside and when you say it's square feet, it's square feet and that's it...

Board Member McNulty stated I also think we should limit it to the lower level because that is where he has his retail store fronts.

Board Member Montesano stated we asked for this opinion and now we get it at the coming meeting, we don't really have, now is there some way to ask that we get it possibly...

Chairman Rogan stated a day before, e-mailed to us would be nice.

Board Member Montesano stated the work session would be polite, I mean I realize that must be extremely difficult to do but I would appreciate it.

Rich Williams stated (inaudible).

Chairman Rogan stated but we can get it e-mailed hopefully, a day or 2 before the meeting so we can at least read it because I agreed with Mike, it's very difficult getting this stuff the night of.

Board Member McNulty stated the night of meeting, we can't make any kind of determination on it.

Board Member Montesano stated put off everything because we don't get the opinion.

Chairman Rogan stated and in fairness to these people that want to open a business that are hanging in the wings...

Rich Williams stated it almost sounds though that the question is going to be rendered moot at this point simply because you know the question was could you approve a dog grooming service only in that area and not approve a limited square footage for personal service use or retail. If you're willing to go down that road about or willing to approve, say 200 square feet for retail or personal service, recognizing that you know after that, any personal service of retail class could go in there.

Board Member Cook stated that is the whole problem...

Board Member Montesano stated that's what we are asking him.

Board Member Cook stated that's why we need the legal [opinion] because this site was approved for office space only.

Rich Williams stated right.

Board Member Cook stated let's underscore only.

Rich Williams stated right.

Board Member Cook stated and now we have and we had previously an application that came in, that was, denied or withdrawn or what have you...

Chairman Rogan stated I think they withdrew before we made a decision on it.

Rich Williams stated you decided, you denied it, you denied it because he refused to give you the improvements that were identified as necessary in supporting this type of use on the site.

Chairman Rogan stated what was the, but they weren't looking for just one space though.

Rich Williams stated they were looking for a limited area.

Chairman Rogan stated it wasn't just one space.

Rich Williams stated no, well initially it started out as 1 but then he wanted to do just one but it was going to be 2 store fronts then it might have expanded from there.

Chairman Rogan stated so why don't we pull the review that specified those improvements. It's one thing to consider 200 square foot of retail but say should any additional use be required these improvements must be done first before any consideration because there's traffic, there are logistical problems in that parking area.

Rich Williams stated exactly.

Board Member Montesano stated well that's why we asked for the legal opinion so we can see where the hell we're going.

Board Member Cook stated I agree with that and I agree with Michael but the thing is that this dog grooming business won't be going in for awhile because the landlord has to do those improvements.

Chairman Rogan stated not based on our current conversation, it depends on how you, there are 2 different ways of looking at this, prior when we identified the items that are lacking on the site plan to allow a great use of the site, a greater impact was considered because we were looking at more than just 1 store front and 200 square feet. This proposal that we have before us is much less of an impact, I believe than what we were considering a couple of years ago. Having said that I think you can draw on the correlation between the impact and site improvements that are required by that I would say, we, as long as legally we are okay, could approve the dog grooming for 1 store front, not to exceed 200 square feet. Whatever everybody agrees on but clearly put into the records that these items, these deficiencies were previously noted and that any greater use of the site above and beyond the 200 [square feet] will require these, put it right in the record and we are basically drawing a line in the sand. I personally think the site lays out terribly so I have not been a fan of giving an additional use but recognizing that the place is empty and its falling apart.

Board Member Cook stated I recognize that also but how do we legally change this, it's fine to say we'll allow this dog grooming in because its less impact. If we do that, what about the next application or applicant that the landlord brings in to put a store next to it and a store next to it.

Chairman Rogan stated now you're adding, but now you're changing, it's, we're saying it's personal services, correct, we are currently saying that if we approve what's before us, 90% or whatever the square footage is that I believe 90% relates to, will be office and 10% will be personal services. If you now increase that to 20% or 30% or 40% that is increasing the impacts to a point that we've already stated on the record or will state next week that we have already indentified deficiencies that would be commensurate with the review we did previously which was for more than that 1 store front use. We would be more consistent with the use that was proposed previously that said these are the deficiencies we've noted with the proposal before us, prior.

Rich Williams stated and how is that different from saying to somebody, if you insist on designing it this way, you are not going to ever have anything other than an office use of this site.

Chairman Rogan stated its not but based on other comments we've had tonight, they can go and tell the people to go ahead and put the grooming and then the Town isn't going to do anything about because they don't follow through on site plans anyway because we have plenty of people without approvals and they are not doing anything. Here, the people are before us asking for it, it goes back to we have a problem with people not coming before us, these people are here, I think the more we can build our record, put it in there that these are the deficiencies that were previously noted. Like I said, I wish it was the upper floor because I think in and out quick would be better but it doesn't layout for store fronts.

Rich Williams stated so what.

Board Member Cook stated another reason...

Chairman Rogan stated because they don't need a store front, it's appointment only.

Rich Williams stated right, they don't need a store front.

Board Member Cook stated the other reason why I think that the legal opinion is important because this is an approved site plan by the Planning Board at some point in time. Can that be revisited so that we could say look, this site falls in with retail personal services, you know like reapprove it...

Board Member McNulty stated can it be amended.

Chairman Rogan stated I think that's what we are doing now though in essence.

Board Member McNulty stated it can't be amended.

Board Member Taylor stated we're not because you said the question that went to the lawyer was for dog grooming.

Rich Williams stated the question that went, very specifically, the question that went to the attorney was, can you approve just a dog grooming facility or by doing that are you approving a personal service use that would allow then any personal service use to occupy the site.

Board Member Taylor stated so he's not going to answer the question we are really concerned with...

Rich Williams stated no, that's not what I'm hearing, as far as the question tonight.

Board Member Cook stated I thought it was clear last meeting that we were asking for an opinion on the site and the approval that's in existence and what can we do to change that.

Board Member Taylor stated well can ask him.

Rich Williams stated yea, you can certainly ask him if I'm clear but...

Chairman Rogan stated he may not answer.

Rich Williams stated from what I'm hearing Charlie's question is can you amend the site plan to allow a portion of the building to be used for any other consistent, any other use that is consistent under the zoning code...

Chairman Rogan stated right.

Rich Williams stated and the answer is clearly yes, you don't need a legal opinion for that.

Chairman Rogan stated okay but what was and what was his legal opinion about the question you asked, we haven't gotten it yet or is your opinion...

Rich Williams stated well we have a legal opinion from Anthony that basically says the same thing. The same question came up...

Chairman Rogan stated okay.

Rich Williams stated can you approve say just a beauty parlor and only a beauty parlor and the answer was probably not.

Chairman Rogan stated you're approving the classification not the specific use.

Board Member McNulty stated what we want to know is can we limit the specific personal use.

Rich Williams stated yes.

Chairman Rogan stated and it sounds like the answer is no.

Board Member McNulty stated no, within the Code, can we, can we limit a particular use, in other words if we are just going to say dog grooming but that opens up the field to everything but can we only say dog grooming.

Chairman Rogan stated the answer sounds like no.

Rich Williams stated it sounds like my opinion is no.

Board Member Taylor stated but you just said that Anthony said no.

Board Member McNulty stated whose Anthony.

Chairman Rogan stated right so, Anthony was our...

The Secretary stated former Town Attorney.

Rich Williams stated Anthony Molé.

Board Member Taylor stated in his opinion let's me know that we can't because the Code is written in such a way, you've got general classifications right, you can't...

Rich Williams stated exactly.

Board Member Taylor stated we don't have the authority...

Board Member McNulty stated break the Code down that far.

Rich Williams stated no.

Board Member Taylor stated to redefine those classifications.

Rich Williams stated you would have separate dog grooming out from personal service or beauty parlors out...

Chairman Rogan stated he's not sure he wanted it...

Board Member Taylor stated and amend the Code.

Rich Williams stated right.

Board Member McNulty stated but what we can do is amend the site plan to limit the amount of space within that building to be for personal service.

Rich Williams stated yes you could do that.

Board Member McNulty stated that's within our capability.

Chairman Rogan stated so we don't need an opinion on that.

Board Member Cook stated then what we should do right, is to amend the site plan but why don't we amend the whole site to accommodate office, retail, personal services...

Chairman Rogan stated it won't work on the whole site.

Board Member Cook stated based on all of those points that you referenced before.

Chairman Rogan stated I think that if we were to say that we want the whole site to be open to personal services and office, the whole site can never be built to support all 100% being potentially used for 10 dog groomers, whatever the case may be. 10 personal services uses because the site doesn't have the proper layout.

Board Member Cook stated okay, then let me ask you this, how about half of the site, either the top side or the bottom side.

Chairman Rogan stated that was my point with the deficiencies I think we can clearly say to them, look 1 use 10% of the site, whatever that square footage works out to be, 200 square feet, whatever, okay the way it is, let's try it out, anything more than that. We believe that if you go any higher than that percentage you're going to have to meet these deficiencies which were some parking issues, there wasn't a lot but there were some issues.

Board Member Cook stated then why don't we amend the decision to say the whole thing, starting with the first 1 to go in, saying you can have 1 there, is this what you're saying, have 1 there...

Chairman Rogan stated yes.

Board Member Cook stated without this kind of approval...

Chairman Rogan stated exactly.

Board Member Cook stated anything after that, you have to meet these requirements Mr. and Mrs. Landlord.

Chairman Rogan stated put it right into the approval, that's exactly it and believe I've had serious reservations about this site because every time I drive in and out of there with my truck, I have a hard time maneuvering in there, maybe I'm a poor driver...

Board Member Montesano stated no trucks allowed.

Board Member McNulty stated I went in when there was no cars.

Board Member Taylor stated can we implemental phase these things in.

Chairman Rogan stated that's exactly what I think we're talking about that, we should for next meeting, we'll review together what those discrepancies were noted, there were certain things like changing, remember the...

Rich Williams stated the bull nose...

Chairman Rogan stated the bull nose that sticks out from the sidewalk, hampered some of the traffic flow, we were going to shorten that up.

Board Member Montesano stated I still think we should make it where they have to put that bar across the top to keep the trucks the hell out, I realize...

Board Member McNulty stated where will the trucks park then.

Chairman Rogan stated out on the road.

Board Member Montesano stated they'll have to park on the road.

Board Member McNulty stated they'd have to create something off the road, where they can pull off, either that or create a commercial spot within the parking lot.

Board Member Montesano stated you go to Home Depot, they don't make a pull off.

Ted Kozlowski stated (inaudible).

Board Member Taylor stated at Home Depot they're not parking out in the street either.

Board Member Montesano stated yes they are, the trucks, when you go over to the...

Chairman Rogan stated you're talking about by the bank there...

Board Member Montesano stated by the bank, when you go up there, those trucks are parked right there.

Rich Williams stated Mike's absolutely right but that's been my argument on the site...

Board Member Montesano stated I realize that...

Chairman Rogan stated why it shouldn't...

Rich Williams stated it's a poorly designed site but...

Chairman Rogan stated right.

Rich Williams stated it's poorly designed for office to being with, having a use out there that is going to

require loading spaces, more frequent traffic, more frequent visits on a residential road, you know, it's a great lesson on...

Board Member McNulty stated but we are limiting it to one business like this.

Board Member Montesano stated we allowed that to go through because we let them tell us about their septic system bull story and then this whatever the heck it was that they couldn't get it, so we are stuck with this thing. The object is...

Chairman Rogan stated they're stuck with it, you're right.

Board Member Montesano stated no we're stuck with it, the Town is struck with it because its sitting there. If it falls down and disappears maybe we can fill back in and put a lot back in there and let them go that way but unfortunately to let it deteriorate to the point where it gets to be a gross object of...

Rich Williams stated and I also want to throw out there that there were never supposed to be store fronts in it, the Building Department didn't bother to enforce the site plan.

Board Member Montesano stated well the object is all right, it's got store fronts, they can be painted over, they can put up a sheet rock wall, take the glass out, you can do that if you wanted to but like you said they allowed it to go through but you've got a piece of glass there in a store front. If you were to take that glass out and put up a wall, it would no longer be a store front, so we have never pushed them to say you're not supposed to have them, he signed off on them, we're stuck with them.

Board Member Taylor stated maybe we're not stuck with them, that's what I'm trying to say, instead of giving them this freebie, if part of the responsibility is them not following what was approved to being with why don't we say to them, you get your 1 but you have to board up a store front or change the curb or...

Board Member McNulty stated its not the original owners.

Rich Williams stated yea, you have to make that point too, it's not the original owners, it's not the person who created the problem, the person who created the problem...

Chairman Rogan stated it's like 2 people later.

Rich Williams stated moved to Southeast and created another problem down there.

Chairman Rogan stated yea, they built the same building.

Rich Williams stated the same building.

Chairman Rogan stated it's identical, right on the border of Danbury and Putnam.

Board Member Cook stated I think if we allow the...

Board Member McNulty stated and its empty.

Board Member Cook stated 1 in, the landlord is going to look for more and we'll have to make the improvements so that the site will be productive, you know.

Chairman Rogan stated that's what I'm thinking.

Board Member Taylor stated you think we should give them one to begin with.

Board Member McNulty stated I also think we should pull out the, I've never seen the original site plan and if they want this 1 improvement, at least come up to the minimum standards of the original site plan. Right now there are no parking spaces painted out, I don't know if the signage is proper...

Chairman Rogan stated I agree with that.

Rich Williams stated I will have to take a look at that.

Board Member McNulty stated we should review the and make that a condition, these are the basic...

Chairman Rogan stated fair is fair.

Board Member McNulty stated site plan approvals that were granted with the building, you need to bring this up to standard.

Chairman Rogan stated that's fair, that's certainly reasonable.

Board Member Taylor stated that would be a good start, yea.

Chairman Rogan stated great.

Board Member McNulty stated we'll see how much give and take there is then.

Chairman Rogan stated it seems like you've extended the olive branch, to me.

Board Member Montesano stated sure with the whip right behind it.

Board Member Taylor stated so are we reviewing this next week.

Board Member McNulty stated I would like to see a business go in there.

Chairman Rogan stated yea, we need to have.

Board Member Taylor stated so we need all this stuff before hand.

Chairman Rogan stated yea...

Rich Williams stated I've got nothing going on, don't worry about it.

Chairman Rogan stated you don't need to sleep Rich.

Rich Williams stated don't (inaudible).

Chairman Rogan stated how does it feel to be necessary, so needed.

Rich Williams stated I'm about to the point of being necessary right out the door.

**5) DOG HOUSE OF GOURMET FRANKS – Sign Application**

Chairman Rogan stated all right, Dog House we had the sign application, Ms. Boniello was in with Anthony and they were talking about revisions to that, do we have anything new on that, no.

Rich Williams stated you don't have anything new, the only outstanding issue is the legal opinion, whether they can put the sign up.

Chairman Rogan stated okay.

**7) O'MARA WETLAND/WATERCOURSE PERMIT**

Chairman Rogan stated O'Mara wetland/watercourse permit, Mr. Nichols contacted me a week or so ago and said that the rain garden that Mr. Williams was enthusiastic about...

Rich Williams stated no, no...

Chairman Rogan stated let me tell him what he said, was required by the DEP.

Board Member McNulty stated DEP.

Rich Williams stated yea.

Chairman Rogan stated the DEP said we want the rain garden to mitigate some of this runoff from the leader drains I would say. So, we have revised plans...

Rich Williams stated now let me go on record here...

Chairman Rogan stated go ahead.

Rich Williams stated what they did, in soils that showed extremely good percolation rates, the DEP decided to take out the infiltration practices, i.e. dry well and put in a rain garden. My intent was to give the property owner a greater use of this property by allowing a backyard and then some mitigation. I think this is pretty much as screwy as not doing that, they could have left the drywells, everything would have worked just the same.

Chairman Rogan stated yea.

Ted Kozlowski stated I am going to go on record, I maintain rain gardens in my other job, it's a lot of work, it's a lot of dedication. The whole concept of rain gardens is a nice thing if you're committed to it, you can't just build a rain garden and walk away. I don't think for one instance this is going to succeed, I just want to go on record and say that.

Rich Williams stated have you looked at this.

Ted Kozlowski stated I haven't seen his, oh yea I've seen his plan, pretty simple.

Rich Williams stated did you see the plants they are planting...

Ted Kozlowski stated yea.

Rich Williams stated right at the end of the driveway.

Ted Kozlowski stated yea.

Rich Williams stated yea.

Chairman Rogan stated that's not going to work.

Ted Kozlowski stated I would invite anybody, if you want to see what a rain garden looks like you come to Lasdon Park and Arboretum and I'll show you a rain garden, a functional rain garden. My staff is in there every week.

Chairman Rogan stated that's crazy then.

Ted Kozlowski stated so I'm just telling you this whole concept of rain gardens is really nice, it's a wonderful thing but you're expecting this, whoever this new homeowner is...

Chairman Rogan stated we're not, that's the problem, this is the requirement of another agency...

Ted Kozlowski stated to be a gardener.

Chairman Rogan stated and you know, it's crazy...

Ted Kozlowski stated it's crazy.

Chairman Rogan stated so let's keep good records on this a year or two from now.

Board Member Taylor stated do we have any control over this.

Chairman Rogan stated very little it sounds like it's an agency that...

Board Member McNulty stated overrules us.

Chairman Rogan stated our approval Ron is to the site layout and impacts and it's a wetlands permit, how do the impact of this site translate to impacts on the wetlands because that's all it is, is a wetlands permit. It's a previously approved subdivision lot that now needs a wetlands permit because it wasn't built 20 or 30 years ago.

Board Member Taylor stated right.

Chairman Rogan stated I was one of the people...

Board Member Taylor stated so are there negatives to this rain garden then if it doesn't function.

Chairman Rogan stated you mean if they don't maintain it and all the plants die up, what does it turn into.

Ted Kozlowski stated again you are putting this rain garden in a forested situation, the plants have to be taken care of...

Board Member Taylor stated but if they're not.

Ted Kozlowski stated and if they're not, it's going to go into a weed patch.

Board Member Taylor and then what happens, what happens to the run off.

Rich Williams stated eventually.

Ted Kozlowski stated the functions will diminish and it will be...

Board Member McNulty stated what is the true function of rain garden.

Ted Kozlowski stated its to mitigate...

Rich Williams stated its biofiltration.

Ted Kozlowski stated on a small level, local level mitigate rain water.

Chairman Rogan stated so given the sandy soils that you spoke about for the site, if they don't maintain it, it becomes a de facto dry well anyway because of the sandy soils.

Rich Williams stated well here is what happens over time because now you've got plants in it, the plants, the leaves come off, they fill it in, they start clogging it up, sediment gets in there. If you don't clean the sediment out that's starts clogging up the soil pores and over time, over a long time, it will just revert back to whatever is natural for that area to fill in...

Chairman Rogan stated which means that the leaders coming off the house, the roof water that feed into this will just go out on the surface of the ground and runoff...

Rich Williams stated yup.

Chairman Rogan stated because that's, it doesn't put the water into pipes below grade, it's just open runoff into a depressed area.

Rich Williams stated its not clear what he is doing with his rain garden, it's not clear where the pipes are coming in, there are some other things that aren't clear but...

Ted Kozlowski stated Charlie...

Chairman Rogan stated do you want to...

Ted Kozlowski stated with regard to a rain garden, after every storm event (inaudible) mulch, leaves, debris washes in there and I've got my staff, after every rain storm, we are cleaning it out...

Chairman Rogan stated Ted is...

Ted Kozlowski stated I just think this is an awful lot to expect from a homeowner, you know, they may embrace it, if you or I move in there, we would embrace it...

Chairman Rogan stated is there any way that you can...

Ted Kozlowski stated somebody else is going to be like, are you kidding me.

Chairman Rogan stated can you through Mr. Nichols find, I think it was, he said it was Mary Galasso, I can't remember now, if you reach out to Harry and find out which person at DEP did the review on this and reach out to them and explain our concerns, your concerns translated to our concerns for future maintenance...

Ted Kozlowski stated sure, to Harry.

Chairman Rogan stated no to the DEP, why would Harry we don't really need to talk to.

Ted Kozlowski stated okay, sure.

Chairman Rogan stated see if they are willing to just explain exactly what you said to us, you explained it to the Planning Board, we agree with your concerns, in the end we don't want to create something that is going to be a nightmare for a property owner who is going to buy a house and know nothing about rain gardens to maintain and we are afraid that 5 years from now, this is not going to be the stormwater mitigation that we had hoped we would have for this property owner.

Board Member Montesano stated would it be possible for that, once it clogs up to run water theoretically out to [Route] 22 and cause ice conditions in the winter.

Chairman Rogan stated that's a little far but you know...

Ted Kozlowski stated it would have to go uphill Mike.

Board Member Montesano stated hey, let's put it this way, it wouldn't be the first time, we're dealing with the State, they love running up hill.

Chairman Rogan stated that's quite a hill but if you could do that between now and next meeting, so at least we have some...

Board Member Cook stated is there a way to connect this approval with the sale of this property, like you know part of the sale that they get a copy of the resolution or what have you or the wetlands permit...

Chairman Rogan stated oh I see what you mean.

Board Member Cook stated that notifies the new owner of the rain garden and...

Chairman Rogan stated we've been talking about that for years.

Board Member Montesano stated we've talked about deed restrictions...

Rich Williams stated it's much worse than that.

Board Member Montesano stated and I guess...

Rich Williams stated as a requirement of the DEP permit, they are going to have to provide maintenance as a requirement of the general stormwater permit, we are going to have to require that they maintain it so, periodically we should be going out there and looking at it and making sure its functioning properly and explain to the property owner that they have to do maintenance on it.

Ted Kozlowski stated where (inaudible).

Rich Williams stated it's a headache in and of itself, well then we write a violation like any other...

Ted Kozlowski stated but what law is it violation, wetland law.

Rich Williams stated the MS-4 program, essentially the general permit.

Board Member Montesano stated you're going to get graded...

Rich Williams stated because it's a stormwater management practice.

Ted Kozlowski stated there's a lot of (inaudible).

Rich Williams stated this one I agree with you whole heartedly, this is not a good idea, they should have left the drywells there.

Board Member Taylor stated going back to Charlie's question...

Board Member Montesano stated this is [Routes] 292 and 311, back again.

Board Member Taylor stated is there some way that as they are buying this property, they see all these notices.

Rich Williams stated I'm sure the DEP is going to make this a deed restriction and there is going to be something in the deed, they have been typically doing that.

Board Member Montesano stated with all due respect to deed restrictions, the average person never, ever sees them...

Chairman Rogan stated (inaudible) at closing.

Board Member Montesano stated the attorney just, sign here and out the door they go.

Board Member Taylor stated yea but at least they're...

Ted Kozlowski stated how many time have we had people come in and say I didn't know.

Board Member Taylor stated yea well but that's, you've got to read your deeds, that's just being stupid.

Board Member Montesano stated that doesn't mean anything, that's what they are paying the lawyers for, the title company, they pay and that's the end of it, all right.

Board Member Taylor stated it says, I don't know how specific Charlie here is the use of his language, it says they expressed their preference for, that language doesn't say that they are requiring us to put it in, they are preferring it.

Rich Williams stated I guess Teddy is going to find out...

Board Member Taylor stated because if in fact it is just an expressed preference then we should be able to require the drywell and then go ahead...

Chairman Rogan stated I agree,

Board Member Taylor stated this may his wording instead of what they really said.

Chairman Rogan stated yup, that's a real good point, all right.

## **8) OTHER BUSINESS**

### **a. Field and Forest Apartments – As-built**

Chairman Rogan stated under Other Business we have Field and Forest Apartments, as-built.

Rich Williams stated yes.

Chairman Rogan stated what's going on with that.

Rich Williams stated the as-built, there are some deficiencies that haven't been completed out there, I did go through them with Andrew and they are escaping me right now. I think it has to do with sinking one of the catch basins, it was really a minor repair but...

Board Member McNulty stated dumpster enclosures.

Rich Williams stated yea, there's the memo right there.

Board Member Montesano stated silt fence.

Rich Williams stated and Harry needed to do it and they were trying to beg off on doing it right now and Andrew is trying to get them do it.

Board Member Taylor stated why are trying to beg off.

Rich Williams stated they were having, according to them, they were having a problem getting contractors on the site to complete the work and they wanted their bond released before all that happened.

Chairman Rogan stated no, I just was, I don't have it.

Board Member Cook stated they have a temporary C.O.

Rich Williams stated yes.

Board Member McNulty stated that we granted on condition that they would make the improvements by June, right.

Rich Williams stated yea, like July 1<sup>st</sup> or the end of June, they haven't done that.

Board Member Cook stated June 24<sup>th</sup>.

Board Member Taylor stated I'll think about this but it seems to me that we shouldn't release the bond. Excuses are excuses...

Board Member McNulty stated I agree.

Board Member Taylor stated there are certainly plenty of laborers around.

Board Member Cook stated are they asking for the bond release.

Rich Williams stated I'm trying to think of how we worked this out, it was, they posted a letter of credit or something...

Chairman Rogan stated it was the letter of credit...

Rich Williams stated oh no, we released the bond granted on their getting all this done by June 1<sup>st</sup>, I'm sorry July 1<sup>st</sup>, whenever the Planning Board meeting was, June 28<sup>th</sup>...

Board Member Cook stated do we do it or the Town Board.

Rich Williams stated well you made the recommendation.

Board Member Cook stated so the Town Board should haul in Mr. Reilly and Mr., what is the other dude's name...

Chairman Rogan stated Jay Hogan.

Board Member Cook stated Hogan...

Rich Williams stated you want a memo...

Board Member Cook stated to get an update, right.

Rich Williams stated you want a memo sent over to the Town Board.

Board Member Cook stated it seems reasonable to me.

Board Member Montesano stated I'll go along with that.

Chairman Rogan stated well...

Board Member Cook stated what do we, what do we have to do with this now.

Chairman Rogan stated wait I'm trying to understand, if we made a recommendation to the Town Board that they release the letter of credit or whatever, upon completion of these things and these things haven't been completed, then they don't release it until they have been completed, so why do we even have to send a letter...

Board Member Montesano stated but they already released it.

Rich Williams stated you released it and granted them a temporary C.O.

Chairman Rogan stated so they don't get a final C.O. until they do these items.

Board Member Montesano stated yes.

Board Member McNulty stated I do remember something about a letter of credit being posted.

Board Member Montesano stated but the object would be....

Rich Williams stated it may be.

Board Member Montesano stated if we notify the Town Board and then they contacted Mr. Hogan telling him that...

Chairman Rogan stated did release the entire or just the portion for the work that had been done, I can't remember.

Board Member Montesano stated they could always stop his temporary C.O. and take it away.

Chairman Rogan stated no, I know but that's not really my question though...

Board Member Montesano stated why not.

Chairman Rogan stated my question is did we recommend, it escapes me now, I don't remember what the amount was.

Board Member Montesano stated I thought we released the done.

Chairman Rogan stated the full amount.

Board Member Montesano stated yea, I believe we did, I'm not sure now.

Board Member McNulty stated was it a bond or a letter of...

Chairman Rogan stated letter of credit.

Board Member McNulty stated a letter of credit, not a bond.

Chairman Rogan stated it was a cash kind of deal.

Rich Williams stated I'd have to go back and look.

Chairman Rogan stated tell you what, why don't we get the full story for meeting so we know what the heck's going on, instead of guessing at all this, this is not going to get us very far.

**b. Planning Board Policy**

Chairman Rogan stated Planning Board policy, what's the intention of this.

Rich Williams stated that was a memo that I had given to the Board that updated the past memo that was issued, back in February which basically laid out the criteria for when things needed to come back to the Planning Board...

Board Member Montesano stated such as this.

Rich Williams stated once a project has been approved.

Chairman Rogan stated like Mr. Byron coming in tonight.

Board Member McNulty stated one thing I noted in your outlining areas for approval on changes, I didn't see anything referring to site light. Could that be qualified in the items you specified, could you add that in, I don't know how that document, I have that letter there from June 22<sup>nd</sup> or July 22<sup>nd</sup>...

Chairman Rogan stated I have this at home, I'll try to look at that.

Board Member McNulty stated within this scope Rich, I didn't see anything about site light. Then I had a question on June 22<sup>nd</sup> Planning Board, item 3 on this list, it says location, size improvements on a lot uses a single family residence for which a site plan has been approved by the Planning Board shall not be changed as to size or location except upon review and approval of the Town Planner. A change may be authorized in writing and then provided on some stipulations.

Rich Williams stated right.

Board Member McNulty stated my question is does that make you, you have the final say then, wherever, the Town Planner at that point, do the people have anyway, say you decide something and it's not...

The Secretary stated hang on.

(Side 1 Ended – 8:26p.m.)

Board Member McNulty stated well that's the way I read it.

Chairman Rogan stated train break.

Board Member McNulty stated mouth full.

Rich Williams stated that is all directly out of the Code, there is a provision in there for you know, if they don't like my decision they can, I believe, come back to the Planning Board.

Board Member McNulty stated that was my question, that's my question, if they can come back and ask for, we can deny it but if there's, if your call is final resolution or not that answers my question. That's all I have to say about that. Now we'll be here until 11.

Chairman Rogan stated let's hope not.

Board Member Montesano stated getting my sugar rush.

Chairman Rogan stated all right, we had the all Board's meeting, a lot of questions, comments, all sorts of fun stuff came out and it looks like we have, do we have the revisions yet Rich or we just have...

Rich Williams stated yea, you should have them.

**c. Zoning Code Amendment – Fox Run Phase II**

Board Member McNulty stated are we going to do Fox Run.

Chairman Rogan stated oh, I apologize, I saw Zoning Code amendment and I, Charles you want to lead us on Fox Run, some of your thoughts that you had expressed.

Board Member Cook stated well after much cogitation I am basically leaning towards making a positive recommendation to the Town Board on this but I believe that we will be getting a traffic impact study from Marvin and Marvin...

Rich Williams stated they committed to do that.

Board Member Cook stated okay, I think if we go back to where we gave the negative recommendation to the Town Board, we said it basically on 3 things, I'll just read it from a summary of July 2009, after consideration of all the factors mentioned above. Our Planning Board is skeptical about the existing zoning designation which permits single-family homes and did not find the change in the zoning designation of the property to permit multi-family housing is appropriate which is primarily due to difficulties in integrating the 2 projects, the increased traffic on Bullet Hole Road and the increase of school aged children. We went on to say they ought to look at it from a commercial point of view but they don't want any part of that. My take is that granted there will be less school age children, granted there will be a slight reduction in traffic, I think the idea of integrating the 2 projects will come during the site plan review and the fact to make this, the applicant to make this a viable project, we'll have to make that integration happen. So, my take is that we kind of, a couple of issues have been familiarized, namely school age children and some of the traffic concerns, I'll probably never agree with Mr. Marvin on the number of trips and when they happen but I think it would be less than if it was just not 55 plus restrictions on the site. So, that is just where I'm coming from.

Chairman Rogan stated do you also think though that the density, the final outcome of density of what they are proposing has a lot to go with all those factors.

Board Member Cook stated absolutely, absolutely.

Board Member McNulty stated I agree with that too.

Board Member Cook stated I mean, at this point you could pick a number probably it may or may not mean anything but I think we were certainly concerned with 48 units, it's just wide open. For one I don't think that anything more than 48 units would fly for me because that then kind of turns around and does away with whatever reduction I happen to think in the traffic that would happen, that brings it back up again.

Chairman Rogan stated if we had a best case scenario of 9, was it 9, on 4 acre zoning...

Board Member McNulty stated single-family.

Rich Williams stated 8 or 9, yea.

Chairman Rogan stated 9 homes, so that was like 36 bedrooms, because you're planning for 4 bedroom houses, so 36 bedrooms, even if you took that number up to 40 or so bedrooms, you know, my concern is, once the Town Board changes this to allow age qualifying zoning for this piece of property, does that then lock us into any minimum use of the property. In other words, if they come in with a plan that shows 35 units and based on that we say but 35 units is too much traffic, as long as we put the right information into the record would we be justified.

Rich Williams stated the burden gets pushed back on the Planning Board, the presumption is when you adopt the zoning that you've done so in a thoughtful manner, considering the potential impacts that could occur so when you want to go against the zoning, whether it be you know, minimum lot area for 4 acre residential development, commercial, somebody not getting the full potential use of their property under zoning, the burden somewhat gets pushed back on the Planning Board to justify why.

Chairman Rogan stated have we built that burden though by our previous negative determination based on these factors.

Rich Williams stated you've certainly built things in the record that need to be considered for the zoning, if they are not considered in the zoning it would be difficult to bring them back up later.

Chairman Rogan stated because that is my main concern here is I think that I don't want to be in a position that we sent a positive recommendation on this and then we are stuck with 65 units of age qualifying which I don't think the site can handle, absolutely.

Rich Williams stated then your recommendation absolutely should consider density requirements.

Chairman Rogan stated I mean that's what we've been talking about there should be density requirements...

Board Member McNulty stated and we can compare it to the single family homes zoning, this chart that was put together, I'm assuming that this is fairly accurate, its 86 trips per day based on the 9 single family

homes. So maybe we can qualify because traffic impacts seem to be the big burden, marketing a project like this through the original Fox Run, that's really the developer's problem so...

Chairman Rogan stated yea, Rich when we did the site walk, there's also a pretty darn good chunk of that property that remains that isn't viable for use, either because of steep slopes, bedrock exposed, dump that is existing, that look like about an acre and a half of area just in filled-in dump.

Rich Williams stated well that, they are just going excavate that out, get rid of it and...

Chairman Rogan stated well that's good.

Rich Williams stated yea, they are going to have to regardless.

Chairman Rogan stated but I think that maybe we should look at the area before we do any kind of a recommendation. Maybe we should try to quantify the area that remains on this site or this parcel to see what we would consider to be viable area before we consider density.

Rich Williams stated the difficulty you're going to have is the condition of the site, would restrict the density because you couldn't get septic in because of the bedrock, the outcropping but they have the ability to tie into the waste water treatment plant...

Chairman Rogan stated right.

Rich Williams stated eliminating that concern.

Chairman Rogan stated okay, then we stick to the idea that we weren't, that the existing use is based that would be allowed is based on roughly 9 homes, generating X number of trips per day and that is the density calculation for, that we are considering the positive recommendation on and leave it at that.

Rich Williams stated you're probably limiting them to 18 to 20 units...

Board Member McNulty stated say if they have 20, 2 bedroom units plus 25 and older housing would be 2 bedroom units, not more than that...

Chairman Rogan stated and based on that, they shouldn't be more than 2 bedroom units for, you should have, it's age qualifying, you should have 1 bedroom for you and your spouse and 1 bedroom for guests to come and visit you and that's it.

Board Member McNulty stated and they may be based more than that, again they are saying age qualified housing, they think will reduce the amount of trips, so maybe they get 22 units out of it, 23, I don't know the proportion, that's what we asked Mr. Marvin to come back with.

Rich Williams stated I tried to explain this to Charlie, odds are they are not going to reduce the average daily volume of traffic, the number of trips, per day. What they do is they reduce the peak volume at the critical times, that impact the intersections.

Board Member McNulty stated well we can take that into consideration and the impact on school they eliminate too...

Board Member Montesano stated theoretically.

Board Member McNulty stated theoretically.

Board Member Taylor stated that's a big if, I think there.

Board Member McNulty stated I agree.

Board Member Taylor stated I think in this case, I think they've got a pre-existing condition, pre-existing approval, I think if we change that we should equate the change with that approval, if you are calculating at 36 bedrooms then that's it, they get 36 bedrooms and assume that the traffic and those things will balance out.

Chairman Rogan stated yea.

Board Member Taylor stated but to try and calculate this traffic stuff and figure out whether a different time of day and this or that, it just gets too complicated. I think the, I don't see that they can honestly ask us for anything more since restrictions are all more severe than they were...

Rich Williams stated if I could just jump in here...

Board Member McNulty stated if they can reduce, if they are showing a reduced impact, whether it be peak time or not, I think that could qualify them for not a significant number but possibly more, maybe it's less...

Chairman Rogan stated so maybe it's 10% more or something...

Board Member McNulty stated yea but the numbers have to bear that out.

Rich Williams stated if I could just jump in here to clarify something they don't have any, they don't have any prior approvals, when we're talking about 8 or 9 houses on the lot, the Board had asked me to do a rough estimate, my opinion, what they could develop on the site.

Chairman Rogan stated how many acres do they have out there in this phase...

Rich Williams stated I don't recall.

Chairman Rogan stated I mean is it 36 acres, 4 acre zone.

Rich Williams stated no, it's a hundred and something acres.

Chairman Rogan stated in this parcel...

Board Member McNulty stated it can't be...

Chairman Rogan stated not including Phase I, not the existing, just in this parcel, it's got to be around that...

Board Member Taylor stated what are they approved for then.

Chairman Rogan stated well they were initially approved for multi-family out there, years ago, for much more.

Board Member Taylor stated what size though.

Chairman Rogan stated what was the original Phase II.

Board Member Taylor stated what 1 acre.

Rich Williams stated well no, the whole thing I think was approved for 360 units and they built out 206...

Chairman Rogan stated so 150 some odd units were contemplated in the initial approval many years ago.

Rich Williams stated under the zoning in 1971 and then what happened is they didn't build it out, they built out the first 3 phases, didn't build the second 3 phases out, sold the property off to the current property owner, who then subdivided it, turned all the existing units into condos, sold them off individually and kept the back portion to build out the other phases.

Chairman Rogan stated but it wasn't based on one acre zoning, it was different...

Board Member Taylor stated when they did the subdivision, was there a subdivision plan approved for the subdivision.

Rich Williams stated the subdivision plan just broke the property into two.

Board Member Taylor stated it didn't specify...

Rich Williams stated well that's where it gets real funky because the zoning at the time was R-40 out there, all right and they really at that point had lost their vested rights to build out the multi-family but the Planning Board basically gave them vested rights on the subdivision plat to build out so many more multi-family housing units.

Chairman Rogan stated approximately what year was that.

Rich Williams stated that was 1986.

Board Member Taylor stated and what number of multi-family units was it.

Rich Williams stated I'd have to go back but again it was about 120, something like that.

Board Member McNulty stated and since then it's changed too...

Chairman Rogan stated big project.

Rich Williams stated and then it lasted all that time and as R-40 in 1990, they came back in and said again we want to build this out and the Planning Board at that time said we don't believe you have vested rights to do this, our zoning has changed, there was a whole big argument. The attorney wasn't very good at the

time, Paul Schwartzburg, didn't really know land use law even though he was with the Environmental Law Foundation and we agreed to disagree and go through the SEQR process, he was going to do a Environmental Impact Statement ultimately went away. We changed the zoning in 2005 to make it R-4, he came back in and said wait I've still got some vested rights out there. I said no you don't, we got into it, he lost...

Board Member Taylor stated he lost.

Rich Williams stated he lost, it was big court case.

Chairman Rogan stated yea.

Board Member Taylor stated so what do they have, it's an R-4 zone.

Rich Williams stated its an R-4 zone with no vested rights and no expectation to build multi-family housing.

Chairman Rogan stated okay.

Board Member McNulty stated and the Town Board is looking...

Board Member Taylor stated it's a hundred and how many acres.

Rich Williams stated again I don't recall right now...

Board Member Taylor stated it's a hundred and something...

Chairman Rogan stated yea but I think that's the total piece, not...

Rich Williams stated I can go look in...

Board Member Taylor stated and R-4 is 4 acre zoning.

Rich Williams stated yea.

Board Member Taylor stated so we're talking about 20 something...

Chairman Rogan stated wasn't 120 the full...

Rich Williams stated I can go look real quick, if you want...

Chairman Rogan stated please go ahead and look real quick then so we have sense of what this property is.

Board Member McNulty stated but the focus is back, what we are supposed to be doing right now is give a recommendation to the Town Board on whether to re-zone this property...

Chairman Rogan stated right but the conversation is valid in that, let's say he comes back and says the parcel in question is 52 acres, divide that by 4 and with a public sewer system, at least you can say that

would be our full build out, regardless of rock and wetlands and anything else. Plus, you can fill in those wetlands, can't you Ted.

Ted Kozlowski stated sure.

Chairman Rogan stated okay, so...

Board Member Montesano stated no problem, we've got plenty of rocks.

Chairman Rogan stated at least that would guide the discussion, when Rich looked at it from a logistical standpoint but I think that was based on putting septic in, it was 9 homes...

Board Member Montesano stated can we borrow some Tammany...

Board Member Cook stated yea, right the 9 homes came up before so the...

Chairman Rogan stated they wanted to have multi-family zone.

Board Member Cook stated right.

Chairman Rogan stated and we agreed in some, we have pros and cons for each, we agreed in some areas, nobody wanted to have single-family homes that you have drive through Fox Run to...

Rich Williams stated right, 44 acres.

Chairman Rogan stated 44...

Board Member Taylor stated only 44.

Board Member Montesano stated 44.

Board Member Taylor stated 11...

Chairman Rogan stated so 11, 11 that's 44...

Board Member Cook stated but that's not taking into account spaces or acres that he would lose, that's how we got to the 9.

Board Member McNulty stated right.

Chairman Rogan stated yea but even if you look 11 as a...

Board Member Taylor stated it's still 44...

Chairman Rogan stated 44 bedroom units, roughly.

Board Member Taylor stated and they are proposing...

Chairman Rogan stated well they're not proposing anything right now, they are just looking for the zone change.

Board Member Taylor stated they want the change without knowing what's going...

Chairman Rogan stated yea.

Rich Williams stated they had original proposed 48 units...

Chairman Rogan stated now if we took 44 units or 44 bedrooms that would be roughly 22, they could do some single bedroom units if they are saying age qualifying, that might be their deals...

Board Member McNulty stated most definitely.

Chairman Rogan stated say hey, at this point in the game, we think 44 bedrooms is an acceptable use of the site based on all those things that we've already documented that we are concerned about, traffic, integration of the site and improvements et cetera but mainly it was traffic I think that everybody was concerned about...

Board Member McNulty stated and generally you don't have an up and down in the plus 55, you run a single level home, that would spread it out as well.

Chairman Rogan stated so, you know...

Board Member Montesano stated unless they are going to put elevators in.

Rich Williams stated (inaudible).

Board Member Taylor stated they are not going to put elevators.

Chairman Rogan stated they might get 36 units out of that, a third of them have 2 bedrooms units and the rest are single-family units, or single. I was just at Chestnut Street Apartments in Cold Spring, they are townhome kind of things, beautifully well maintained nice facility, they are single bedroom units, every single one that I saw anyway and they are all filled up, they are rentals...

Board Member Montesano stated there is a waiting list for that that you can't believe and they are fully equipped, they were the first ones that were built...

Chairman Rogan stated yea but a very nice you know, they are all beautifully maintained and well rented and people have little gardens and stuff, I mean nice...

Board Member Cook stated rain gardens...

Chairman Rogan stated you know age-qualifying, they have rain gardens, they have vegetables growing out of them...

Board Member Montesano stated they have an umbrella right over the top of them.

Chairman Rogan stated so, you know this is the crux of our conversation, let's get the traffic impact study they are talking about, ultimately at this point you know, I wouldn't be in favor of any recommendation to the Town Board that didn't discuss density. Ultimately because I think we are setting ourselves up for it coming back and then we are going to have an opinion of an attorney that says you guys can't deny this application because you're going to lose in court and I'm going to resign from the Board and that would be the end of it.

Board Member Taylor stated that's why I'm trying to go with this number; this number has been established in the past by the courts, as their number.

Rich Williams stated nothings been established by the court.

Board Member McNulty stated his vested rights were an issue.

Board Member Taylor stated well (inaudible).

Board Member Montesano stated his vested rights were the issue.

Board Member Taylor stated but the fact that it was R-4 zone that has been established, that was upheld right.

Rich Williams stated what was decided by the Court is they did not have a vested right to build multi-family housing on the site, there was no lot count established, there was no of you've got 44 acres, you're in a 4 acre zone at the time the lawsuit was filed, so you're entitled, there was none of that.

Board Member Taylor stated right but they did established they don't have any vested rights in what they are starting off with is R-4 zone with 44 acres.

Chairman Rogan stated correct.

Board Member Taylor stated that gives us a figure we can...

Board Member McNulty stated a starting point.

Chairman Rogan stated that's correct, best case scenario, even under a cluster would be no more than 11 homes, right.

Board Member Montesano stated you've got to exclude the roadway and everything else...

Rich Williams stated well under a cluster it would be less than that.

Chairman Rogan stated okay, so...

Rich Williams stated because they would have to (inaudible).

Chairman Rogan stated but the cluster won't allow more than what the straight zoning would allow, so.

Board Member Taylor stated all I'm trying to is that seems like a reasonable number, that they can't really expect more than that, we are in fact giving them a few and then so if we equate that with the number of

bedrooms and we say here this is the number, we're not talking about traffic studies and things, here's the number, fine, you can have your zoning change but this is your density.

Board Member McNulty stated exactly.

Board Member Taylor stated and then that doesn't, you know, it seems fair to them fair to us, if falls under the guidelines of why R-4 zones were created to begin or it seems to be, the reason was to reduce density in the Town, so it seems very straight forward that way, then so if we make a recommendation it includes that this the density that's...

Chairman Rogan stated so moved, no, just kidding. I agree with you.

Board Member Taylor stated I think we all pretty much agree on that.

Board Member Montesano stated you're here 5 minutes and you've got the same idea that everybody else got.

Board Member Taylor stated it only took an hour to get there.

Chairman Rogan stated yea but it's taken us years.

Board Member Montesano stated years, that's how we got to be wheels, we kept going around in circles all this time.

Rich Williams stated let's get down to the fun stuff.

#### **d. & e. Zoning Code Amendment, Clubs and R&D Facilities**

Chairman Rogan stated okay, we have clubs and R&D facilities, we have an amended proposed Code change based on a lot of good comments and maybe some not so good comments from everybody.

Rich Williams stated certainly some good back and forth.

Chairman Rogan stated I'm including myself in that, just to get this riled up a little but I don't really don't care much about this whole discussion we had back and forth about outdoor ranges, I just wanted everybody to kind of think about what we were doing and Patterson being a role in the community...

Board Member Cook stated now, what if we had further comments on this, send them to you, do we send them to the Town Board or what.

Rich Williams stated right now you're got an official recommendation over from the Town Board to review this, make a recommendation back to them...

Chairman Rogan stated okay.

Rich Williams stated on the 2 proposed changes, so what you should do is if you, well what you should be looking to do is make a recommendation back to the Town Board to approve this, to approve this with modifications or to say this is not appropriate, scrap it and go back to the drawing board...

Chairman Rogan stated so make your notes...

Rich Williams stated so that needs to be done with some haste simple because there is a schedule laid out, some time frames and then the moratorium, the clock is ticking...

Board Member Taylor stated what's the time schedule.

Rich Williams stated excuse me.

Board Member Taylor stated what's the time schedule.

Rich Williams stated next Town Board meeting, they are looking to set the public hearing, to get your recommendation and set the public hearing for the first meeting in September.

Chairman Rogan stated so the could potentially have it approved in October, get public comment, make modifications by October, which would be well within our 180 day...

Rich Williams stated there are 30 days in there that have to revise this due to public comments.

Board Member Taylor stated so they want a weekly time to look over our stuff or...

Rich Williams stated no, not necessarily.

Board Member Taylor stated okay, so what is that date in September then...

Rich Williams stated what they are looking for is for you, next week to make a recommendation.

Board Member Taylor stated okay we have next week then...

Chairman Rogan stated correct.

Rich Williams stated that by default will give them a week to look at it and get it out the door.

Board Member Taylor stated by next week, that's all I need to know.

Chairman Rogan stated great.

Board Member Montesano stated in case you didn't want to read it...

Rich Williams stated Charlie, the short answer is everybody should be seeing the comments, you know, I'll see them, send them to Les, the Town Board...

Chairman Rogan stated anybody has any comments as they go through, send a quick e-mail around to everybody just to, so we are all thinking.

Rich Williams stated and if you include me, I'll start compiling them all.

Board Member Cook stated push it out, okay because I do have some on the clubs, there are certain things that are (inaudible).

Board Member Taylor stated are you a techie, do you have e-mail...

Board Member Montesano stated only on occasion.

Chairman Rogan stated so we'll send out smoke signals.

Board Member McNulty stated Ron, do you use it.

Board Member Taylor stated I use it all the time.

Board Member McNulty stated we need to get...

Chairman Rogan stated we have it, we haven't forwarded it to you.

Board Member McNulty stated okay.

Chairman Rogan stated we will do...

Board Member Taylor stated haven't you gotten my e-mails.

Chairman Rogan stated no he hasn't.

Board Member Taylor stated I've sent e-mails to you, I have your e-mail address, comments about the traffic study.

Board Member McNulty stated you're right, I do have it but I get like 100 a day you know...

Board Member Taylor stated you just look up that line, right above the message, it says who it came from, that's my e-mail.

Board Member McNulty stated you gotta know how to read, it's not in Braille.

Board Member Cook stated you were doing so good tonight, we were proud of you, we were all proud of you.

Board Member McNulty stated the new guy pushed me out already.

**g. Levine Fill Permit**

Chairman Rogan stated last on the agenda is Levine Fill Permit.

Board Member Montesano stated all right Ted.

Chairman Rogan stated we are waiting to hear back from DEC and we had said if we didn't hear anything by this meeting, we would ask Ted to reach out so that we have something by next meeting so we know what their, you know where we stand on this because there is a lot of work that has to be done out here...

Ted Kozlowski stated I've been reaching out.

Chairman Rogan stated and not even a response.

Ted Kozlowski stated I called the guy that I wrote a letter to...

Chairman Rogan stated did he...

Ted Kozlowski stated he won't return my phone calls.

Chairman Rogan stated really.

Ted Kozlowski stated I have called the ENCONN officer; I finally talked to one yesterday, Officer Curinga who never saw my letter and told me he was going to go out there yesterday and call me back on my cell phone, and I am still waiting for his call.

Chairman Rogan stated let me ask this, in lieu of a response from them a week from now, after having sent a letter almost a month ago, do we proceed as a Town.

Ted Kozlowski stated I think you're got to reinforce our rules.

Chairman Rogan stated I mean, what else can you do.

Ted Kozlowski stated but I've got to say, I'm once again disappointed in the DEC.

Board Member Cook stated you know, that is more disappointing than Tom not having Ron's e-mail address.

Chairman Rogan stated that's true.

Board Member McNulty stated glad you trumped me Ted.

Board Member Montesano stated not by much.

Board Member Cook stated not by much.

Ted Kozlowski stated I don't know what to tell you.

Chairman Rogan stated we have a late submission from Woodward and Curran who are the engineers for the Winding Glades property on [Route] 22, they are proposing to put a fence around the property to keep out people who are illegally using the property, I assume.

Ted Kozlowski stated for the ATVs.

Board Member Montesano stated ATVs, hunters.

Chairman Rogan stated probably anybody but you know it's their right to enclose their property. I haven't looked at the plans yet but it looks like they are looking for 6 foot fence around most of the property and up front where it's visible, a 4 foot fence. We could probably just look at the plans and see where that fence and how visible it's going to be on [Route] 22, maybe push it back away from the road a little ways, to

mitigate some of the, you know to just have this fence around the property for no particular reason other than keeping people out.

Board Member Taylor stated now they've pulled their site plan.

Chairman Rogan stated yes.

Rich Williams stated are you looking to have them added to the agenda.

Chairman Rogan stated does anyone have an objection to adding them to agenda to discuss this fence issue, it seems to me this is, that this would seem appropriate.

Board Member Cook stated put them under Other Business, H.

Board Member McNulty stated yea.

Board Member Montesano stated H.

Chairman Rogan stated we certainly gave Mr. Byron...

Ted Kozlowski stated that's a big expense for somebody whose not going to use the property.

Chairman Rogan stated well they have approvals for the property, at least not to build out but they have subdivision approval for 6, 6 commercial lots, so we may very well see an application soon for the intended use of the property.

Board Member Montesano stated I can see them now putting up their 6, their buildings all over the place and just let them lay there.

Chairman Rogan stated oh so this, where does this touch [Route] 22 is this, just this dog leg part of the property, the plan doesn't really show [Route] 22, that's the problem.

Rich Williams stated it's the other sheet.

Chairman Rogan stated that's what I figured. I mean I am mainly only concerned with what borders [Route] 22 in terms of visibility, the rest is...

Board Member Montesano stated well you've got that fruit stand or whatever you want to call it, the vegetable stand down there...

Chairman Rogan stated that's down here.

Board Member Taylor stated does the Town require that these maps be scaled 1 to a hundred feet, they couldn't have combined these 2 together on a different scale...

Rich Williams stated well they could have, I'm just saying the Town doesn't have any specific requirements for scale.

Board Member McNulty stated you wouldn't be able to read it.

Board Member Taylor stated it's a fence.

Board Member McNulty stated yea but still...

Rich Williams stated its not that complicated, I agree with Ron, it's not that complicated.

Board Member Montesano stated I know.

Chairman Rogan stated well it is what they...

Board Member Montesano stated is it going to be electrified or does it say anything.

Board Member Taylor stated it doesn't says it's going to be electrified.

Chairman Rogan stated it looks like they are showing it right on the border of the right of way, except where the current entrance is proposed, then it dog legs in.

Board Member McNulty stated what's our Code on signs on a fence like that.

Rich Williams stated huh.

Board Member McNulty stated they are calling for no trespassing signs, the Code for that kind of sign.

Rich Williams stated there is a state code for that kind of sign, saying the frequency that they need to be, the distance apart that they need to be, nothing specific to fence type and I'm referring (inaudible) and also no hunting signs.

Board Member Montesano stated they've got to be on individual poles...

Board Member Taylor stated now do these ATVs use these roads down here on the...

Board Member McNulty stated there are ATVs running all up and down through there.

Chairman Rogan stated the whole site is crisscrossed with ATV trails, when we were on the site for the site walk it was all...

Board Member Taylor stated it looks like they end the fence here and over here they leave this section open and there is a trail down here.

Rich Williams stated I didn't look at it really.

Board Member Taylor stated the fence ends here...

Chairman Rogan stated you have the plan open.

Board Member Taylor stated end proposed fence...

Board Member McNulty stated maybe because its such a steep drop off there...

Chairman Rogan stated or there's wetlands, probably the stream.

Ted Kozlowski stated there are wetlands there.

Board Member Taylor stated yea well and it ends...

Chairman Rogan stated the stream right here.

Board Member McNulty stated and it picks up here again.

Board Member Taylor stated and this, look at these, it doesn't interrupt this, right.

Chairman Rogan stated wait, where is the end of the fence on the one side.

Board Member Taylor stated it's here, it's here and it's over...

Board Member McNulty stated are there wetlands regulations for fences, you can put it anywhere.

Chairman Rogan stated so we'll ask them why they're not extending it to at least the limits of their property.

Ted Kozlowski stated I don't know (inaudible).

Chairman Rogan stated sure, if they extended it towards the wetlands, you would say they'd be effectively blocking off that section, right.

Board Member McNulty stated this is good for the economy.

Chairman Rogan stated because the property goes over.

Board Member Taylor stated no, I know that and I can see that they are following the electric line here but then they stop, you have this trail right here, ATVs are using this trail, they are going to come...

Chairman Rogan stated well I guess the point would be how do they get to this trail, this area might be cut off, they are blocking it...

Board Member Taylor stated they are blocking it, oh okay.

Chairman Rogan stated so that could be the whole point that they determined that there is not a need for it but it is still a valid question to ask and find out what their plans are.

Board Member Taylor stated unless they carry their ATVs across the river.

Chairman Rogan stated yea, it's beautiful down in there when you get close to the...

Board Member McNulty stated real quick, you sent some information about a seminar in September.

Rich Williams stated oh no in the recycling bin...

Chairman Rogan stated oh, I'll get them out.

Rich Williams stated I thought that would end with Dave Pierro.

The Secretary stated it was Shawn the whole time.

Rich Williams stated don't smack me.

Board Member McNulty stated that would hurt.

Chairman Rogan stated the thing in September is the Lake Placid, the annual conference...

Rich Williams stated yup.

Chairman Rogan stated we went to that one year, there is sometimes some good information, it depends on your level of you know, what kind of prior background you have...

Rich Williams stated it wasn't that big a deal.

Chairman Rogan stated no, no, it's already on the record now, let the record show that Shawn pulled the chocolate wrappers out of the recycle bin.

Board Member McNulty stated duly noted.

Chairman Rogan stated thank you.

Board Member Montesano stated that was very nice of you I think.

Board Member Taylor stated very, they seem to be emphasizing senior housing this year.

Board Member McNulty stated how many people can go and when do we have to sign up by.

Rich Williams stated I believe we have enough money in the budget to send everybody, if they wanted to do.

Chairman Rogan stated I'm not going, I won't be around.

Board Member Taylor stated I'm not interested.

Board Member McNulty stated I'm going to read some more information, I wouldn't mind...

Chairman Rogan stated it's beautiful up there.

Board Member McNulty stated I've been to Lake Placid, I know that.

Board Member Montesano stated what did you say, you've been plastered, oh excuse me, Lake Placid.

Board Member McNulty stated you see this.

Chairman Rogan stated you, Dave and I and Maria went...

Board Member McNulty stated what was you take on it, was it valuable, is it...

Chairman Rogan stated you know what was valuable was talking and seeing how other Boards and other communities do things because you find out that everybody does things somewhat different, so I thought it was interesting getting stories and perspective from other people how they do things in small communities like ours. For instance, in some communities we learned, mainly because of time constraints and budget constraints, they may only send one lead person on a site walk, I think that would be the worst thing we could do because I think the site walk is one of the most important aspects, you need the eyes on the ground, you know, none of us are professionals, you of us the most in reading plans and seeing topography and such. The other thing they did and we've talked about this in the past is sometime with these projects is having appoint 1 or 2 people to be, we break up the work so to speak, so that Tommy maybe you and Charlie are the point me on one project and you guys really bone up on the plans and spend the most time on those and lead the discussion and we all kind of jump in and we've talked about that in the past in terms of breaking up some of the work because this agenda is a good one to get involved with because its about one of the lightest agendas we've had in the last couple of years but when we get 17, 18, 19 projects on the agenda and these are all pretty complicated projects, it gets to be a bit much for any of us and so that's a time, that's why for instance with the work on the clubs and the R&D, I had asked for you and Mike to work on it Charlie...

Board Member Cook stated we worked on clubs, no R&D...

Chairman Rogan stated on clubs because it was something that given both of your expertise and quiet honestly available time compared to Tommy and I at the point, it was you know, it was appreciated.

Board Member McNulty stated I don't even want to go if I could, physical, get something out of it, I don't want to go just to go...

Board Member Montesano stated you will get, you can it depends on a lot of things, if you are interested in what's going on, you will learn, okay, you'll find out what the state conceives, this is a piece of chocolate and they will give you their opinion as to why it's piece of chocolate, so if you get, theoretically an approval on something, they'll give you a reason as to why it could be approved or you'll get a reason why it may not be approved but you'll understand more. It depends on how much you want to put into it.

Board Member McNulty stated I'll look into it.

Board Member Montesano stated you'll also find out that a 7 person Board is frigging nightmare, a lot worse than a 5 person Board and now you've got opinion and they are, that's a political Board, usually if a person is afraid they are going to lose power, they put 2 more people on, so they go to a 7 person Board and try to get 7 people that (inaudible) opinion is a nightmare...

Chairman Rogan stated so.

Board Member Montesano stated and it gets to be a headache but you can learn and you'll find all the legal aspects of things that the State does have attorneys that are there and you can get, they won't give you a specific opinion of, they'll give you the generalization of it but its enough to be a little more knowledgeable. We used to do a lot more than they do today because now everybody is, we're short of

money. We used to do moot courts on cases, now we have to go up to the college and get told oh Patterson, we saw one of your cases, you become a celebrity because you're sitting there with a bunch of attorneys.

Chairman Rogan stated they also have good information on open meetings law and learning about what, within the frame work of having an open meeting of you should be discussing on the record and things like that...

Board Member McNulty stated that's pretty much because this is all pretty new to me still.

Chairman Rogan stated if you can make it, I would recommend you go, sign up for what interests you because they have a variety of classes because its not just for Planning Board Members, is Zoning Board, Town, Town Board...

Board Member Montesano stated no, just Planning and Zoning on this one. If you read this, you'll find a lot of the information that you're going to run into up there.

Chairman Rogan stated but I think it would be good for you to go.

Board Member McNulty stated I'll take a look.

Chairman Rogan stated Charles, you have no interest in going up to Lake Placid.

Board Member Cook stated no, I don't.

Chairman Rogan stated Rich, what else do you have that you would like to bring up tonight...

Board Member Montesano stated if you decide to go and if I can get into my schedule, I'll take a ride with you because I enjoy them, I enjoy going up there.

Board Member McNulty stated all right.

Rich Williams stated just a few quick issues just to update that Board, the soil boring test came back on the N.R.A. bridge, know where I am...

Chairman Rogan stated yes.

Rich Williams stated they are currently re-designing the whole bridge.

Chairman Rogan stated based on a soil borings.

Rich Williams stated oh yea.

Ted Kozlowski stated Rich, is there anything (inaudible) bridge design, our engineer.

Rich Williams stated yea, the borings came back and won't support the bridge design so they are starting over.

Chairman Rogan stated oh okay.

Ted Kozlowski stated I was reading something about width of (inaudible), so they are redesigning, they are back to square one.

Rich Williams stated they are back to square one.

Chairman Rogan stated that is a good point now to bring up Ron's research into the storm events and Ron I don't know if want to speak at all to that but since they are redesigning in, this might be the time to interject.

Board Member Taylor stated I just, I like to check reality versus generalizations so I went back and did what I could, pulling things out of newspapers into the e-mail. There are 2 major floods that we know of, one was in the '50's sometime and of course Floyd that flooded Birch Hill Road. Both of them, as far as I can tell from what the information I could find exceeded the hundred year flood, in terms of a ten inch rainfall. So it just, since the question initially or the reason it was introduced initially from what I remember was getting emergency personnel up that hill in that kind of a situation because it's a hurricane, you're going to have trees falling down and if somebody gets hurt up there, can they get up and even if the hundred year, they are talking about the water running around the bridge, so you wouldn't be able to get an ambulance up there.

Chairman Rogan stated I think the point you made Ron, that I keyed into also was when you have something that doesn't handle all the water and you're relying on the water going up and around, you're in effect creating a dam of sorts, so you're creating upstream problems for the water flow and I thought that was a real good point that you made...

Board Member Montesano stated well you still have that second entrance up there.

Rich Williams stated what second entrance.

Chairman Rogan stated it's not.

Board Member Montesano stated they don't have it per se on paper but you have access to that property from that northern end, don't you.

Rich Williams stated we're talking about getting over the stream...

Board Member Montesano stated I realize that.

Rich Williams stated and there is only one bridge to get over the stream and up onto that hill.

Chairman Rogan stated are you saying Mike, the entrance that they planned for the subdivision initially...

Board Member Montesano stated right.

Chairman Rogan stated but that's on, that actually is on paper, it's not in physical, it's not like somebody can drive in even with a 4 wheeler right now...

Board Member McNulty stated just a proposed access.

Rich Williams stated if we were going to get up that hill, if that bridge washed out, we were going to get up the hill, the next bridge up the line is up at Sypko's property where the Planning Board approved that wetlands crossing and they put in a makeshift bridge but odds are, that's going to get washed out before any designed bridge is going to get washed out. So, there isn't anything getting up that hill, if that bridge is washed out...

Chairman Rogan stated but you said a makeshift bridge, wasn't the Sypko project, was the bridge there already in place and we just approved the existing bridge, I thought that was engineered also, so what did we approve on Sypko...

Rich Williams stated you did approve an engineered design but again the guy up the street, also just kind of threw some sandbags in the stream and built a crossing to get across, went up there and started clearing trees, the former owner.

Chairman Rogan stated oh okay.

Rich Williams stated before Sypko owned it but back to this bridge though, engineers do hydrologic design based on current, based on acceptable standards and those standards are usually developed by cost benefit ratio, they also recognize that there is going to be a storm that's going to exceed what they are designing for and at times they increase those standards. When I first got in this all the storm drains were being designed for a 10 year storm, now we are designing everything for a 25 year storm because there were just too many exceedences and maybe we're going to get there where we're not, we're going to be designing for the 500 year storm but current acceptable engineering practices are to design for the 100 year storm, recognizing that there are going to be exceedences, one of the issues that both Andrew and I brought up in the design of this is it was okay to create that blockage as long as you could show how larger storms, the 100 year storm or better were going to pass by it and still maintain that bridge in the safe and usable manner.

Chairman Rogan stated so they would be the engineering, they would feel comfortable that the integrity of the bridge would not be compromised by something of a hundred year storm event or greater.

Rich Williams stated right and that's what we were doing, we were talking and then he came back and he gave us the 50 year storm and everybody said where did that come from...

Chairman Rogan stated we didn't know where that came from, right I remember that.

Rich Williams stated all right.

Board Member McNulty stated the question I have now that the bridge of design is not sufficient, we've already approved that plan correct...

Rich Williams stated you approved it subject to approval by myself and the Town, well actually no by the Town Engineer and by Ted.

Chairman Rogan stated yea.

Rich Williams stated they had to address some comments from Ted and the Town Engineer.

Chairman Rogan stated because the soil borings doesn't...

Board Member McNulty stated it doesn't mean anything that this point, it becomes a moot point.

Rich Williams stated right.

Board Member McNulty stated so we start all over again.

Chairman Rogan stated well they do.

Rich Williams stated having said all that and seeing the agenda, Andrew is not available for the next meeting, he was going to send Joe but do you see any reason to really have the Engineer here.

Chairman Rogan stated Lea Rome no, Wireless Edge no, Watchtower no, Schoen, no, there is nothing on here that's...

Board Member McNulty stated what about Field and Forest, he made a lot of comments on that.

Chairman Rogan stated I think we have to look at...

Rich Williams stated I think he's given you a memo outlining his position, his position is they need to finish the improvements. What you need to consider is the fact that he didn't meet the requirements and I have to come back and give you the history on that and what else you might need to take recognizing he hasn't completed...

Board Member McNulty stated yea, the photographs work.

Board Member Montesano stated with all due respect to Joe's ability, what's the sense of him being here when our main Engineer, Andrew is not going to be available.

Chairman Rogan stated we don't need him.

Rich Williams stated it's like not having Gene, so Ron shows up.

Chairman Rogan stated that wasn't any help either.

Board Member Cook stated I think the agenda dictates that it's not necessary for him to be here.

Board Member Montesano stated no.

Board Member McNulty stated I agree.

Board Member Montesano stated I don't think we have to have him.

Rich Williams stated last quick thing, I'm currently in the process of preparing this department's budget, if there is anything specific that the Planning Board is looking for, please do not ask me for a van, I am not doing that any more...

Board Member Montesano stated computers, hey mine works, as soon as it sees it's age, it quits.

Chairman Rogan stated that's tough.

Board Member McNulty stated can we get less paper.

Rich Williams stated yes, you all have e-mail and want nothing but e-mail copies...

Board Member McNulty stated that's fine with me.

Rich Williams stated we can do that.

Board Member McNulty stated the minutes on PDF are fine.

Chairman Rogan stated Rich, I would ask that we put into the budget...

Board Member Montesano stated that's going to be, they are going to have to allow paper, ink, a printer and a computer.

Chairman Rogan stated enough money in the training line to allow whatever the cost of the Lake Placid thing is for 1 person, to put in that money for probably 2 or 3 people for the budget line...

Rich Williams stated I try to do it for 5.

Chairman Rogan stated well 5 would be, for the entire would be great because ultimately, even though we all don't go to Lake Placid, we all required to have certain trainings, we can do a lot of that in house and we've done a lot for free but I think we should have the option at least as things come up or people find out about things.

Rich Williams stated I encourage you to go to Lake Placid, it's a better course and it's certainly cheaper than going to the City which is typically very expensive and doesn't offer anywhere near.

Board Member Montesano stated it's cheaper, New York City, the only advantage to New York City is that you work with other Planning Boards in a closer way, hopefully you'll do it up here but New York City, that's what their there, they are there to socialize and you find more information about what's going on...

Chairman Rogan stated it's a schmooze fest.

Board Member Montesano stated well we have, the one thing I was learning about that year, one yea was on the alleged sex stores that were popping up all over the neighborhoods and that if you don't put the law into effect at the time you would have one next door to you and you...

Rich Williams stated that was the year Mike went out on field trip.

Board Member Montesano stated well actually it would have been a lot easier but then again I wasn't allowed to leave on any field trips. In fact I think, may he rest in peace, Herby and I sat there and we were escorted to where we were allowed to go.

Board Member McNulty stated so you did your own investigative reporting.

Chairman Rogan stated but on the line of training while we're talking about it, I've asked in the past actually Ted while you're here, if we can get our own in house people to design little trainings for us

knowing, you guys know our talents and the areas we need improvement as much as anyone or areas that we can use a little bit of boning up. So in terms of wetlands, if there is anything you can think of or when we do site walks Saturdays or something, if we could go and spend an hour in an area where you know we can, you do it as we're on site walks but it would be good to formally go and say hey we're going to spend an hour talking about wetland ecology or whatever that you know that this Board needs a better appreciation for. The same thing with some of the talents that Ron brings to the Board, some of his trainings and things that he can share with us, over, it doesn't all have to happen now but over the course of the year we should do this and then document it and that's what we have at least in our files to show...

Board Member McNulty stated toolbox training guide.

Chairman Rogan stated exactly, you know I'm sure...

Rich Williams stated (inaudible) don't do enough.

Chairman Rogan stated I'm sure everybody has things they can share with the Board to learn a little bit from.

Board Member McNulty stated maybe there is something the state has already organized like that, different topics, where they have outlined and we can just...

Rich Williams stated not different topics, I mean there is stuff on stormwater I can steal from the DEC...

Chairman Rogan stated hey, we want to see some rain gardens.

Board Member Montesano stated when you go up to...

Ted Kozlowski stated I think you guys should come to Lasdon...

Chairman Rogan stated yea, let's do a field trip to Lasdon, we'll go to breakfast on Saturday, where's there a nice place to eat breakfast down that way.

Ted Kozlowski stated my kitchen in the main house.

Chairman Rogan stated good let's do that as a site walk.

Rich Williams stated good call Jeanie, tell her we're coming.

Chairman Rogan stated that's what I was thinking but what does that, that sounds like a good idea for us to see these things, these rain gardens, why don't we do that.

Ted Kozlowski stated I think you really should see them (inaudible).

Board Member McNulty stated I'm up for it.

Rich Williams stated if you do that, you may want to take a side trip to the County has a demonstration rain garden.

Chairman Rogan stated where's that.

Rich Williams stated I think it's in the County park...

Chairman Rogan stated yea, I've seen that, I saw they put that in, right next to the park office.

Board Member McNulty stated in Pound Ridge...

Chairman Rogan stated its about the size of this room, a little smaller.

Board Member McNulty stated nice.

Board Member Cook stated I would suggest if you can...

Chairman Rogan stated Gypsy Trail Road, the park office...

Board Member McNulty stated oh in Putnam County...

Board Member Cook stated before I was interrupted, I would suggest if you can that you, is there a way for you to look at back in 2009 how many site walks we did versus 2010, it seems like we've done more this year and I don't know if that's true or not but to factor in...

Chairman Rogan stated growth and...

Board Member Cook stated X percent more or something for next year.

Rich Williams stated yea, I do that every year.

Board Member McNulty stated is that part of the budget too the site walks.

Rich Williams stated every year I go back and I take a look at the number of meetings and site walks and you know and Trish gives me all the past figures and I have excel spreadsheet on top of excel spreadsheet because I do not just the Planning Department but you know I do all the districts and everything else. I'm about to pull my hair out one more time.

Board Member Montesano stated don't do that.

Chairman Rogan stated you've got plenty to pull out.

Board Member Montesano stated it hurts.

Board Member McNulty stated (inaudible).

Rich Williams stated I've got enough that I could share and still have enough.

Chairman Rogan stated anything else, anybody, anything.

Board Member Cook stated what do you have to say.

Board Member Montesano stated motion to adjourn.

Board Member Cook seconded the motion.

Chairman Rogan asks for all in favor:

Board Member Taylor	-	aye
Board Member McNulty	-	aye
Board Member Montesano	-	aye
Board Member Cook	-	aye
Chairman Rogan	-	aye

The motion carried by a vote of 5 to 0.

The meeting ended at 9:15 p.m.